

NEWBERG PLANNING COMMISSION MINUTES

March 12, 2020

Newberg Public Safety Building
401 E Third Street

Chair Jason Dale called meeting to order at 7:00 p.m.

ROLL CALL

Members Present: Jason Dale
Sharon Capri
Jeffrey Musall
Allyn Edwards
Kriss Wright
Robert Ficker
Jenna Morris
Colin Bolek, Student Planner

Staff Present: Doug Rux, Community Development Director
Kristin Svicarovich, Engineering Associate

PUBLIC COMMENTS: Councilor Patrick Johnson thanked the Planning Commission for their time and service to the community.

City Recorder Sue Ryan reminded the Planning Commission about their Statements of Economic Interest.

City Recorder Ryan administered the Oath of Office to Jenna Morris, newest Planning Commissioner.

CONSENT CALENDAR:

1. Approval of the February 13, 2020 Planning Commission meeting minutes

MOTION: PC Edwards/PC Wright moved to approve the February 13, 2020 Planning Commission Meeting Minutes.
Motion carried (7 Yes/0 No).

NEW BUSINESS: None

QUASI-JUDICIAL PUBLIC HEARING: (complete registration form to give testimony - 5 minute maximum per person, unless otherwise set by majority motion of the Planning Commission)

1. **Planned Unit Development**, 1303 S River Street, Consider PC Order To develop a 18 lot PUD single-family residential subdivision with associated improvements

APPLICANTS: Del Boca Vista LLC,

File No.: PUD19-0002

PC ORDER: 2020-01

CRITERIA: Newberg Development Code Sections:

Chair Dale called the hearing to order at 7:07 p.m.

Call for Abstentions, Bias, Ex Parte Contact, and Objections to Jurisdiction: None

Legal announcement read by Student PC Bolek.

Staff Report: Community Development Director Doug Rux said this was a request for approval of a Planned Unit Development for an 18 single family lot residential subdivision on S River Street. This was in the R-2 Riverfront District

for medium density. It would include 15 three bedroom homes and 3 two bedroom homes. He described the subject site and site plan. There was a condition to address the boundaries of two of the lots adjacent to the cul-de-sac bulb. There were utilities in the adjacent streets to serve the property. Yamhill County had sent in comments regarding the existing house being on a septic system that would need to be decommissioned. The Oregon Department of Transportation noted there would be needed improvements, which would be a point of discussion tonight. The lot area size for lots 9 and 10 was being modified for the cul-de-sac bulb. Some refinements were needed to the lot coverage prior to the issue of building permits. They would also need to coordinate with the utilities for public utility easements. There was a requirement for two spaces per residential unit and every home would have a single car garage and a space in front of the garage. They would have to get all necessary permits and any ODOT or Yamhill County approvals as S River Street was a County road and it was adjacent to a rail line owned by WestRock. No parking would be allowed in the throat of the cul-de-sac, but there would be parking in the cul-de-sac bulb. There was a condition for intersection site distance evaluation. The applicant would be able to select a street name. The driveway access to the residential units off of S River Street would be moved to the west as far as possible. The right-of-way construction access permits would be needed from the County and ODOT. Street trees would be required on S River Street; however because of the tightness of the property, there might not be space for street trees in the cul-de-sac. A lighting analysis would be required as well as installing street lights. Fireflow calculations would need to be done for the water. Extension of the water and wastewater lines had to meet the City's standards. A stormwater report needed to be submitted and construction of the stormwater facility needed to comply with the standards. Staff recommended approval with conditions.

PC Edwards asked about allowing parking on the cul-de sac and room for fire trucks to turn around. CDD Rux responded the conversations they had with TVF&R was that the dimensions would accommodate a fire truck turning radius and parking on the street.

Public Testimony:

Proponents:

Mackenzie Davis, Del Boca Vista, agreed with the staff report except for how the density was calculated for the Planned Unit Development. CDD Rux explained for medium density, the target density was 9 dwelling units per acre, and PUDs gave them flexibility to go beyond that. The application was for 11.5 dwelling units per acre. More density was a good thing and they had been talking to the applicant for a long time to provide a product that was more cost effective than what was normally built in Newberg.

Ms. Davis noted they satisfied the density standards for a Planned Unit Development. She stated they would be building a new road, bringing in new utilities, new stormwater facility, and frontage improvements on S River Street to the east. They had no problem with the conditions of approval except the condition regarding ODOT. She had submitted a memo comparing this project to other projects in the City and found Habitat for Humanity's Restore project that had frontage on Meridian Street and the railroad tracks to the north. Staff thought the proximity to the railroad tracks triggered a requirement for an ODOT permit and they might have to modify the pavement markings on S River Street. The Habitat for Humanity's application had not required this. Staff told them because they were constructing a sidewalk along S River Street and due to the proximity to the railroad tracks, it required working with ODOT for permits and approvals. Again, that was not required for Habitat for Humanity. This made her question whether land use approval and conditions were subjective depending on the applicant.

Michael Robinson, applicant's representative, discussed the issue of whether or not the City could require the applicant to essentially get a rail crossing order and thus be forced to extend the sidewalk across the railroad line. He submitted a letter to the Commission today that included findings regarding this matter. This application was subject to the needed housing statutes. It was a state law that stated for residential projects inside the Urban Growth Boundary, local governments could only apply clear and objective approval criteria and he thought the standards provided in the letter from ODOT were subjective and open to interpretation. This same law applied to the conditions of approval; that they also needed to be clear and objective. He cited three conditions related to ODOT which he thought were subjective as they were unlimited in scope. He thought ODOT would require them to extend the sidewalk off the site frontage across the railroad tracks that lead to the pulp and paper plant. That would go beyond the scope of what the City and ODOT could require as there had to be a rational nexus between the impact of an application and the conditions imposed. The only way ODOT could require a sidewalk across the railroad tracks was if they had some material effect requiring it, such as having a lot of

residents going south. They had a transportation firm look at that and they found there was no material effect on the railroad crossing that would require the applicant to install a sidewalk.

Chair Dale recessed the meeting for a five minute break so the Commission could read the letter submitted by Mr. Robinson. The meeting reconvened at 7:38 p.m.

PC Edwards asked staff if there were any special considerations for this development with the code as it referred to ODOT due to this being residential and not commercial like Habitat for Humanity. CDD Rux responded the standard protocol when an application was received was a referral process where the application was sent out to a long list of entities for comments. They had received an email back from ODOT and from there a significant amount of discussion occurred about what ODOT was asking for. They had reworked the language several times before the final version that was before the Commission. This being a residential development was not specifically discussed.

PC Capri said the applicant did not propose to extend the frontage sidewalks to the railroad tracks, but proposed to end the sidewalks perpendicular to the railroad tracks and erect a barrier to prohibit pedestrian crossings. She asked if they had a drawing or description of the barrier and how it would answer the problem of not putting in a sidewalk through the railroad crossing. Ms. Davis said the preliminary engineering drawings should show how the sidewalk would end at their southern property line along their frontage and how they would erect a sidewalk barricade to prohibit people from crossing the railroad tracks. The railroad tracks were currently inactive.

PC Edwards noted the City wanted to keep that railway active for future trolley use and thought that was the reason for the ODOT requirements. This was a housing development and people would be taking walks and continuing the sidewalks would help keep the residents safe. He thought this was a legitimate request, especially when there would likely be more development in this area.

Mr. Robinson said ODOT assumed that the sidewalk was going to cross the railroad. They were not concerned with the impact or development the same way the Planning Commission was. Their point of view was because the subdivision was partly in their jurisdiction, they were entitled to require a rail crossing order and as a result of that order the applicant would be required to install a sidewalk. The applicant's response was that just because they had statutory authority, they were subject to the same rules the City was subject to. If an entity wanted to require an applicant to extend an off-site improvement, they had to show that the applicant had created a need for that. On balance there would not be a lot of trips generated from the subdivision that would go across the tracks to the old paper plant. On another note, a rail crossing order had no timeline and ODOT could take as long as they wanted to issue the order and there was no limit to what they could require in it. That was the concern. That the condition imposed by the Planning Commission would make them go through the rail crossing process and they might end up having to do more than a sidewalk and they did not know how long it would take and they wanted to build the subdivision as soon as possible.

Ms. Davis said in regard to the future plan of the City running a trolley on that line, it was highly probable that if they were required to extend the sidewalk south, when the line was made active again, the sidewalk would have to be removed and new improvements built.

PC Edwards asked if the applicant would be willing to pay a fee towards the future improvements in lieu of putting in the sidewalk extension. He asked if ODOT had asked if the City wanted to take jurisdiction of that rail line. CDD Rux clarified the rail line was privately owned, but it did cross two public streets. The City wrote the conditions based on the comments the City received from ODOT. The County had talked about turning over the jurisdiction of S River Street from E Eleventh Street south after it was improved to City standards.

PC Wright was concerned that the barrier would block the accessibility of the residents and others who would want to go down to the riverfront. Mr. Robinson responded it would prevent hazards as they did not want people tripping over the railroad tracks. In general, railroads did not want people walking across rails. They were open to other suggestions to ending the sidewalk. At some point there would be a more fully improved railroad crossing and perhaps at that point the sidewalk would be extended. It was not a heavily traveled area currently.

PC Ficker asked how long the sidewalk would have to be extended. Ms. Davis said that was part of the concern, they did not know how much sidewalk would be required, how long it would take, or how much it would cost. These would be improvements on private property and they would need to get approval from the property owner as well.

Chair Dale asked if this was a privately owned rail stub and it was inactive, why was ODOT weighing in on this? Wouldn't it be up to the rail owner? Engineering Associate Kristin Svcarovich responded the federal railroad authority gave ODOT jurisdictional authority over rail property, either public or private, that crossed a public street. They had the authority over what that crossing would look like so there would be consistency to the traveling public. They were providing standards for the crossing.

PC Capri asked if there was difficulty getting over the standing rails, was there a way the City could put in a sidewalk in the future. CDD Rux referred to the Riverfront Master Plan which talked about the need for the rail crossings to be improved in the future to meet the standards. It would be about \$450,000 for each crossing to be upgraded and it was likely no one development would be able to put in that improvement. As they went through the implementation process for the Riverfront Master Plan, they would need to look at cost sharing with developers to contribute towards those improvements.

PC Capri shared her vision of people using these walkways and how it was an important aspect to this development.

CDD Rux said if people walked down S River Street today, there were no sidewalks. The pedestrians currently walked in the roadway.

Mr. Robinson clarified that nothing they were doing would impact the rail line. If there was a vision for this crossing, that was not an impact of the subdivision and that was why the condition did not work legally.

Opponents and Undecided: None

Close of Public Testimony:

Chair Dale closed the public testimony portion of the hearing at 8:04 p.m.

Final Comments from Staff:

CDD Rux recommended approval with conditions, and if the Commission wanted to change some of the conditions or findings they had that ability.

Planning Commission Deliberation:

There was discussion regarding the fee in lieu instead of requiring the ODOT conditions and how the improvements should be a shared expense.

Chair Dale asked why there were different standards for the Habitat for Humanity application and this one. EA Svcarovich responded ODOT was looking at 500 feet north and south of a rail crossing. This application was introducing a new public street serving this subdivision and it was within 500 feet of that influence area.

CDD Rux said for the Habitat project, no comments were received from ODOT, but they did receive comments on this application.

PC Edwards suggested a condition for the fee in lieu for the future development of the improvement. The question was what the appropriate fee should be.

CDD Rux said that would require a conversation with the applicant. EA Svcarovich thought the applicant and Engineering Department would need to come up with a cost estimate for the improvements.

There was discussion regarding continuing the hearing and the 120 day deadline.

Chair Dale reopened the public hearing at 8:20 p.m.

Mr. Robinson requested a five minute break to discuss the fee in lieu condition with staff. He preferred the hearing not be continued.

Chair Dale recessed the meeting at 8:21 p.m. and reconvened the meeting at 8:27 p.m.

CDD Rux suggested adding a condition that established a fee in lieu amount to be determined by negotiation between City staff and the applicant. In the motion, the Commission would need to give staff the authority to modify the findings and

existing conditions to reflect the new condition and to authorize the Chair to sign the Final Order once staff and the applicant had worked through the process.

Chair Dale closed the public hearing at 8:31 p.m.

MOTION: PC Wright/PC Edwards moved to approve Planning Commission Order 2020-01 with the added condition for the fee in lieu as stated by staff. Motion carried (7 Yes/0 No).

WORKSHOP

1. Workshop for the M-5 Craft Industrial Zoning District

The Workshop would be rescheduled.

ITEMS FROM STAFF:

CDD Rux discussed upcoming agenda items.

ITEMS FROM COMMISSIONERS:

PC Wright asked about Covid-19 and meetings. CDD Rux responded they were working on options.

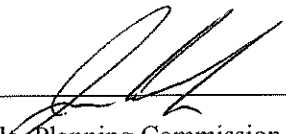
PC Wright asked about putting in an optic cable line for the Library when the 5G went in. CDD Rux responded staff was looking into the cost of running fiber from City Hall to the Library. The Public Safety Building was the City's emergency management center. The back-up was the Wastewater Treatment Plant.

The next Planning Commission meeting would be held on April 9, 2020.

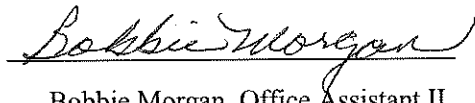
ADJOURNMENT:

Chair Dale adjourned meeting at 8:40 p.m.

Approved by the Newberg Planning Commission this May 14, 2020.



Jason Dale, Planning Commission Chair



Bobbie Morgan, Office Assistant II