



**MINUTES**  
**Planning Commission Meeting**  
**Thursday, January 23, 2020 City Hall- Council**  
**Chambers, 39250 Pioneer Blvd., Sandy,**  
**Oregon 97055 6:30 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:**

**STAFF PRESENT:** Kelly O'Neill, Development Services Director and Emily Meharg, Associate Planner, David Doughman, City Attorney

**MEDIA PRESENT:**

**1. Roll Call**

**2. Select Chair and Vice Chair**

**Motion:** To select Commissioner Crosby as the chair for 2020.

Moved By: Commissioner Carlton

Seconded By: Commissioner MacLean-Wenzel

Yes votes: All Ayes

No votes: None

Abstentions: None

The motion passed.

To select vice chair for 2020.

5 voted for Commissioner Carlton (Carlton, Lesowski, Crosby, Logan, and Mayton)

2 voted for Commissioner MacLean-Wenzel (MacLean-Wenzel and Mobley)

**Motion:** To select Commissioner Carlton as the vice chair for 2020.

Moved By: Commissioner Logan

Seconded By: Commissioner Mayton

Yes votes: All Ayes

No votes: None

Abstention: None

The motion passed.

**3. Approval of Minutes**

3.1. Approval of Minutes - December 3, 2019

**Motion:** To approve minutes for December 3, 2019

Moved By: Commissioner Carlton

Seconded By: Commissioner Logan

Yes votes: All Ayes

No votes: None

Abstentions: None

The motion passed.

3.2. Approval of Minutes - December 17, 2019

**Motion:** To approve minutes for December 17, 2019

Moved By: Commissioner Mayton

Seconded By: Commissioner Maclean-Wenzel

Yes votes: Lesowski, MacLean-Wenzel, Crosby, Logan, and Mayton

No votes: None

Abstentions: Mobley and Carlton

The motion passed.

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

None

**5. OLD BUSINESS**

5.1. 19-023 SUB/VAR/TREE Bailey Meadows Subdivision

Staff Report - 0217

Chairman Crosby opened the public hearing on File No. 19-023 SUB/VAR/TREE 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 Commissioners.

Commissioner Mobley recused himself as the applicant's transportation engineer.

Commissioner Carlton stated that he viewed the December 17 Planning Commission hearing video and reviewed the packet since he was not at the

December 17 hearing.

City Attorney Doughman explained the applicant's request to have the record remain open. They are treating tonight's hearing as the first evidentiary hearing. After tonight's meeting, there will be a 7-day period where anyone can submit testimony into the record. This will be followed by a second 7-day period for anyone to submit testimony in response to anything submitted in the first 7 days (new issues cannot be raised). Usually there's a third 7-day period solely for the applicant but, given the time frame, the applicant is waiving the right to final argument. The Planning Commission will reconvene on February 11, 2020 to deliberate amongst themselves with staff, but no additional public or applicant testimony will be heard.

**Staff Report:**

Since the publication of the report, there are 4 new exhibits that were provided to Planning Commission. Development Services Director Kelly O'Neill Jr. summarized the staff report and addressed the background, factual information, and presented a brief slide show.

Attorney Doughman provided additional information regarding PC's ability to change conditions.

**Applicant Testimony:**

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

Attorney Robinson introduced the applicant's team and provided a brief background of the applicant's request. He stated they are looking for solutions through the UGB expansion to provide parkland and Gunderson Road. Robinson addressed the neighbors stating the applicant understands the concerns and commits to doing their best to minimize disruption and to get the UGB expansion to occur for parkland and Gunderson Road. Robinson cited Oregon statutes related to needed housing. Robinson also explained the application is a limited land use application, so the applicant only needs to adhere to what's in the code, not the TSP. For needed housing, cities can only apply clear and objective criteria. Robinson responded to issues raised in the previous hearing, many of which are subjective or are not in the subdivision approval criteria. Robinson explained that the traffic analysis was reviewed by multiple professionals and found to be sound. Robinson made a formal request that the Planning Commission close the public hearing but keep the record open for the two 7-day periods as explained by Attorney Doughman. The applicant will extend the 120-clock by 14 days.

Chris Goodell  
AKS Engineering and Forestry  
12965 SW Herman Road, Suite 100  
Tualatin, OR 97062

Goodell talked about specifics of the subdivision, including circulation and infrastructure. Mr. Goodell presented a brief slideshow.

**Proponent Testimony:**

None

**Opponent Testimony:**

Makoto Lane  
37828 Rachael Drive  
Sandy, OR 97055

Concerned about traffic. Applicant's attorney alluded to litigation against the City, which is not indicative of a good neighbor. The traffic study appears to be partial to the developer. If a kid gets hit on Melissa Avenue, do the parents sue the City because they allowed it? 30th house tied to Gunderson Road doesn't work because developer will just continue to develop beyond that. Applicant needs to get UGB expansion approved and construct Gunderson Road before any houses are constructed. Mr. Lane does not want motor vehicle access to Melissa Avenue and doesn't understand why the TSP can be ignored.

Erin Findlay  
37616 Rachael Drive  
Sandy, OR 97055

In support of UGB expansion. Safety is the number one priority. Requests a 4 way stop at Melissa Avenue and Rachael Drive. Wants to know participation in UGB expansion at County level.

Kathleen Walker  
15920 Bluff Road  
Sandy, OR 97055

Thanked the applicant for working with City, ODOT, and Clackamas County. 900 pages is a lot to review. Concerned about the applicant's plan being in so many pieces, which makes it difficult to see how everything's connected and what the actual proposal is. Gunderson Road and the UGB expansion need to get done or the subdivision should not be approved. Parkland should also be conditioned for approval. Applicant's submittal only includes half a road for Gunderson Road; it's not clear what they are actually proposing. There should

be bike lanes and curb and sidewalk on at least one side of Gunderson Road.

Carol Cohen  
37537 Rachael Drive  
Sandy, OR 97055

900 pages is a lot to review. Is Gunderson Road going to happen? Lots of confusion. Parkland should be dedicated prior to occupancy. Gunderson Road should be completed before building permits are issued to provide access for construction vehicles.

Kelly Whitlock  
17975 422nd Avenue  
Sandy, OR 97055  
Who pays for the park and who pays for Gunderson Road?

Gigi Duncan  
18275 Rachael Drive  
Sandy, OR 97055  
City has a vision and a higher responsibility. We've learned from Nicolas Glen that one street in and out of a subdivision doesn't work and that there should have been a park. Bailey Meadows is not affordable housing. Safety should be the ultimate litmus test. House Bill 2001 - Oregon working on up-zoning to create denser, greener, and more affordable housing.

Laura Kvamme  
37438 Rachael Drive  
Sandy, OR 97055  
Melissa Avenue already carries too much traffic. Curious about elevation that parallels Rachael Drive and how drainage will work. Can't allow any new development; already exceeding capacity on Melissa Avenue. How will student buses navigate? Wants to see a clear plan.

Brad Robison  
37412 Rachael Drive  
Sandy, OR 97055  
Just because you can do something doesn't mean you should. Afraid that if Gunderson Road doesn't go through, the applicant will still be able to build the subdivision. Subdivision needs to be thought out and impact on existing neighbors needs to be considered, not just profit.

**Neutral Testimony**

Makoto Lane  
37828 Rachael Drive  
Sandy, OR 97055

He stated he wants to advocate for keep the hearing open.

**Staff Recap:**

Development Services Director O'Neill stated that some items will be addressed later and the City Attorney will need to address ORS provisions. O'Neill clarified that needed housing is related to growth projected in a 20-year planning horizon, not affordable housing. O'Neill reiterated that the proposed lots meet the 7,500 square foot lot requirement in the applicable zoning district. A 4-way stop could be considered and evaluated. Gunderson Road is proposed at a 24-foot-wide asphalt section (two 12 foot travel lanes). The 30 house limit can be changed by the Planning Commission. Each house will pay SDCs for parks, which will eventually be used to develop the park. The City will be paying for a significant portion of Gunderson Road and the Highway 211 improvements. Staff can't support closing off Melissa Avenue to vehicles because that would go against the TSP and the development code. All Oregon cities will need to update their code to allow duplexes anywhere a single-family home is allowed.

City Attorney Doughman will put together a public memo to the Planning Commission that responds to some legal issues raised. There's an increasingly magnified focus on housing regulations, including clear and objective standards and needed housing. If the applicant is right and there are laws that entitle them to build a subdivision and take all access from Melissa Avenue, then the consequence could be a neighborhood with 100 new homes taking sole access from Melissa Avenue. The City is working to get a second access. Doughman stated there is risk in denying the application. The City would not be liable for exceeding ADT standard because it qualifies for discretionary immunity. The Planning Commission has a choice to continue the hearing in its entirety to February 11, 2020 or the Commission can close the hearing but keep the record open for written testimony. Doughman prefers closing the hearing and keeping the written record open.

Commissioner Carlton asked about the variance that would be required in relation to having houses face the park. Does that variance need to be addressed now? O'Neill stated the code diagram could be subjective, but the Planning Commission could pose a condition that the houses along the park must face the park. Doughman doesn't think the park has to be surrounded by streets and houses on all sides of the park. The Planning Commission can condition that if the UGB expansion occurs and the park is dedicated then the

houses would have to face the parkland.

**Applicant Rebuttal:**

Attorney Robinson stated they're glad the public came out and he didn't mean to threaten to sue the City. Their intent is to comply with the law and find a way to get this done. Robinson doesn't think the park would be subject to code standards because it's part of the UGB expansion. Robinson wants to keep the written record open. Needed housing is not just affordable housing. City traffic engineer Replinger's comments reach the same conclusion as the applicant's traffic engineer. Robinson cited Patterson vs. City of Bend case law stating the TSP doesn't have to be adhered to if specific standards are not in the municipal code. The applicant accepts condition G.1. The need for the 30th house is so there's enough generation of revenue to get Gunderson Road started. Gunderson Road will be 30 percent cheaper if they construct it than if the City does. The applicant is trying to get parkland as part of the UGB expansion. They will address drainage in a written response. They will try to provide more information on the Gunderson Road proposal.

O'Neill stated the Clackamas County staff person for UGB expansion is Glen Hamburg. O'Neill will testify on behalf of the applicant and neighbors in support of the UGB expansion for Gunderson Road and the parkland.

**Discussion:**

The Planning Commission decided to close the public hearing. Commissioner Crosby gave the Planning Commission members one final chance to ask the applicant questions as the hearing will be closed.

**Motion:** Motion to close the public hearing at 9:15 p.m.

Moved By: Commissioner Carlton

Seconded By: Commissioner Mayton

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

No votes: None

Abstentions: None

The motion passed at 9:15 p.m.

**Motion:** Keep the public record open for 7 days (ends January 30, 2020 at 5 pm, anyone can submit written evidence), followed by a 7 day response period (ends February 6, 2020 at 5pm, responses to issues brought up during first 7 days, but no new issues). Applicant waives right of rebuttal.

Moved By: Commissioner Lesowski

Seconded By: Commissioner Maclean-Wenzel

Yes votes: All Ayes  
No votes: None  
Abstentions: None  
The motion passed at 9:17 p.m.

**6. Items from Commission and Staff**

O'Neill went over upcoming meetings. The March date will be the 30th, not the 23rd. City Council goal setting was last week. They have a new planning goal related to economic development. New associate planner Shelley starts on February 10. Commissioner Crosby asked when a quorum is established, before or after recusal. City Attorney Doughman will need to look into it. Crosby requested a taller microphone for the public podium. Lesowski asked about a newspaper article that alluded to making adjustments to Sandy Style. O'Neill stated that staff will be evaluating small code modifications to Sandy Style in 2020. Mobley asked about the status of the TSP update. O'Neill stated he would provide a TSP update at a future meeting.

**7. Adjourn**

**Motion:** To adjourn

Moved By: Commissioner Lesowski

Seconded By: Commissioner Logan

Yes votes: All Ayes

No votes: None

Abstentions: None

The motion passed.

Chairman Crosby adjourned the meeting at 9:35 p.m.



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Chair, Jerry Crosby



A handwritten signature in blue ink, appearing to read "Kelly O'Neill Jr", is centered on the page. The signature is fluid and cursive.

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Planning Director, Kelly O'Neill Jr