



CITY OF
West Linn

PLANNING COMMISSION

Minutes of December 18, 2013

Members present: Vice Chair Christine Steel, Russell Axelrod, Nancy King,
Robert Martin and Holly Miller
Members absent: Chair Michael Babbitt and Lorie Griffith
Staff present: Peter Spir Associate Planner; Khoi Le, Engineering Department;
Megan Thornton, Assistant City Attorney

PREMEETING WORK SESSION

[Audio not available]

CALL TO ORDER

Vice Chair Steel called the meeting to order in the Council Chambers of City Hall at 7:00 p.m.

PUBLIC COMMENT

None.

APPROVAL OF MINUTES

Commissioner Axelrod **moved** to approve the Minutes of October 16, 2013. Commissioner Miller **seconded** the motion and it **passed** 4:0:1. Commissioner King abstained

PUBLIC HEARING

SUB-13-04, Proposed 11-lot subdivision at 22882 Weatherhill Road

The case file is available at: <http://westlinnoregon.gov/planning/22882-weatherhill-road-11-lot-subdivision>

Vice Chair Steel opened the hearing. Each of the Commissioners present reported making a site visit.

Staff Report

Mr. Spir discussed the area of the site. He pointed out it was characterized by large properties featuring single-family homes. He pointed out the drops in grade going south from Weatherhill Road. He advised the proposed alignment of the road through the site satisfied the Transportation Planning Rule that called for connectivity because the road could be extended through adjacent properties in the future. He reported that the application met the requirement to protect 20% of significant trees. The City Arborist had identified 23 significant trees and 11 would be saved. The Arborist had identified the grove of conifers on the west side of the site as the most important to the community. There were also some fine oaks on the south and east edges of the site. The proposed alignment of the road would protect an oak

grove and the headwaters of a stream on abutting property to the east owned by David Dean. He advised that the City supported extending a pedestrian/bike path through the grove of trees on the west to provide connectivity. He reported the application met R7 zone requirements for density and lot size and dimensions. It met code requirements in regard to utilities, street improvements, connectivity and protecting significant trees. Staff recommended approval subject to the conditions of approval recommended in the staff report and in a correction document (see **RECOMMENDATION** (amended December 17, 2013)).

Questions of Staff

During questioning Mr. Spir clarified that this pathway was not part of the Master Trails Plan but it did provide for a reasonable extension towards property to the northwest when that property was developed in the future. He said in this case staff was trying to address the Transportation Planning Rule that called for connectivity. Ideally it was about vehicular connections between properties, but if the City could not achieve that due to the presence of the tree grove, staff supported having a pedestrian path. That had been done quite successfully throughout the community. Commissioner Martin asked if the Master Trails Plan should address property that was likely to come into the City by showing potential trails there so it could guide staff when they were processing development applications. Mr. Spir advised that it might not be appropriate to fix them on the ground in areas the City did not have any control over.

Commissioner Axelrod referred to Sheet C2.0 dated November 19, 2013 on page 67 of the hearing packet and asked for clarification about the path route. Mr. Spir pointed out that it went westward to the site boundary where it would be stubbed until some future time when the abutting properties developed and the trail could be continued. Commissioner Axelrod noted a street lighting plan; a mitigation planting plan; and a stormwater plan seemed to be missing. Mr. Spir confirmed that. Commissioner Axelrod said he trusted those would get done correctly. He recalled street planting in the last subdivision case the Commission reviewed was not to code and the Commission had taken care of that. Mr. Spir responded that staff could guarantee the tree issue would be taken care of. The standard required two trees per lot frontage. Tree mitigation was 161 caliper inches of trees, which would equal 80 2-inch-caliper trees - so many that many would likely have to be planted off site.

Commissioner Axelrod asked about Tree 2427 in the middle of the property, which he described as a magnificent, 60-inch Madrone tree. He said he was surprised that it and a couple of other Madrone trees on the periphery appeared to be coming out. Mr. Spir related that the City Arborist had found the challenge was that there was a wealth of significant trees on the site. The Arborist chose to protect the grove of trees on the west side that could protect each other during bad weather rather than just the Madrone tree by itself.

Ms. Thornton outlined the applicable procedure and the applicable criteria for the decision, which included CDC Chapter 12, Single-family residential detached and attached R7, and Chapter 85, Land Division General Provisions.

25:55

Applicant

Andrew Tull, 3J Consulting, 10445 SW Canyon Rd., Ste., 245, Beaverton, Oregon 97005 and Mike Robinson, Perkins Coie LLC, 1120 N.W. Couch Street, Portland, Oregon 97209-4128 spoke for the applicant. Mr. Tull said tree retention had been one of their primary goals throughout the design process. He noted they had worked on a few different site plans so there were several different design iterations of the cul-de-sac and connectivity in the record. The plan they now proposed was one the applicant, the staff and some of the neighbors could agree to. They had dropped the tree retention a little bit but they were still retaining a very high rate of trees/canopy and providing for future connectivity both for cars and pedestrians when the surrounding properties developed. The pedestrian pathway was oriented to the west in order to achieve connectivity to the west. There was a very significant tree grove to the west that it would be difficult to grade a road through, but the trail could go through there. He said having a trail there rather than a road would be the best of all outcomes. He said he thought they had all come to consensus that the best site plan was the one Vice Chair Axelrod had referred to, which was the fold-out sheet in the back of the packet.

Mr. Tull recalled the question about the Trails Master Plan. He said in the absence of a finite master plan for the area, the applicant was doing the best they could to make sure there were pedestrian connections. He said he felt pedestrian connections were most important to provide in this sort of hilly neighborhood, so residents could get out and walk their dogs in a safe space, not necessarily to drive back and forth on a grid pattern. He said this layout set up the entire neighborhood fairly well for future development. He said the applicant certainly intended to mitigate for the removed trees. They had been through so many iterations of the site plan with the staff there was very little question in staff's mind that they could come up with a mitigation plan that would meet their requirements. As they went into the construction-document phase of the process they would submit a mitigation plan that the City Arborist and Planning and Engineering staff would review before anything was constructed. He said they certainly intended to make good on their promise to provide a tree plan. He noted Tree 2427 was a magnificent Madrone tree and those trees were quiet rare, especially in higher elevations. However, it was extremely large and extremely old and the Arborist's concern was that any construction in that area would cause that tree to be an immediate risk to homes and pedestrians. It was located in the center of a very steep grade that was being proposed in order to accommodate the road going through the site. He said it was probably the worst-placed best tree on the site.

32:08

Questions of Applicant

Commissioner Martin noted the report indicated that Tree 2427 had a suspected infection. Mr. Robinson noted for the record that the arborist's report that described that tree was on page

119 of the hearing packet. It said the tree had twig die-back and suspected infection. They wanted to remove it for those reasons in addition to wanting to remove it because it was in the grading area for the street.

Commissioner Axelrod remarked that Madrone was a type of native tree that they liked to see preserved where they could be. He wanted to know why two other Madrones (Trees 2990 and 2547) and Tree 2958 (one of the larger, significant firs on the east side) were coming out. Mr. Robinson referred to the Arborist's report on pages 120-121 of the hearing packet. He noted the Arborist reported Tree 2990 had tip die-back and she recommended removal. She recommended retaining Tree 2547. Mr. Tull said the Douglas fir was on the corner where the cul-de-sac was going to abut the neighboring property. He explained they had to do as much as they could to make it a very easy connection for them when they developed that property so the elevation mattered. Sheet C2.0 showed their proposed grading plan. The contours got quite steep on Lot 4 because they had to place a very large amount of fill in that area. That meant they would put seven to eight feet of fill around the tree. There was going to be a retaining wall on that edge of the property as well that might need to be adjusted when the neighboring property developed. He indicated that no matter what the applicant's construction impact on the tree would be, there might be further construction impacts when the adjacent property developed. Commissioner Axelrod referred to Drawing 2.2 Grading plan. He noted it showed a substantial amount of fill in the middle area of the site. He asked if the home on Lot 6 would be on stilts. Mr. Tull said it would be daylight basement construction. It would not necessarily be on stilts, but it would be two stories with the garage on the first floor and a story below and a story above.

38:44

Public Testimony

David Dean, 22870 Weatherhill Rd., said he owned the property immediately east of the proposed subdivision. He indicated that in general he supported the application because the developer had done a good job working on connectivity issues and on tree preservation. He related the Deans had a Madrone tree on their property that had also developed tip die-back and had died within two years. He related concerns he wanted to be addressed. He asked that Tree 2959, a beautiful, 30-inch Douglas fir, be saved if that was possible. He said he believed it was on both of their properties, and that he interpreted the grading plan to show the grade curved to the south of it and not right at it. He noted Sheet 2.2 showed that a variable width grading easement was required at the northeast corner of the subdivision, but no easement over his property had been obtained. That would need to be addressed or made a condition of approval. He said he was sure something could be worked out. He indicated his primary concern was that Sheet 2.2 showed the road, planter strip and sidewalk going into the existing right-of-way at the northwest corner. He said that was a very sharp corner and he did not think the plans adequately addressed how that corner was going to handle traffic at the intersection, particularly if there would be more cars on that road with a sharp corner and a narrow roadway. He said he did not know if they could address that by using property across the

street, but it was an issue to be addressed. He concluded that those were his concerns and otherwise he thought it was a very good plan.

Questions

During the questioning period Mr. Dean clarified it was Tree 2959 that he wanted preserved and it was a 30-inch Douglas fir that he thought was right on the property line. He referred to Sheet C1.3. Commissioner Martin noted that Tree 2959 was identified as being retained on page 121 of packet. Mr. Dean clarified his concern in regard to the design of the northwest corner was that the applicant showed a sidewalk and planter strip extending into the existing right-of-way at a sharp corner of Weatherhill Road. He said it was already very narrow there so that would basically make it one lane wide. He suggested there needed to be some adjustment to the right-of-way or to the design. He clarified his concern about the northeast corner was that page C2.2 showed extensive grading onto the adjacent property (which was his property) which would require an easement, which had not been obtained. He indicated that he had not known about it until he had seen it on the plans the previous day.

Rebuttal

Mr. Robinson said the applicant had not obtained the easement shown on the northeast corner. They would certainly obtain one if they needed to be on Mr. Dean's property to do the grading work. If they did not need to be on the neighbor's property or could not obtain his permission to be there they would modify the grading plan. Mr. Tull apologized for his office showing any sort of work on Mr. Dean's property without his permission. Mr. Robinson said they wanted to be a good neighbor with Mr. Dean. He referred to the tree report about Tree 2959 on page 121 of the hearing packet that showed it as being retained. He said unfortunately that was the one tree that had to come out as a result of the connectivity plan. He indicated that if the tree was on the shared property line they would work with the neighboring property owner. They would not just arrive and take out the tree and damage his property without having first talked to him. He said the applicant had coordinated the design of the driveway at Weatherhill Road with the City's Engineering Department and they were confident it was going to work.

Mr. Tull explained that Weatherhill Road was classified as a local road which did not need to have the kind of big, wide turns an arterial would need to have. It could have quite tight turns, but there had to be visibility so cars did not run into each other. He said Lancaster Engineering had prepared a sight distance certification for their access plan to ensure cars approaching from the west had sufficient time to see vehicles and react so cars entering and exiting the proposed subdivision did not cause an accident. He advised they were only required to provide improvements along Weatherhill Road along their road frontage. Almost all of the other properties along Weatherhill Road would be required to dedicate right-of-way to the City and improve it when they developed. It would eventually stop looking like a single-lane country road and start looking more like a regular local street. He reported that the applicant believed property directly to the north was going to be partitioned in preparation for a potential assisted

care facility and it was likely the improvements that development made would happen sooner rather than later and that entire section of Weatherhill would be improved close to the same time the applicant's improvements would take place. He indicated he thought that the onus would be on the development to the north of the site to make sure the centerline radius and the road curvature met the City standard. He advised that the way it was designed on the applicant's plan met the City requirements for a local street. Mr. Robinson added that there were two conditions of approval that backed up what Mr. Tull said: Condition 5 said street improvements were to be designed and constructed in accordance with city public works standards and went on to explain what was required; and Condition 13 provided that all public improvements, including grading, were subject to review, modification and approval of the City Engineer. He said the City Engineer had vetted their plan as they worked out the plan prior to the hearing, but as they prepared the construction drawings for the improvements they were obligated to make sure the City Engineer would continue to review them. They had a sight distance certification showing that at the end of construction it would meet city sight distance standards and the City Engineer would have approved it before it was constructed. He said they appreciated that Mr. Dean had brought it up and they were confident the proposed plan was consistent with city standards and would provide a road that met the standards for that kind of road.

Questions

Commissioner Miller recalled Mr. Dean had testified that he was hoping to save Tree 2959, not that he was worried about the damage that taking it down might cause. She asked why the applicant could not save it. Mr. Robinson responded that it was because of the grading. The plan showed the tree was right on the location where they had to take the road down to the property line. He said he thought both Mr. Spir and Tull had done a good job of explaining there were tradeoffs. They wanted to retain trees, but they also wanted connectivity. To have connectivity on steep lots required a lot of grading. He said they would retain trees where they could, but this one was going to be in the grading area. Mr. Tull said the alternative to the applicant removing it would be to work with the City Engineer and their neighbor to stop the road short of the neighbor's property. That meant that when his property was developed he would have to build more road, he might have to remove retaining walls, and that might affect the cost of developing his land. Mr. Tull said if there was an agreement that could be reached between the City Engineer, the applicant and the neighbor they could work towards that on the design plans. Mr. Robinson said they would talk with Mr. Dean and the City Engineer and see what they could do. If the tree had to come out for connectivity, then it would have to come out. If it could be saved in some fashion or if it was on the property line and it had to be removed they would talk with Mr. Dean. Either way they would have a conversation with him and see what they could do.

Questions of Staff

Mr. Le clarified for Commissioner Axelrod that a line on Drawing 2.2 in the area of the intersection of the driveway and Weatherhill Road and near the sharp turn was the centerline

of the existing roadway, not of the new roadway. Commissioner Axelrod observed the adjoining property bulged out over the line, so it was in the right-of-way. Mr. Le said that was correct. He confirmed that in the future that corner would not be so sharp. He said he would look at the future alignment during the construction review phase to see if they were meeting the required radius. He pointed out the sheet also showed the future centerline of the future right-of-way as a dashed line.

56:00

Deliberations

Vice Chair Steel closed the public hearing and opened deliberations. She polled the Commissioners. Commissioners Miller and King each indicated she had no problems with the application and would approve it. Commissioner Axelrod said he was pleased to see the cooperation between the applicant, the adjacent property owner and the City and he was sure they would be able to work out the details. He said there were a few trees he might comment on that should be preserved if they could be, but he would understand if they could not be. He indicated he was not sure the list he was looking at on Sheet 1.3 dated November 19, was the current list showing the status of trees. Perhaps they should have asked the applicant if it was. But it seemed to be the more current list.

Commissioner Martin complemented the applicant and staff on the work they did to preserve trees and on the idea of using the trail to preserve the grove. He said this was one of the better quality applications he had seen and he appreciated the work. All the iterations had paid off. He noted there were still two things sort of hanging in the air: the easement for grading and Tree 2959 on the joint property line. He asked staff if a condition of approval could call for an agreement to be reached between the applicant and the adjacent property owner regarding those two issues. Ms. Thornton advised against imposing that kind of condition of approval because meeting it would not be completely within the applicant's control. If they were required to get an easement from a neighboring property owner, but they could not, then they would have to come back to the Planning Commission to apply for modification of the conditions of approval. She said the City was not going to allow something to happen knowing that an applicant was going to be entering property that they did not have a right to enter. Mr. Le advised that when he reviewed a construction plan he would not approve it if the applicant did not have permission from the adjacent neighbor. Commissioner Martin then indicated he was inclined to approve the application. Vice Chair Steel said she was also in favor of approval. She added that she had seen that kind of blight on Madrone trees.

Commissioner Martin **moved to approve SUB-13-04** with the conditions of approval recommended by staff, as amended on December 17, 2013. Commissioner Miller **seconded** the motion and it **passed** 5:0.

1:01

ITEMS OF INTEREST FROM THE PLANNING COMMISSION

Commissioner Martin noted that Chair Babbitt was ending his third term after 12 years on the Commission. He deserved their thanks. He was an exceptional example of public service.

Commissioner Martin said he hoped there was an outpouring of emails from people watching to let him know they appreciated what he had done for the City. He was an incredibly wise and good leader. He noted they would also be missing the insight of Commissioner Miller who had served for three years. He said thanks to them both. Commissioner Axelrod agreed with Commissioner Martin. He said they would miss them both. He thanked Commissioner Miller for her service. He said the City needed more reasoned and caring people like her.

ITEMS OF INTEREST PERTAINING TO THE COMMISSION FOR CITIZEN INVOLVEMENT

The Commissioners asked if the CCI would be part of the discussion during the January 6 joint meeting of the Planning Commission and City Council. Ms. Thornton was not certain. She suggested if they wanted to they might talk about what the CCI might take up on the future. Commissioner Miller recommended that it be discussed either jointly or separately because it was an important part of what has caused friction between the public, the City Council, the Planning Commission and the City Manager. She said they needed more traction and more teeth to make it a more effective Commission.

Commissioner King related she had been involved in the City's community survey to try to find what methods of communication that the citizens wanted to be used so they could find out about things. She encouraged everyone to take the phone calls or go to the online survey. If people were on the email list they should have gotten a link to the online survey. She said it would be interesting to get information back from a wider group of people. She said the Commissioners needed to talk about the CCI organization with the City Council to get it very clear how that was going to work moving forward because to her it had been the sort of organization that they talked about every agenda but it did not have anything on it. Commissioner Miller commented that to some extent it had to make a recommendation to the City management. Going forward they either needed to fold it back in or design it differently.

Commissioner Axelrod talked about what they had identified in their annual report and plans for next year. One of those was to better define and refine the roles and goals and objectives of the CCI. He said he was not sure they had to get too involved with the City Council about it, but he thought it was about relating that to them and getting their feedback on it. He said he thought there was some interest in even stepping outside the Planning Commission. He said maybe that could be a way they could cooperatively work with them. Vice Chair Steel said she would also like to see a more heterogeneous group for the CCI so it was not just the Planning Commission. She said maybe it would help if it had a different format.

ITEMS OF INTEREST FROM STAFF

Ms. Thornton updated the Commission on the schedule for January 2014. On January 6 the Planning Commission was scheduled to meet jointly with the City Council. Afterwards they could participate in the annual training session for board and commission members. At the Planning Commission's January 15 meeting the Commissioners would elect officers and have the WRA code hearing. Vice Chair Steel noted a PUD/Infill code work session was also

scheduled that evening. She suggested it be postponed. The Commissioners noted the joint work session was only scheduled for an hour. They questioned that they could accomplish much in one hour with the City Council. Suggestions included rescheduling the training session to get better attendance because it was scheduled on the same day as a national championship game; scheduling the start of the joint work session a half-hour earlier; scheduling the work session and the training on two different days; talking about what they wanted to come out of the work session ahead of time so they could get the process started at the work session; and getting an RSVP response to measure attendance at the training. Ms. Thornton indicated she would communicate their suggestions to the administrator. She noted the two meetings had been scheduled for a long time for a large number of people and the joint work session had been scheduled prior to the City Council goal setting session the following weekend. She related that the City Council did not want to repeat what had happened last year when they set goals in March after a quarter of the year had passed.

ADJOURNMENT

There being no other business, Vice Chair Steel adjourned the meeting at approximately 8:25 p.m.

APPROVED:



Christine Steel, Vice Chair



Date