



PLANNING COMMISSION / COMMISSION FOR CITIZEN INVOLVEMENT

Minutes of November 4, 2009

- Draft -

Members present: Chair Michael Babbitt, Vice Chair Robert Martin and Commissioners Laura Horsey, Michael Jones, Charles Lytle and Christine Steel

Staff present: John Sonnen, Planning Director; Tom Soppe, Associate Planner; Khoi Le, Civil Engineer; and William Monahan, City Attorney

Members absent: Commissioner Dean Wood

CALL TO ORDER

Chair Babbitt called the Planning Commission meeting to order in the Council Chambers of City Hall at 6:30 p.m.

APPROVAL OF MINUTES

The vote on the Minutes of October 7, 2009 was postponed.

PUBLIC COMMENTS (None)

PUBLIC HEARING

(Note: The staff reports and all related documents for the hearings are available through the Planning Department.)

DR-09-03/VAR-09-08/VAR-09-09 8-Unit Multi-Family Complex requiring Class II Design Review and (2) Class II Variances at 2170-72 13th Street

Chair Babbitt opened the public hearing and outlined the applicable criteria and procedure. He asked the Commissioners to declare any conflict of interest, bias, or ex parte contact. Each of the Commissioners present reported he/she had visited the site. When invited by the Chair, no one in the audience challenged the authority of the Planning Commission or the ability of any individual Commissioner to hear the matter.

Staff Report

Tom Soppe, Associate Planner, presented the staff report (See Planning & Building Department Staff Report dated October 21, 2009; and the October 30, 2009 Staff Memorandum). The applicant proposed to develop two four-unit, townhouse-style, apartment buildings at 2170-72 13th Street. The new buildings would be located behind an existing duplex and behind the

adjacent lot with an existing house on it at 2150 13th Street. The applicant owned both existing buildings. A looped, one-way, driveway would serve the new structures. It would enter from 13th Street and exit over an easement across Lot 2150. TVF&R had accepted the proposed driveway. Soppe described the surrounding zoning and uses and showed photographs of the site and the vicinity. The site was zoned R-2.1 (medium-high density), which would allow more units on the site than the eight units the applicant proposed. The site was downhill from Blankenship Road and the Albertsons shopping center and near a dead-end of 13th Street.

Soppe advised the code placed a 12-unit limit on a cul-de-sac and required multifamily development parking to be on the side of or behind the structure. The applicant was asking for variances to both requirements so they could put parking in front of the townhouses and add the eight new units to the eight units already using the cul-de-sac. Soppe described and pointed to the locations of several nearby townhouse developments on cul-de-sacs that served more than 12 units. He reported the staff could agree to the proposed front parking for the following reasons: To place it elsewhere could result in less open space or affect the driveway; it was normal to have parking in front of a townhouse; and the staff believed the code requirement had been intended to address the impact of a larger multifamily parking lot - not a small townhouse development. Soppe pointed out the "building-behind-building" development pattern already existed in the vicinity of the site. He reported that the City Arborist had not found any significant trees on the site. He advised that Open Space was required for multifamily sites and would be for the use of residents of the site. He said the staff found the application would meet the applicable design review and variance criteria with the staff-recommended conditions of approval.

During the questioning period, Soppe clarified that there were already eight units using the cul-de-sac and the applicant's eight new units would bring the total to 16. He said most of the other developments he had pointed to as examples had been allowed to have more units on a cul-de-sac because they had been approved prior to adoption of the code limit. The Planning Commission had approved the development on the segment of 13th Street across Interstate 205 with more units because it featured a second, emergency, access. Soppe clarified that the carport of the existing house was to be removed to accommodate the looped driveway. He advised there was no regulation that controlled how close it could be to the house. When asked, Monahan clarified that the police department did not usually enforce "No Parking" signs on a private streets, but the Fire District could enforce that and might require the curbs to be painted to indicate that no parking was allowed there. Soppe confirmed that Condition 2 required everything TVF&R had requested in their memo that the applicant had not already proposed.

Applicant

Jeff Caines, 8196 SW Hall Blvd., Ste. 232, Beaverton, Oregon 97008, represented Sericko Resources LLC. He addressed public comments regarding traffic and a spring on the site. The traffic engineer's report said the amount of traffic generated by the additional eight units would have no significant affect on the operation of the roadway and the Blankenship/13th

Street intersection. The existing French drain directed runoff toward the ditch. Caines said the project engineer would show in construction documents how water would be collected and directed to a water quality facility. He related that TVF&R had reviewed the site plan and agreed to the looped driveway. He said the applicant agreed with the staff-recommended conditions of approval, but they wanted Condition 3 revised to change "to the satisfaction of the Engineering Department" to "per the City's engineering standards and specifications." Le suggested changing it to, "to City Public Works standards and specifications."

During the questioning period, Lytle and Martin wanted to know how stormwater would be addressed. Martin recalled seeing a lot of water flowing downhill out of a 3-inch pipe even though it had not rained for two or three days. He was worried the large ditch that ran along I-205 would fill up and back up onto the site. That had happened at the Holiday Inn Express site. Le advised that he had no reports of flooding issues in that area, but he would look at the Stormwater Master Plan to be sure the existing pipe had enough capacity to handle the runoff. Soppe pointed out drainage patterns were mapped on the Existing Conditions map (see page 112). He recalled when he had visited the site on rainy days the level of water in the ditch had not risen to a level that would cause concern. Caines said the site was not in a flood plain. Runoff would be collected and piped to an existing storm drain. He said the project engineer would take a second look at it during the construction planning stage to ensure runoff was adequately addressed. He said the ditch along the freeway might be in the ODOT right-of-way. Caines clarified the goal of the stormwater system was to collect any water that did not percolate into the ground; hold it; and release it at the predevelopment rate so it did not overcharge the system. Babbitt recalled a City/ODOT jurisdictional dispute and maintenance-related issues caused the problem at the Holiday Inn Express site. The ditch there had plugged up and backed up. Lytle wanted to know what the percentage increase of impervious surface would be. Martin observed the existing approximately 4,000 sq. ft. of impervious surface would be increased to 22,000 sq. ft. When asked, Caines clarified that the applicant was allowed to use 13th Street for visitor parking. The applicant did not plan to install any streetlights. That area would be lighted by four existing lights on the Albertson's side of the street. He said the staff agreed the lighting plan met City standards.

Horsey asked if the level of noise was acceptable for residential units. Caines recalled the previous property owner had told him she got used to the freeway noise. He anticipated that the new units would have better insulation and soundproofing and be buffered by trees. Steel recalled the freeway noise at the cul-de-sac had been similar to the noise of a constant, quiet fan. She and Babbitt wanted to know how landscaping would be used to buffer views between buildings. Caines explained vegetative screening would be planted; the slope change would help; and the applicant would use 4-foot fencing and a 3-foot hedge to buffer views between buildings. There were to be trees between the two townhouse structures. The landscape plan showed the existing trees and additional trees to be planted. He anticipated that six- to eight-foot tall trees would be planted and they would grow to over 25 feet at maturity. Le clarified that the owners of the condominiums would be responsible for maintaining the stormwater quality facility. Caines clarified the applicant would own them and they would be rental units. The applicant would be responsible for maintaining the property. Each individual lease

agreement would identify where the open space was and explain it was for tenants' use and enjoyment.

Proponents

Alice Richmond, 3939 Parker Road, advised that the City needed to provide rental units for people who could not afford to buy a home. She observed the site was close to the freeway, shopping and bus service. She was glad to hear the fire agency accepted the looped driveway. She predicted the City would experience more of this kind of duplex/ townhouse infill. She said the front parking was properly designed to allow residents to park in front of their own garage.

Staff Comments

Soppe recalled the Commissioners wanted vegetation that would screen views between the structures and suggested Condition 5 could call for "fast-growing trees approved by the City Arborist." Caines did not want the conditions to specify a species of tree. He suggested the City Arborist and the applicant's landscape architect could work together to identify the appropriate trees to use.

Horsey wanted to know if the developer could use the sanitary sewer easement along I-205 as an additional, alternate, driveway (see the map on page 115). Soppe observed there was a big berm there and it would be below the storm treatment facility proposed for the site. Le said a storm sewer easement was normally only used for utilities, not access. He was not sure it would be feasible to make it a roadway. Soppe wondered if it could be used only as an emergency access. Le said the TSP did not show a connection there.

Deliberations / Motions

Horsey observed the code did not support the number of units the development would result in, and it did not support the number of units on Virginia Lane either. Lytle indicated he could support the application because the applicant had answered his questions related to lighting for guest parking and stormwater to his satisfaction and because he was sympathetic to the public comment about the affordability of housing in West Linn. Jones indicated he wanted to approve the application but approving it would violate the code. He was concerned that the Planning Commission would have to continue to allow exceptions to the code limit on cul-de-sacs in the future if the applicant or some other nearby R-2.1 landowner wanted to remove an existing structure and build more units in its place. Babbitt recalled the staff had discussed the code that applied to cul-de-sacs at a work session and he had read and reread it. But it did not explain the purpose or reasoning behind the limit of 12 units. The Commissioners took a five-minute break and then reconvened deliberations.

Soppe surmised the 12-unit cul-de-sac limit had likely been used as a City mechanism to control cul-de-sacs before there were street connectivity requirements. Perhaps too many people wanted to have long cul-de-sacs in places where the City wanted to develop new streets. He

advised that granting the requested variance to the cul-de-sac regulation was appropriate because the applicant proposed the legal minimum density and could not reduce it. He pointed out the applicant had submitted evidence the development would not add many new peak hour trips and TVF&R had approved the looped driveway. He pointed out the site was only two lots away from Blankenship Road.

Horsey indicated that the design and landscaping worked and she had no issue related to the parking variance. But the code limit of 12 units should be respected. The other 13th Street development the staff had cited as an example featured an alternative access. The applicant's site did not offer such an alternative access. She was concerned the code called for data related to an acceptable noise level for residences that had not been provided. Soppe pointed out the staff report cited a code provision that called for new units to be placed on a site in areas having minimal noise exposure to the extent possible. But he also noted that the entire site was proximate to the freeway. Lytle said the application did not meet the code limit for units on a cul-de-sac, but the fact that what was proposed was good use of the land and would provide more affordable housing overrode that, so he could agree to grant the variance.

Martin observed variance approval criteria allowed a variance when there were exceptional or extraordinary circumstances compared to other properties in the same zone or vicinity. The circumstances the applicant faced were that other developers along the cul-de-sac had developed already and had no problem using the cul-de-sac, but the applicant was the last developer and their development put them over the limit. They should have the same right to use the cul-de-sac as other owners in the same zone or vicinity. The staff had pointed out many other developments that had been allowed to put more than 12 units on a cul-de-sac in this area. Jones commended the staff and the applicant for their work.

Babbitt wanted the language of Condition 5 to assure there would be adequate-sized, buffering, trees between the two town homes. He said his reading of the code indicated to him that the cul-de-sac limits of 12 dwellings and 400 feet might have been intended to avoid massive cul-de-sac bulbs with more houses around them. He was willing to grant the variance because the private drive looped around and that was a little bit different than a single street with a bulb at the end. He indicated he could agree to Condition 3 referring to the City Engineer. Jones suggested the following language for Condition 3:

Condition 3: Half-street improvements shall be completed and a sidewalk and street trees shall be installed on 13th Street per the City's Public Works standards and specifications and shall be approved by the City Engineer.

Both the applicant and Le confirmed they could agree to that language.

Soppe suggested Condition 5 could call for planting fast growing, evergreen, trees that would provide effective screening within five years as approved by the City Arborist along the west edge of the site between the proposed units and the Virginia Lane units. The intent was to create a continuous screen there to buffer the views between buildings. Caines agreed with

the intent to have screening trees that were expected to grow together to five or six feet above the existing fence within five years. He wanted the condition to allow applicant's landscape architect and the City Arborist to decide what type of trees would work best there. He did not want to have to plant a line of arborvitae. Babbitt asked Soppe to remove "evergreen" so the choice was not so limited. Steel suggested conveying the intent to visually separate the new townhouses from the existing townhouses rather than specify five years. Soppe and Steel then fashioned the language to be added to Condition 5, as follows:

Condition 5: Along the west edge of the site between the units and the Virginia Lane units the applicant shall plant fast-growing trees as approved by the City Arborist to visually separate the new units from the Virginia Lane townhouses.

Martin **moved** to approve DR-09-03/VAR-09-08/VAR-09-09 subject to Conditions 1-9, with Conditions 3 and 5 as revised by the Commissioners during deliberations. Steel **seconded** the motion and discussion followed. Babbitt clarified that the record should show the intent of Condition 5 was to provide screening that would grow to five or six feet above the fence line within five years. **The vote was conducted and the motion passed 4:2.** Jones and Horsey voted against. Jones explained that he believed what the applicant had proposed was appropriate and it was the code provision that was inappropriate. But the application did not meet the 12-lot cul-de-sac limit in the code. That was a CDC problem that the City would continue to experience as more infill was developed in the community. During "Items of Interest from the Planning Commission" Horsey explained that she could not say the Planning Commission understood the intent of the code and that was why she did not feel the Commission could override it

ITEMS OF INTEREST FROM STAFF

Update on Solar Highway Project

Sonnen recalled Barrington residents were concerned that the Solar Highway project would be located so close to their neighborhood and the associated trail would extend into the neighborhood. They had asked the City to form a task force to address the issues. A meeting had been arranged for City, state and fire agency representatives to present the projects and hear residents' concerns. About 50 people had attended that meeting. The state was currently conducting an environmental review that would consider their concerns. The City had established a work group with the neighborhood to address concerns related to the trail.

ITEMS OF INTEREST FROM THE PLANNING COMMISSION

Soppe clarified the "MU" zone was the new Willamette Neighborhood Mixed Use Commercial Zone and it was described in CDC Chapter 59. Horsey thanked the staff for offering more photographs in their presentation that night. Sonnen related the 12-unit cul-de-sac limit was addressed in a list of code fixes the staff was drafting. The Planning Commission would review

it in the next few months. Horsey suggested the Planning Commission also consider how the Code could better address infill and planned developments.

ADJOURNMENT OF PLANNING COMMISSION

There being no other business, Chair Babbitt adjourned the Planning Commission meeting at 9:10 p.m.

APPROVED:

Michael Babbitt, Chair

Date