

PLANNING COMMISSION MINUTES

May 22, 2008

7:00 p.m. Special Meeting
Newberg Public Library
503 E. Hancock Street

TO BE APPROVED AT THE JULY 10, 2008 PLANNING COMMISSION MEETING

I. ROLL CALL:

Present: Thomas Barnes Matson Haug Philip Smith
Cathy Stuhr (Chair) Nick Tri Derek Duff

Absent: Lon Wall (excused)
Teanna Rice, Student PC (excused)

Staff Present: David Beam, Economic Development Coordinator/Planner
Barton Brierley, Planning & Building Director
Steve Olson, Associate Planner
Jessica Nunley, Assistant Planner
Dawn Karen Bevill, Recording Secretary

II. OPENING:

Chair Stuhr opened the meeting at 7:00 PM.

III. COMMUNICATIONS FROM THE FLOOR:

Chair Stuhr invited the guests to bring forth any new topics for the agenda. No additional issues were asked to be added to the agenda.

IV. QUASI-JUDICIAL PUBLIC HEARING:

1. **APPLICANT:** Larry & Shirley Hill
REQUEST: Appeal of the denial of a Variance request to allow a second driveway on a property
FILE NO.: VAR-08-001
LOCATION: 1801 Villa Road
TAX LOTS: 3217BC-400
RESOLUTION: 2008-251
CRITERIA: NDC151.163

Chair Stuhr opened the public hearing and read from ORS 197.763.

Chair Stuhr asked fellow commissioners if anyone needed to abstain, admit bias, ex parte contact, or exceptions to jurisdiction. **Commissioner Smith** stated that although he knows Shirley Hill, it will not affect his decision.

Staff Report:

Jessica Nunley explained that this hearing is an appeal of a variance request denial. Larry & Shirley Hill are asking the commission for approval of a variance to the access spacing standards to allow 2 driveway entrances from one property onto Villa Rd. The criteria applicable in this case are NDC Variance Criteria 151.163. She used an area map to show the parcel location and gave background on the project. Larry Hill applied for a building permit for a new garage in 2002. There were two driveways shown on the site plans when submitted. At that time, when plans were submitted for site review, the red-line corrections are written directly on both sets of plans; one being returned back to the contractor or applicant, and one kept on file in the Planning office. In this case, it was red lined due to the dual driveways which were not allowed. The permits were issued, the garage construction was completed over an extended time, and a building final was called for in January 2008. When the inspectors went out to the property to conduct a final inspection they found the second driveway entrance installed and paved in accordance to the original plan, but in conflict with the red-line comments made on the plans. Final inspections were disapproved until the property conforms to the approved site plans dated April 25, 2002. Larry Hill then applied for a variance to the access spacing standards to allow the second driveway entrance onto Villa Rd. The variance application was reviewed and the Planning Director denied the variance in April 2008 and the applicant then filed an appeal. Ms. Nunley showed a closer location map and road classification map from the TSP showing the collector and arterial roads. The roadway classifications were set back in 1994. The access spacing standards table (1999) Section 151.703 does not allow dual driveways; frontage required for additional driveway is 150 feet from a major collector. The access spacing standards were not met in 2002 and the copy of the 2002 Building Plans show what was to be omitted.

Ms. Nunley showed current pictures of the project site; new garage and the circular driveway that comes around in front of the house. She reviewed the NDC Variance Criteria 151.163 subsection A & B. The overall variance is meant to alleviate a physical hardship or a practical difficulty on the site. In this case there is no physical hardship for dual driveways and there are no exceptional or extraordinary exceptions. A copy of the original staff decision of April 9, 2008 was shown on the overhead, showing staff's recommendation to remove the first 15 ft of the northernmost driveway entrance. The NDC 151.163 Variance Criteria subsection C means that other homeowners in the area would also have to comply with the Code if they were in the same situation so it wouldn't be depriving the applicant of privileges given to others, and (D) granting the variance would give the applicant special privileges not allowed for others in the neighborhood.

Ms. Nunley showed the map of properties with circular driveways in the neighborhood from Crestview to the train trestle. NDC 151.163 Variance Criteria (E) is for pedestrian

safety; reducing the amount of curb cuts coming out on a major collector. Every curb cut is a barrier to pedestrians and bicycles in the area, and every curb cut means traffic is slowing to exit and enter the roadway. The current site plan shows numerous access points and disruption on the road.

Staff Recommendation:

After reviewing the staff report again, staff recommends that the Planning Commission adopt resolution 2008-251, which denies the request for a variance to the access spacing standards.

Commissioner Haug asked for clarification on the red-line corrections. **Jessica Nunley** explained the red-line comments are signed off by staff and given to the applicants. **Barton Brierley** added this is standard procedure for all plans.

Chair Stuhr asked if it matters which end of the driveway they close. **Jessica Nunley** replied it doesn't matter, they can choose to close either driveway entrance.

Commissioner Smith asked for some clarification on the construction timeline. **Jessica Nunley** explained there were extensions of the building permits over several years with the final inspection being called in January 2008.

Public Testimony:

John Bridges, representing Mr. & Mrs. Hill on this appeal, stated written items addressing the criteria had been submitted at a previous date and are in the packet. The applicants had hired a contractor for the remodel to their home and the construction of the garage in 2002. The circular driveway was put in that year as well. Mr. Hill learned of an issue associated with the circular driveway and was assured by the building contractor that it had been taken care of. The set of plans that were red-lined were given back not to the property owner but to the contractor. Mr. & Mrs. Hill learned in 2008 the issue hadn't been resolved after the driveway had been paved. Mr. Bridges presented a copy of the final inspection request dated December 13, 2002 marked as final addition to house with additional comments listed. Mr. Hill misunderstood that to mean it was a final and there was no reference to the second driveway. The applicants put their faith, and the work to be done, in the hands of the contractor and it was unfortunately mishandled. In dealing with the criteria, they believe the necessary hardship could include the possible loss of money in building and landscaping, but also in tearing it up and re-landscaping the property. Mr. Bridges explained the property could be partitioned off, with two driveways allowed. A hardship would be the extra costs of complying with standards. Also, the applicants would sell the extra lot if it's partitioned, which will incur more traffic.

Jessica Nunley showed the proximity map, and Mr. Bridges spoke about 18 lots along Villa. There are also a number of built homes not adding many trips on Villa Rd. He then counted nine properties with dual access, not counting Mr. Hill's as one of them. The lo-

cation of the railroad trestle suggests there won't be much more development in the area. Also, two neighbors have commented on this application, stating this would not be a problem. The 3-way stop sign is a good safety measure in that area and the criteria requires a detriment to safety. Mr. Bridges believes the criteria for lots in similar circumstances cannot be shifted and instead of reading zoning district into the criteria, you read the type of road. In this R-2 area, half the properties have a dual access. He concluded by stating this is a good case for the Commission to exercise their discretion, since traffic would not be affected.

Commissioner Haug stated the contractor would be legally bound to fix the mistake.

Mr. Bridges replied that could be the case, but this variance question is to the city. In any legal scenario there could be several options and coming to the city is one of those options.

Commissioner Haug stated he was on the Planning Commission when the area was changed from R-1 to R-2. Many of the circular driveways were legal in R-1, but asked when it was changed to R-2 in relation to the application date.

Barton Brierley replied he isn't sure the exact date, but around 1999-2000 which pre-dates the application date.

Mr. Bridges states it's irrelevant whether it was an R-1 or R-2.

Commissioner Haug asked about Villa Rd. not having a lot of traffic as he lives in that area. This will be a heavily traveled street with the Austin Development, making it a major collector at that time.

Mr. Bridges appreciates Commissioner Haug's comments and noted his comments saying, as compared to other R-2 areas, there aren't as many lots so there is less traffic accessing the road. Also, if you put that R-2 in a different area with double the amount of accesses, it would still be comparatively smaller.

Commissioner Smith commented that the accessing spacing standards are divided up according to what kind of street you're on, and this street requires 150 feet. Believing this was done in good faith doesn't change the rule. He questioned how R-2 is relevant to this.

Mr. Bridges concerning the safety issue, if there's a safety issue that precludes what is being asked to be done; it needs to be a safety issue that rises to the level of a detrimental risk to safety. The last criterion says the granting of the variance will not be detrimental to the vicinity. Yes, there would be an impact, but not a detrimental one. If it was partitioned, the same number of accesses would be granted. This property is unique or extraordinary. None of what was pointed out in the staff report regarding the purpose statement existed in the code in 2002.

Commissioner Smith stated the access spacing standard table was there and communicated in 2002.

Mr. Bridges agreed the table was there but that the rest of the code section, including the purpose statement, was adopted after 2002. The final on the addition of the house was in 2002 and the slow process of building the inside of the garage caused it not to be inspected until 2008.

Commissioner Smith stated the application of the variance was in 2008 and 150 feet of required frontage didn't change at all.

Commissioner Haug stated he's confused by the inspection request dated December 13, 2002 and asked when the red-line was written.

Jessica Nunley replied April 25, 2002.

Mr. Bridges stated the Hills had conversations with the contractor, who stated he would work with the city to correct it. They were never shown the drawing until Mr. Hill came to the city in 2008.

Commissioner Haug stated they should have paid attention and should have had the responsibility of following through, but instead left it up to the contractor. The Hills didn't act on the information.

Mr. Bridges explained Mr. Hill doesn't really understand the planning language. He went to the City and asked about the problem with two driveways. He went back to the contractor and asked him to handle the technical part of the process, who in turn said he would work with the City. The Hills are angry at the builder.

Commissioner Smith commented on the possible option that the applicants could partition, paying some fees, and both lots could be sold with possibly no physical changes.

Mr. Bridges stated that's his opinion, with an easement over a small section.

Commissioner Haug stated that with a flag-lot the second driveway would be common use.

Mr. Hill explained his contractor said there was an issue and Mr. Hill went alone to talk to the City and asked about the two driveways without seeing a plan. The planner never offered any other information, including the option of a variance. Mr. Hill stated at the time, there are other circular driveways. He was never given a copy of the ordinance until 2008. He believed the builder was in charge of it and thought it was resolved. A former employee of the City told Mr. Hill he should have received a letter, which he did not. Staff probably didn't know he didn't understand.

Chair Stuhr asked if any late correspondence had been received. **Jessica Nunley** stated no additional correspondence had been received.

Chair Stuhr closed the public testimony.

Jessica Nunley commented on the public testimony, stating the inspection form was for the house addition inspection only, and was only a request for inspection, not an actual final approval. The first set of plans said the driveway was not allowed, as well as the second plans submitted a few weeks later that shifted the location of the garage but still showed the dual driveway entrances. In addition, the red lines are in effect a letter to the applicant with comments on the project plans. Variances are not guaranteed to be granted; they are meant to alleviate a practical difficulty or unnecessary physical hardship, and all criteria must be met to grant the variance. The applicants could partition, but because Villa Rd. is going to be improved, a payment in lieu for street improvements would be required, as well as separate utility services to each potential lot.

Concerning the points of access, several properties had points of access which will probably be removed when Villa Rd. is improved, and should be kept in mind as the fairness standard. Staff's recommendation remains the same.

Commissioner Smith understands the writing on the plans makes the process move faster.

Commissioner's Deliberation:

Chair Stuhr stated her heart is definitely with the Hills, but she cannot justify sections A & C in the criteria.

Commissioner Barnes stated he had plans with red marks for an addition, but the plans came back to him, not a builder. Having one more driveway isn't a problem, but it doesn't meet the criteria.

Commissioner Haug stated it doesn't meet the criteria. They were given the plans twice with red marks which stated the denial and the City did all they could do to deny. The rules were broken and they don't qualify for the hardship difficulties. The contractor needs to correct it to resolve it. He feels bad for the Hills, but the rules need to be followed and 150 feet is clear cut.

Commissioner Tri concurs. He has no problem with the driveway, but it doesn't meet the criteria.

Commissioner Duff concurs with the comments from his fellow Commissioners.

Commissioner Smith had no comments

MOTION #1 Haug/Barnes moved to pass Resolution 2008-251 to approve denial.

(6 Yes/ No 0) Motion passed unanimously.

V. WORKSHOP: Housing for Working Families – Residential Design Standards follow-up:

David Beam stated that the Commission reviewed the proposed residential design standards at the May 8, 2008 Planning Commission meeting and determined by consensus which standards should continue to be considered, which should not, and which other standards should be added. Since that meeting, each Commissioner had been asked to complete a worksheet, assigning a relative point value to each of the agreed upon standards, and then returning the worksheets to Mr. Beam by Thursday May 15th. The point value given to a particular standard is weighed against the relative point values given to the other standards. If an applied standard greatly improves a given development, then it would receive a relatively high point value. If an applied standard improves a given development only slightly, then it would receive a relatively low point value. Before the Commission tonight is a compilation and summary of all the comments received from the Commissioner's completed worksheets. Mr. Beam suggested that the Planning Commission's goal at this meeting to be reaching a consensus on the relative point values for all of the standards.

Subdivision Design Elements:

(1) Mr. Beam suggested tabling this item until the end of the discussion.

(2) Use public walkways or multi-use paths not adjacent to streets: **Commissioner Haug** asked for clarification and **Barton Brierley** provided the detailed explanation. **Commissioner Smith** suggested the Commission not jump to far ahead, due to the many phases that need to be worked on to make this project work as a whole unit. **Mr. Beam** stated that at this point, only relative values are needed for each standard. The actual flexible points assigned to each of the standards can be adjusted at a later date. **Chair Stuhr** stressed the importance on placing a high, medium, or low value at this time to be associated with a range. **Commissioner Haug** stated standards need to be in place to determine the point values. The Commission opted to use a consensus scale of very low, low, moderate, high, and very high to rate each of the standards. The consensus from the Commission was a moderate value for this standard.

(3) Use extra width (six-feet or wider) planter strips between sidewalks and streets: The consensus from the Commission was low value.

(4) Use alleys for access: **Chair Stuhr** commented on past testimony referring to alleys not being safe and asked if there are existing codes to assure safety. **Commissioner Smith** suggested safety in alleys should be explored. **Commissioner Haug** commented that standards should be well established to ensure livability. **Mr. Beam** stated that no matter what the consensus of the Commission is regarding the relative value of this standard, it can be prefaced with an examination and revision, if needed, of the code regard-

ing alleys. The consensus from the Commission was moderate value with an examination of the development code regarding alleys.

(5) Provide additional on-street parking: The consensus from the Commission was low value.

(6) Provide overflow parking area (0.2 per dwelling unit): The consensus from the Commission was low value.

(7) Use antique street lighting styles that are night sky friendly as approved by City: **Mr. Beam** stated, for informational purposes, that night sky friendly lighting generally requires more light poles than standard poles, therefore adding to construction and maintenance costs. The consensus from the Commission was a moderate value.

(8) Use site furnishings to enhance open space. Communal amenities such as benches, gazebos, playground, equipment, fountains, and/or common patios enhance the outdoor environment and comprise not less than one half percent of all building(s) costs. Estimated costs are subject to city review and approval: **Commissioner Tri** stated there are two issues concerning this; the maintenance of the furnishings and the vandalism of the furnishings. **Commissioner Smith** mentioned that maintenance of these improvements is important and could be tied into a homeowners association. **Commissioner Tri** stated there should be a contractual agreement for maintenance. **Chair Stuhr** added that the value improvement is an important criteria. A developer needs to understand the criteria and the wording may need to be changed. **Steve Olson, Associate Planner**, stated that a fixed dollar amount shouldn't be placed in the code, due to the effects of inflation. The consensus by the Commission was high value.

(9) Provide usable common recreational area, including but not limited to play fields, walking trails, exercise circuit, playgrounds, common patios, gardens, and/or similar functional and age-appropriate common facilities, a central green or pocket park(s) in a subdivision. The consensus by the Commission was high.

(10) Preserve existing natural features, including topography, water features, and/or native vegetation. **Chair Stuhr** felt that this standard is quite important, although it's tough for developers to meet. The consensus by the Commission was high.

(11) Preserve and protect existing healthy, attractive trees with a trunk diameter of eight-inches or larger: The consensus by the Commission was high.

(12) Provide maintenance contracts for common areas and planter strips. (1 design point per lot fronting a planter strip or common area with maintenance contract): **Commissioner Smith** suggested making this a low value. **Chair Stuhr** asked if a maintenance contract would be through a homeowners association. **Mr. Beam** replied that was usually the case. The consensus by the Commission was to assign this standard a low value and reviewing the development code to see if there are ways of ensuring the viability of long-term maintenance of these common areas.

Site Design Elements:

- (1) Bring dwelling close to street by keeping dwelling at most 25 feet from the front property line: The consensus by the Commission was low value.
- (2) Use a single narrow (10 to 14 feet width) driveway per unit, or single shared driveway (20 feet to 24 feet width) for two units: The consensus by the Commission was moderate value.
- (3) Provide increased setbacks between buildings. Increase side yard setbacks (perpendicular to street) so that there is minimum 15-foot separation between buildings on at least one side: The consensus by the Commission was low value.
- (4) Provide a useable interior yard or courtyard (minimum width and depth of 20 feet at all points) of at least 1,000 square feet: The consensus by the Commission was moderate value.
- (5) Reduce percent total lot and building coverage: The consensus by the Commission was low value.
- (6) Use of “good neighbor” fence design for the development: **Commissioner Smith** stated a “good neighbor” fence needs to be defined. **Commissioner Haug** felt “attractive” could be in quotes. **Mr. Brierley** agreed a better definition needs to be discussed. The consensus by the Commission was high value.
- (7) Use of permeable pavement on lot: **Mr. Beam** asked the Commission if it was there intention to standard to any area not permeable on site, or just for driveways. **Commissioner Haug** replied that it should be for all paved areas within a lot. **Ms. Nunley** asked if that includes concrete pavers. **Mr. Beam** felt that pavers should apply, since there are permeable spaces between the pavers. **Chair Stuhr** stated that the term “permeable pavement” needs to be defined in the code. The consensus by the Commission was low value.

Building Design Elements:

- (1) Use entry features and accents such as distinctive building or paving materials and detailing to mark major entries to multi-unit buildings or individual units: The consensus by the Commission was moderate value.
- (2) De-emphasize the garage on the front façade (A – F):
Chair Stuhr commented that multiple points can be accumulated within this standard. **Mr. Beam** replied only one of the choices (a through f) can be chosen. **Chair Stuhr** noted that is not stated. **Mr. Beam** replied that standard could be worded so that only one choice is available. **Commissioner Haug** felt this shouldn’t be broken up into sec-

tions at this time. The consensus by the Commission was low value to de-emphasize the garage and develop a single standard.

(3) Orient buildings toward the street. This means orienting individual entries and porches to the street, with front entry not more than 25 feet from the street. In cluster cottage developments with internal circulation and grounds, this means that at least 50% of the units have main entries facing a street or common private drive, rather than be oriented toward a parking lot or the interior: **Chair Stuhr** stated this can be obtained too easily. **Commissioner Smith** suggested dropping this one out. **Commissioner Haug** suggested buildings toward a public sidewalk instead of toward the street. The consensus by the Commission was moderate value. Also, change language: delete “with front entry no more than 25 feet from the street”. This issue was addressed in a previous standard. Also, change language: “orient buildings toward the street” to “orient buildings toward a public sidewalk”.

(4) Use appropriate outdoor lighting which enhances the nighttime safety and security of pedestrians without causing glare in nearby buildings and is “night sky” friendly: **Chair Stuhr** stated it’s in conflict with #7, (P3) under site design elements. **Mr. Beam** said it should say “off street.” The pedestrian scale needs to be defined. The consensus by the Commission was moderate value. Change language: “ Use appropriate outdoor lighting...” to Use appropriate pedestrian scale, off-street outdoor lighting...” Define “appropriate pedestrian scale, off-street outdoor lighting” in the development code.

(5) Incorporate architectural elements of one of the city’s historical styles (Queen Anne, Dutch Colonial Revival, or Bungalow style) into the design to reinforce the City’s cultural identity. **Chair Stuhr** emphasized the importance associated with old downtown Newberg. The consensus by the Commission was moderate value.

(6) Use at least two (2) different types of contrasting siding materials on each street facing elevation. **Chair Stuhr** that some of the material types are very much alike and different categories may be needed. The consensus by the Commission was moderate value. Need to develop language so that builder must use at least two very distinctive types of materials, instead of two very similar ones.

(7) Use architectural features to create interest in the façade such as bay windows, wood or wood-like sash windows with divided lights, curved windows, exposed wooden window shutters, and wood or wood-like trim, balconies, cupolas, rounded arches, and pergolas/trellis work integrated into building facades: The consensus by the Commission was moderate value.

(8) On boundaries with lots outside the development that have existing dwellings, limit the height of new dwellings to not more than five-feet higher than the existing dwelling, unless new dwelling or portion of the new dwelling would be separated from the existing dwelling by 30-feet or more: **Commissioner Smith** commented there should be no points for this and should be required standard within the code. **Chair Stuhr** commented this could conflict with solar setbacks. The consensus by the Commission was to not in-

clude this as a standard. However, this should be a required standard within the development code.

(9) To promote privacy, on upper floors facing and within 10-feet of an interior property line, any windows must be either placed above the sight line from interior, or must be of a frosted or opaque type: **Chair Stuhr** stated this limits livability. **Commissioner Barnes** commented it should be a requirement of the development code. The consensus by the Commission was to delete this standard and have it become a required standard in the development code.

(10) Use multiple, non-repetitive dwelling designs: The consensus by the Commission was very high value.

Subdivision design elements:

(1) The subdivision achieves at least 80 percent of the target density for the zone: **Commissioner Haug** stated this is not really a design standard. He believes if they get enough design points they should be allowed to go to higher density. This one is a reward. **Mr. Brierley** explained it was a good thing to reward higher density, with the thought of giving the developer a lot of flexibility on the standards. It may be able to go somewhere else in the formula. **Mr. Beam** said he also felt that it could be placed somewhere else in the proposed development code changes. **Commissioner Smith** suggested it may also work as a reverse point if density standards are not met. **Chair Stuhr** asked staff to explore this option.

VI. ITEMS FROM STAFF:

1. Update on Council items: **Barton Brierley** stated on June 2, 2008 a joint meeting will be held with the Board of Commissioners on the Urban Reserve Proposal. A hearing will also be held on the Large Scale Retail Ordinance.

2. Other reports, letters, or correspondence: Lewis Audio & Video was issued a citation. An understanding has been reached concerning signage size.

3. Planning Commissioner training available: September 13, 2008 at the Oregon Planning Institute: **Steve Olson** reviewed the last page in the packet.

4. Next Planning Commission Meeting: June 12, 2008 at the Public Safety Building. **Mr. Brierley** stated three annexations are on the docket.

Mayor Andrews is working on appointing 10 members to the Ad-hoc Committee.

VII. ITEMS FROM COMMISSIONERS: None.

VIII. ADJOURN:

Chair Stuhr adjourned the meeting at 10:00 p.m.

Approved by the Planning Commission this 12th day of June, 2008.

AYES: 5


NO: ☐

ABSENT: ☒
(List Name(s))

ABSTAIN: ☐
(List Names(s))



Planning Recording Secretary



Planning Commission Chair

7/10/08

Date