



**MINUTES**  
**Planning Commission Meeting**  
**Wednesday, December 16, 2020**  
**Zoom**  
**7:00 PM**

**COMMISSIONERS PRESENT:** Don Carlton, Commissioner, Ron Lesowski, Commissioner, Hollis MacLean-Wenzel, Commissioner, Jerry Crosby, Commissioner, John Logan, Commissioner, Chris Mayton, Commissioner, and Todd Mobley, Commissioner

**COMMISSIONERS ABSENT:** None

**STAFF PRESENT:** Kelly O'Neill, Development Services Director, Emily Meharg, Senior Planner, and Shelley Denison, Associate Planner, and Chris Crean, City Attorney

**MEDIA PRESENT:** None

**1. MEETING FORMAT NOTICE**

**2. Roll Call**

Chairman Crosby called the meeting to order at 7:03 p.m.

**3. Approval of Minutes**

3.1. Draft Planning Commission Minutes for November 23, 2020

**Motion:** Approve the Planning Commission minutes for November 23, 2020.

Moved By: Commissioner Maclean-Wenzel

Seconded By: Commissioner Mobley

Yes votes: All Ayes

No votes: None

Abstentions: Commissioner Logan

The motion passed.

**4. Requests From the Floor - Citizen Communication on Non- Agenda Items**

None

**5. COMMISSIONER'S DISCUSSION**

Chairman Crosby asked about the new Planning Commissioners. O'Neill gave an

update on the new Planning Commissioners. Commissioner Mayton was reappointed and a new Planning Commissioner, Steven Hook, was appointed. There is still one vacancy. Chairman Crosby expressed sadness over the departure of Commissioners Mobley and Logan from the Planning Commission and thanked them for their service as did the other Commissioners.

## 6. OLD BUSINESS

### 6.1. The Views PD (20-028 SUB/VAR/TREE/FSH/PD) Continuance

Chairman Crosby opened the public hearing continuance on File No. 20-028 SUB/TREE/FSH/PD/VAR at 7:12 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. Chairman Crosby stated he received three emails sent directly by one or more members of the public but didn't open them. Commissioner Carlton received an email from John Andrade and another from someone else. He opened them, but then forwarded them to O'Neill. Commissioner Mayton also received two emails, read the first few lines on the first, and forwarded it to O'Neill, and read the second one after it was sent to all Commissioners. Commissioners Logan, Lesowski, Maclean-Wenzel, and Mobley also received the emails but didn't open them or respond. O'Neill emphasized the need for the public to send emails to [planning@cityofsandy.com](mailto:planning@cityofsandy.com). City Attorney Crean asked if any commissioners had any conversations with the emailers. None of the commissioners did. Commissioner Logan stated he watched the video 1.5 times, read the minutes, and read all of the material. The applicant's attorney, Robinson, asked if the emails received by the Commissioners were now part of the record. O'Neill confirmed the emails were made part of the record. Robinson also wanted to clarify that there were no conversations between the Commissioners and the emailers. It was confirmed that no conversations took place.

Crosby stated the Planning Commission's role is to make a recommendation to Council and that there will be another public hearing on this proposal before the City Council in the future.

#### **Staff Report:**

Associate Planner Denison summarized the staff report and provided an updated presentation related to the Planned Development (PD) request. Denison presented an overview of the proposal, history of the project, and explained the intent of a PD. Denison clarified the requested use types and number of proposed lots. Denison outlined the requested density bonus and "outstanding" design elements as well as the quantifiable deviations the

applicant is requesting as part of the PD process and the two additional special variance requests. Denison mentioned that HB 2001 would allow for duplexes on all of the lots. Denison summarized comments that were received between the November 23 Planning Commission hearing and the December 16 Planning Commission hearing, including both concerns and support for the proposal. Denison clarified that no development is proposed in the Flood Slope Hazard (FSH) overlay.

**Applicant Testimony:**

Tracy Brown  
17075 Fir Drive  
Sandy, OR 97055

Mr. Brown referenced additional documents the applicant provided and showed a slideshow presentation. The applicant is proposing a “Welcome to Sandy” sign. Brown showed images associated with the proposed development and explained the PD process. Brown summarized the developer’s vision, what makes this development unique, and why the proposal should be approved. Brown responded to the concerns received from the public.

Mac Even  
PO Box 2021  
Gresham, OR 97030

Mr. Even introduced himself and provided background on his history as a builder. Even stated he wants to make a long-term investment in the community. Even and Engineer Moore met with approximately a dozen neighbors the morning of December 16, 2020 to discuss the proposal. Even mentioned the apartments are being included to help offset the infrastructure costs and to create inclusionary housing for all income levels to enjoy the same kinds of amenities.

Even stated the apartments on Lot 72 are proposed at 3 stories in height, but he is now proposing to remove 9 units from that building and make it a 2 story building to help preserve views for the neighbors. This would also reduce the number of units to 159, which means he’s no longer asking for a density bonus. Even stated that if they did duplexes instead, they would not be able to include the passive and active recreation areas.

**Proponent Testimony:**

Chris Anderson  
17150 University Ave

Mr. Anderson said he thinks the project is great and appreciates that the

developer is removing one floor from the apartments on Lot 72. Prefers the PD proposal over duplexes. Asked some questions about the proposed HOA.

Cassidy Moore  
1912 SW 6th Ave  
Portland, OR

Ms. Moore stated she is excited to see growth.

Buzz Ortiz  
41525 SE Vista Loop  
Sandy, OR 97055

Mr. Ortiz said he supports the project because the alternative is rentals and duplexes.

Lindsey Sawyer  
18085 Scenic Street  
Sandy, OR 97055

Ms. Sawyer said she owns a property management company in Sandy and is excited for this proposal. Loves profit and rentals as a property manager but wants to see affordable housing too. Thinks having the developer assume park construction and having the park be maintained by an HOA is a good idea. Encourages everyone to think outside of the box.

**Opponent Testimony:**

Jason Dyami  
41625 SE Vista Loop Drive  
Sandy, OR 97055

Mr. Dyami expressed concerns about the additional impacts of traffic in the City of Sandy and wastewater treatment concerns. He stated that the FSH Overlay area already can't be built on so wondered if that space is included in the required open space. Wonders if there is a better location for apartments in a different part of town. He asked, why do the apartments need to be behind his house? Hard for him to swallow why current residents of the community need to suffer or lose what they've worked hard for so someone else can gain.

Lisa Hull  
18265 SE Vista View Ct.  
Sandy, OR 97055

Ms. Hull stated that she attended the informal meeting held by Mac Even on the morning of December 16. Her biggest disappointment is that most of the

people that live in this neighborhood have worked all their lives to afford to live in this neighborhood and enjoy beauty, peace, and quite that it provides. She stated that development will be nice for some people, but it takes the neighborhood down a notch and they've worked all their lives to be where they are today. A lot of the people living on Vista Loop are retired. She said that she learned that the eastern third of Vista Loop will be improved, but she is not sure residents of the new development will only use a third of Vista Loop. Sent a letter about her concerns about traffic safety with the influx of people and wanted to make sure her email was received. Highway 26 is already unsafe at the east end of Vista Loop and therefore suggests lowering the speed limit from 55 mph to 45 mph like on the west side of Sandy. Ms. Hull said there used to be a slip lane like a highway off ramp to exit Highway 26, which felt safer. The recent improvements to the intersection removed the slip lane and made it a hard right without a right turn lane. Parking analysis indicates no on-street parking but wants to know how that is going to be enforced based on the existing issues at the west end of Vista Loop.

John Barmettler  
41613 SE Vista Loop  
Sandy, OR 97055

Mr. Barmettler voiced that his biggest concern is the apartment buildings, regardless of the number of stories. He stated that he finds it preposterous. Sent emails out and wants everyone to know he's very upset about the whole thing. Concerned about the proposed location of Knapp Street intersecting with Vista Loop, which will point headlights into his bedroom. Doesn't doubt we need housing for people who can't afford high-end living, but the proposed location for apartments is the wrong place. He also stated that justifying the Planned Development (PD) by saying there are multiple housing types is circular logic.

Todd Springer  
18519 Ortiz Street  
Sandy, OR 97055

Mr. Springer stated that his biggest concern is schools and the size of the classrooms. His grandson had 23 kids in his kindergarten class last year. He would like to see speed controls, such as speed bumps. Mr. Springer is concerned about the safety of his five grandchildren who play in his yard.

**Neutral Testimony:**

John Andrade  
18509 Ortiz Street  
Sandy, OR 97055

Mr. Andrade stated that he met with Mac Even the morning of December 16. He is concerned about three-story apartments. For example, police recently responded to apartments on the west end of Vista Loop. Likes the developer's team but wants Planning Commissioners to hear the public's concerns, including that neighbors are used to having less traffic. Wants to hold Mac Even to HOA but knows many HOAs dissolve and ultimately the City and taxpayers absorb costs.

**Staff Recap:**

Denison reiterated that all letters and emails received are part of the record and Planning Commission has received them. Clarified that the applicant is proposing an HOA and that the applicant has completed a TIA, which was reviewed by a third-party traffic engineer. Speed limit reduction request would be a different application but feels the sidewalk on Highway 26 and the Welcome to Sandy sign should aid in traffic calming. Parking enforcement will be done through the City's current enforcement procedures. The Planning Commission can't take schools into account, but multi-family housing statistically has fewer children than single-family homes. Sounds like Mac Even's meeting with neighbors went well, which is great. Constitution protects property rights and economic viability of land so City can't say "no, you can't develop the land." Concern about apartments is not unique but there's great research on multi-family housing.

O'Neill stated there will be additional vehicles on the highway because of the proposed development but the traffic generated from the new units will have very little impact on the 33,000 vehicles already on Highway 26 (based on 2011 numbers). He stated to contact the Public Works Director or City Manager regarding Wastewater Treatment or speed bumps. The Sandy code enforcement officer will enforce no on-street parking. ODOT would need to review a speed limit reduction request and asked concerned citizens to ask Council to get this started. Classroom size is an Oregon Trail School District (OTSD) issue and people should contact Julia Monteith with concerns. However, additional property taxes and school excise taxes collected with development should help fund additional teachers and classroom expansion. You can't develop within the restricted development area of the FSH, but the remainder of the FSH is an analysis area. Many other developments include lots platted with some FSH area which becomes a code enforcement nightmare. This area is included inside the UGB so the subject property will be developed, whether it's the proposed development or another in the future. O'Neill stated that he hopes Mac Even submits additional details on reduction of the apartment building in the Lower Views from 3-stories to 2-stories, which ultimately means the density bonus is no longer applicable and development doesn't need to be considered outstanding anymore.

**Applicant Rebuttal:**

Brown emphasized that Mac Even intends to have an HOA and will retain ownership of the apartments himself. Single-family residents that are in the neighborhood will also have eyes on the development if there's a problem. Understands concern about change in the neighborhood, but the only way the road will be improved is with development. If this development isn't approved the alternative probably won't have all the benefits that are being proposed.

**Discussion:**

Chairman Crosby reiterated the Commission's task is to forward a recommendation to City Council with any adjustments they want to make or concerns they have. Crosby wants the Commission to respond to staff's questions. O'Neill stated that if there are questions the Commission feels they don't need to discuss, that's fine. Logan talked about House Bill (HB) 2001 and wondered how many questions could be considered moot once HB 2001 provisions are adopted and duplexes are allowed where single-family residences are allowed.

Carlton stated the proposed development area is zoned SFR, which won't really exist after HB 2001, though single-family detached homes will still be built. Needed housing refers to all housing needs, not just higher density. Need to listen to Sandy's citizens. Carlton reviewed the UGB expansion analysis and determined there's R-2 and R-3 land available, so every project doesn't need to include R-2- or R-3-like development. The subject PD proposal doesn't provide analysis on effect on urban growth expansion analysis. Carlton also stated that he hasn't seen a memo from City Attorney Crean, which was requested at the last meeting. Section 17.64.30(A) states that the underlying base zone standards apply unless superseded by the PD process, which allows modification of quantifiable standards. Base zone is still SFR. The Commission and Council can make a determination on each modification request, but Section 17.34.10 doesn't include townhomes or multi-family as permitted uses. Smaller lot areas lead to smaller lot widths. Applicant doesn't provide rationale for reduced setbacks. Is block length modification a variance or can that be done as part of the PD process even though it's in Chapter 17.100 and not Chapter 17.34? Carlton states that if property were to develop as SFR, there would still be FSH areas, there wouldn't be mix of housing types, and there might still be some recreation areas still due to odd shaped areas. Doesn't feel proposal is outstanding. Believes the SFR base zone standards should apply and not be modified. O'Neill stated that block length request can be processed through the PD process because it's a dimensional and quantitative standard in the Development Code.

Lesowski stated that he appreciates the preservation of the natural areas and incorporation of rowhouses to separate residential and commercial properties. Loves the public areas and amenities with meandering paths and views of Mt Hood. However, he feels the proposed quantitative modifications are too drastic. SFR would require minimum 7,500 square foot lots; proposal includes 50 lots under 5,000 square feet. A duplex on a 7,500 square foot lot would probably give more outside space and be more functional than 2 separate lots that are 3,400 square feet each with single family homes. He feels the high number of smaller lots push the proposal past decency. Commission is not supposed to be looking at development costs, even though it always comes up in the conversation. Most of the amenities are in the Lower Views and it would have been nice to spread out the amenities to the Upper Views too.

Mayton said he believes the proposed PD is a great concept and would add benefit to the community. His six "Nos" are around lot size and setbacks. Right-turn is also a "No" for him. He drove it three times at 5pm and was nervous. It's a tough right turn to make. Entrance into Vista Loop needs to be changed to make it feel safe for drivers, though he understands the traffic analysis found otherwise. Mayton is not sure about the last four questions but would support the PD with a lot of conditions tacked on, but in its current state he wouldn't be supportive.

Logan stated that he agrees that the concept, mix of uses, and open spaces are all great. He lives in a PD in Sandy and loves it, but his neighborhood doesn't have apartment buildings. Happy to hear Mac Even and Ray Moore met with the neighbors this morning. He stated that he doesn't like the apartment building on Lot 72 but doesn't have a problem with the lot sizes and widths given the amenities proposed. Finds the right turn off the highway to Vista Loop is problematic. Understands the issues with parking on Vista Loop Drive and that maybe code enforcement isn't doing their job or people aren't complaining.

Maclean-Wenzel said that she agrees with Logan. Feels for neighbors and understands it must be hard to have a new development go in next door, but the Commissions job is to review the proposed development and determine if it meets code. HB 2001 will allow duplexes and therefore change is on the horizon. Feels the developer has worked hard to put together a nice plan with lots of amenities. She is happy the developer met with neighbors on the morning of December 16 and likes the proposal to reduce the apartment building to 2 stories on Lot 72. As a PD, she finds the proposal is outstanding



and will look nicer than some of the other subdivisions that have been approved. Her biggest concern is the right turn off Highway 26 at Vista Loop Drive.

Mobley is less concerned about smaller lot sizes and thinks they're more common now. He lives on one. Recognizes that smaller lots could create parking issues but thinks overall the project is well designed. Likes that the design preserves views of Mt Hood. Understands neighbors wouldn't anticipate multi-family housing in a SFR zone. The right turn lane was fixed recently by taking out the slip lane at the intersection of Highway 26 and Vista Loop. Doesn't disagree with the technical analysis but understands the issues people are having with the comfort of making a right turn. Would be in favor of a speed zone analysis on that section of highway. Overall, he is in support of the development proposal.

O'Neill stated there's nothing in the evidence submitted by ODOT, or the developer's traffic engineer, or the City's third party traffic engineer that proves the intersection of Highway 26 and Vista Loop is unsafe. O'Neill believes ODOT should pay for improvements because property owner Picking already made improvements in 2018 as approved by ODOT. He stated that concerned citizens should voice concerns to ODOT. He reiterated that ODOT originally installed the slip lane, then asked a property owner to fix it by removing the slip lane and is now asking the same property owner to pay to fix it again.

Crosby agrees the overall design and appearance of the plan is wonderful, especially the meandering wide sidewalk area. Crosby reiterated the PD intent section. No one has referenced the first two points related to villages, which was a big part of the 2040 Comprehensive Plan. An essential theme in the Comprehensive Plan is village areas, which are compact developments designed to increase reliance on pedestrian mobility and reduce reliance on cars. How does a developer get to apply a PD anywhere? The Comprehensive Plan map includes designated village areas, though they never gained traction in Sandy. Other village areas have a mix of zones. This property is SFR. Crosby questioned the applicability of a PD request on SFR zoned land outside a village. O'Neill responded that last PD approved was in 2008 so no one on staff has processed one. Initially, staff believed PDs could only be applied in areas designated as Villages on the Comprehensive Plan Map but realized that almost all existing PDs in Sandy have been approved in areas that don't have the Village designation. At that time, Attorney Doughman pointed out that intent sections aren't criteria, and that Section 17.64.20 states PDs are allowed in all zones. So, the attorney interpretation was that PDs could be requested in any area. Crosby thanked O'Neill for the explanation and stated he struggles

with the idea that a PD essentially throws away residential zoning. Crosby acknowledged that the HOA is proposed to be professionally run, but that staff included a condition that should the HOA dissolve that maintenance responsibility is assumed by adjacent homeowners. There's a huge area in the north views with one lot that is adjacent so would that lot take on responsibility for the entire open space area if the HOA dissolves? Crosby would like to see a requirement that the HOA cannot be disbanded. O'Neill stated that the intent of the condition is that meandering path areas would need to be maintained by adjacent landowners. City Attorney Crean stated the City can't control HOAs or keep them from dissolving, but the City can try to anticipate downstream effects of an HOA dissolving. He explained that the HOA is responsible for paying taxes on open space too so if the HOA dissolves, eventually they would foreclose and the County would try to sell them to adjacent property owners. Crean acknowledges there's a focus on villages in the PD section but that they aren't limited to those areas. The code allows a PD in all zones; even if the focus is on villages, it's not limited to villages.

Carlton stated he appreciates the reduction of the apartment building by one story but is not sure if that will help maintain neighbors' views or not. Carlton mentioned previous open space areas were deeded to the City so that the City would maintain them instead of relying on an HOA. HOAs generally fail. City Council could ask the developer to dedicate the open space areas.

Applicant Attorney Robinson stated the Commission hasn't closed the record and is creating new conditions. Robinson mentioned there are other ways to maintain areas besides HOAs, for example maintenance agreements that run with the land.

Logan mentioned the City is getting \$472,000 from park fee-in-lieu dedication so wonders if that money could go towards maintaining open space areas if the HOA dissolves. O'Neill stated areas could be maintained but SDCs could not be used to make improvements without revising the SDC methodology. City Attorney Crean brought up a city that keeps an eye on HOAs that go defunct and then buys the property but is not sure it's possible to condition that the property would automatically go to the City if the HOA dissolves. O'Neill stated the City has acquired some land in the past that way.

Crosby requested the public hearing be closed.

**Motion:** Motion to close the public hearing at 10:20 p.m.

Moved By: Commissioner Lesowski

Seconded By: Commissioner Logan

Yes votes: All Ayes

No votes: None

Abstentions: None

O'Neill stated he has a good idea of Commission's concerns and what they think the developer is doing well. Lesowski asked about process and wants to clarify Commission's points on all the questions. Mayton wants to get to a consensus on the 18 questions. Crosby believes the Commission is leaning towards moving the proposal to City Council but with serious concerns.

- A. Doesn't apply with the removal of nine dwelling units.
- B. Rowhouses allowed in SFR: 5 yes, 2 no
- C. Multi-family allowed in SFR: 4 yes, 3 no
- D. Lot sizes less than 7,500 sq. ft.: 3 yes, 4 no
- E. Minimum average lot widths less than 60 feet: 3 yes, 4 no
- F. Reduce interior side yard setbacks to 5 feet: 3 yes, 4 no
- G. Reduce rear yard setback to 10 feet, or 15 feet: 3 yes, 4 no
- H. Block lengths at 691 feet, 655 feet and 805 feet: 7 yes, 0 no
- I. Meandering walkways instead of traditional right-of-way sidewalks: 7 yes, 0 no
- J. No sidewalk on south side of The Views Drive with Tract E condition: 7 yes, 0 no
- K. No front doors facing Highway 26: 7 yes, 0 no
- L. Two development phases (Lower Views and Upper Views): 7 yes, 0 no
- M. Not require right turn lane at Vista Loop and Highway 26 to be burden of developer: 6 yes, 1 no, but want right-turn lane to be installed by ODOT. Mayton stated he believes the developer has some responsibility to help improve the intersection, regardless of whether they pay for it or not.
- N. Proposed future street layout north of Ortiz proposed by applicant or street stub or pedestrian path connection: pedestrian path connection 7 yes, 0 no
- O. Additional vegetation between the sound wall and sidewalk on Highway 26: 6 yes, 1 no. Mobley stated he thinks additional vegetation could be a maintenance issue.
- P. Alternative maintenance option research (i.e. instead of HOA): 6 yes, 1 no
- Q. Other recommendations: Crosby stated that looking into a maintenance agreement option in lieu of the proposed HOA is his preference. Mayton wants formal documentation on developer's proposal to lower apartment on Lot 72 to two stories instead of three stories. O'Neill also brought up Carlton's request for sight line analysis. Crosby asked if that should be done now or when the apartment comes in for Design Review. Carlton said it would be nice to know now. O'Neill

stated the sight line analysis could determine a maximum height now, though the design of the apartment could be done later. 7 yes, 0 no to condition line of sight analysis.

- R. Recommend approval of PD: City Attorney Crean stated the Commission does not need to make a formal recommendation of approval or denial. Carlton thinks a motion would give Council an idea of Planning Commission support. Mayton states a motion will be difficult because there are some questions where consensus might be yes, but a particular Commissioner strongly disagrees but might be amenable if a condition is included. Crean suggests that the recommendation could be that Council approve or deny the application after full consideration of the Planning Commission's concerns and recommendations.

**Motion:** Motion to recommend to the City Council that the Council approve or deny the application after full consideration of the Planning Commission's issues, concerns, and recommendations below.

Moved By: Commissioner Mayton

Seconded By: Commissioner Maclean-Wenzel

Yes votes: All Ayes

No votes: None

Abstentions: None

The motion passed at 10:56 p.m.

Mayton expressed his appreciation for Commissioner's Logan and Mobley. O'Neill wanted to make sure there will be a quorum in January. Sounds like there will be one. Denison is still trying to figure out what a "village" is in Sandy and it will be part of the Comprehensive Plan update. Crosby mentioned that the village concept hasn't gained traction because we're not seeing commercial developed. Carlton wants staff and the Planning Commission to think about implications about allowing PDs anywhere and what that means for residential zoning.

## 7. Adjourn

**Motion:** To adjourn

Moved By: Commissioner Mobley

Seconded By: Commissioner Logan

Yes votes: All Ayes

No votes: None

Abstentions: None

The motion passed.

Chairman Crosby adjourned the meeting at 11:02 p.m.

A handwritten signature in blue ink that reads "Jerry Crosby". The signature is written in a cursive style with a large initial "J".

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Chair, Jerry Crosby

A handwritten signature in blue ink that reads "Kelly O'Neill Jr". The signature is written in a cursive style with a large initial "K".

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Planning Director, Kelly O'Neill Jr