



**PLANNING COMMISSION**  
**Meeting Notes of August 19, 2020**

Commissioners present: Gary Walvatne, Charles Mathews, Joel Metlen, Jim Farrell, Carrie Pellett, Lamont King, and Margot Kelly

Council Liaison present: none

Members of the Public: Garret Stephenson, applicant representative, Matt Bell, Kittelson & Associates, Steve Miller, Planning Consultant, Tyler Corb, Applicant Engineer, Tim Ralston, property owner

Staff present: Darren Wyss, Acting Planning Manager, Tim Ramis, City Attorney, and Jennifer Arnold, Associate Planner

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1. **Call To Order (timestamp 00:00:14)**

Chair Walvatne called the meeting to order at 6:30 pm. Interim Planning Manager Wyss called the role.

2. **Public Comment Related To Land Use Items Not On The Agenda (timestamp 00:00:34)**

No members of the public asked to speak during the meeting. Acting Planning Manager Wyss noted that the City received comments from the Willamette Neighborhood Association president requesting that the Planning Commission revise the Tree Code to save trees during development.

3. ***Continued from July 15, 2020 Meeting: MISC-20-04, Two-year extension of approval for 34-lot subdivision at 18000 Upper Midhill Drive (SUB-15-03/AP-17-01) (timestamp 00:02:29)***

Chair Walvatne opened the continued hearing from July 15, 2020 to deliberate the application. He noted that public testimony is closed. At the July 15, 2020 hearing, the record was left open for seven additional days for the Applicant to submit the final written argument. The Applicant submitted a final written argument and rebuttal with no new information on July 22, 2020.

City Attorney Ramis reviewed the legal matters related to quasi-judicial hearings and considerations of MISC-20-04. Responding to the question of conflict of interest, no Commissioners declared a conflict of interest. Responding to the question of site visits and ex parte contacts, Chair Walvatne declared that he visited the site twice shortly after the July 15, 2020 public hearing in response to citizens who emailed him about construction activities. He declared ex parte contact with neighbors about the construction activities. He stated the purpose of his visits was to discern the status of the existing application conditions. Commissioner Kelly declared that she spoke with Commissioner Farrell about the construction letter and the construction activities. Commissioner Farrell stated that he visited the site twice in response to neighbor concerns about construction activity. He declared ex parte contact with Scarlett Harris and Mayor Axelrod about the construction activities. He stated that his ex parte contact did not change his mind about how he would vote on the application. Commissioner King said that he visited the site after the July 15, 2020 hearing. He declared ex parte contact with Chair Walvatne and Commissioner Farrell at the site visit.🔒

Garret Stephenson, the applicant representative, responded to the disclosures. He objected to the disclosures by the Commissioners. He stated that no clearing, grading, tree removal, or construction activities had occurred on the site.

Mr. Stephenson asked Chair Walvatne to address an email sent by him to City staff after the July 15, 2020 hearing that indicated distrust of the Applicant. Mr. Stephenson asked Chair Walvatne if he continued to believe the Applicant was untruthful. Chair Walvatne stated that he did not think there was an attempt to mislead the Commission. He stated that the events after July 15, 2020 did not change his mind about how he would vote on the application. Mr. Stephenson asked Chair Walvatne if he could make an impartial decision on the application if it satisfied the criteria. Chair Walvatne stated that he could.

Mr. Stephenson asked Commissioner Farrell if he could make an unbiased decision on the application if it satisfied the criteria. Commissioner Farrell stated that he was prepared to vote on the application on July 15, and the events after July 15 did not change his mind. Mr. Stephenson asked Commissioner Farrell if he was prepared to make a decision based on the criteria. Commissioner Farrell stated that he could unbiasedly vote on the application.☐

City Attorney Ramis asked the audience if anyone wished to challenge any Commissioner's ability to participate in the decision. There were no additional objections to the Planning Commissioners participating in the decision.

Chair Walvatne opened deliberations for the extension application.

Commissioner Metlen paraphrased the approval criteria for the application. He noted that the second criterion regarding a change in facts related to his concerns about traffic. He stated that the original traffic study is not current; however, there is a lack of current traffic information to consider. ☐

Commissioner Mathews noted that consideration of the extension application is not a de novo review of the application. He stated that the application satisfies the three criteria for the extension. He noted that there had not been any changes to the CDC. No comments were submitted that demonstrated changes in fact that directly affected the project. He stated that many of the concerns raised by commenters were resolved in the LUBA appeal and City Council decision.

Commissioner Pellett agreed with Commissioners Metlen and Mathews. She stated that the Commission is restrained in how it can decide the application. She noted if the Commission rejected this application, the area would probably densify more. She asked if there were conditions of approval to address parking and traffic concerns.☐

Commissioner Kelly disagreed. She stated that the City has the policy to require 28-foot streets; accordingly, she cannot approve an application with streets less than 28 feet wide. She also noted that Arbor Drive and Highway 43 is a failing intersection and cannot support additional traffic from the proposed subdivision. She stated that the construction impact on the neighborhood is significant.☐

Commissioner Farrell stated that the Applicant did not demonstrate a need for the extension. He stated the original application was submitted in 2009 and did not address current conditions. He stated that the existing conditions had changed significantly since the original application. He noted that Arbor Drive and Highway 43 intersection is failing. He stated that new condos and the proposed development at Mary's Woods would increase traffic on Highway 43. He stated that the overall traffic on Highway 43 has grown and is unsafe. He does not support the extension request. He stated the application should be evaluated based on criteria in Chapter 85, Land Divisions.

Commissioner King agreed that the criteria for approval of the extension request were in Chapter 99.325A.1-3. He stated that the application does not meet the requirements 99.325A.1 because the

streets do not meet the 28-foot street width requirement. He stated that there are also changes in fact because Highway 43 improvements will not be constructed as predicated in the original application. Accordingly, he cannot support the application.

Chair Walvatne also agreed that the criteria for approval of the extension request were in Chapter 99.325A.1-3. He questioned the adequacy of public facilities related to construction traffic. He stated the 28-foot street width requirement code change is in process. Chair Walvatne asked for a condition of approval for a traffic management plan.

Vice-Chair Mathews moved to approve MISC-20-04 as presented and direct staff to prepare a Final Decision and Order based on findings and the July 15, 2020 staff report. Commissioner Pellett seconded.

**Ayes: Commissioners Metlen, Pellett, Mathews, and Walvatne. Nays: Farrell, King, and Kelly.**

**Abstentions: None. The motion passed 4-3-0.**

4. **Items Of Interest From The Planning Commission (timestamp 01:12:34)**

Chair Walvatne noted the numerous emails from the community regarding Tree Code. He agreed that the Tree Code needed to be updated; however, the City Council sets the Planning Commission's docket. He encouraged citizens to comment to the City Council on this matter. He clarified that, although the property along Salamo Drive looks quite bare, the current development project permit requires that the developer preserve 20% of the trees.

Commissioner Farrell resigned from the Planning Commission because he needed to spend more time helping his grandchildren with online learning during the COVID-19 quarantine. He thanked the City and Mayor Russ Axelrod for the opportunity to serve the community. Commissioners thanked Mr. Farrell for his contributions to the Commission and wished him well.

5. **Items Of Interest From Staff (timestamp 01:22:41)**

Acting Planning Director Wyss noted that the City Council will have a work session on the recommended CDC changes on September 8 and a public hearing on September 14, 2020. ☐

Wyss has prepared a draft letter from the Commission to the Council requesting that the Tree Code be placed on the Planning Commission docket. Chair Walvatne will review and sign the letter.

Upcoming meetings include a joint work session with the City Council on September 8 to receive a presentation from DLCD on HB 2001 and 2003. The September 2nd PC meeting is canceled. On September 16, the PC will hear DR-20-02, a Class II Design Review for a New Single-story Clinic in the OBC Zone. The meeting in October will be quasi-judicial hearings on applications.

6. **Adjourn (timestamp 01:32:47)**

Chair Walvatne adjourned the meeting at approximately 8:05 pm.