



MINUTES
Planning Commission Meeting
Monday, April 8, 2019 City Hall- Council
Chambers, 39250 Pioneer Blvd., Sandy,
Oregon 97055 7:00 PM

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

COUNCIL ABSENT:

STAFF PRESENT: Kelly O'Neill Jr., Development Services Director; Emily Meharg, Associate Planner

CITY ATTORNEY: David Doughman

1. Roll Call

2. Approval of February 25th 2019 Minutes

2.1. APPROVAL OF MINUTES – February 25, 2019

Motion: Approval of minutes for February 25, 2019 was postponed until staff received clarification from the Planning Commission on the Motion of the Interpretation for File No. 18-025 SUB/VAR/FSH/TREE/INT (Jacoby Heights Subdivision)

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

3.1.

Ms. Topliff addressed the Planning Commission over her concerns with a lack of affordable housing in Sandy. Ms. Topliff requested the Planning Commission consider allowing manufactured homes as an option for affordable housing. She handed out a packet of material stating State Law and other City code regulations on manufactured housing.

Planning and Building Director Kelly O'Neill Jr. said he believes the city's code section under SFR (Single Family Residential), R-1 (Low Density Residential) and R-2 (Medium Density Residential) allow manufactured homes on individual lots of record, but the manufactured homes must also follow the

design standards. He also mentioned there are certain restrictions such as requiring a foundation and removal of the trailer wheels/axel. O'Neill said he will follow up with Ms. Topliff.

4. OLD BUSINESS

- 4.1. Public Hearing
- 4.2. 18-025 continuance

Staff Report - 0128

Chairman Crosby re-opened the public hearing on File No. 18-025 SUB/VAR/FSH/TREE/INT (Jacoby Heights Subdivision) at 7:09 p.m. Crosby noted that this is a continuance from the February 25, 2019 public hearing. He asked if any members of the Commission have had any ex-parte contact since the last meeting on February 25, 2019 meeting. With no declarations noted, Crosby called for the staff report.

Since Commissioner Lesowski and Mayton were both absent from the February 25, 2019 meeting, Chairman Crosby asked both Commissioners what they have done to prepare for this meeting and if they plan to participate in the hearing and decision.

Commissioner Lesowski said he reviewed the recording online of the February meeting as well as looked over all the submitted meeting material. Lesowski stated that he feels "sufficiently immersed in the subject to carry on". Commissioner Mayton said he watched the February meeting video and reviewed the submitted meeting material. He feels comfortable enough and up to speed to carry on with this meeting.

Chairman Crosby asked the applicant and remaining Commissioners if they had any challenges to Commissioner Lesowski and Mayton participating in tonight's decision. There were no challenges stated.

Staff Report:

Associate Planner Emily Meharg started with a quick refresher on the requested subdivision and summarized the staff report and addressed the background, factual information, public comments staff received, applicable criteria, and went over a brief slide show. Meharg finished her report with the summary and conclusion and staff's recommendation.

Applicant Presentation:

Tracy Brown, 17075 Fir Dr., Sandy, OR 97055

Mr. Brown started his presentation by telling the Commission that he did not get a list of the recommendations from staff that he found sitting at the check-in table in the lobby tonight. Staff explained to Mr. Brown and the Commission that this was uploaded and sent to everyone a week before the meeting and can be found on page 555 online. Mr. Brown continued to tell the Commission that he never received this information from staff. Associate Planner Emily Meharg again explained how this list of recommendations was uploaded online the same time as all the uploaded documents, which was exactly a week before on Monday when the applicant requested it.

Mr. Brown then addressed the applicant's application. He made sure the Commission received his April 3rd memo re: Woodstock Ave, trees, Lot 19 as well as the additional updated letter from their arborist and his recommendations. But Mr. Brown said their biggest issue is staff's recommendation for an HOA (Home Owners Association). Brown said the applicant is concerned due to how HOA's work and end up being more of a hassle than it's worth. The applicant is instead proposing to plat lots 19-21 into the FSH (Flood Slope Hazard) Overlay and in the FSH Overlay provide a conservation easement that ensures its protection. The applicant also proposed a pedestrian easement over a portion of the tract at the 980 foot contour line. Brown explained how City property abuts the north side of the Jacoby Heights Subdivision.

Brown then addressed the fencing along Jacoby Road, the requested Geotechnical Assessment, and the Newton Street requirements. Brown also mentioned the six additional trees staff has asked the applicant to identify for preservation. He also discussed the proper tree protection zone and staff's request that the applicant hire a 3rd-party Arborist.

Mr. Brown spoke to the Commission about the 8-foot maintenance access easement. He said this is an "odd one" and wanted to point out that the area is also connected to city owned property and said he doesn't know what staff's "intent" is and stated it seems like a "sneaky way" to get a trail connection.

Ray Moore, All County Surveyors and Planners, PO Box 955, Sandy, OR 97055

Mr. Moore addressed the root protection zone the applicant's arborist recommended and said they plan on moving forward with those recommendations. He also discussed the FSH Overlay on the applicant's property and explained the City's code already protects the trees in the FSH Overlay and the applicant is not willing to give up an easement over the entire

FSH for pedestrians. Mr. Moore also covered what Mr. Brown discussed about the tree requirements and again stated they feel they are going above and beyond meeting the code requirements.

Mr. Moore finished by explaining to the Commission that they do not agree with the City's condition of approval from the City Engineer regarding the ADA ramp on Jacoby Rd. Moore said it's a bad idea and there is no reason to cross mid-block on Jacoby Road. He said he knows the City's concern is ADA lawsuits if there is not an ramp installed. Moore would rather be sued by these organizations then by a family that had their kid hit and killed at that intersection. Ultimately, he can engineer it and design it to satisfy the City Engineer and the applicant can live with this Condition of Approval if they must.

Commissioner Carlton asked for clarification regarding the applicant agreeing to a conservation easement. Moore said yes that is correct the applicant has agreed to this easement.

Testimony:

Ben Sparkman, 19260 SE Jacoby Rd., Sandy, OR 97055

Mr. Sparkman addressed his concern about Newton St. shifting south since it will affect his property. Mr. Sparkman's house was recently remodeled and for the sake of saving his house he wanted to get some clarification on the proposal. He said that he gave All County Surveyors and Planners access to his property so they could depict his house correctly in the site plan when discussing the shifting of Newton St. Sparkman explained shifting Newton St. south would allow him more setback on his property. He then mentioned he assumed that would then mean that Woodstock St. would shift south as well about 16 feet.

Staff Recap:

Associate Planner Emily Meharg stated that staff is still recommending the FSH Overlay area be contained within a tract and also be maintained by an HOA (Home Owners Association). She explained why conservation easements do not work as staff is currently working on two existing conservation easements on private property that involve code enforcement issues. Meharg said that homeowners build or do work in the conservation easement because it is their property and as property owners they feel they have the right to do "whatever they want". Staff believes the best way to protect the subject FSH Overlay area would be to either dedicate it to the City or be owned by an HOA as they originally recommended.

Meharg then addressed the pedestrian easement, the connector trail from the neighborhood and how the area could align in the future with the Tickle Creek Trail. She also went on to address the root protection zone, and the third-party arborist which she explained the City has hired before, most recently in Jewelberry Ridge and Zion Meadows. She also briefly clarified the parameters of a performance bond.

Meharg finished by speaking about Newton St. and said she doesn't believe that Newton St. is being proposed to shift entirely south. She referred to the City Engineer and Public Works Director regarding this proposal.

Planning & Building Director Kelly O'Neill Jr. first addressed Mr. Brown's comments regarding the lack of staff's justification to allow smaller than 7,500 sq. ft lots to be platted and O'Neill said he completely disagrees as the FSH Overlay location is justification enough. He explained that most homeowners don't know there is even a conservation easement on their property and over time the fences along the easement are torn down and replaced or structures are constructed in the easement as homeowners find their property pins and begin removing the natural habitat in the FSH Overlay.

O'Neill asked the Commission to please think about what is most important, the protection of the FSH Overlay area with three smaller lots or to build more homes and not ensure proper protection. Commissioner Carlton asked City Attorney David Doughman if the City has the authority to force the applicant to create a tract in the FSH Overlay and Doughman said yes, he thinks the City can and explained the rationale.

O'Neill finished covering the trees that are close to the property line and the cited obligation to protect the RPZ (root protection zone) and said the applicant can pick other trees to retain and it does not have to be an all or nothing request. He also reiterated what Meharg stated about hiring a third-party arborist as its been done just recently on similar subdivisions. He also reminded the Commission that the FSH Overlay does not necessarily protect trees because homeowners are allowed under the current code to cut down two trees legally every year with a FSH tree removal application. He knows the tree code isn't good and agrees with Mr. Moore which is why they are working to change this code section with the formation of the Tree Code Committee.

Applicant Recap:

During Mr. Brown's recap he again said the applicant still requests at least 7,500 sq. ft. lots as they are needed primarily for setbacks. Their preference is

to keep the lots 19-21 platted in the FSH Overlay area. He then covered the cities request for a third-party arborist and said its another unneeded expense to the applicant that serves no purpose.

Lesowski asked Brown if the applicant dedicated a maintenance access easement where it would be placed on the applicant's property. Brown said the applicant's property abuts city property and can be accessed from that point. Lesowski said he understands that but wants to know "hypothetically" where the maintenance easement would go. Since Mr. Brown could not answer this Mr. Moore said it was proposed on the east line of lot 19.

Mr. Moore quickly moved on to address Condition #79 in the list of staff's Conditions of Approval discussing the additional six trees staff is asking to save. Moore said he doesn't think they can save these additional six trees short of doing "funky stuff" to the development of the lots. Although, when he was finished, Mr. Moore stated they can probably meet it somehow. After Commissioner Lesowski asked about Newton street shifting south to the neighbors property, Mr. Moore addressed this as well and then the Commission took a brief recess before beginning their discussion.

Discussion:

The Commission clarified their motion on the Interpretation part of this application that was discussed and voted on during the February 25, 2019 public hearing. This clarification will be noted in the February 25, 2019 meeting minutes.

The Commission, staff, City Attorney David Doughman and the applicant's representative's Mr. Brown and Mr. Moore discussed the FSH Overlay and platting Lots 19-21. Staff recommended an HOA and to plat the lots or dedicate the property with a phase one environmental assessment complete at the applicant's expense. The applicant reiterated they do not want an HOA and do not want to spend any money on a phase one environmental assessment, but instead are okay with platting the individual lots as they have presented tonight with just a conservation easement. Commissioner Lesowski discussed the phase one environmental assessment in detail with the applicant taking a side bar to discuss. Mr. Brown stated the applicant prefers a condition that allows flexibility of either platting it with a conservation easement or dedicating it to the City without the cost of the phase one environmental assessment. He said they basically want a lot of flexibility in the condition. Lesowski said it seems like the applicant wants "the best of both worlds". After a lengthy discussion, City Attorney said the applicant can request either the City Manager or City Council to waive this fee if this

something they want to pursue. O'Neill and Doughman both stated the City has required the phase one study on land they have purchased or been donated to them. Carlton said he doesn't find it unreasonable to have the City pay for the phase one environmental assessment if they want the land.

O'Neill came up with a solution to draft something with two options and have it reviewed by the applicant and City Attorney David Doughman before the Final Order is issued. The Commission agreed.

Next they discussed the ADA Ramp on Jacoby Road and Commissioner Wenzel said they should go with the recommendation of City staff. The Commission agreed. They then removed conditions to hire a third-party arborist and remove the condition to save the six additional trees. Although there was some hesitation from Commissioner Wenzel, O'Neill suggested drafting something similar to the Marshall Ridge decision that allows the applicant to count two trees in good condition that are between 8-11 inches in DBH. They briefly discussed the root protection zone and the cul-de-sac dimensions. Carlton asked if the Public Works Director has a "random number generator" as he found different numbers discussing the same cul-de-sac and wanted to know if there was a problem. The applicant and staff said there is no problem with the cul-de-sac.

The Commission then went through all three variances and approved all three of them. The Commission also agreed on the maintenance bond.

Moved by Ron Lesowski, seconded by Hollis MacLean-Wenzel

Staff Report - 0128

Motion: To Close Public Hearing at 10:02 p.m.

Moved by: Commissioner Carlton

Seconded by: Commissioner Lesowski

No votes: None

Abstentions:

The motion passed.

Motion: To approve File no.18-025 SUB/VAR/FSH/TREE/INT (Jacoby Heights Subdivision) with three requested variances and to impose conditions of approval consistent with the discussion this evening.

Moved by: Commissioner Lesowski

Seconded by: Commissioner Maclean-Wenzel

*Yes votes: Commissioner Carlton, Lesowski, Maclean-Wenzel, Logan, Mayton,
Chairman Crosby*

No votes: None

Abstentions: None

The motion Carried.

CARRIED.

5. Items from Commission and Staff

5.1.

O'Neill went over the next few months of upcoming Planning Commission Meetings.

6. Adjourn

Motion: To adjourn

Moved By: Commissioner Lesowski

Seconded By: Commissioner Maclean-Wenzel

Yes votes: All Ayes

No votes: None

Abstentions: None

The motion passed.

Chairman Crosby adjourned the meeting at 10:11 p.m.



Chair, Jerry Crosby



Planning Director, Kelly O'Neill Jr