



**MINUTES**  
**Planning Commission Meeting**  
**Monday, July 25, 2022 Zoom 6:30 PM**

**COMMISSIONERS PRESENT:** Hollis MacLean-Wenzel, Commissioner, Jerry Crosby, Commissioner, Chris Mayton, Commissioner, Steven Hook, Commissioner, Jan Lee, Commissioner, Breezy Poulin, Commissioner, and Darren Wegener, Commissioner

**COMMISSIONERS ABSENT:** None

**STAFF PRESENT:** Kelly O'Neill Jr., Development Services Director and Emily Meharg, Senior Planner

**1. MEETING FORMAT NOTICE**

Instructions for the meeting.

**2. ROLL CALL**

Chairman Crosby called the meeting to order at 6:30 p.m.

**3. APPROVAL OF MINUTES**

3.1. Draft Minutes for June 27, 2022

Chair Crosby asked for any edits. With no requested edits, Crosby declared the minutes approved.

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

None

**5. DIRECTOR'S REPORT**

Development Services Director O'Neill stated that a Housing Needs Analysis (HNA) change order to the Comprehensive Plan contract with 3J Consulting will be presented to City Council. Next Planning Commission hearing is in September, unless one of tonight's items is continued. August 15th is a joint Planning Commission and City Council work session.

**6. PLANNING COMMISSION DISCUSSION**

Commissioner Hook thanked Shelley Denison for attending the Rotary Club meeting and presenting information about the Comprehensive Plan.

## 7. NEW BUSINESS

### 7.1. Tickle Creek Partition Appeal (22-026 AP):

Chair Crosby opened the public hearing on File No. 22-026 AP at 6:37 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. Chair Crosby stated that he drives by the site twice a day to and from work.

#### **Staff Report:**

Development Services Director O'Neill explained the importance of a de novo hearing and presented a brief slideshow on the appeal. Staff recommended the Planning Commission focus on the two items that are on appeal.

Commissioner Mayton asked if the Planning Commission doesn't require the applicant to install frontage improvements on Freightway Lane at this time whether the frontage requirements would need to be installed with future development. Director O'Neill stated that further development of Parcel 2 would trigger the Freightway Lane frontage improvements. Commissioner Lee asked about the private road portion of Freightway Lane. Commissioner MacLean-Wenzel expressed a concern that the improvements might get forgotten later and whether that could be noted. O'Neill stated the City is hoping to get an integrated GIS system that ties to each property but staff does not have that capacity yet and that it would be wise to include a condition for required future improvements in the decision. Commissioner Hook asked whether the applicant discussed this during the application process. O'Neill stated that a pre-application meeting was not held.

#### **Appellant's Presentation:**

Tracy Brown  
Tracy Brown Planning Consultants LLC  
17075 Fir Drive  
Sandy, OR 97055

Representing Dubarko Development. Applicant's intention is to partition the property so that the condos (southern parcel) are separate from the pond (northern parcel). He stated that the applicant feels the sanitary sewer condition is already contained in the approval for the Tickle Creek condos and that the applicant would prefer to amend the existing easement showing sewer line relocation. Regarding Freightway Lane, one solution might be to vacate the portion of Freightway Lane that is public right-of-way. The applicant does not have any plans to develop the northern portion of the property so doesn't know where a driveway to the property would go and requests deferring improvements until when the property is developed.

#### **Public Testimony:**

None

**Staff Recap:**

O'Neill stated that vacating the right-of-way would be a separate procedure and does not recommend including anything about terminating the right-of-way in the decision tonight. O'Neill reiterated that the applicant should have applied for a variance if they didn't want to meet the code's frontage improvement requirements and that it would be cleanest to have the new sanitary sewer easement on the face of plat.

**Appellant Recap:**

Brown read a suggested modification to the frontage improvement condition that defers improvements to future development rather than as a requirement of this partition.

**Discussion:**

Chair Crosby asked about the VNAR on Ruben Lane. O'Neill stated it is so that no future driveway would be permitted on Ruben Lane. Crosby stated that any future development of the northern portion of the site would need to access from Freightway Lane and a driveway would be installed at that time. Commissioner Wegener asked if the applicant would be able to guess where the driveway would go on Freightway Lane given the amount of frontage and location of the corner. Commissioner MacLean-Wenzel would like to include a condition that improvements will be required with future development. Commissioner Hook feels it's difficult to defer improvements due to the risk that it gets missed at the time of the next application. Chair Crosby reiterated that the northern parcel will have to access from Freightway Lane so would have to include improvements on Freightway Lane at that time. Commissioner Mayton referenced 17.84.90(F), which requires sewer easement to be shown on the plat and asked what the cost would be. O'Neil stated it wouldn't be free nor would it be thousands of dollars. Mayton wants to see the easement recorded on the plat and believes the frontage improvements on Freightway Lane will be required in the future. Mayton emphasized that the applicant should have requested variances if they didn't want to meet the Code. Commissioner Lee concurs with Mayton. Chair Crosby clarified that staff's position regarding the easement is the cleanest way to show the easement.

**Motion:** Motion to close the public hearing at 7:22 p.m.

Moved By: Commissioner Wegener

Seconded By: Commissioner Mayton

**Discussion:**

Chair Crosby summarized the decisions he heard. Commissioner Hook requested two separate votes, one for each item. Commissioner Wegener asked for clarification on what they'd be approving. O'Neill suggested the Commission could do straw poles for each item and then base a motion on that. Chair Crosby did a straw poll vote for the sewer easement on the plat: 7-0 in favor of requiring easement on plat. Straw poll vote for frontage improvements on Freightway Lane: 2 in favor of staff's

recommendation to require improvements now (Commissioners Hook and Wegener), 5 in favor of requiring improvements with future development (Commissioners Poulin, MacLean-Wenzel, Lee, Mayton, and Crosby).

**Motion:** Motion to uphold staff's decision regarding the easement on the plat and modify the condition that the frontage improvements to include a note that it will be a requirement of future development, and all other findings and conditions remain.

Moved By: Commissioner Mayton

Seconded By: Commissioner MacLean-Wenzel

Yes votes: Crosby, Mayton, Lee, Poulin, MacLean-Wenzel, Wegener

No votes: Hook

Abstentions: None

The motion passed at 7:33 p.m.

7.2. **The Riffle Food Cart Pod (22-012 DR/VAR/TREE/DEV/CART):**

**Motion:** Motion to appoint Commissioner Mayton as the Chair for this land use item.

Moved By: Commissioner Lee

Seconded By: Commissioner Maclean-Wenzel

Yes votes: All Ayes

No votes: None

Abstentions: None

Chair Mayton opened the public hearing on File No. 22-012 DR/VAR/TREE/DEV/CART at 7:35 p.m. Mayton 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. Several Commissioners stated they shop in the general vicinity of the subject site and/or belong to the Mt. Hood Athletic Club so they are familiar with the site.

**Staff Report:**

Senior Planner Meharg summarized the staff report and provided an overview of the food cart pod request.

Commissioner Wegener asked a question about accessible parking from the overflow parking lot. Meharg stated that ADA parking on the overflow parking lot would have to use the access through the Fresenius Medical Center site.

Commissioner Maclean-Wenzel asked a question about missing retention trees. Meharg stated that the entirety of the Twin Cedars subdivision was originally owned by the same owners. Maclean-Wenzel went on to ask if there are any assurances for tree retention. Meharg said that the tree covenant is what is supposed to protect trees in perpetuity, unless a tree removal permit is approved. She went on to state that she has no idea what happened to the other trees that were supposed to be retained, and then elaborated on the penalties for illegal tree removal.

Commissioner Hook asked about the Kate Schmitz right-of-way improvements. Meharg stated that a portion of Kate Schmitz right-of-way is not improved between the subject property and the existing street improvements to the south. Staff is supportive of a fee in-lieu for the Kate Schmitz right-of-way improvements along the frontage of the subject property.

**Applicant Presentation:**

Tracy Brown  
Tracy Brown Planning Consultants LLC  
17075 Fir Drive  
Sandy, OR 97055

Mr. Brown stated that he believes The Riffle Food Cart Pod will provide a huge economic benefit to the community. He then provided a presentation and spoke about the subject proposal and the concerns that the applicant has with some of the findings and conditions.

Blane Skowhede  
Keystone Architecture Planning  
12020 SE Idleman Road  
Happy Valley, OR 97086

Mr. Skowhede explained why the requested changes from staff to the restroom building and garbage enclosures is problematic, especially considering that there is no intention to draw attention to the two smaller structures.

Ray Moore  
All County Surveyors and Planners  
39660 Pleasant Street  
Sandy, OR 97055

Mr. Moore stated why he cannot move the CDS manhole and made a few comments on ADA parking. He also stated that the applicant wants some longer parking spaces for larger trucks and recreational vehicles. He also stated that the existing owner of the Mt. Hood Athletic Club is willing to provide an access easement to the applicant for this proposal.

**Public Testimony in favor:**

None

**Public Testimony against:**

None

**Public Testimony neutral:**

None

**Staff Recap:**

Ms. Meharg explained the importance of the speed table across the driveway, screening of the mechanical units, civic space importance, connection importance to the existing trail in Kate Schmitz right-of-way, the necessity of mitigation trees or fee in-lieu, the requirements of design elements on all buildings, the importance of fence screening for architectural unity, the manhole locations, the importance and necessity of the shared parking covenant, and the excessiveness of the parking lot proposal and concerns with the 10 parking spaces that reverse into the shared driveway on the Mt. Hood Athletic Club site. Mr. O'Neill elaborated on a few of Ms. Meharg's items.

**Applicant Rebuttal:**

Mr. Brown stated that the applicant is fine with the raised inlay concrete speed table, the civic space, and the shared parking covenant for the parking lot to the west of the driveway. He said that the parking space increase is definitely important for the applicant. Mr. Brown also elaborated on the other items that are of concern to the applicant, and asked where the funds go that are collected for mitigation trees.

**Discussion:**

Mr. O'Neill stated that the mitigation tree fund is a dedicated fund that is protected and that can only be used for tree plantings. Commissioner Mayton polled the fellow commissioners if they were okay with leaving the public hearing open. The commissioners agreed that leaving the public hearing open is okay and decided to go through the letter submitted by Mr. Brown on Friday July 22, 2022.

Finding #11: Commissioner Maclean-Wenzel stated that she agrees with Director O'Neill that providing a raised inlay concrete speed table is important. Commissioner Crosby agrees that a raised concrete speed table is essential to protect pedestrians. Commissioner Hook agrees that having it raised is important.

Findings #13, 14, 17, and 36: Commissioner Maclean-Wenzel stated that she is in favor of staff's recommendations for the additional building details and upgraded fencing. Commissioners Hook, Crosby, Lee, Mayton are in favor of staff's recommendation as well. Commissioner Crosby added that maybe the bracing could be downsized. Commissioner Mayton stated that the black chain link fence for the garbage enclosure should be fine.

Finding #35: Commissioner Hook stated he is fine with having the screening for the mechanical units as a recommendation, but not as a condition. Commissioners Crosby, Mayton, and Maclean-Wenzel said they agree with Mr. Hook.

Finding #88: Commissioner Wegener stated that he agrees with staff that the civic space should be installed by the Kate Schmitz right-of-way. Commissioner Hook and Lee agree with Mr. Wegener and staff. Commissioner Crosby said that the Commission should require a civic space but move it closer to the main dining facility.

Commissioner Maclean-Wenzel and Mayton agreed with Commissioner Crosby. The applicant shall work with staff to locate civic space between the main dining building and Kate Schmitz, outside of the tree protection areas.

Finding #92: Commissioner Hook asked a question about the 10 parking spaces accessing the common driveway and if the trees need to be retained. Ms. Meharg elaborated on what the code requires. Commissioner Crosby stated these sorts of food cart facilities attract a lot of patrons and will need a lot of parking. He also stated that parking spaces could be wider to accommodate larger vehicles. Commissioner Lee said that we definitely need some longer parking spaces and some wider spaces as well. Commissioner Wegener said that we definitely need a lot of parking spaces for the proposed use but is fine with removal of some parking spaces for tree retention. Commissioner Maclean-Wenzel said that trees are used as traffic calming devices and would like to see trees preserved, but is fine with some extra long spaces. Commissioner Mayton said he agrees with the staff recommendation to remove the two parking spaces on tax lot 1200, has no issues with the additional long spaces, and is fine with the 10 additional parking spaces along the driveway. The Commission was in favor of the two spaces being removed from tax lot 1200 and everyone is okay with the long parking spaces as proposed. Commissioner Hook said he has some concerns with removal of trees along the private driveway for the 10 additional parking spaces. Mr. O'Neill stated that there is no procedural issue with making a decision that removes trees from the private driveway. Commissioner Maclean-Wenzel asked is there anyway to plant additional trees for the four that are being removed for the additional 10 parking spaces. The Commission supports the ten additional parking spaces, but also supports four additional trees above and beyond other tree requirements.

Finding #93 and 64: Commissioner Poulin states that the applicant was not opposed to the shared parking covenant and that the commission should stay with the staff recommendation. All Commissioners agreed with Commissioner Poulin that the shared parking covenant shall remain.

Finding #98: Commissioner Crosby stated that he is not familiar with the trails in the Kate Schmitz right-of-way well enough to have an opinion. Commissioner Wegener stated that the trail connection would be required if the existing trail is located in the right-of-way, but if not located in the right-of-way then the trail connection is not required. All Commissioners agreed with Commissioner Wegener.

Finding #76: Commissioner Crosby stated he recommends removal of the condition related to the CDS manhole. All Commissioners agreed with Commissioner Crosby.

Findings #86-95: Commissioner Hook is in support of the staff recommendations but does not think the current owners should be bound to pay a fee for past tree removal. Ms. Meharg said we are not trying to fine anyone but staff is recommending additional mitigation fees in the total of \$3,000 or planting of an additional 6 mitigation trees, or a combination thereof. Commissioner Crosby stated that tree

covenants are applicable to the original property owners, current property owners, and future property owners. Commissioner Poulin said that she thinks we should move forward with the staff recommendations. All Commissioners agreed with Commissioner Poulin.

**Motion:** Motion to close the public hearing at 9:47 p.m.

Moved By: Commissioner Wegener

Seconded By: Commissioner Lee

Yes votes: All Ayes

No votes: None

Abstentions: None

**Motion:** Motion to approve The Riffle Food Cart Pod application with the modifications to the findings and conditions as discussed and recorded in the minutes.

Moved By: Commissioner Poulin

Seconded By: Commissioner Maclean-Wenzel

Yes votes: Poulin, Maclean-Wenzel, Hook, Lee, Crosby, Wegener, and Mayton

No votes: None

Abstentions: None

The motion passed at 9:49 p.m.

## 8. ADJOURNMENT

Commissioner Maclean-Wenzel and Commissioner Wegener said that Commissioner Mayton did a fantastic job on The Riffle Food Pod land use hearing. Commissioner Mayton adjourned the meeting at 9:50 p.m.



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Chair, Jerry Crosby





Planning Director, Kelly O'Neill Jr