

PLANNING COMMISSION MINUTES

November 10, 2004

7:00 p.m.

Newberg Public Safety Building
401 E. Third Street

SUBJECT TO APPROVAL AT THE NOVEMBER 18, 2004 PLANNING COMMISSION MEETING

I. ROLL CALL

Commissioners:	Dwayne Brittell Richard Van Noord	Phillip Smith Nick Tri
Absent:	Louis Larson (excused) Matson Haug	Dennis Schmitz
Staff:	Barton Brierley Harper Kalin	Dawn Nelson Steve Olson

II. OPEN MEETING

Chair Van Noord called meeting to order at 7:00p.m.

III. CONSENT CALENDAR

Approval of October 14, 2004 and October 27, 2004 Planning Commission Meeting Minutes

MOTION: Smith/Van Noord To approve October 14, 2004 and October 27, 2004 Planning Commission Meeting Minutes. [4 Y / 0 N / 3 ABSENT] Motion passed.

IV. COMMUNICATIONS FROM THE FLOOR

None

V. QUASI-JUDICIAL PUBLIC HEARINGS (complete registration form to give testimony - 5 minute maximum per person, unless otherwise set by majority motion of the Planning Commission). No new public hearings after 10 p.m. except by majority vote of the Planning Commissioners.

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| APPLICANT: | R.P.Grahn Inc. |
| REQUEST: | Comprehensive Plan Map Amendment from Park (P) to Low Density Residential (LDR), Zoning Map Amendment from Community Facility (CF) to R-1, Stream Corridor Amendment to shift the Stream Corridor boundary to the west, and subdivision tentative plan approval to create a 5 lot subdivision on the 0.96 acre site. |
| LOCATION: | 1901 N. Main |
| FILE NO.: | S-47-04/CPA-25-04/Z-24-04 |
| CRITERIA: | Newberg Development Code Section § 151.122, 151.123, 151.242 |
| | RESOLUTION NO.: 2004-188 |

Chair Van Noord - Read ORS 197.763, called for bias, ex-parte contact, and objections to jurisdiction.

Commissioner Smith - I have extreme bias about this case I would like to be excused.

Chair Van Noord - Would you like to leave or remain?

Commissioner Smith - I will remain to maintain quorum.

Staff report presented by: Steve Olson

Mr. Olsen presented maps showing the location of the site at the intersection of N. Main St. and Lynn Drive. He pointed out the stream corridor on the aerial map.

Commissioner Brittell – Is that a current aerial map?

Steve Olson – It is only a couple of months old. He then went on to describe what the applicant is requesting as reviewed in the information packet. The address of the site is 1901 N Main St., the applicant is Roger Grahn, and the owner is Mark McLeod Harrison. This item, if passed tonight, is scheduled for the December 20th City Council meeting. The site is over 1 acre with an existing single family residence, 4250 square feet of the lot is park, and the stream corridor also runs across park parcel. This parcel was annexed in the May, 2002 election. As a history of how we got here tonight, the applicant has worked with City staff as to how the parcel could be developed. The applicant has had to work around stream corridor which has left some of the property as unbuildable. When the property was annexed, it was not specified that the zoning of the park as CF was required to be an active park. Mr. Olsen then presented an overview of the current subdivision proposal. CPRD does not want the park area, and the applicant is requesting that the park designation be removed. Planning staff has proposed alternatives for developing the property with out the park designation being removed. However, the applicant has property line issues and has lost a significant amount of property along the sides which puts additional pressure on them to remove the park. We think it is still possible to keep the park and have 5 lots on this parcel. Mr. Olsen then went over how the application judged against the decision criteria. He then covered what would have to be done with the stream corridor if it were moved.

Questions of staff

Chair Van Noord – So your recommendation of shifting the stream corridor to the west will make for easier development of site? Could you show how the natural resource value of the corridor could be “enhanced” as indicated in the recommendation?

Steve Olson - “Enhanced” might be too strong of a word, but it definitely could be a better stream.

Discussion of why it would be good to move the stream corridor.

Commissioner Tri - If there isn't a move of the corridor then there will only be 4 feasible lots?

Steve Olson – Yes, I think that is true, the previous plan that worked around existing steam corridor was difficult, they don't have as much land as they thought because of some lot line adjustments.

Chair Van Noord - Can you show where the park designation would be with the stream corridor shifted?

Steve Olson – The park remains in the same spot.

Chair Van Noord – Moving the stream corridor would narrow the usable park area?

Steve Olson - It would be 25' wide, that is why it makes most sense to leave it as additional open space instead of trying to make a park out of it.

Commissioner Brittell - Each time I review the staff report, it is different. I have questions about the differences in what the street improvements are to be from original staff report.

Steve Olson – “Improvements are undetermined” was meant to be somewhere between ½ to ¾ improvement. That wording is the same in the annexation report. The reference to “full standard improvement” is to the design elements (i.e. sidewalk, planter strip, curb) not the required amount of street improvement (i.e. ½ street).

Commissioner Brittell - After reading minutes I think I would agree that it was request of Planning Commission to designate the area as park. I have a comment on the letter from CPRD. That they were not

interested it makes me think that it should not be a park and it was a bad decision on the Planning Commissions part to make it a park.

Steve Olson - It was not a requirement of it to be made into an active park, it could be left as open space.

Commissioner Brittell - Could it not be designed in a manner so that 2 lots would share the open space?

Steve Olson - It is possible that the park could be across the two lots in the back and be private. It is an option for the applicant. In the discussion of where park could be, we were trying to offer suggestions not design the subdivision for the applicant.

Commissioner Brittell – Since this property went through the annexation vote process, if the Planning Commission chose not to require the applicant to make a park and to approve their request to change zoning, does it go back to vote?

Steve Olson - No, council would make that decision.

Roger Grahn, 23287 LaSalle, Sherwood – It is important for me to specify that I will do the half street improvements. I plan on improving to full standards and have some STC monies to go toward this. The east half of Main St is in the County and is inadequate. There is already a LID on Main St., I would be asking for big trouble if I tried to sell homes on Main then they get hit with LID. Lynn Street is already improved on the north side of the street. The stream is no more than a drainage ditch that drains Mountain View, there is standing water from time to time. I am going to argue with engineer about embedding logs in the stream corridor, it will only increase the nuisance of the nutria rodents that live there. The ditch is dry most of the summer, it is a drainage ditch. In summary, I feel there is a Dolan violation and a Measure 37 violation. If the City feels it needs to be a park, it will cost them \$70,000.

Mark McLeod Harrison, 1901 N. Main, Newberg - Owner of the property. Would like to thank planning staff as I have been working on this project since 1999. There were some factual errors in the original staff report. CF designation was not proposed by me. It made sense at the time to donate the park land and get a tax benefit but there was no indication from staff that the Stream Corridor could be moved. If I had known that then, there would be no CF zone. The park zoning was brought up at Planning Commission meeting for annexation. I'm now stuck with park on a piece of land that could be developed. It is very expensive to develop this piece of land. I tried to sell it but developers said no to buying it because of CF zone, Mr. Grahn was the only one willing to take it on. It is very much the fact that we are off 20' the whole size of the lot. It leaves me with an acre of land that looks like garbage and is not developable. I feel I have lost a lot of money on this and don't want to extend it out. I live by this property and it is just a ditch, not a stream in my opinion.

Chair Van Noord - Are you required to make improvements to Main St and Lynn the full width of property, including the park?

Mark McLeod Harrison - As I understand it. When I did talk to Mr. Clements he said they would be interested in it for a park if the streets were improved. If I had been told about moving the Stream Corridor in the first place, there would be no CF zone on the property. I see it as we need to fix a mistake.

Commissioner Brittell - Because of testimony, other questions pop up about developments and improvements. Is it possible that they would only have to improve Main St. if all lots fronted it?

Barton Brierley - Typical is to improve all street frontages.

Commissioner Brittell – What about the case of the Catholic Church?

Barton Brierley – The Church agreed to improve Main St. then participate in the Mtn. View LID.

Commissioner Brittell – Is there a possibility for something like that on this project?

Barton Brierley - I can't really see it.

Commissioner Brittell - I could see where it would work

Barton Brierley - The requirement for the Church to do the improvement on Mtn. View has always been there, it was just allowed to be postponed. The City isn't going to do that anymore with future projects.

Commissioner Brittell – It doesn't seem the City wants it as a park.

Commissioner Tri - It seems to me what we are looking at is a greenway area, it is a continuation of that greenway area that the city is asking be maintained.

Discussion of open space

Chair Van Noord - Asked questions of Roger Grahn about size of lots, and discussed set backs. If we vote to realign stream corridor is there a set back from the stream corridor?.

Barton Brierley - You can build right up to line of the corridor.

Roger Grahn - The issue has become trying to sell the property.

Chair Van Noord - Why would that be a problem?

Roger Grahn - Would you buy a new house where you had to maintain a property access for a public area?

Discussion of how a CF zone works and if you follow the rules, how they affect the adjoining lots.

Barton Brierley - I would like to ask the applicant a few questions. Is it your proposal that you subdivide the property as shown on map and the entire property be zoned R1?

Roger Grahn - Yes

Barton Brierley – Is it your proposal that the stream corridor be designated to public?

Roger Grahn - It would have to be, I don't have problem with right away dedications.

Steve Olson – In conclusion it is the recommendation of Staff that Planning Commission adopt Resolution 2004-188.

Chair Van Noord – Closed public hearing

Chair Van Noord – Steve, you are certain that Council can change zoning without going back to vote?

Steve Olson – Yes, that is the way annexations are set up, otherwise it would be difficult to do changes if you had to go back for a vote all the time.

Barton Brierley - It is clearly City Council's right to change.

Commissioner Brittell - When I read the staff report and the findings of fact I was surprised there were so many denials to the application, since there was such a concern to maintain CF zone for park. I was surprised that CPRD did not want the park. I think the original intent of the Planning Commission was to have a park. Since the CF zone doesn't require ownership be public I understand the concerns of owner with liabilities of maintaining a park area. I would not recommend to Council that it be maintained as a park, it is too small. I think it should not be park and I think it should not be CF zone, but at same time it is important to look at natural resources and know that they are disappearing. I would like to approve a 5 unit subdivision with 7500 SF minimum with 2 additional conditions to the recommendations that staff has already made 1) Change the orientation of the 2 lots where the Stream Corridor runs through and 2) The Stream Corridor would remain in private ownership with conditions to maintain natural resources. Presented drawing.

Commissioner Tri – I would like to know if the lots were all directed the same way, what is the ability for the land owner to supply a foot bridge from one side of the Corridor to the other?

Barton Brierley – Stream Corridors have a provision that could provide for a foot bridge, but in this situation the Stream Corridor would already be compromised. I don't think it would be a good idea.

Commissioner Tri – If there was a different positioning of the Corridor would the subdivision have to be readdressed? Mr. Grahn has a question.

Chair Van Noord – Do you want to reopen public testimony for applicant to make additional statement?

Commissioner Brittell – Not sure it is appropriate.

Commission voted not to reopen testimony.

Commissioner Brittell - Motion to approve the application with the following conditions to minimize impact to natural resources on the site:

1. Before final plat approval, applicant must meet subdivision requirements as written in the Staff Report page 8.
2. Before final plat approval, applicant must meet Conditions of Approval as written in the Staff Report page 15 pertaining to the Stream Corridor.
3. Reconfigure lots 4 and 5 to parallel lots 1-3.
4. Redesign Stream Corridor to mitigate development impact, allowing 2 build able sites.

Commissioner Tri seconded the motion.

MOTION: Brittell/Tri To approve application for zone changes to 1901 N. Main St with conditions to minimize impact to natural resources of the site. [3 Y / 0 N / 1 ABSTAIN/ 3 ABSENT] Motion passed.

Barton Brierley - Along that vein of thought, I would recommend you direct Staff to return a resolution to support the motion before sending to City Council.

Commissioner Brittell - How long will it take to return a resolution to us?

Barton Brierley - We would have it at the December meeting.

Discussion of how long it would take and how Commissioners don't want to slow the process for application any more.

MOTION: Tri/Smith To direct staff to develop a resolution to vote on for the application approval of 1901 N. Main St. [3Y / 0 N / 1 ABSTAIN/ 3 ABSENT] Motion passed.

Barton Brierley - This won't go before Council until December 20th which would be in time if we do vote on the resolution at the next meeting. Would recommend that absent commissioners abstain from vote of the resolution.

Break 9:05 for 5 minutes

Commissioner Brittell - Is there any possibility to let the owner make another statement?

Barton Brierley - I don't think it is appropriate

Commissioner Brittell – There is a time element of this issue being pushed from the last meeting, at the suggestion of Commissioner Haug, then he didn't show for this meeting. It seems that since it has been drug out so long, in fairness to owner, I would like to move up the process so that it would get on Council agenda earlier.

Commissioner Tri - I am not sure it would get to them before the second meeting anyway.

Barton Brierley - I would like to see it at 2nd meeting on December 20th.

Commissioner Brittell - Apparently that won't work. The project will die if it has to wait until December 20th. If there is anyway to get it into the December 6th meeting, the owner would appreciate it.

Barton Brierley - If you called a special meeting this could be accomplished, however, I strongly feel you need a resolution.

Commissioner Smith - How quickly can Staff get a resolution done?

Barton Brierley – One week.

Commissioner Smith - How quickly can it get on Council agenda?

Barton Brierley - As long as there are no changes to the resolution when you meet it should get to the Council in time.

Commissioner Smith - In terms of timing, if we met within 10 days of today, then it would be 2 weeks until December 6th meeting?

Barton Brierley - Yes, if you want to call a special meeting.

Discussion of special meeting date.

Tri motion for - November 18th meeting.

Commissioner Brittell - Does that give Staff enough time to prepare?

Barton Brierley - We could have a report on that date but we wouldn't get it mailed out before then.

Commissioner Smith - I am very much in favor of Commissioner Brittell's suggestion.

Commissioner Brittell - I am very concerned for the owners situation and 120 day hearing limitation.

Barton Brierley - The 120 day rule is not applicable in this case.

Commissioner Smith - Second the motion.

MOTION: Tri/Smith To set a special Planning Commission Meeting for November 18, 2004 to approve a resolution to be developed by staff [4 Y / 0 N / 3 ABSENT] Motion passed.

VII. ITEMS FROM STAFF

1. Update on Council items

Barton Brierley - I have provided you with drafts of resolutions you wanted to present to Council, the ADA compliance memo has already gone to City Council. The December 6th City Council agenda includes Action Equipment Zone Change and Planning Commissioner appointments. Measure 37 passed and we are developing a proposed ordinance to present at the December 6th Council meeting. There is quite a bit of ambiguity in the Measure as to what it means but in general, I think the City shouldn't panic.

Commissioner Smith - At the right time, I would like to ask the City Attorney to come and report to the Planning Commission when he thinks he has a good grip on how it affects the City.

Commissioner Brittell - Or perhaps joint session with the City Council.

2. Other reports, letters, or correspondence

Barton Brierley - It is a tradition to have a Planning Commission dinner in December, with the purpose to show appreciation for your work for the year.

Commissioner Brittell - Do you have a date or schedule?

Barton Brierley - At the December 6th meeting the Council will appoint new commissioners so we could do sometime after that.

Commissioner Brittell - This will be a good forum to introduce new members.

Barton Brierley - I will pick a couple of dates in the second week of December and email those out.

3. Next Planning Commission Meeting: November 18, 2004
Next Regular Planning Commission Meeting: December 9, 2004

VIII. ITEMS FROM COMMISSIONERS

None

IX. ADJOURN

Chair Van Noord adjourned meeting at 9:30p.m.

Approved by the Planning Commission this 18th day of November, 2004.

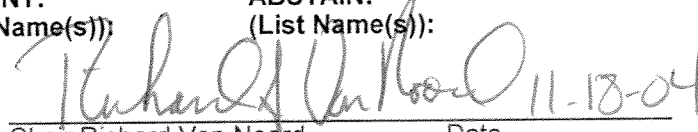
AYES:

NO:

ABSENT:
(List Name(s)):

ABSTAIN:
(List Name(s)):


Planning Recording Secretary


Chair Richard Van Noord Date 11-18-04

**INFORMATION RECEIVED INTO THE RECORD
AT THE NOVEMBER 10, 2004 PLANNING COMMISSION MEETING.**

**THIS INFORMATION IS ON FILE AT THE COMMUNITY DEVELOPMENT OFFICE ATTACHED TO THE
MINUTES OF THE MEETING AND IN THE PROJECT FILE IT PERTAINS TO.**

PROJECT FILE #

S-47-04/CPA-25-04/Z-24-04

Z-26-04