

MINUTES
PLANNING COMMISSION
REGULAR MEETING
February 28, 2000
COUNCIL CHAMBERS
7:00PM

I. ROLL CALL

Present: Chairman Keith Stewart, Commissioners, Teresa Blackwell, Corey Parks, Jean Tallman, Jim Brown, Paul Thalhoffer, Geoffrey Manley.

Staff: John Williams, Interim Planning Director, Carla Ahl, Planning Staff.

Others Present: Mr. & Mrs. Michael Smith, Mr. & Mrs. Lawrence Berwich, Dennis Pahlisch, Nancy Kowalski, Pete Kelley.

II. CITIZEN INPUT ON NON AGENDA ITEMS

None

III. PUBLIC HEARINGS

MLP 00-02/CUP 00-02 Richard Wright, application was withdrawn.

DR 00-01/CUP 00-01 An application by Pahlisch Nielsen Homes to build a private pool facility at the corner of SE 13th Ave. and S. Ponderosa St. for the use of Tofte Farms residents.

Mr. Stewart reviewed the hearing process, procedure and format. He referred to the applicable criteria posted on the wall and on page 2 of the staff report. When asked if any Commissioner had a conflict of interest, Mr. Thalhoffer stated that Direct Link (a utility provider) is a client of his firm but did not see this as a conflict of interest. Mr. Brown, Mr. Manley and Mr. Parks stated they were residents of Tofte Farms, Mr. Brown stated he was also a member of the Home Owners Association, all stated they would participate. When asked if any Commissioner had ex-parte contact, Mr. Manley, Mr. Brown, Ms Tallman, Mr. Parks, Ms Blackwell and Mr. Stewart stated they had visited the site but drew no conclusions. No questions were asked of the Commissioners.

John Williams gave the staff report. The applicant is proposing a private fenced and gated pool facility for the residents of Tofte Farms. It would be located on lot #60 of Phase II which is zoned low density residential and is surrounded by low density residential housing. The facility would be opened from May 1st to Labor Day, from 9:00 am to 9:00pm. The project would include a 30' X 66' swimming pool, 15' X 25' wading pool and an equipment room. The facility would be owned and run by the Home Owners Association.

John stated that the Fire Department has requested they have access to the pool as an emergency water supply. He added that there were concerns from the service providers (Public Works, C.U.B., NW Natural) regarding easements and service placement, John stated it would be up to the applicant to make the design meet all requirements. Parks and Rec. Dept. questioned the placement of the facility on the edge of the development instead of inside where it would be easier to access by residents and why a pool use instead of one that would be used year round.

John stated that the application had met the requirements for landscaping. He added that there were no requirements for parking established for park and recreational use and that the applicant had not included any, stating that the pool would be within walking distance for all residents of Tofte Farms. John continued that there were no established requirements for bicycle parking but he had conditioned 20 spaces be included, he also suggested that the covered bicycle parking requirement be waived since this facility would only be opened during the summer months.

John stated there is a subdivision fence with existing landscaping around it. Ms. Tallman added there was also a brick decorative wall behind the existing landscaped area approximately 4-5 feet high. Mr. Parks asked if the trees outside the sidewalks were included in the landscape total, John stated that it had been since it was located on the tax lot.

John stated that the building as shown was only 3' from the property line, the applicant has agreed to reduce the building size and move it back to meet the 7' set back requirement. John asked for an interpretation from the Commissioners if a pool has to meet the set back requirements. He explained that there is a 15' setback requirement on all street sides, but it usually only applies to structures, typically things under 30" tall are not required to meet setbacks.

John stated that the conditional use criteria hinges on compatibility with the surrounding neighborhood, since it will be run by the Home Owners Association it would be self regulating.

John concluded that staff recommended approval with 13 conditions. John explained that condition #6 would need to be amended if the Commissioners decided more bike spaces were needed and condition # 8 would need to be amended if the setbacks were to apply to the pool. Mr. Stewart asked if there would still be room for the pool if they were required to meet setbacks. John stated there were options available and added that this issue has come up before and would like the Commissioners interpretation.

Mr. Thalhoffer asked what the setback codes were designed to protect. John replied some of the reasons were for emergency access (which tends to be restricted by fences), aesthetics reasons and the room to park a car between the garage and the street. Mr. Stewart added that without the set back requirements people would tend to build closer to the street while having setbacks gives the sense of a neighborhood.

Mr. Brown asked what the code requires for fences. John explained that the front yard is 3 ½' high, and side and backyards can be 6'. Mr. Stewart asked what the building code requirement for fencing in a swimming pool was, John stated that he was unsure of the requirement.

Mr. Thalhoffer asked how emergency services would have access to the pool after hours. John stated that a condition could be made requiring the emergency services to be provided with the key/code.

Mr. Parks asked what the requirements would be for conveying the facility to the public, John replied that the City Council would have to approve any dedication and that it would have to meet certain requirements (ready to use, all facilities have to be in).

Ms. Tallman asked about regulations regarding fencing around pools, John responded that it was a building code issue.

APPLICANT:

John stated that the applicant was not in attendance. The Commission decided to continue the hearing without the applicant since there were citizens in the audience that had come to testify.

PROPOSERS:

NONE

OPPOSERS:

Lawrence Berwich, 1341 SE 12th Loop, Canby. Mr. Berwich stated that he is not against the residents of Tofte Farms having a pool, but he and his wife live across the street from the proposed site and are the people who would most be affected by the construction of the pool. He stated that his wife and him have concerns regarding off street parking (he doubted that people would walk to the pool) since there is already a problem during soccer season with cars parking on 13th St.(children darting across traffic, double parking while people talk, etc.), noise that would be generated by the pool use and the litter that would be generated (they are responsible for keeping the greenway clean). Mr. Berwich stated that Tofte Farms should not be allowed to have a negative impact on his home in Valley Farms and wondered why it wasn't

located further in the development with parking provided.

Mr. Parks asked if the Berwich's would have the same reaction to a different use, for example a small park. Mr. Berwich stated he felt the impact would be the same.

The applicant arrived at the meeting. Mr. Stewart reread the hearing process, procedure and format. He referred to the applicable criteria posted on the wall and on page 2 of the staff report.

Dennis Pahlisch, Pahlisch Nielsen Homes, stated that the original application had encroached upon utility easements and presented the Commissioners with an revised plan which did not impact utilities, met the 7' setback and included a 20 space bike rack.

Mr. Pahlisch stated courtesy signs could be installed asking people not to park in certain areas of the neighborhood and felt most people would walk to the pool since it would only be used in good weather, where a year round use (playground, club house) would increase the on street parking situation.

Mr. Pahlisch stated the pool was located within 20' of the curb for emergency access for the fire department, a detailed landscape plan would be submitted, ADA requirements would be met and 20 space bicycle parking would be provided.

Mr. Pahlisch addressed the Public Works concerns regarding the need for dry wells on the site to prevent deck water from entering the storm water system. He stated that the Public Works Supervisor had informed them that the water table was high in that location and they will be doing a soil test to assure there would be no damage to the pool due to the ground heaving. Mr. Pahlisch added that if the pool would need to be drained, the water would go into the sanitary sewer system and that Waste Water Treatment had no problem with that.

Mr. Pahlisch stated that they now have an option on more property from Mr. Harvey Tofte which means the development will need some kind of community amenity to bring people together. He added that other facilities had been considered but the pool seemed to have the least amount of negative impact on the neighborhood.

Mr. Pahlisch stated that if passed by the Committee the proposal would be taken to the Home Owners Association to make sure everyone is on board. He added that a budget has been created, the amount each homeowner would have to pay would depend upon how many lots are in Tofte Farms, at this time there are 97 lots and the maintenance for the pool would be \$184.00 per lot per year, with Phase III the amount would decrease to \$158.00 per lot and at Phase IV it would be \$136.00 per year.

Ms. Blackwell questioned the liability issues and who would be responsible for insurance. Ms. Kowalski (Pahlisch Home Associate) explained there is a Home Owners Association

insurance policy and stated that the insurance carrier had quoted an increase of only \$16.00 a year to cover the swimming pool.

Ms. Blackwell asked if a home owner would be required to pay for the service if they opted out of using the pool. Mr. Pahlisch responded that the maintenance would be part of the Home Owners Association dues and each lot would have to pay the same amount, unless a separate pool association was formed.

Ms. Blackwell stated that children would be associated with a pool and asked if any plans had been made to provide "children at play signs". Mr. Pahlisch explained that as the Home Owners Association developed it would be able to provide any safety measure it deemed appropriate.

Ms. Blackwell asked Mr. Pahlisch if he had concerns regarding Ackerman School being down the street and kids jumping the proposed 4' fence. Mr. Pahlisch stated it was a matter of policing the pool, it is only open during daylight hours, if someone was at the pool at night the police would be called.

Mr. Thalhoffer questioned the placement of the pool at the far edge of the development. Mr. Pahlisch explained that the pool would cost approximately \$120,000 which Pahlisch Nielsen Homes is bearing the cost of, then they will donate the facility and the lot to the Home Owners Association. He stated that locating the pool by lots that have not been sold yet was appropriate since people who would purchase in the future would know the pool was there.

Ms. Tallman stated that she has experience with being the president of a Home Owners Association that had a swimming pool, she doubted that the proposed fence would keep out the problems that are associated with a swimming pool, especially one that is visible and located close to a school and felt that this was a real safety issue. Mr. Pahlisch stated the visibility of that lot was one reason for choosing it for the pool, trespassers prefer areas that are private and easy to get away from.

Mr. Pahlisch stated that a motion detector could be installed inside the fence which would sound an alarm and notify security that someone was at the pool. Mr. Stewart stated that such alarms could be an annoyance and asked if the alarm went off who would be responsible for answering the alarm. Mr. Pahlisch replied that the security company would be notified and they would be the one who would answer the alarm. Mr. Stewart asked who would pay for the security system. Mr. Pahlisch answered that it would be included in the Association dues.

Mr. Stewart asked if the Commission approved the application would Pahlisch Nielsen Homes then have to go to the Home Owners Association to get their approval. Mr. Pahlisch answered that they did not need to get approval from the home owners to build the pool since they are the owners of the subdivision, but they plan on presenting it to the home owners and if it is not wanted they wouldn't do it. He stated that they are trying to offer something that is

different and unique that would increase the value of the homes in the development. He added that he thought getting the city approval would be the first step and then to go to the Association with the offer, instead of making the offer with the possibility the city could deny the application. He added that originally he did not know the project would have to go before the Commissioners, he had thought that it was just a matter of obtaining the permits.

Mr. Stewart stated the Commissioners are asking questions because they have not had a project like this in the history of the community and these questions will form the lead for other applications that will follow.

Ms. Blackwell asked for clarification on what the lighting would be. Mr. Pahlisch stated there would be 4 pole lights illuminating the facility without disturbing the neighborhood.

Mr. Parks asked for clarification regarding what type of signage they had proposed. Mr. Pahlisch replied that they would be permanent signs on 4 X 4 posts. Mr. Parks asked if any grass was planned for the area that used to be hardscape and is now landscaping. Mr. Pahlisch stated that they do not have a detailed landscape plan, he would like grass but plans on having taller plants by the fence for a buffer. Mr. Parks asked if there were peak usage times established for the pool use. Mr. Pahlisch stated that when the pool opens it usually will be used a lot, on hot days people tend to use it more, but use will decline as people get accustomed to it being there, he added that the wading pool will be the most consistently used facility.

Mr. Parks asked if the budget took into account the daily maintenance of the pool and if it included all cost associated with maintaining it, especially during peak months. Mr. Pahlisch replied that the budget for the pool was prepared by Northwest Property Management (a company that manages several large developments in the Portland area that have pools) using the specifications from this pool and historical information from other sites.

Mr. Brown asked if Mr. Pahlisch was aware of the sports complex that has been proposed at the swim center which includes an outdoor swimming pool. Mr. Pahlisch replied that he found out about the center after the application was submitted but was unaware of the proposed swimming pool. Mr. Pahlisch stated that would be something to discuss with the Home Owners Association and suggested that maybe a play set would be a better alternative. Ms. Tallman stated the wading pool would be a good neighborhood asset.

Mr. Stewart stated this could be an attractive nuisance and wanted to know who would bear the responsibility for the pool. Mr. Pahlisch stated that NW Property Management Co. would be the contact person. He stated in most cases people who use the pool will be more involved, usually forming a Pool Association that will take on the responsibility of policing the facility.

Mr. Stewart closed the Public Hearing and opened Commissioners deliberations.

Mr. Brown addressed the Conditional Use stating he believed the application met conditions "A" (consistent with the policies of the comprehensive plan), "B" (suitable for the proposed use) and "C" (required public facilities are available). He stated his major concern was policy "D" (not altering the character of the area in a manner that limits or precludes surrounding property). He stated there was also a safety issue regarding children who would be associated with the pool use and the location of the facility at the entrance and 13th St., his calculations showed approximately 600 (plus or minus) vehicle trips a day generated by the subdivision, half of which would use that entrance (300). He stated that there would also be a negative impact on the adjacent properties.

Mr. Manley stated he was concerned with safety regarding the 4' fence and did not think it would be adequate to keep children out. He added that the parking situation would negatively impact the adjacent neighbors estimating 10-15 vehicles a day at the pool in hot weather.

Mr. Thalhoffer stated that he was in favor of the pool but at a different location on the basis that there is a lot going on at that part of SE 13th with the grassy area across the street and the entrance to the subdivision. He added that the pool is a wonderful addition to the subdivision but thinks it should be located somewhere else where it would not impact the surrounding area.

Ms. Blackwell stated she was concerned about children who would be riding bicycles and the number of vehicles at the entrance to the subdivision.

Mr. Parks stated he agreed with the comments that had been made so far, adding he felt the site would only be minimally suited for a pool and that policy "B" would also apply. He questioned whether the home owners would endorse the project and stated if Phase III & IV failed to go through it would substantially reduce the number of homes the cost of the project would fall upon.

Mr. Brown stated this project speaks well for the applicant and he should be commended for trying something out of the "norm".

Mr. Manley stated that he was not against the pool if the Commissioners could come up with conditions that would make it work he would support it.

Mr. Stewart stated he applauds the applicant for trying to do something for the subdivision but that he agrees with Mr. Parks, the proposed use does not meet condition "B", that the site is not suitable due to where it is located and thinks it will alter the Valley Farms subdivision or other neighbors in the area.

Mr. Stewart asked John Williams if the Conditional Use Permit and the Site and Design Review could be separated into two votes. John responded that it would be possible to separate the joint application. There was consensus from the Commissioners to vote on the Conditional Use Permit and then decide to hold or not hold the vote on Site and Design Review.

Mr. Brown moved to deny CUP 00-01 based on conditional use criteria "B" & "D", seconded by Mr. Thalhofer. Motion carried 5-1-1, with Mr. Manley voting Nay and Mr. Parks abstaining.

It was discussed as to how to proceed with the Site and Design Review. Mr. Pahlisch stated that he would be willing to waive the 120 day restriction so there would be time to go before the Home Owners Association. John stated that it would need to be noticed again.

- **FINDINGS**

MLP 00-01 Hans Kautz. Application for approval to partition an existing lot with 2 houses into 2 lots with 1 house on each lot.

Mr. Thalhofer moved to approve the findings for MLP 00-01 as written, seconded by Mr. Brown. Motion carried 6-0-1 with Mr. Stewart abstaining.

DR 99-10/CUP 99-07 Pete Kelley. Application to approve the building of phase II, which includes 11 lots of Village on the Lochs, a manufactured home park.

It was moved by Mr. Brown, seconded by Mr. Thalhofer to approve the findings for DR 99-10/CUP 99-07 as amended by adding additional wording for DEQ requirements being met and the addition of the name of the file on the front page. Motion carried 6-0-1, with Mr. Stewart abstaining.

SUB 00-01 Tofte Farms III. Application to approve a residential subdivision consisting of 47 lots.

It was moved by Mr. Brown, seconded by Mr. Thalhofer to approve the findings for SUB 00-01 as written. Motion carried 6-0-1, with Mr. Stewart abstaining.

V MINUTES

January 24, 2000

It was moved by Mr. Parks, seconded by Mr. Thalhofer to approve the minutes of January 24th with the amendment of correction of wording on page 3 and page 10. Motion carried 7-0.

VI NEW BUSINESS/DIRECTORS REPORT

- John stated that it was brought to his attention that he may have misrepresented the Planning Commissions approval of the TSP at the City Council meeting on the 16th of February and will correct that by telling the City Council that there were some issues that

the Commission did not address (Access Management portion, Bike Lane issues and specific street designations).

- The hearing for the TSP will be March 15th.
- March 7th there will be an open house work shop in Council Chambers with a slide presentation from a Planner from the city of Albany regarding street widths, with a discussion on N. Ivy St. at 7:30pm.
- Periodic Review is on going. The next citizen involvement meeting will be March 8th. A Smart Development presentation maybe given (in-fill, mixed uses, etc.) John stated he has tried to make it clear that it should only be a visionary type presentation, trying to minimize any conflict issues, adding that the citizen involvement committee is not a decision making group.
- The Downtown Master Plan is getting started.
- The Historic Review Board is looking at revising some of the historic ordinances to make them more user friendly and to meet state requirements.
- Parks and Recreation Master Plan update will be starting soon.
- Matilda is working on Natural Resources, (wetland inventory, wildlife habitats, etc) for Periodic Review.

Mr. Stewart stated that he had met with the Parks and Rec. Committee regarding becoming more pro-active in gaining parks and open spaces for the community. Mr. Brown stated that the language needs to be more specific in having a standard ratio of dedication that is expected from large subdivisions. He added this should be added to Periodic Review because if something is not done soon, it will be too late.

Mr. Stewart stated that there will be a lot of opportunity for community involvement in most areas of the Periodic Review Process and encouraged people to become involved.

- John asked if the Planning Commission would be interested in drafting a letter to developers that have been before the Commission in the last 3-5 years encouraging them to become involved in the School Bond Issue as Mr. Pahlisch had volunteered to do at the last meeting on 2-14-00. The consensus was that it would be inappropriate for the Commission to become involved.
- There was a discussion regarding the current system in place for Traffic Studies. John stated that other jurisdictions handled traffic studies in many ways, but none were faster or cheaper than our system (many were significantly more expensive). It was questioned

whether allowing a tiered system would be a better alternative, or allowing smaller developments to do a Traffic Assessment rather than a full Study. Mr. Stewart stated that the current system was adopted just a year and a half ago. At that time it seemed the most equitable method, he stated maybe the problem was more with the engineer than the system. Mr. Brown stated he wanted a Engineer that would give specific direction to the Committee. It was decided to stay with the current system, but look at a different engineering group.

- Public and Private street names will be addressed at the next meeting.
- There are no public hearings scheduled for the next meeting.

Mr. Parks asked about the hearing that was withdrawn, and whether the applicant would get his money back. John answered that the applicant was not interested in going forward at this time and he would receive a refund of his fee minus the work done by staff.

Mr. Stewart asked for a short brief for to the next meeting on how street names have been done in the past. John stated that he would send that and a map in the next packet.

Mr. Stewart asked what happened to 15 items of Comp Plan changes that Jason Kruckeberg had taken forward to the City Council. John stated that they were adopted and they will be codified along with 20 new pages of code text from the TSP. He added that the Commissioners would get copies as soon as they were finished.

Mr. Stewart asked if someone would like to be the backup for the Urban Renewal Advisory Committee. Ms. Tallman stated that she would defer to Mr. Parks.

Mr. Brown asked when dealing with the maps and zones be part of Periodic Review process. John replied that the infrastructure master plans have to be done (the TSP and Parks are the last parts), then the Smart Development Project will lead to a discussion of zoning (uses allowed in zones and where the zones actually are) starting in September and going through March. Then they will look at the UGB to see if it needs to be modified (spring 2001 through the end of the year), and finally the annexation priority system will be looked at.

Mr. Stewart inquired about the new Planning Director. John replied he didn't have a lot of information but he knew that it had closed on the 11th of February.

Mr. Parks asked if there could be a different environment to do some of the "work" that needs to be done by the Commission. There was a discussion regarding the benefits of working together in a more informal setting and topics that could be discussed. It was agreed that the meeting on March 13 would begin at 6:15 to discuss Smart Development, snacks will provide be provided.

ADJOURNMENT

Meeting adjourned at 9:43pm