

MINUTES  
Warrenton Planning Commission  
February 10, 2022  
6:00 p.m.  
Warrenton City Hall - Commission Chambers  
225 S. Main  
Warrenton, OR 97146

Vice Chair Hayward delayed the meeting by 15 minutes to allow time to scan additional meeting materials. Vice Chair Hayward called the meeting to order at 6:12 p.m. and led the public in the Pledge of Allegiance.

Commissioners Present: Kevin Swanson (Zoom), Mike Moha, Vice Chair Chris Hayward, Ken Yuill, Lylla Gaebel (Zoom), and Christine Bridgens

Excused: Chair Paul Mitchell

Staff Present: Planning Director Scott Hazelton (Zoom), City Attorney Spencer Parsons (Zoom), and Secretary Rebecca Sprengeler

ELECTION OF CHAIR AND VICE CHAIR

**Commissioner Yuill made the motion to appoint Paul Mitchell as the Chair for the 2022 calendar year. Motion was seconded and passed unanimously.**

**Swanson – aye; Moha – aye; Hayward – aye; Yuill – aye; Gaebel – aye; Bridgens – aye;**

**Commissioner Yuill made the motion to appoint Chris Hayward as the Vice Chair for the 2022 calendar year. Motion was seconded and passed unanimously.**

**Swanson – aye; Moha – aye; Hayward – aye; Yuill – aye; Gaebel – aye; Bridgens – aye**

PUBLIC COMMENT ON NON-AGENDA ITEMS - None

APPROVAL OF MINUTES

- A. Planning Commission Meeting Minutes – 11.04.21
- B. Planning Commission Meeting Minutes – 12.09.21

**Commissioner Moha made the motion to approve the November 4, 2021 minutes. Motion was seconded and passed unanimously.**

**Swanson – aye; Moha – aye; Hayward – aye; Yuill – aye; Gaebel – aye; Bridgens – aye**

**Commissioner Bridgens made the motion to approve the December 9, 2021 minutes. Motion was seconded and passed unanimously.**

**Swanson – aye; Moha – aye; Hayward – aye; Yuill – aye; Gaebel – aye; Bridgens – aye**

## PUBLIC HEARINGS

**Open Public Hearing:** Vice Chair Hayward opened the public hearing in the matter of Appeal AP-21-2 of administrative decision on Land Partition LP-21-5 on taxlot 810290001100 located at the north end of SW Oak Avenue. Vice Chair Hayward outlined the public hearing procedure. Commissioner Yuill stated he has employed the same surveyor as the Wilsons, but it will not affect his decision. Vice Chair Hayward stated he is an adjoining property owner and neighbor in the area but believes he can make a fair and unbiased decision. No other declarations were made.

**Staff Report:** Mr. Hazelton (Zoom) reviewed his staff report for the appeal from Robert Marshburn and multiple residents of the area. He stated the majority of the appellant's concerns regarding wetlands are reviewed at a later point in the development process when building plans and site design review occur. He further noted Dan Cary, area representative from the Department of State Lands (DSL), had no concerns about the partition. Regarding question about the validity of the survey and other work, Mr. Hazelton stated the surveyor has proper certification, therefore, the City has no right to question the survey. Mr. Hazelton stated issues raised by the appellant have been abated by staff regarding notices and procedure. Staff recommends denial of the appeal as the land partition has no contradictions of the Warrenton Municipal Code (WMC).

**Questions of Staff:** Commissioner Swanson asked if there is anything the applicant is going to do to ruin or invade the wetlands. Mr. Hazelton said no and explained that the wetland review is conducted during site design and development review; they are only looking at the partition right now. He further noted the only consideration for wetlands regarding a partition is if the site remains buildable. He explained the details. Commissioner Gaebel asked about septic versus sewer for the site in the future. Mr. Hazelton noted it will be considered at a future time. Brief discussion about septic continued.

**Applicant Presentation:** Robert Marshburn introduced himself and stated there has been misinformation regarding the partition application. He noted the submitted appeal in the packet and urged the commission to review it. He then discussed his disagreement with the "appeal concerns" in the staff report. He felt were misrepresented or dismissed. He claimed Mr. Hazelton inaccurately recalled statements made by Mr. Carey, that a land use permit was required for the land clearing done in May and clarified that he did not make any demands of staff. Mr. Marshburn read a 5-page statement about his concerns. He requested the commission uphold the appeal and reverse approval of the land partition application. He also asked that they require independent verification of the lake and wetland delineated boundaries and setbacks with all cost paid by the applicant. He finally requested the submission of an impact statement.

**Questions of Applicant:** Commissioner Swanson spoke in support of Mr. Hazelton then asked for clarification related to the studies. Mr. Marshburn clarified a certified wetland delineation study was not required or part of the impact study and feels it needs to be.

**Public Testimony in Support of the Applicant:** Dave Zunkel introduced himself and explained

his concern for the lake, wildlife habitat, and the lake as a resource for recreational uses. He would like to keep the property as is. He agreed with Mr. Marshburn's testimony, then discussed additional concerns about the wetlands affect on the access road, the need for an impact study, and vague "environment constraints" for potential future redivision. He requested the commission make a wetland delineation a condition of approval for the partition.

Kathleen Zunkel concurred with the previous testimonies. She noted attending the January 18<sup>th</sup> joint meeting and agreed with the need for a code audit. She reviewed WMC notice requirements for Type II applications. She noted the comment period for the partition application and feels it is unfair they are cut off from the rest of the process. She noted several letters were submitted from surrounding homeowners and feels the decision was made without addressing the concerns of the letters or future development. She further noted frustration with the code process. She discussed her disagreement with the "appeal concerns" as stated in the staff report regarding the impact study. She noted a condition of approval for permanent wetland boundary markers of an abutting development and feels a professional wetland delineation should be required here as well.

Rosalie Larson offered comment in support of the appeal. She discussed her history with the area, noting she represented past owners of the property. She noted sensitive wetland lake boundaries need to be addressed before computing the square footage of lots for the partition.

Erika Bauer concurred with previous testimony and added that removal of vegetation across the lake last May was done without a land use permit. She noted concern about the destruction of the land and feels ignoring the rules speaks to the future of the land.

**Public Testimony in Opposition of the Applicant:** Josh Stellmon, the Wilson's lawyer, explained the outcome of approving the partition is three separate lots and stated the commission is not being asked to consider anything related to building and development. He further noted a wetland delineation may be required in the future, but now is not that time. The consideration is if the application meets the code standards. City staff have determined that it does. He requested the appeal be denied. Commissioner Bridgens asked for clarification about the impact study. Mr. Stellmon responded it was required by the code and submitted by the applicant.

Tracy Wilson, partition applicant, noted the discussion is about code requirements. She discussed a timeline of steps taken to understand requirements of the property that included onsite meetings with previous planning staff and other professionals. She clarified that a wetland fill permit was not required. She discussed the property clearing in May of 2021; it was done by a professional landscaper. She noted in August of 2021 the surveyor was verbally assaulted while working on the property. She feels this is not about wetlands, it is about changing the homeowner's view from across the lake. She noted Mr. Carey had not received complaints about her property and showed images of properties across the lake with docks protruding into the wetlands. She noted a memo from John van Staveren regarding wetlands in the area; they have hired his staff to verify the wetlands lines.

Mike Magyar, surveyor, discussed the process leading up to this point. He explained the wetland line used for the partition has been used by several other developments and is recorded on plats with the county. The line was confirmed by John van Staveren as the original wetland

delineation line. Mr. Magyar and Interim Planning Director Will Caplinger both concluded it was safest to use the more restrictive 50ft setback from the top of bank line for this project. He emphasized that online data is complex. He agreed with Mr. Marshburn on the importance of providing good planning data so citizens can look at information. He noted it is critical information be made as available and transparent as possible. He discussed the wetland lines on the City GIS application.

**Applicant Rebuttal:** Mr. Marshburn noted he still has concern about need for a current wetland delineation survey. He stated this is part of the preliminary plat submission requirements. Ms. Larson agreed they have a beautiful view but restated her concerns about wetlands, habitat, and animals; this needs to be looked at before calculating lot size. Ms. Zunkel noted the 1993 wetland delineation and that wetland delineations are good for about 5 years; they are not a constant. She also discussed logging and a boardwalk in the lake on her own property.

**Close Public Hearing:** Vice Chair Hayward closed the public hearing.

**Deliberation of Commissioners:** Commissioner Moha asked for clarification on the suggested condition of approval for a wetland boundary survey and delineation. City Attorney Spencer Parsons clarified the delineation requirement is for proposals that alter the land within 25 feet of the wetland. He explained a partition does not alter the land unless combined with development. Brief discussion followed about what is considered altering land. Mr. Hazelton read an email from Mr. Carry in the meeting packet that was in agreement. Discussion continued. There was discussion about the land clearing from May. Mr. Hazelton noted permits were not required from DSL or the Department of Forestry for the work as observed by staff. Commissioner Gaebel asked if this will come back to the Planning Commission. Mr. Hazelton explained it will depend on future development. Discussion followed about review procedures in the WMC. Commissioner Yuill asked about notices to the neighbors at the development stage. Mr. Hazelton explained it depends upon the size of the development; it is not typical for individual residences. Discussion continued. Commissioner Gaebel feels the appellants should have purchased the property if they wanted to maintain it as is. She also stated her opinion is that people who own property have the right to develop their property. Commissioner Swanson thanked the speakers for their testimony and expressed his support for Mr. Hazelton's report. Commissioner Yuill noted his appreciation for both sides' participation. He feels the applicant should have the right to partition their property but is unsure about next steps. He noted his agreement with staff. Vice Chair Hayward commented on living in the neighborhood. He explained the duty of the Planning Commission is to uphold the code and noted his experience developing property there in the past. Commissioner Moha agreed with previous comments and noted they have a lot of work to do but he feels the rules are being followed.

**Commissioner Moha made the motion to deny the Appeal application (AP-22-1) for the administrative approval of LP 21-5, located on Tax Lot 810290001100, based on the findings in the staff report and discussion. Motion was seconded and passed unanimously.**

**Swanson – aye; Moha – aye; Hayward – aye; Yuill – aye; Gaebel – aye; Bridgens – aye**

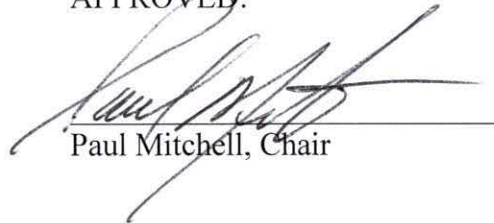
#### STAFF ANNOUNCEMENTS & PROJECT UPDATES

Mr. Hazelton noted there are no applications for next month's meeting. He started a new job and will continue with some work for Warrenton while other staff will handle the day-to-day work. Several commissioners wished Mr. Hazelton well at his new job.

There being no further business, Vice Chair Hayward adjourned the meeting at 7:45 p.m.

**Next Meeting:** April 14, 2022

APPROVED:



Paul Mitchell, Chair

ATTEST:



Rebecca Sprengeler, Secretary