

STAYTON PLANNING COMMISSION MEETING MINUTES

Monday, March 25, 2019

COMMISSIONERS: Jackie Carmichael, Vice-Chair
Dixie Ellard
Ralph Lewis, Chair
Richard Lewis

STAFF MEMBERS: Dan Fleishman – Planning & Development Director
Lisa Meyer – Public Works Administrative Assistant (minutes)

OTHERS PRESENT: Randy Cranston, Scott Humphreys, Jackie Sparks, Michael Jaeger, Dave Phelps, Dan Setniker, Kevin Sears, Brent Stevenson, Wade Walls

1. **CALL TO ORDER:** Chair Lewis called the meeting to order at 7:00 p.m.
2. **APPROVAL OF MINUTES:** Carmichael moved and Ellard seconded to approve the minutes from February 25, 2019 as presented. Passed 4:0.
3. **LAND USE FILE #1-02/19 –PUBLIC HEARING Application for Zone Map Amendment, Tadd & Scott Humphreys, 1160 E Jefferson St**
 - a. **Commencement of Public Hearing-** Chair Lewis read the opening statement and opened the hearing at 7:02 p.m. No objections were made from the audience to the notice or the jurisdiction of the Commission to hear the case. There were no declarations of conflict of interest, *ex parte* contact or bias by members of the Planning Commission. Richard Lewis noted that he went by the property on Jefferson Street.
 - b. **Staff Introduction-** Fleishman explained the application is for a zone map amendment to change the property zoning from low density residential to medium density residential.
 - c. **Applicant's Presentation-** Scott Humphreys, 42286 Kingston Lyons Dr, Stayton, OR. Humphreys explained there is currently a duplex on the property and it has been there for years. He would like to get the property rezoned to Medium Density in case something would happen to the structure, he would be able to rebuild it. The structure is currently a non-conforming use in a Low Density zone. Humphreys noted across the street from his property it is zoned Medium Density. He would like to make his structure a conforming use.
 - d. **Staff Report-** Fleishman explained that the property is currently developed with a duplex which is a non-conforming use. The code lists six criteria for approval. The Applicant either meets the criteria or the criterion is not relevant in this case. Staff recommends the Planning Commission conclude that the application meets the requirements set out in the code and forward a recommendation to the City Council to hold a public hearing and approve the application.
 - e. **Questions from the Commission-** Richard Lewis requested clarification on what was non-conforming. Fleishman explained that the use is not conforming and should something happen to the house, the code would allow the structure to be rebuilt as long as the non-conforming use is not discontinued for a period of one year.
 - f. **Proponents' Testimony-** None
 - g. **Opponents' Testimony-** None
 - h. **Governmental Agencies-** None
 - i. **General Testimony-** None
 - j. **Questions from the Public-** Jackie Sparks, 1145 E Virginia St, Stayton, OR. Sparks inquired what could be rebuilt if the house is torn down. Fleishman explained the proposed zoning would allow for a single family dwelling, duplex or triplex. The triplex would require a site plan approval and another meeting before the Planning Commission.
 - k. **Questions from the Commission-** Richard Lewis asked if a manufactured housing unit would be allowed in the proposed zoning. Fleishman confirmed that the code allowed for a single family dwelling to be factory built or site built.
 - l. **Applicant's Summary-** The applicant had nothing more to add.
 - m. **Staff Summary-** Fleishman had nothing more to add.

- n. **Close of Hearing-** Chair Lewis closed the hearing at 7:14 p.m.
- o. **Commission Deliberation-** The Commissioners agreed that the request was straight forward.
- p. **Commission Decision-** Carmichael moved and Ellard seconded to approve the draft order as presented. Passed 4:0.

4. LAND USE FILE #4-03/19 –PUBLIC HEARING Application for Site Plan Review, Stayton Area Rotary Pedestrian Trail, N Evergreen Ave

- a. **Commencement of Public Hearing-** Chair Lewis read the opening statement and opened the hearing at 7:17 p.m. No objections were made from the audience to the notice in this case or the jurisdiction of the Commission to hear the case. There were no declarations of conflict of interest, *ex parte* contact or bias by members of the Planning Commission. Richard Lewis noted that he walked the grounds and serves on the Parks and Recreation Board.
- b. **Staff Introduction-** Fleishman explained that the application is for site plan review under the provisions of the Natural Resource Overlay District. The code sets out four criteria for approval and the decision tonight needs to be based on the criteria for approval and public testimony needs to be based on the same criteria.
- c. **Applicant's Presentation-** Michael Jaeger, 1550 Eagle St, Stayton, OR. Jaeger is a member of the Stayton area Rotary Club. Jaeger explained that the Rotary Club embarked on a community project last year to build a walking/hiking/running trail that is a $\frac{3}{4}$ of a mile stretch along the Stayton Ditch on property owned by Norpac Foods. Representatives from the Rotary Club, the Santiam Water Control District, the City of Stayton, Norpac and local contractors were brought together in order to discuss the scope of the project, the timelines, and to gain comradery from all the organizations involved. There was unified support for the project from all the representatives. The Rotary hopes the partnerships will continue throughout the project. Jaeger explained that all parties involved have sacrificed for the project including the tolerance of local neighbors giving up privacy for the sake of the community.
- d. **Staff Report-** Fleishman explained that the Natural Resource Overlay District (NROD) allows for pedestrian trails, hiking trails, and paths within 50 feet along the Salem Ditch and in the light industrial zone. The code requires site plan approval for approved uses in the NROD. The proposed trail is on property owned by Norpac Foods. Fleishman referred to a letter in the packet from Norpac Foods that indicated they are willing to grant a public access easement that is 25 feet wide from the south bank of the Salem Ditch beginning at Evergreen Ave to the properties near Larch Ave and the north side of the Salem Ditch 250 feet east to W Washington St. The easement has not yet been executed or recorded. The code has four criteria that must be met for approval. The first criterion is that the proposed trail shall have few detrimental environmental impacts on water as possible. The trail will be 8 feet wide and located between 10-15 feet from the bank of the ditch. The second criterion requires that identified impacts are mitigated through implementation of a mitigation plan approved by the City. There have been no impacts identified. The third criterion requires existing trees shall be retained at the greatest extent as possible. No additional tree or vegetation removal is planned at this time. The Santiam Water Control District (SWCD) has an easement that extends on either side of the ditch and they are responsible for maintaining the vegetation along the banks. The SWCD recently removed brush as part of their maintenance. The fourth criterion states that the proposal shall balance the impacts on the area with the potential for public enjoyment of the riparian environment and recreation use of the protected water line. The City's Master Trails Plan shows a proposed trail along the Salem Ditch throughout the urban growth boundary. The Master Trails Plan and has been adopted by the City and is incorporated into the City's Transportation System Plan and the Parks and Recreation Plan. Staff recommended one condition of approval requiring the applicant to get written approval from SWCD before constructing bridge over the ditch.
- e. **Questions from the Commission-** Chair Lewis asked if SWCD's easement is the same location as the easement Norpac is granting the City for the trail. Fleishman did not believe SWCD has an exclusive easement that would preclude Norpac from granting an additional easement as long as the latter use would not interfere with the easement rights SWCD holds. Chair Lewis expressed concern about the possibility of the trail getting damaged if the SWCD does heavy maintenance along the ditch. Fleishman noted that it is a concern, but the proposed trail will be 8-10 feet off of the ditch. Fleishman thought any damage done by equipment driving over the trail could easily be repaired with wood chips since a hard surfaced trail is not proposed at this time. Ellard asked what the red

lines represent on the map included in the packet. Fleishman explained that the red lines are future trails approved as part of the Master Trails Plan.

- f. **Proponents' Testimony-** Randy Cranston, 372 SE Church St, Sublimity, OR. Cranston, a fellow Rotarian, is in support of the proposed trail along with five audience members who stood up in support of the project. Cranston noted that community collaboration has come around in the last 30 years and it is a pleasure to be a part of it. The Rotary would be happy to assist with future trail maintenance.
- g. **Opponents' Testimony -** Dan Setniker, 1339 W Washington St, Stayton, OR. Setniker provided the Commissioners with an outline of his statement. Setniker has lived in Stayton all of his adult life and uses the existing trails around town. Setniker thought the proposed trail would open up crime and other deviant activity. Setniker's car has been broken into twice in the last month and people use the path along the rail road tracks as an escape route. He has been in contact with the police department about the activity. Setniker provided 4 ½ pages of signatures of residents who live around the trail. All but one agreed with the one resident being neutral. The neighbors have also had issues with theft. He asked the Planning Commission not to move forward with the trail.

Kevin Sears, 558 N Larch Ave, Stayton, OR. Sears has had his car and home burglarized and items stolen. He is concerned that the trail does not extend onto a street. Currently the only way out is through his yard or his neighbor's property. He provided a flash drive of pictures showing maintenance work along the ditch where vegetation was removed and sediment was sent downstream. He is not in support of the trail.

Wade Walls, 1415 W Washington St, Stayton, OR. Walls is concerned about the proposed bridge getting installed and the trail would come out in front of his house on Washington Street which is a busy street with no sidewalks at that location. Walls has had a problem with theft and his car was broken into. He has since installed cameras. He is also concerned that criminals would use the proposed trail as an escape route. He is not in support of the trail.

Larry Niehoff, 1207 W Ida St, Stayton, OR. Niehoff likes the idea of path, but not the fact that there is not a bridge going across the ditch which opens it up for people to trespass on his neighbor's property. He has had issues with ATVs/motorcycles going through Norpac's property and Norpac had no means to catch them. He has contacted the police about the trespassers.

- h. **Governmental Agencies-** Brent Stevenson, Manager of SWCD. Stevenson confirmed that he has worked with Jaeger regarding the proposed trail project. Stevenson noted that while he has been involved in the project as a manager, his Board has not formally addressed any of the plans for the trail. The bridge crossing hasn't been considered by the Board and the draft order may need to reflect that the bridge crossing is not a guarantee. Stevenson provided a copy of an MOA that was entered between SWCD and the previous owner of the Norpac property. The 1952 easement grants SWCD free and open travel along the right-of-way. Stevenson is concerned that there could be damage to the trail when SWCD performs maintenance. SWCD would not want to take on any cost or responsibilities with trail repairs. He thought the responsibility of repairing the trail would fall on Norpac or the City. Stevenson heard at City Council that the path could be paved in the future and he had concerns that a trackhoe or backhoe could do substantial damage to the pavement. Stevenson explained that clearing the brush and trees is the duty and responsibility of the property owner. The easement grants SWCD the ability and rights to clear brush and trees. The Oregon Department of Fish and Wildlife and the Department of State Lands were contacted about maintenance activities recently performed by SWCD along the ditch. The State agencies identified a couple of areas where drainage flows toward the ditch. Stevenson suggested including a condition that would not allow any drainage into the ditch in order to prevent any water quality issues.
- i. **General Testimony-** None
- j. **Questions from the Public-** Dave Phelps, 11034 Dogwood Ln, Lyons, OR. Phelps inquired of Stephenson if it is the responsibility of the SWCD to clear the bank for Norpac. Stephenson clarified that both entities have some responsibility for cleaning the bank.
- k. **Questions from the Commission-** Chair Lewis thought the bridge would need to be addressed before the project could move forward.

- l. **Applicant's Summary-** Jaeger noted that the Rotary involved multiple entities when embarking on the project and received a lot of support from SWCD. The group considered different options of where the trail could come out. One of the options was to have a bridge cross the ditch knowing that it would come with some conditions to be met by SWCD. The thought was that crossing the ditch would be less intrusive to the neighbors. Jaeger is not sure if there is statistical proof that having a trail would increase crime. Jaeger noted that Chief Sebens was the strongest proponent of the trail and Chief has shared that where there are places to hide in brush, there is more crime compared to having a clear trail.
- m. **Staff Summary-** The application is for site plan approval under the Natural Resource Overlay District. Staff recommended approval of the application with one recommended condition of approval.
- n. **Close of Hearing-** Chair Lewis closed the hearing at 7:55 p.m.
- o. **Commission Deliberation-** Carmichael is concerned about the intrusiveness to the neighbors. Chair Lewis thought the applicant met the four criteria. Richard Lewis thought the use of the trail may be a deterrent to crime. Ellard asked if the bridge is necessary. Fleishman explained that without the bridge, it would be a one way trail or the trail would turn south and go behind the residences on N Larch Ave and come out on W Ida St.
- p. **Commission-** Richard Lewis moved to approve the application as presented with the one condition of approval, Ellard seconded. Passed 4:0.

5. LAND USE FILE #2-02/19 – PUBLIC HEARING Proposed Code Amendments Regarding Properties on the National Register of Historic Places

- a. **Commencement of Public Hearing-** Chair Lewis read the opening statement and opened the hearing at 8:02 p.m. No objections were made from the audience to the notice in this case or the jurisdiction of this body to hear the case. There were no declarations of conflict of interest, *ex parte* contact or bias by members of the Planning Commission.
- b. **Staff Report-** Fleishman explained the proposed code amendment would allow some flexibility when applying standards to structures on the National Registry. There are currently three properties on the National Registry- the Dietrich Building, the Hobson-Gehlen Building, and the Brown House. The proposed amendment would give the decision authority the ability to approve a site plan that does not meet all of the development improvement standards, provided the proposed improvements conforms with the Federal standards for Historic Properties, provides safe ingress and egress to the public street system, and that adequate stormwater management standards would be provided. The proposed amendments also have housekeeping items to clean up the code.
- c. **Questions from the Commission-** Ellard asked how properties are placed on the National Register and what the purpose of being on the National Register is. Fleishman explained that property owners apply to the State Historic Preservation Office (SHPO). SHPO decides which property gets placed on the National Register. Once placed on the National Register, Federal money would not be used in a way that would have a detrimental impact on the property, and the property owner may be eligible for Federal income tax breaks when renovating the property.
- d. **Proponents' Testimony-** None
- e. **Opponents' Testimony-** None
- f. **General Testimony-** None
- g. **Questions from the Public-** None
- h. **Questions from the Commission-** None
- i. **Staff Summary-** Fleishman had nothing more to add.
- j. **Close of Hearing-** Chair Lewis closed the hearing at 8:11 p.m.
- k. **Commission Deliberation-**
- l. **Commission Decision-** Richard Lewis moved to adopt the draft order as presented and forward the proposed amendments to the City Council with a recommendation for adoption, Carmichael seconded. Passed 4:0.

6. LAND USE FILE #3-02/19 – PUBLIC HEARING Proposed Code Amendments Regarding Standards for Fences in Commercial and Downtown Zones

- a. **Commencement of Public Hearing:** Chair Lewis read the opening statement and opened the hearing at 8:12 p.m. No objections were made from the audience to the notice in this case or the

jurisdiction of this body to hear the case. There were no declarations of conflict of interest, *ex parte* contact or bias by members of the Planning Commission.

- b. **Staff Report-** Fleishman explained that the proposed amendment would allow fences in the front yard of properties in the Commercial and Downtown zones.
- c. **Questions from the Commission-** Carmichael inquired how the 42 inch fence height will keep someone from leaping over it. Fleishman explained that the fence would provide separation from the public and private space. Richard Lewis thought it added a cosmetic effect to the property too.
- d. **Proponents' Testimony-** None
- e. **Opponents' Testimony-** None
- f. **General Testimony-** Randy Cranston 372 SE Church St, Sublimity, OR. Cranston thought allowing only one color and the type of fence proposed was too restrictive. He suggested allowing a white picket fence, a solid fence or a brick wall.
- g. **Questions from the Public-** None
- h. **Questions from the Commission-** Carmichael suggested a choice of four colors- white, black, silver and gray since they are neutral colors.
- i. **Staff Summary-** Fleishman noted that the standards would only apply to the Commercial and Downtown zones in the City. The original code was written to prohibit fences in order to prevent solid fences from bordering off the commercial zones. The proposed amendment has open fences so it is inviting to the public and not a visual barrier. The amendment also limits the height and style.
- j. **Close of Hearing-** Chair Lewis closed the hearing at 8:19 p.m.
- k. **Commission Deliberation-** The Commissioners were in agreement to allow fence color choices of white, silver, black, brown and dark green.
- l. **Commission Decision-** Carmichael moved to approve the draft order with the amendment of adding additional color options and forward to City Council with a recommendation for adoption, Ellard seconded. Passed 4:0.

7. **OTHER BUSINESS-** None

8. **ADJOURN-** Chair Lewis adjourned the meeting at 8:22 p.m.