



PLANNING COMMISSION

Meeting Notes of January 10, 2018

Members present: Jim Farrell, Lamont King, Charles Mathews, Joel Metlen, Carrie Pellett, Bill Relyea and Gary Walvatne

Members absent:

Staff present: John Boyd, Planning Manager; Megan Thornton, Assistant City Attorney and Peter Watts, City Attorney

PREHEARING MEETING

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

Vice Chair Mathews and Chair Walvatne discussed the difference between completeness determination and technical adequacy. Mr. Watts explained the reasoning behind the completeness letter (and the start of the clock) and that what staff determines is all the necessary materials to make an application complete may not be enough for the commissioners to make a decision. It was suggested to revise the wording of the completeness letter. The Expedited Land Division process makes it even more difficult since there is not the ability to add to the record.

Vice Chair Mathews noted the difference between TVF&R's street width requirements and the city's and suggested making it consistent. Commissioner Farrell believes that would eliminate one problem recent applicants have encountered.

(00:07:01)

REGULAR MEETING - CALL TO ORDER

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

(00:07:09)

PUBLIC COMMENT RELATED TO LAND USE ITEMS NOT ON THE AGENDA

None.

(00:07:23)

CONTINUED FROM DECEMBER 20, 2017 – MEETING: 6-LOT EXPEDITED LAND DIVISION AT 4096 CORNWALL STREET, SUB-17-04 (STAFF: JENNIFER ARNOLD)

Chair Walvatne opened the meeting with a reminder that the Expedited Land Division (ELD) process prohibits a hearing. The previous meeting on December 20, 2017, was a discussion of the application, staff report and previous testimony that what was submitted within a specified time period. That meeting produced a tentative decision to deny the application (5-1-0). There is now a draft Final Decision and Order with findings to support the denial for the Planning Commission to review.

Mr. Watts provided the preliminary legal matters.

Vice Chair Mathews had two issues with the findings. The first is on page 2, last paragraph, line 3: the word "apparently" should be struck. The second is that six different times in the findings the Commission found there was inadequate information to make a determination on various issues. Those are: on page 2, paragraph 1, line 1 "no clear description regarding density..."; page 2, paragraph 2, line 5 "transportation issues are left unanswered by the design in the

record..."; page 2, paragraph 3, line 2 "these issues are left unanswered by the current record..."; page 2, paragraph 4, line 7 "transportation infrastructure is adequate without additional information... (however) the record is insufficient to permit a finding of compliance." page 3, paragraph 1, line 3 "there is no evidence that consent of the owners..." page 3, last paragraph, line 1 "finding that there was not enough information..." He believes they need to tie the lack of information more tightly to the code to show that insufficient information is a violation of the CDC 99.030 (C) (2), and that should be noted on page 1 under III. Findings.

"The application shall be complete and shall contain the information requested on the form, shall address the appropriate submittal requirements and approval criteria in sufficient detail for review and action, and shall be accompanied by the deposit or fee required by CDC 99.033..."

Commissioner Pellett also had a few questions about how the findings were written. First, on page 2, paragraph 3 "The Commission reads the traffic analysis to limit review of the impact of the project to only five houses. The Applicant was aware of the existing sixth house unit and should have addressed it in the traffic analysis study." Commissioner Pellett's recollection is that a traffic analysis study wasn't even a requirement and therefore should not be listed as a basis for denial. Continuing with that paragraph "This error undermines the credibility of the analysis..." Commissioner Pellett believes that language is judgmental and should not be used. She wants to ensure the denial is based on the code. Another example is on page 3, paragraph 1 "There is no evidence that consent of the owners to the north..." Consent of the owners is not a criteria in the code and should not be the basis for a denial.

Commissioner Relyea cautioned about being too specific with citing certain areas of the code when it comes to the application. His concern is that staff has deemed the application complete and now the Commissioners state they are denying the application because they don't have enough information. He finds this problematic.

Mr. Watts explained there could be a difference in interpretation between staff and the Planning Commission's.

Chair Walvatne noted this is more difficult because additional information cannot be requested. Commissioner Relyea clarified his position and noted he doesn't believe CDC 99.030 (C) (2) is the correct basis for denial. It is the basis on which staff had reviewed the Applicant's submittal and deemed it complete.

Vice Chair Mathews concluded it wasn't complete or there wouldn't be so many instances where the Commissioners found insufficient information to make a decision.

Commissioner Farrell agrees that CDC 99.030 (C) (2) is the correct basis for denial.

Commissioner Relyea suggested that if they cite certain areas of the code and it doesn't end up being applicable, the Planning Commission puts themselves in a position of jeopardy.

Mr. Watts clarified that the specific code can, be but does not have to be identified.

Commissioner Metlen noted a distinction needs to be made in regard to CDC 99.030 (C) (2) "...sufficient detail for review and action..." An "action" doesn't necessarily mean approval. A denial is also an "action". In this case, enough information was provided to identify the issues, but not enough to address the issues. Vice Chair Mathews still believes each time sufficient information is not provided, the findings must state which code is not met.

Commissioner Pellett would like to see the Findings re-write to open with the Commissioner's primary reasons for denial: density and the gated alley, then follow up with the other issues, listed by code item, where information was insufficient. Commissioner Relyea believes the

“applicant’s burden of proof” requirement to meet the city’s CDC, Comprehensive Plan and any applicable Municipal Code provisions was not met.

Commissioner Farrell asked Mr. Watts how as an attorney he would defend the Planning Commission’s denial of the application if it should be appealed. Mr. Watts outlined how the applicant must meet the requirements of the state statute. If they don’t meet any part of the statute ORS 197.360 (4), it can’t be allowed. The applicant didn’t demonstrate they complied with the requirements.

Chair Walvatne believes there was not adequate information related to ORS 197.360 (3) and (4) to approve the Expedited Land Division.

Vice Chair Mathews would like to revise page 2, paragraph 3 regarding the traffic analysis study. Chair Walvatne suggested removing the entire paragraph. He also agrees with Commissioner Pellett that there isn’t a CDC requirement to have the consent of adjacent owners, page 3, paragraph 1, line 3. Vice Chair Mathews suggest keeping the first line and removing the rest of the paragraph.

To move forward, the Commissioners edited the document to reflect their earlier comments and concerns. It was decided that since the Planning Commission would be meeting on January 17, 2018, that the revised Findings be emailed to them in advance for approval at that meeting.

(02:17:14)

ITEMS OF INTEREST FROM THE PLANNING COMMISSION

As mentioned earlier in the work session, Vice Chair Mathews would like to discuss the difference in TVF&R’s street requirements and the city’s. He would like to recommend to City Council changing the code for a local street from 24 feet (city requirement) to 26 feet (TVF&R’s requirement) which would allow parking on one side of the street under the fire code. Mr. Boyd will contact the City Engineer and TVF&R about attending a work session.

Commissioner Farrell shared the Willamette Neighborhood Mixed Use Transitional Zone Working Group is up and running and outlined their purpose and goals.

Chair Walvatne noted that for about a year the CCI has been looking at the land use permit process in West Linn. They are about to wrap up and make a recommendation to City Council to appoint a group to look at the issues that were discovered and develop solutions to present to City Council and the Planning Commission. He is requesting a copy of Mr. Boyd’s flow diagram be provided to the Commissioners.

(02:26:52)

ITEMS OF INTEREST FROM STAFF

None.

(02:27:00)

ADJOURNMENT

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