

# STAYTON PLANNING COMMISSION MEETING MINUTES

Tuesday, May 29, 2018

**COMMISSIONERS:** Jackie Carmichael, Vice Chair  
Dixie Ellard  
Heidi Hazel  
Paige Hook  
Ralph Lewis, Chair

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

**OTHERS PRESENT:** Justin Barrett, Julie Bochsler, Adam Caruther, Joy Farrell, Peter Brock, Joey Shearer, Michael Gehring

1. **CALL TO ORDER:** Chair Lewis called the meeting to order at 7:00 p.m.
2. **APPROVAL OF MINUTES:** Ellard moved and Carmichael seconded to accept the minutes from April 30, 2018, with a correction in section 3.b. from “remodeled” to “remodel.” Passed 5:0.
3. **LAND USE FILE #5-04/18 –PUBLIC HEARING Comprehensive Plan Map and Official Zoning Map Amendments**
  - a. **Commencement of Public Hearing-** Lewis opened the hearing at 7:02 p.m. and read the opening statement. No objections were made from the audience to the notice in this case or the jurisdiction of this body to hear the case. Lewis inquired if there were any declarations of conflict of interest, ex parte contact or bias by members of the Planning Commission. Hazel noted she has real estate clients in the area in question.
  - b. **Staff Report** - Fleishman explained the hearing is for legislative amendments to the Comprehensive Plan Map and the official Zoning Map that were initiated by the Planning Commission. There are approximately 90-100 single family homes located in various Commercial and Industrial Zones that are legally existing non-conforming uses. The Planning Commission identified three areas for proposed changes to decrease the number of non-conforming uses in the City. Fleishman referred to the maps provided in the packet and went over the proposed changes.
  - c. **Questions from the Commission-** Hook inquired why the businesses on Second Ave and Hollister St are being treated different than the two businesses on W Washington Ave. Fleishman noted one distinction between the two examples is that the Comprehensive Plan notes that zoning lines should follow property lines. The photography studio property on W Washington St is split between the Low Density Residential Zone and the Commercial Zone. The proposal would bring the map more in compliance with the policies of the Comprehensive Plan. Fleishman noted that he will correct the statement under the Approval Criteria section reflecting that the land is currently being used for residential and commercial purposes.
  - d. **Proponents’ Testimony-** Justin Barrett, 1593 N Third Ave, Stayton. Barrett feels the City is moving in the right direction with changing the zoning from Commercial to Residential.
  - e. **Opponents’ Testimony-** None

**f. Governmental Agencies-** None

**g. General Testimony-** None

**h. Questions from the Public- Juli Bochsler, 1660 Mount Jefferson Dr, Stayton.** Bochsler owns two properties in the area of Second and Third Ave. She inquired why the zoning would be changed to Medium Density when her lot sizes are 5,000 sq. ft. and would not meet the Medium Density minimum lot size requirement. Fleishman explained that Medium Density Residential was the best residential zoning option when compared to Low Density or High Density. Fleishman noted the area in question is adjacent to Medium Density zoning. Bochsler is concerned that over time, the business owners on First Ave may want to expand to Second Ave. Bochsler inquired of Commissioner Hazel how the zone change affects the value of the land. Hazel thought it would help with the land value. Lenders may disqualify home buyers who try to finance a home that is zoned Commercial depending on the loan type. Lenders want to finance homes that are conforming. Fleishman noted if a lot is non-conforming and the owner does not own any adjacent land, the code allows for something to be built on as if it was a conforming lot. Medium Density does allow for duplexes even if it is a non-conforming lot provided setback requirements are met.

Adam Caruther, owner of 185 Washington St, 835 Birch Ave, 848 Birch Ave and 850 Birch Ave. Caruther does not want the zoning changed. If something were to happen to the homes, he would like to have the option to rebuild as residential or commercial. He proposes to take his property out of the mix. Fleishman noted under the current zoning, if a non-conforming use burns down, the structure can be rebuilt as long as construction starts within one year of the fire. The code allows the same for non-conforming structures to be rebuilt in the exact dimensions. After one year, the owner would have to comply with the current code.

Joy Farrell, 1665 W Washington St, Stayton, OR. Farrell requested the Commissioners refer to the letter in their packet from four homeowners and exclude 1623, 1653, 1665 & 1677 W Washington from the zone change. The current traffic on W Washington is mostly commercial and the four property owners would like to stay zoned as Commercial.

**i. Questions from the Commission-** None

**j. Staff Summary-** Fleishman had nothing more to add. He noted there was correspondence in the Commissioner's packet.

**k. Close of Hearing-** Lewis closed the hearing at 7:36 p.m.

**l. Commission Deliberation-** Hook proposed revamping current proposal and leave the zoning the same for the properties mentioned by Caruther and Farrell. Hazel noted that not changing impacts a lot of people when trying to buy or sell their home. Carmichael agrees to redraw the boundaries. Fleishman confirmed that anyone is free to apply for a zone change or Comprehensive Plan Map amendment. Lewis suggested leaving those objecting to the change alone.

**m. Commission Decision-** Carmichael made a motion to move forward with the proposed changes for N Second Ave and N Third Ave, Hook seconded. Passed 5:0.

Hook moved and Hazel seconded for staff to contact the two businesses in question on W Washington by phone regarding the proposed changes and come back next month with a proposal for W Washington & N Birch Ave that excludes Adam Caruther's family's properties. Passed 5:0.

Carmichael moved and Ellard seconded to exclude the properties located on the N side of W Washington and move forward with the proposed changes on W Washington and Myrtle.  
Passed 5:0.

4. **LAND USE FILE #9-05/18 –PUBLIC HEARING Application for site plan approval, Peter Brock, Martin Dr**

- a. **Commencement of Public Hearing-** Lewis opened the hearing at 7:53 p.m. and read the opening statement. 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 Introduction-** Fleishman explained the application for Site Plan Review is for a new commercial structure on Martin Drive.
- c. **Applicant Presentation-** Peter Brock, 23850 SW Baker Rd, Sherwood, OR 97410. Brock believed his architects and engineers did a satisfactory job of meeting the City's requirements and the building would be a good addition to Santiam Station.
- d. **Staff Report-** The application is for roughly 3,000 sq. ft, building -- 2,150 sq. ft. is for retail use and 850 sq ft. for an office type tenant. Fleishman referred to the revised draft order that was distributed that includes a supplemental traffic report. There are about eight conditions of approval in the draft order. Some of the conditions include an irrigation requirement, specify plant species that will hide trash dumpster, increase buffer to 15 feet., and submit a revised light plan to be full cut off. The final engineering conditions require that adequate detail be shown that the architectural standards are met when submitting plans for a building permit. The site plan met all the appropriate standards in the Code and Fleishman recommended approval.
- e. **Questions from the Commission-** Carmichael inquired of the Applicant why he chose Stayton as a business location. Brock noted the good property value.
- f. **Proponents' Testimony-** None
- g. **Opponents' Testimony-** None
- h. **Governmental Agencies-** None
- i. **General Testimony-** None
- j. **Questions from the Public-** None
- k. **Questions from the Commission-** None
- l. **Applicant Summary-** Brock is happy to work on the Conditions of Approval.
- m. **Staff Summary-** Fleishman had nothing more to add.
- n. **Close of Hearing-** Lewis closed the hearing at 8:04 p.m.
- o. **Commission Deliberation-** Carmichael thought there were multiple cannabis dispensaries in town. Fleishman confirmed that there is only one dispensary currently operating in town.
- p. **Commission Decision-** Ellard moved to adopt the revised draft order as presented, Hazel seconded. Passed 5:0.

5. **LAND USE FILE #11-05/18 –PUBLIC HEARING Application for site plan approval, ES-O-EN Management LLC, Shaff Rd**

- a. **Commencement of Public Hearing-** Lewis opened the hearing at 8:06 p.m. and read the opening statement. No objections were made from the audience to the notice in this case or

the jurisdiction of this body to hear the case. Lewis inquired if there were any declarations of conflict of interest, ex parte contact or bias by members of the Planning Commission. Hazel noted that she has clients that live near the property in question and could be affected by development. Hook acknowledged that she lives at the end of Quail Run and assured her decision making would not be affected.

- b. Staff Introduction-** Fleishman explained that this is an application for Site Plan Approval for property located at 1855 Shaff Road. The property is adjacent to the Shell gas station at the corner of Golf Club Road and Shaff Road.
- c. Applicant Presentation-** Joey Shearer, AKS Engineering & Forestry, 4300 Cherry Ave NE, Keizer, OR 97303. The vacant lot is currently zoned Commercial General and is currently undeveloped with the exception of the paved section on the south side of the lot. The building and drive thru are oriented to the far west property line to minimize the impact on adjacent residential properties to the east. The Applicant proposes a 2,086 sq ft restaurant with 26 parking spaces provided. There are no setback requirements for this zone, but did plan for a 10-foot buffer to the east next to the residential properties and a 16-foot buffer along Shaff Road. The Applicant has a concern with Condition 4d as proposed by staff. The Applicant proposes to contain the stormwater onsite and only use the overflow system at the Shell Station in the event of a 100 year storm or worse, it that were to occur. The Applicant explained that it may be difficult to obtain an easement from the Shell Station property owner since there is no existing relationship between the two parties. The Applicant proposes to move the 36 inch stormwater line that is currently under the proposed building, further to the west so it is not underneath the building. The Applicant does not see any issues with meeting the proposed conditions recommended by staff with the exception 4d.
- d. Staff Report-** Fleishman explained there was one standard in the code that was not addressed in the Conditions of Approval. The code requires new commercial buildings to be close to the street and sidewalk. The Applicant is not able to meet that standard because of an existing access easement to the property to the west. The City is not requiring the Applicant to meet that requirement. Fleishman explained that it appears there is not an easement to allow for the Applicant to discharge stormwater onto the Shell station property and use their pipes. An easement should get recorded. Fleishman recommended the approval of the draft order.
- e. Questions from the Commission-** Hook referred to the Marion County Public Works letter and asked if it was incorporated into conditions. Fleishman explained that the City's Engineer's comments were taken into consideration when drafting the order, not Marion County's comments. Hook asked if the water run off meets the Santiam Water Control District requirements. Fleishman explained City's Public Works Design Standards will assure the Applicant's design will meet our standards.
- f. Proponents' Testimony-** None
- g. Opponents' Testimony-** None
- h. Governmental Agencies-** None
- i. General Testimony-** Michael Gehring, 2011 Quail Run Ave, Stayton, OR 97383. Gehring lives on the corner of Quail Run Ave and Shaff Road. He has lived at this location for 20 months and there are a lot of loud cars and motorcycles and little enforcement of the noise. He is concerned about the new noise level from his backyard and his back bedroom. He

wanted to know if there is any consideration for the sound that will be generated. He wondered if the builders were going to build a wall next to the adjacent properties. He asked that the builders consider the noise level and install a better wall than the old wooden fence that is in poor condition. He said he was also speaking on behalf of his neighbors.

**j. Questions from the Public-** None

**k. Questions from the Commission-** Hook inquired if the information provided in a phone message that was left at the Planning Office can be included since the caller didn't identify themselves. Fleishman explained that it was included in the Findings, but the message did not have any relevant information to consider. Carmichael inquired what the operating hours are for Taco Bell. Shearer confirmed the hours are 7 a.m. – 2 a.m. Hook asked who is responsible for the fence. Gehring has lived there for 20 months and spoke to a surveyor who thought it was on Taco Bell's property. Gehring thought the trees planted along the edge will help with the sound. Carmichael was concerned about being open so late in next to a residential neighborhood. Hazel asked if the Traffic Impact Analysis (TIA) reflected any upgrades. Fleishman confirmed that the TIA concluded that the operational standards would still be met and no off-site improvements were required. Hook inquired if the Commission can recommend a better sound barrier. Fleishman confirmed that the Standard is met, but the Planning Commission has the authority to require a sound barrier fence.

**l. Applicant Summary-** Shearer reminded the Commissioners that the lot is zoned Commercial General. He referenced how Gehring testified that there are existing noise impacts on this site. Shearer urged the Commissioners to be cautious before imposing additional costs or restrictions to the potential business without additional evidence showing there is a sound problem coming from this proposed use and proposed site plan. The Applicant is taking steps to minimize the impact on the neighboring properties. There will be additional plantings of vegetation, the drive thru was positioned on west side of building so cars aren't idling on the side of homes, and there is an existing fence. There was testimony of one neighbor when 50-plus letters were sent to neighboring property owners. The Applicant requests approval of the Application with the modification for the stormwater.

**m. Staff Summary-** Fleishman noted that the draft order should be modified to reflect the public testimony tonight. He suggested keeping the Condition of Approval that required documentation to discharge stormwater on the neighboring property and address the issue with the noise.

**n. Close of Hearing-** Lewis closed the hearing at 8:50 p.m.

**o. Commissioner Deliberation-** Hazel noted that the Applicant did a lot without being asked. Hook was not comfortable telling businesses when to operate. She is concerned about the car fumes from the drive thru and how the traffic increase may affect neighboring properties. The Commissioners discussed requiring a barrier and different materials that could be used to help with the fumes.

**p. Commissioner Decision-** Hook moved to keep the stormwater requirement and require a solid wood or vinyl fence to be erected that is no less tall than the existing fence, Carmichael seconded. Passed 5:0.

## **6. ADJOURN**

Meeting adjourned at 9:00 p.m.