

WEST LINN PLANNING COMMISSION
FINAL DECISION NOTICE
SUB 07-01

**IN THE MATTER OF A PROPOSED SIX-LOT SUBDIVISION ON
1.7 ACRES LOCATED AT 4111 ELMRAN DRIVE**

At their meeting of May 10, 2007 the West Linn Planning Commission held a public hearing to consider the request by Canyon Development (Garrin Royer) to approve the development of a six-lot subdivision on 1.7 acres at 4111 Elmran Drive. The site is located in the Robinwood Neighborhood of West Linn, north of the intersection of Elmran and Cedaroak Drives. The approval criteria for the subdivision application are found within Chapter 85 of the West Linn Community Development Code (CDC.) The hearing was conducted pursuant to the provisions of CDC Chapter 99.

The hearing commenced with a staff report presented by Gordon Howard. The applicant's presentation was made by Garrin Royer, Matt Hastie of Cogan Owens Cogan, and Civil Engineer Don Cushing. Alice Richmond and Tom Baker testified in support of the application. Providing neutral testimony were the representative of the Robinwood Neighborhood Association and Michael Berger. Written testimony was received from Mr. Berger, the Robinwood Neighborhood Association, Gregory Morse, and Anne Morse.

FINDINGS

At the conclusion of the public hearing, the Planning Commission adopted the findings provided by the applicant, as supplemented in the staff report, and made the following additional findings:

A. The Planning Commission determined that the applicant's proposed "green street" design on Upper Elmran Drive was appropriate. The Planning Commission determined that design of the paved pathway for pedestrians should properly balance the need for a smooth surface to ensure safe access for all individuals with the need to reduce storm runoff from the additional paved surface. The Planning Commission determined that the applicant should provide a paving surface that accommodates both needs, consistent with a reasonable cost.

B. The Planning Commission determined that the prudent approach of city staff in requiring replacement of the asbestos cement water line under Elmran Drive in association with frontage street improvements was appropriate. The Commission was not presented evidence regarding the proportionality of the applicant's impact to the existing water system, nor specific findings related to the safety issues associated with trying to leave the existing water line in place during road construction. Therefore, the Commission determined that the precise share of the applicant vs. the city's costs of

replacement needed further city analysis. This could be accomplished by amending the relevant condition of approval to require such analysis.

C. The Planning Commission determined that the staff-proposed condition to repave Lower Elmran Drive was not proportional to impacts caused by the applicant's proposed subdivision, since none of the proposed lots take access to Lower Elmran. Therefore, the Commission deleted this proposed condition of approval.

D. The Planning Commission determined that the staff-recommended public stairway down the steep slope between Lots 3 and 4 to Upper Elmran Drive was unwise because 1) it would result in pedestrians being deposited at the bottom of the stairway along Upper Elmran at a spot where walking in either direction from the end of the stairway would be on the street and unsafe; and 2) the stairway would require significant grading and creation of retaining walls, resulting in removal of native vegetation, potential erosion issues, and an unsightly placement of large amounts of concrete along the bank.

The proposal of the Robinwood Neighborhood Association, agreed to by the applicant, would extend the pathway from Upper Elmran around the corner to Lower Elmran to a terminus near Tree #41 as shown on the site plan. At this point, pedestrians would have a clear view up and down Lower Elmran, and could continue on the downhill (east) side of the street to Nixon Avenue and the Willamette River. The Commission determined that the applicant's proposed clearing of the existing right of way for the path and, clearing on the property itself for placement of storm drainage facilities, will help to improve site distance for both pedestrians and vehicles at the intersection of Elmran and Cedaroak Drives. Additionally, the Planning Commission determined that an additional "clear vision area" twelve feet wide within the subject property was appropriate to maintain additional site distance for pedestrians and vehicles above and beyond clearance of the right of way.

While the Planning Commission acknowledged that there exist significant additional issues with traffic at the intersection of Cedaroak and Elmran, the Commission did not believe that requiring this applicant to fix all existing problems at this intersection was justified by the proportionality of the applicant's additional traffic placed upon the existing situation at the intersection. The Commission urged the City Engineering Department to coordinate additional improvements that may be necessary at this intersection with those improvements required of the applicant.

E. The Planning Commission determined that the staff's recommendations regarding trees #5 and #6 were essentially the same as the applicant's proposals for those trees, but amended the staff condition of approval to clarify that the applicant will be permitted to remove those trees if necessary to place an appropriate residential structure on Lot 1, and also if, upon further analysis, these two trees represent a hazard justifying removal. In addition, the Commission accepted testimony that Tree #2, located on the north property line, should be further evaluated at the time of home construction on Lot 1 to determine if it constitutes a hazard and should also be removed.

F. The Planning Commission determined that the Robinwood Neighborhood Association's request to prohibit construction vehicles from parking in the public street right of way during construction of the project was not appropriate and unenforceable. However, the Commission acknowledged the narrow nature of the streets in the area and the traffic associated with Cedaroak School to the south, and included a condition of approval requiring the applicant to provide enough space on the site itself during construction to accommodate all vehicles associated with the construction.

DECISION

Based upon the findings discussed above, a motion was made by Commissioner Kovash and seconded by Commissioner Wittenbrink to approve the proposed subdivision with the following conditions of approval.

1. The applicant shall construct street improvements to Upper Elmran Drive as shown on the tentative plan, and in addition shall repave the half-street of Upper Elmran Drive along the project frontage. The pedestrian pathway shall be constructed with materials that maintain wheelchair accessibility and provide cost-effective reductions in storm runoff.
2. The applicant shall replace the existing asbestos cement water line under Upper Elmran Drive with a new water line built to current city standards as part of the construction activities along the frontage. The applicant's share of the cost shall be determined through a proportionality analysis prepared by the city with the participation of the applicant.
3. The applicant shall extend the pedestrian pathway from Upper Elmran Drive around on Lower Elmran Drive to the point where the path meets the root zone for Tree #41 as shown on the site plan, at which point the path shall end. The applicant shall also place an easement over that portion of the property within twelve feet of the Elmran Drive right of way between Tree #41 and Tree #42 as shown on the site plan that restricts all fences, structures, and vegetation to a maximum height of three feet.
4. The applicant's final storm drainage plan shall be approved by the City Engineer and be required to meet all requirements of the City's Storm Drainage detention and treatment requirements. The applicant shall place a public drainage easement on all elements of the proposed storm drainage system. The easement shall also specifically prohibit any landscaping, grading, or structures that would interfere with the storm drainage functions of these areas. The storm drainage facilities in the vicinity of the intersection of Lower Elmran Drive, Upper Elmran Drive, and Cedaroak Drive shall also prohibit any vegetation, grading, or other alterations, that would interfere with clear vision at this intersection (no structures or landscaping or earth berms over three feet in height). The final storm drainage plan shall also include improvements to the existing open channel along the uphill side of Lower Elmran Drive to slow the velocity of storm flows.

5. The applicant will be responsible for undergrounding (or fee in-lieu) all utilities along all property frontages.
6. Prior to commencement of any site development or construction work on the site, the applicant shall place anchored chain-link fencing around all trees designated as significant and to be protected, with locations of the fencing to be approved by the City Arborist. The chain link fencing shall remain in place on each individual lot until all construction activities are complete on that lot.
7. Prior to commencement of any site development or construction work on the site, the applicant shall place anchored chain-link fencing around Trees # 5 and #6 as shown on the Tentative Plat, with locations of the fencing to be approved by the City Arborist. The ultimate fate of these trees, and tree # 2 along the property's northern boundary, shall be determined at the time a building permit is issued for this lot, and the trees may be removed if necessary to place a desired residence on Lot 1, or for safety reasons.
8. The private street shown on the final plat shall not be placed into a separate tract, but will be divided among the adjacent lots, and subject to a reciprocal access easement along with a public pedestrian easement.
9. The applicant shall dedicate an open space easement over the area of steeply sloped bank (over 25% slope) along Lower Elmran Drive. The easement shall prohibit removal of existing trees or vegetation without city arborist approval.
10. As part of public improvement plans, the applicant shall provide an off-street parking area on site during construction activities sufficient to park vehicles associated with project construction on the site, rather than on adjacent streets.

The motion was approved, with three in favor (Kovash, Wittenbrink Bonoff), and one opposed (Babbitt).

This decision will become effective 14 days from the date of mailing of this final decision as identified below. Those parties with standing (i.e., those individuals who submitted letters into the record, or provided oral or written testimony during the course of the hearing, or signed in on the attendance sheet at the hearing, or who have contacted City Planning staff and made their identities known to staff) may appeal this decision to the West Linn City Council within 14 days of the mailing of this decision pursuant to the provisions of Chapter 99 of the Community Development Code. Such appeals would require a fee of \$400 and a completed appeal application form together with the specific grounds for appeal to the Planning Director prior to the appeal-filing deadline.