



MINUTES
Planning Commission Meeting
Monday, September 27, 2021 Virtual via
Zoom 6:30 PM

COMMISSIONERS PRESENT: Donald Carlton, Commissioner, Ron Lesowski, Commissioner, Hollis MacLean-Wenzel, Commissioner, Jerry Crosby, Commissioner, Chris Mayton, Commissioner, Jan Lee, Commissioner, and Steven Hook, Commissioner

COMMISSIONERS ABSENT: None

STAFF PRESENT: Kelly O'Neill, Development Services Director, Emily Meharg, Senior Planner, and David Doughman, City Attorney and Chris Crean, City Attorney

COUNCIL LIAISON ABSENT: Rich Sheldon, Councilor

1. MEETING FORMAT NOTICE

Instructions for electronic meetings.

2. ROLL CALL

3. APPROVAL OF MINUTES

3.1. Draft Minutes for August 23, 2021

Commissioner Maclean-Wenzel requested that the minutes be updated to reflect that Commissioner Maclean-Wenzel did not participate in the interviews for the Comprehensive Plan consultants, just the scoring of the proposals.

Motion: Approve the Planning Commission minutes for August 23, 2021 with the correction.

Moved By: Commissioner Lee

Seconded By: Commissioner Mayton

Yes votes: All Ayes

No votes: None

Abstentions: Maclean-Wenzel, Hook, and Carlton

The motion passed.

4. REQUESTS FROM THE FLOOR - CITIZEN COMMUNICATION ON NON-AGENDA ITEMS

None

5. DIRECTOR'S REPORT

Development Services Director O'Neill went over the upcoming meetings. The December meeting will likely need to be scheduled on a day other than the 4th Monday of the month.

6. PLANNING COMMISSION DISCUSSION

Commissioner Carlton asked if we'll even need a December meeting. Development Services Director O'Neill stated that at this point it's unknown but, if it occurs, it would likely be the first half of the month. The Commissioners decided to hold the meeting on December 13. Commissioner Maclean-Wenzel asked which commissioner's terms end in December. Director O'Neill believes four commissioner terms will be ending. Jeff Aprati and Senior Planner Meharg will participate in interviewing the candidates. Director O'Neill would like to modify the terms so fewer commissioner's terms end at once. All Commissioner's agreed with modifying the terms so that less turnover is possible.

7. OLD BUSINESS

7.1. Modification to Chapters 17.32 and 17.86 (21-032 DCA):

Chairman Crosby opened the continuation of the public hearing on File No. 21-032 DCA at 6:46 p.m. Crosby called for any abstentions, conflicts of interest, ex-parte contact, challenges to the jurisdiction of the Planning Commission, or any challenges to any individual member of the Planning Commission. No challenges were made, and no declarations were made by the Planning Commission.

Staff Report:

Development Services Director O'Neill presented a brief presentation outlining the parks code updates.

Chairman Crosby asked about the recommendation process and what would happen if the Parks and Trails Advisory Board makes changes after the Planning Commission review and recommendation. Director O'Neill stated that City Council would get a copy of the code edits based on Planning Commission's recommendation and that the Parks Board edits would be contained in a separate memo.

Public Testimony:

None

Staff Recap:

None

Motion: Motion to close the public hearing at 6:58 p.m.

Moved By: Commissioner Carlton

Seconded By: Commissioner Hook

Yes votes: All Ayes

No votes: None

Abstentions: None

Discussion:

Commissioner Carlton asked about primary entrances facing parks in 17.86.20(A) and wanted to know what a residential through lot is. Director O'Neill explained it's a lot with two frontages on parallel streets.

Commissioner Mayton asked if they could get the proposed changes in a word document in the future so they can see the changes without all the track changes. Director O'Neill stated staff could provide a track change and clean version in the future.

Motion: Motion to forward a recommendation of approval to City Council on the proposed code modifications to Chapters 17.32 and 17.86 of the Development Code.

Moved By: Commissioner Carlton

Seconded By: Commissioner Maclean-Wenzel

Yes votes: All Ayes

No votes: None

Abstentions: None

The motion passed at 7:04 p.m.

8. NEW BUSINESS

8.1. 16370 Royal Lane Annexation (21-041 ANN):

Chairman Crosby opened the public hearing on File No. 21-041 ANN at 7:04 p.m. Crosby called for any abstentions, conflicts of interest, ex-parte contact, challenges to the jurisdiction of the Planning Commission, or any challenges to any individual member of the Planning Commission. No challenges were made, and no declarations were made by the Planning Commission.

Staff Report:

Development Services Director O'Neill presented a brief presentation outlining the annexation request and the staff report. O'Neill explained that the City's consultant for the Bell Street extension (HHPR) is the applicant for this annexation on behalf of the property owners.

Applicant Testimony:

Brad Kilby, HHPR
205 SE Spokane Street
Portland, OR 97202

Kilby showed the proposed Bell Street alignment and connection to 362nd and presented a brief presentation outlining the annexation request.

Proponent Testimony:

None

Opponent Testimony:

None

Neutral Testimony:

None

Staff Recap:

O'Neill re-stated the need to survey the FSH as a condition of annexation and agreed that the alignment of Kate Schmitz should be modified to protect the wetland.

Commissioner Carlton asked if both sides of the FSH would be surveyed. O'Neill stated it would be wise to survey the FSH now (i.e., during the planning for Bell Street) so that the connection of Kate Schmitz to Bell Street can be analyzed. O'Neill stated the condition to survey the FSH Overlay boundary should be prior to any road development.

Applicant Rebuttal:

None

Chairman Crosby kept the hearing open for the commissioner's discussion so the applicant could speak if needed.

Discussion:

City Attorney Doughman stated that deferring the FSH survey to prior to construction is okay to condition.

Motion: Motion to close the public hearing at 7:37 p.m.

Moved By: Commissioner Carlton

Seconded By: Commissioner Mayton

Yes votes: All Ayes

No votes: None

Abstentions: None

Motion: Motion to forward a recommendation of approval to the City Council to approve the annexation of 16370 Royal Lane with the conditions as outlined in the staff report and the additional FSH Overlay survey condition.

Moved By: Commissioner Mayton

Seconded By: Commissioner Carlton

Yes votes: Carlton, Lesowski, Maclean-Wenzel, Lee, Hook, Mayton, and Crosby

No votes: None

Abstentions: None

The motion passed at 7:39 p.m.

The Commission took a brief recess.

8.2. **Deer Meadows Subdivision (21-014 SUB/TREE):**

Chairman Crosby opened the public hearing on File No. 21-014 SUB/TREE at 7:44 p.m. Crosby called for any abstentions, conflicts of interest, ex-parte contact, challenges to the jurisdiction of the Planning Commission, or any challenges to any individual member of the Planning Commission. No challenges were made. The following declarations were made by the Planning Commission: Commissioner Hook stated he is a resident near the park and did receive notices for the hearing but that he is not biased and is not abstaining. Commissioner Lee stated she was on the City Council when the previous submittal for the subject site was denied. City Attorney Doughman stated there is not an issue unless Commissioner Lee feels she is biased. Commissioner Lee stated she is not biased.

Chairman Crosby explained that testimony will be timed.

Staff Report:

Development Services Director O'Neill presented a presentation outlining the proposal, public testimony received to date, and the staff recommendation. Staff is recommending denial primarily due to the lack of the Dubarko Road extension, the lack of Deer Pointe Park expansion, the lack of Highway 26

frontage improvements, the lack of pedestrian connectivity from the cul-de-sacs, and the lack of utility extensions along Highway 26.

Applicant Testimony:

Michael Robinson
1211 SW 5th Ave, Suite 1900
Portland, OR 97204

Robinson explained why this application is different from the previous applications and that this is only a subdivision application, not a zone change or comprehensive plan change. Robinson asked that Chairman Crosby close the public hearing tonight but leave the written record open for 14 days for an initial testimony period, 7 additional days for rebuttal, and 7 additional days for the applicant to provide rebuttal. The applicant would extend the 120-clock by 28 days.

Tracy Brown
17075 Fir Drive
Sandy, OR 97055

Brown went over the history of the property, summarized the current application, and provided some responses to the staff recommendation. Brown explained that future development of the R-2 and C-3 lots would be a separate design review application. Brown concluded that the application is a needed housing application and believes it complies with all clear and objective standards. Brown believes some of staff's reasons for denial could be conditions of approval instead.

Mike Ard
21370 SW Langer Farms Parkway, Suite 142
Sherwood, OR 97140

Ard stated the applicant updated their trip count data in response to the City's traffic engineer's comments and gave a brief overview of the updated TIS.

Robinson summarized the application and stated it's a limited land use application and a needed housing application.

Proponent Testimony:

Zoeanna McKenzie
18428 Meadow Ave
Sandy, OR 97055

Ms. McKenzie stated she votes in favor of the application.

Opponent Testimony:

Ashley Yukich
18331 Antler Ave
Sandy, OR 97055

Ms. Yukich agrees with the recommendation to deny the application. The applicant has no concern for public interests. Application seems like it meets the bare minimum amount of effort. Asked if there's been any consideration with putting a traffic light along Highway 26.

Neutral Testimony:

None

Staff Recap:

O'Neill reiterated the applicant's main arguments regarding incorporation of master plans and clear and objective standards and that it's difficult to address as staff since the determinations should likely be made by a higher hearing body or legal counsel. O'Neill stated staff's role is to determine if the proposal meets the development code and that this proposal does not meet numerous sections of the code. O'Neill does not feel the proposal is in the best interest for the City or surrounding neighborhoods. O'Neill thinks that a traffic light was looked at previously for the Highway 26/Dubarko Road/Vista Loop intersection and does not think it was warranted previously with an application that had more trips than the subject application.

Chairman Crosby asked City Attorney Doughman if he had anything to add. City Attorney Doughman reminded the Commission they've heard these arguments from the applicant's attorney in previous applications. Doughman mentioned these arguments are being made across many cities in Oregon and that LUBA has reversed some denials if the basis for denial is on something not clear and objective.

Applicant Rebuttal:

Robinson is disappointed they couldn't find a way through this with staff. Robinson says you can't ignore state law. Robinson reiterated his request to close the public hearing and leave the written record open.

Discussion:

Chairman Crosby requested that they discuss keeping the written record open. Doughman explained any party can request a continuance at the first hearing, which has to be granted by the Commission. The Commission has the option of continuing the hearing to a date certain, or leave the written record open, which is what he recommends. The first period would be 14 days long and

anyone can submit testimony. The second period is 7 days and anyone can submit a rebuttal to anything that was raised in the first 14 days, but can't submit new evidence. The last 7 days is reserved for the applicant to make a final argument. O'Neill stated the additional 14 day window would be posted on Facebook and the City's website to let the public know. O'Neill asked when the City's additional input would be due and Doughman stated it would follow the same timeline, i.e., within the 14 day window. Doughman clarified that the Commission can't make a decision tonight and has to either continue the hearing to a date certain or leave the written record open. Commissioner Maclean-Wenzel wants to know if there's a way to get additional materials by a date certain ahead of the hearing. Doughman said that's essentially what the written record period is. Commissioner Hook wanted to know how the Planning Commission could ask questions during the open record period and Doughman said they can't and to ask the questions tonight. Commissioner Lesowski cautioned the commission to wait to talk about the proposal. Commissioner Mayton anticipates having questions about legal interpretation and wants to know if he can ask Doughman questions during the open record period. Doughman said yes. Commissioner Carlton is interested in knowing what Doughman's response is to the applicant so that the hearing can be more efficient. Doughman said he can prepare a memo prior to the next hearing. Commissioner Lee wants to better understand what the difference is based on needed housing versus other applications. Doughman said he could address that. O'Neill stated a lot of these arguments are legal. Anywhere where Doughman agrees with the applicant that something is not clear and objective or sufficiently incorporated, staff will need a proposed code edit from the City Attorney immediately. Doughman suggested they choose the deliberation date. The commissioners did a straw poll and decided to keep the record open. O'Neill requested the 120 clock be extended to whichever day the deliberation hearing will be in November. Robinson stated he needs to know the deliberation date, but generally doesn't have a problem with a further extension. Robinson asked Doughman if the second 7 day period includes rebuttal with arguments and evidence and Doughman said yes. O'Neill wants Doughman and Robinson to clarify the process so staff can post it to the website. O'Neill mentioned a couple potential dates. The consensus from the Commission for the deliberation on the Deer Meadows subdivision was November 8. Robinson agreed to extend the 120 day clock an additional 14 days for a total extension of 42 days. This would extend the 120 clock to January 5, 2022. Commissioner Lee stated that she can't make the 8th of November, but all other Commissioners stated they can attend.

Motion: Motion to close the public hearing, but keep the record open for 28 days, including the first 14 days for record submittal, following 7 days for

rebuttal, following 7 days for the applicant to make final argument. The motion included reconvening on November 8, 2021 at 6:30 PM.

Moved By: Commissioner Lesowski

Seconded By: Commissioner Mayton

Yes votes: Carlton, Lesowski, Maclean-Wenzel, Lee, Hook, Mayton, Crosby

No votes: None

Abstentions: None

The motion passed at 9:43 p.m.

9. ADJOURNMENT

Motion: To adjourn at 9:46 p.m.

Moved By: Commissioner Hook

Seconded By: Commissioner Mayton

Yes votes: All Ayes

No votes: None

Abstentions: None

The motion passed.

Chairman Crosby adjourned the meeting at 9:46 p.m.



Chair, Jerry Crosby



Planning Director, Kelly O'Neill Jr