



# CITY OF West Linn

## PLANNING COMMISSION

Minutes of March 20, 2013

Members present: Chair Michael Babbitt, Vice Chair Christine Steel, Russell Axelrod, Nancy King, Robert Martin and Holly Miller  
Member absent: Lorie Griffith  
Staff present: John Sonnen, Planning Director; Peter Spir, Associate Planner; Khoi Le, Civil Engineer; and Megan Thornton, Assistant City Attorney

### **PREMEETING WORK SESSION**

Chair Babbitt convened the work session at 6:30 p.m. in the Rosemont Room of City Hall. Staff and the Commissioners discussed the upcoming meeting with City Council; the status of CCI recommendations to the Council regarding process; sports courts amendments; and hearing procedure. The Commission talked about scheduling another work session on sports courts amendments.

### **CALL TO ORDER – REGULAR MEETING**

Chair Babbitt called the meeting to order in the Council Chambers of City Hall at 7:01 p.m.

### **PUBLIC COMMENT**

Roberta Schwarz, 2206 Tannler Dr., thanked the Commission for the position it had taken on the Lake Oswego-Tigard Water Project application and announced the Run/Walk for the White Oak Savanna was scheduled for April 14, 2013.

### **PUBLIC HEARING**

#### **SUB-12-01, A proposed five lot subdivision at 23112 Bland Circle**

Chair Babbitt opened the public hearing. Each Commissioner reported making a site visit. No one challenged the authority of the Commission or any Commissioner to hear the application.

#### **Staff Report**

Mr. Spir presented the March 20, 2013 Staff Report. The applicant would retain 14 of the site's 24 significant trees on 28.8% of the site, which satisfied the requirement to protect 20% of a site's significant trees. They would plant 38 mitigation trees. The proposed driveway accessing the lots would split around a 58-inch Douglas Fir. One of the lots would front on Bland Circle and the others would be served by the common driveway. The applicant's solution to an issue of driveway headlights and noise impacts on neighboring TL 501 was to put a fence on top of the retaining wall. Staff concluded the applicable approval criteria were or could be met by imposing the proposed conditions of approval.

### Questions of staff

Mr. Spir confirmed the CDC called for inch-by-caliper-inch mitigation for trees removed for right-of-way. He agreed the statement in Staff Response 1 on page 15 to the effect that the driveway would be eight feet above the house along the west property line was incorrect. It would be zero to 3 or 4 feet at most.

### Applicant

Michael Robinson, 1120 NW Couch St., 10th Fl., Portland, Oregon, 97209 and Andrew Tull, Principal Planner, 3J Consulting, Inc., 10445 SW Canyon Rd., Ste. 245, Beaverton, Oregon 97005, represented the applicant. Mr. Robinson stated the applicant agreed with the staff recommended conditions of approval. He advised that the driveway had been positioned to allow retention of as many trees as possible. It was proposed as a private road so it could be narrower, require less grading, and preserve more significant trees. The fire district was comfortable with it. The applicant agreed with the condition to install a fence to buffer the neighbor. They would place a larger percentage of the site in a conservation easement than they were required to. They were splitting the driveway around a 58-inch tree to save it. They were preserving almost 60% of the significant trees on the site. They would mitigate with 38 trees. The proposed eyebrow access would work well for pedestrians and drivers coming in and going out at Bland Circle. The applicant agreed to the condition that called for no parking in the eyebrow. The proposed subdivision plan saved as many significant trees as they could. There would be an arborist on site when they graded near the drip lines. The application explained how it met the applicable approval criteria. Mr. Tull explained how the applicant was going to raise the road grade 3 to 3.5 feet to protect the tree's critical root zone and install a structural wall with a fence on top to buffer the adjacent residence from the impacts of headlights and driveway noise.

Commissioner Axelrod questioned the annual rainfall cited in the stormwater report. Brian Feeney, 10445 SW Canyon Rd, Beaverton, Oregon 97005, the applicant's civil engineer, explained that it might be a typographical error in the narrative; however, stormwater facilities were designed based on the 25-year storm event record, not annual rainfall. Commissioner Axelrod questioned the infiltration rate in Table 1 on page 16. Mr. Feeney related the infiltration test results were received after the application had been submitted. They showed a rate of about 2.2 inches per hour.

### Opponents

Ed Schwarz, 2206 Tannler Dr., President of the Savanna Oaks Neighborhood Association, submitted a copy of his written remarks and a copy of the Association's March 5, 2013 Resolution. The Resolution listed six reasons why the Association opposed the project as it was currently configured. Mr. Schwarz related they wanted the applicant to preserve more trees. He stated that the development was going to generate 50 trips a day. The Association suggested eliminating Lot 1 and only putting four houses on the parcel so the development

generated 20% less traffic using the driveway and trying to get onto Bland Circle at a blind curve. That would also make it safer for kids at the school bus stop. Eliminating Lot 1 would result in a better, treed, buffer from the street. They suggested widening the driveway so there was adequate room for emergency vehicles and widening the street to 60 feet to make it safer and to leave more room for garbage receptacles. Mr. Schwarz cited CDC 85.200.A.2 which called for collector streets to be a minimum of 60 feet wide. He asked the Commission to either impose additional conditions of approval that addressed the concerns or deny the application. During the questioning period, Mr. Schwarz acknowledged that the proposed eyebrow refuge area would help, but he explained the neighborhood was concerned about the additional daily vehicle trips the development would generate on a blind curve where vehicles would be pulling out of the eyebrow when cross traffic was coming.

### **Proponent**

Alice Richmond, 3939 Parker Rd., indicated that the City needed revenue from subdivision projects. She reasoned that the applicant would not propose an inadequate street width because they would not want to jeopardize themselves. She observed the City had approved other lanes that were narrower than what was proposed. She questioned that there would be ten rides per house when people also walked and biked. Rosemont was a dangerous road and featured bus stops. The drivers were the parents of those children. The concerns could be addressed by conditions of approval.

### **Rebuttal**

Mr. Robinson responded to the testimony from the neighborhood association. He related the applicant had not been invited to the March 5 Association meeting. They had met with two other groups and not heard the same concerns. He held the comments in the Resolution did not relate to applicable approval criteria. He pointed out the application met the approval standard that called for preserving 20% of significant tree area. He explained that if the applicant dropped Lot 1 the development would be below required minimum density. The traffic analysis in the record estimated there would be 38 peak hour trips per day from five dwellings: three in the morning and four in the afternoon. It found there was adequate intersection sight distance. He held the proposal was consistent with the kind of traffic one might expect from a collector street in an R-7 zone. In fact, the proposed eyebrow would make things better by giving drivers a chance to pull out of the driveway, stop, and look both ways. Emergency vehicles would be able to safely go up the driveway. The fire district had made no adverse comment about the adequacy of the road. Five lots was within the number of lots that would be served by a private drive. Everyone had a garbage receptacle and had to put them somewhere. It was not an everyday occurrence and it did not relate to applicable criteria. The applicant did not agree this was a blind intersection. They had put substantial evidence in the record and they believed the City Engineer agreed the proposal was not going to create a safety issue. There was no adverse comment from the School District. Nothing in the record said this would impede children from getting on school busses and it would not. He observed the opponents' Resolution did not cite applicable approval criteria. Even if it had the applicant had

provided substantial evidence demonstrating the issues were favorably resolved. Mr. Schwarz's testimony was not a basis for not approving the application.

### **Questions of Applicant**

During the questioning period, the applicant's arborist, Morgan Holen, explained the applicant proposed to plant several Western Red Cedar trees because they were shade tolerant and could thrive under a Douglas fir canopy. Commissioner Axelrod inquired why certain trees were not being preserved. Ms. Holen advised that Tree 2686 was severely infected with a fungus and in hazardous condition. Mr. Tull explained that the applicant was not able to retain Tree 2602 because it would be impacted by the grading plan, which was driven in part by the location of a stormwater system. Commissioner Axelrod commented that the verbal description of the test pitting work results was inconsistent with what was in the application. Mr. Robinson asked the Commission to approve the application with the recommended conditions of approval.

### **Questions of Staff**

Mr. Le discussed the proposed 58-foot wide street width. The CDC called for a collector street right-of-way to be 60 feet wide. The TSP offered three different collector street cross sections that were 48-, 58- and 72-foot wide. Engineering staff saw no need for the additional two feet of right-of-way.

Mr. Spir explained the eyebrow design was a way to be able to have both driveways (to Lot 1 and to Lots 2, 3, 4, and 5). Without it there could not be any separation of the driveways. It also helped create a right-angled intersection. The applicant's traffic consultant had advised it provided an easier transition on and off Bland Circle.

Commissioner Axelrod asked where visitors would park. Mr. Spir anticipated they might park in the part of the eyebrow area that was not within the sight triangle and Commissioner Axelrod opined insufficient street parking was available based on the proposed design. Chair Babbitt closed the public hearing. The Commission recessed for a few minutes until 8:06 p.m.

### **Deliberations**

Chair Babbitt polled the Commissioners. Commissioner Martin indicated he appreciated that it was a thorough application. He especially liked the eyebrow, which offered an extra degree of safety; that the applicant went beyond what the code required in splitting the driveway to save a large tree; and that they proposed a wall to protect the neighboring resident from lights. He related that he was sympathetic to the neighborhood association's concerns, but he favored the application because it met the code.

Commissioner Miller complemented the applicant and staff on the proposal. She was sympathetic to the neighborhood association's concern about significant trees. However, the application met the applicable criteria and she was inclined to approve it.

Commissioner Axelrod indicated he appreciated the overall layout and the applicant's effort to preserve trees. He did not favor eyebrow designs and he questioned using one here. He was sensitive to the issues raised by the neighborhood association. He felt allowing street parking in the eyebrow defeated the purpose of an eyebrow and impacted significant trees in the front of the site. He recognized the applicant was meeting the zoning code and proposing appropriate dimensions. He indicated he felt the application did not have complete information. It was still unclear to him how the soil tests related to the stormwater management design.

Commissioner King agreed with Commissioner Miller. The application seemed to meet code. She appreciated the applicant's tree mitigation efforts and that they looked for a tree species that was appropriate to add.

Vice Chair Steel was concerned that the cluster of Western Red Cedars at the corner of Lot 5 might someday prevent that homeowner from using solar panels. However, the current code did not address that. The applicant had met the applicable criteria. She saw no reason to deny the application.

Chair Babbitt indicated he appreciated the neighborhood association's comments. Most of them were related to safety. He drove Bland frequently and was very familiar with that street. He appreciated that they raised those concerns. However, he could not find any related criteria to be met that would justify imposing additional conditions. He favored approval.

Vice Chair Steel **moved** to approve SUB-12-01, subject to the seven conditions of approval recommended in the staff report. Commissioner Martin **seconded** the motion and it **passed** 5:1. Commissioner Axelrod voted against.

#### **ITEMS OF INTEREST FROM THE PLANNING COMMISSION**

Chair Babbitt announced the Commissioners were going add a work session regarding CDC amendments to the April 3 agenda if time permitted.

#### **ITEMS OF INTEREST FROM THE COMMISSION FOR CITIZEN INVOLVEMENT**

At the request of Chair Babbitt, Commissioner Martin explained the purpose of the CCI and what it did to achieve better citizen involvement.

#### **ITEMS OF INTEREST FROM STAFF**

None.

#### **ADJOURNMENT**

There being no other business, Chair Babbitt adjourned the Planning Commission meeting at 9:50 p.m.

APPROVED:



Michael Babbitt, Chair

5-3-13

Date