



PLANNING COMMISSION

Meeting Notes of December 20, 2017

Members present: Jim Farrell, Lamont King, Charles Mathews, Carrie Pellett, Bill Relyea and Gary Walvatne
Members absent: Joel Metlen
Staff present: John Boyd, Planning Manager; Megan Thornton, Assistant City Attorney and Tim Ramis, City Attorney

PREHEARING MEETING

Chair Walvatne called the work session to order in the Rosemont Room at City Hall.

Ms. Thornton reminded the commissioners that tonight's meeting is an Expedited Land Division and will be vastly different than a quasi-judicial hearing. Because the record is set there will be no public testimony and the commissioners won't be able to ask questions of staff. After disclosing ex parte contact and bias, the commissioners will move directly in to deliberations. Ms. Thornton provided a brief background on Expedited Land Divisions noting it was revised two years ago and is covered by state statute so there isn't flexibility in how the city processes the application.

Once the Planning Commission makes a decision, a Final Decision and Order will need to be drafted and supported by findings. Then it will be mailed out with a stated appeal period. If the application is appealed, it will go to a hearing's officer (someone not employed by the city) for a decision.

(00:00:57)

REGULAR MEETING - CALL TO ORDER

Chair Walvatne called the meeting to order in the Council Chambers at City Hall.

(00:01:08)

PUBLIC COMMENT RELATED TO LAND USE ITEMS NOT ON THE AGENDA

None.

(00:01:40)

MEETING: 6-LOT EXPEDITED LAND DIVISION AT 4096 CORNWALL STREET, SUB-17-04 (STAFF: JENNIFER ARNOLD)

Chair Walvatne opened the meeting explaining that it is an Expedited Land Division (ELD) being discussed tonight. This is unlike usual applications in that it is governed by state statute. There will be no staff report, staff presentation, applicant presentation or testimony taken. The only testimony is what was submitted within a specified time period. The Planning Commission's decision still must be grounded in the code, and if the application meets the code, the Planning Commission must approve it. He then provided an outline of how the meeting will proceed. After the preliminary legal matters, the Planning Commission will enter into deliberations to discuss the application and decide if should be approved, approved with conditions or denied.

Mr. Ramis provided the preliminary legal matters.

Chair Walvatne opened deliberations.

Commissioner Relyea asked about the Habitat Conservation Area (HCA) designation and believes the map was incorrectly changed. Commissioner Farrell had similar concerns. The applicant's consultant, Schott and Associates, submitted a report that found no wetlands on the property. Commissioner Farrell questioned how the report could be so different from testimony given at the previous hearing.

Vice Chair Mathews pointed out that if the property did have the HCA designation, the application wouldn't be eligible for the Expedited Land Division. However, Chair Walvatne believes from reading ORS 197.360 (1) (a) (C) that it just means a structure cannot be located in the HCA.

Commissioner King expressed concern over the adequate facilities issue and that Staff Finding 75 *could* be met regarding stormwater. To him, this is still an open question.

Vice Chair Mathews noted that the applicant addressed many of his concerns with this new application and that he is prepared to recommend approval.

Chair Walvatne spoke to some of TVF&R's requirements and if the application met those requirements.

Commissioner Farrell questioned the applicant's movement of Landis Street to the northern boundary and how that affects those land values and how those properties to the north can be developed, presumably without the consent of those property owners. Vice Chair Mathews does not find the street layout to be an unreasonable proposition. Commissioner Farrell disagrees because it imposes this developers plan on neighboring properties.

Commissioner Pellett pointed out that in submitted testimony, Pam Yokubaitis states "it is also known that the developer has already platted lots for Cornwall Street redevelopment (See Willow Ridge Plat A) on the private property where they propose to stub out Landis Street. This demonstrates the developer's serious interest in developing adjacent Cornwall property in the future". This would indicate that the neighbors are aware of future development.

Commissioner Relyea revisited the question of the HCA boundary and if neighbors should have been notified. Chair Walvatne suggested that if there is an HCA on the property, then the ELD process can't be used. Mr. Ramis clarified that the HCA decision is not a part of the Planning Commission's review.

Chair Walvatne noted the applicant went back to the neighborhoods and listened to concerns brought up at the first hearing and commended them for making adjustments based on that information. This helped resolve many issues from the first application. But he is still needs more information regarding stormwater runoff and wetland determination, trip generation and allowable density.

Vice Chair Charles Mathews **moved** to accept SUB-17-04 as proposed with the conditions of approval 1 – 10 contained in the staff report, with the exception of condition 7 to be modified to state "alley shall be gated at both ends". Proposed lot 5 shall access Landis Street directly, and lot 6 shall access Cornwall Street directly. However, if the topography of lot 6 is such that it won't accommodate a driveway and the alleyway, then lot 6 can access the alleyway onto Cornwall Street with a gate west of the access so the gated area of the alleyway does not service either lot 5 or 6. In addition to the changes above, the alley shall be constructed to the City Engineer's standards and approved by the City Engineer prior to final plat approval. The applicant shall name the alley and display the name on the face of the plat prior to the final plat approval. The strip of land between the alley and the property to the north of the proposed

property line between lot 5 and lot 6 shall be extended north of the alley, giving portions of ownership of the strip to each property. Neither property shall take ownership of the alley. And adopt the staff report as the written decision with the stated changes.

Commissioner Carrie Pellett **seconded** the motion.

Ayes: Commissioner Carrie Pellett and Vice Chair Charles Mathews

Nays: Commissioner Jim Farrell, Commissioner Lamont King, Commissioner Bill Relyea and Chair Gary Walvatne

Abstentions: None

The motion failed 2-4-0

Chair Walvatne clarified this is a failure of the motion, not a denial of the application and that another motion is needed.

Chair Gary Walvatne proposed a **motion** for a tentative decision to deny with findings adopted at a continued hearing in January.

Commissioner Jim Farrell **seconded** the motion.

Vice Chair Mathews observed that CDC criteria is needed to support a denial, and wondered what that would be.

Chair Walvatne questioned if the applicant could withdraw his application like before. Mr. Ramis thought that could be done.

Commissioner Pellett asked if the commissioner's reasons for denial could be resolved with conditions. Chair Walvatne cited density, water issues and off-site impacts, stormwater calculations, raingarden compatibility, traffic study and block length; Commissioner King stated that Condition 75 "could be met". It is not definitive. He would like to know that the condition is met; Commissioner Farrell related Condition 5 requires approval and by denial the Planning Commission is denying that approval. Staff Finding 50 and 52 do not allow the alleyway to be gated. Does there need to be a traffic analysis to see how many people will be using the alley? Staff Finding 54 states no off-site improvements are required to mitigate impacts.

Commissioner Farrell disagrees; Commissioner Relyea pointed out that the applicant does not believe Chapter 28, Willamette and Tualatin River Protection, applies and that the HCA designation was changed to accommodate that condition. But because the HCA area is connected to Cornwall Creek, Commissioner Relyea does not believe that condition has been met.

Vice Chair Mathews stated that if another motion is made that would keep Condition 7, he would not be in favor of it.

Ayes: Commissioner Carrie Pellett, Commissioner Jim Farrell, Commissioner Lamont King, Commissioner Bill Relyea and Chair Gary Walvatne

Nays: Vice Chair Charles Mathews

Abstentions: None

The motion passed 5-1-0

Chair Walvatne explained this meeting will be continued to the next meeting on January 3, 2018, at which point the final text of the decision will be available. He further explained that if someone wants to appeal the decision to the referee, they would need to file an application to the Community Development Department within 14 days of the mailing of the Final Decision.

(01:55:03)

ITEMS OF INTEREST FROM THE PLANNING COMMISSION

Commissioner Relyea followed up on information he provided about the I-205 Widening and Seismic Improvement Project and if a presentation had been scheduled. It was suggested to invite the CCI and HRB to the presentation as well.

Commissioner Farrell shared information about an upcoming seminar on Needed Housing. He also expressed his appreciation for the Commissioners and how they strive to make the best decisions with the information they are provided. He believes the Expedited Land Division process has been a frustrating/learning experience.

Vice Chair Mathews asked Mr. Ramis when a referee decides an Expedited Land Division case, can they add conditions of approval? Mr. Ramis explained he would need to review the scope of the referee's authority in the State Statute.

Councilor Martin provided background information on WRAs and HCAs.

(02:07:36)

ITEMS OF INTEREST FROM STAFF

None.

(02:07:41)

ADJOURNMENT

There being no further business, Chair Walvatne adjourned the meeting.