



CITY OF LAKE OSWEGO Planning Commission Minutes August 28, 2017

1. CALL TO ORDER

Vice Chair Ward called the meeting to order at 6:30 p.m. in the Council Chamber of City Hall, 380 A Avenue, Lake Oswego, Oregon.

2. ROLL CALL

Members present were Vice Chair Bill Ward, and Commissioners Randy Arthur, Skip Baker, Ed Brockman, and Nicholas Sweers. Chair Heape was excused. Council Liaison Theresa Kohlhoff was also present.

Staff present were Debra Andreades, Senior Planner; Johanna Hastay, Senior Planner; Evan Boone, Deputy City Attorney; Iris McCaleb, Administrative Assistant; and Bruce Powers, Parks and Recreation Department Project Manager and Stacy Bluhm, Boones Ferry Road Project Engineer.

3. COUNCIL UPDATE

Councilor Kohlhoff provided an update on recent Council actions. She also advised that the topic of short-term rentals was coming back on the Council docket.

4. CITIZEN COMMENT

None

6. MINUTES (this item taken out of sequence)

- 6.1 Commissioner Baker **moved** to approve the Minutes of August 14, 2017 as written. Commissioner Sweers **seconded** the motion and it **passed 5:0**.

5. COMMISSION FOR CITIZEN INVOLVEMENT (this item taken out of sequence)

5.1 Woodmont Park Master Plan Process

Staff provided an update on the Woodmont Park Master Plan process. Staff coordinators were Bruce Powers, Parks Analyst/Project Manager, and Sarah Selden, Senior Planner. The project consultant, Brad Theurer, Project Manager with McKenzie was also present.

They reported that after various public outreach events and surveys the Project Advisory Committee had approved the Master Plan with some minor concerns such as parking, which would be worked through when the project went through the Conditional Use process.

There were no citizen comments or action items.

5.2 General Updates

None.

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7. PUBLIC HEARINGS

7.1 Community Development Code Amendments for Implementing Boones Ferry Road Capital Improvement Project (LU 17-0028). Continued from August 14, 2017.

A request from the City of Lake Oswego for text amendments to the Community Development Code (CDC) for the purpose of implementing the Boones Ferry Road capital improvement project. The proposal amends LOC 50.04.002 Special Street Setbacks; 50.05.007 Lake Grove Village Center Overlay District; and LOC 50.07.003.13 Ministerial Development Decisions. *Staff coordinator was Johanna Hastay, Senior Planner. Stacy Bluhm, Boones Ferry Road Project Engineer, was also available to answer questions.*

Vice Chair Ward opened the hearing and Mr. Boone outlined the applicable criteria and procedures. At time of declarations no conflicts of interest were reported and no one challenged any Commissioner's right to consider the application.

Staff Report

Ms. Hastay presented the staff report. She noted the additional written testimony received after the staff report was completed (Exhibits G-2 through G-5), including requests for revisions to the proposed amendments and concerns related to trees.

Regarding tree impacts, Ms. Hastay pointed out that, at the Planning Commission work session, a request had been made that the City's contract arborist, Morgan Holen, look at the impacts to trees. Working with the project advisory committee co-chairs, Ms. Hastay noted they had identified four properties to look at: Naomi's Lampshades, Gubanc's, the Teka property, also referred to as the Jenike property, and Riccardo's. Ms. Holen visited these sites to confirm the tree inventory data was correct and to determine if tree preservation was possible.

Ms. Hastay then reviewed the Replacement Parking Plans, using the one for Naomi's Lampshades as an example, and noted the updates including the addition of the Engineering Project Number and a searchable map and tax lot number. She advised that it was not possible to add a legend on each one, but notations and line type representations were made clearer through call-outs.

She referred to the Property Impact Table and Index Map in the staff report, using the Chevron property as an example. She explained why the Property Index Map showed more than 50 projects and the Property Impact Table only showed those within the Lake Grove Village Center (LGVC) Overlay district with right-of-way impact and loss of parking.

Ms. Hastay then addressed the Arborist Report on tree impacts which verified size and species, and made conclusions as to whether tree preservation was feasible. She reviewed an example from the Jenike property, which was a problematic site with regards to tree preservation. She shared a site plan and noted trees that needed to be removed due to right-of-way (ROW) impacts, and due to replacement on-site parking. She noted the red dashed outlined area of the tree grove, which grew up suppressed per the arborist report, and pointed out four Douglas fir, proposed to be removed due to necessary ROW impacts, which were the lynchpin of the tree grove. Per the arborist's report, once those four trees were removed the entire grove became vulnerable to wind throw making it probable the trees should not be preserved. In response to a question from Vice Chair Ward about why the access was being realigned, Ms. Hastay noted it was across the street from the McDonald's and when realigned would create an intersection that was better and safer for pedestrian and vehicular access.

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Staff found that the proposed amendments met the relevant criteria.

Ms. Hastay recommended approval of the proposed amendments by the City Council and indicated that staff would return with the Findings, Conclusions and Order on September 11. She noted that the City Council hearing was scheduled for October 3.

Questions of Staff

None.

Public Testimony

Mike Buck, 3155 Edgemont Road, Lake Oswego, 97035, and Carolyn Krebs, 16925 Denney Court, Lake Oswego, 97035, Co-Chairs of the Boones Ferry Road Project Advisory Committee (BFR PAC). Mr. Buck stated he supported the proposed Code amendments, noting it was a complex topic, and that he supported Ms. Irwin's desire for tree preservation. He was hoping that at least the Jenike property tree grove could be saved, as well as an additional fir on the Riccardo's property. He advised that the environmental values also needed to be weighed with the economic and social values. On the economic side, times were uncertain; with a two-year construction period many businesses were wondering if they would still be there at the end. He opined the proposed code amendments were a tool to address some of that anxiety and we need to work together to solve problems. He added that if there was a public parking lot on Oakridge, as originally envisioned in the LGVC Plan, fewer trees and landscaping would need to be removed for replacement parking. He advised that this could provide remedial mitigation, so that if Riccardo's, the Jenike property, and Chevron lost spaces they could use that as the mitigation rather than losing landscaping on individual lots for replacement parking. He added that he hoped we could go in that direction, but if we could not, the social and economic values needed to be weighed in with the environmental.

Mr. Buck then addressed a comment in Mike Robinson's written testimony regarding elimination of parking indirectly caused by the road improvement. Mr. Robinson was describing a similar situation on his property where Mr. Buck was losing three parking spots in the front, rather than the two documented, due to the ROW impacts, and a third spot between his building and sidewalk would become unusable due to its closeness to the sidewalk and building and safety concerns. He added it was not an issue for him as he was considering giving the City an easement for a wayside, however this type of causation needed to be given due regard. Ms. Hastay clarified that the Table showed parking spaces lost directly to the ROW and improvements, so Mr. Buck's property was shown with only two spots lost, and there was a third space where it would be a very poor design to have a parking space.

In response to a question from Commissioner Brockman regarding the tree grove, Mr. Buck clarified he would like to save some of the trees (shown in green on the arborist's report), that they should be given a chance, even if they could become hazardous, per the arborist.

Ms. Krebs clarified that she was there to provide information, not to testify. She noted that the PAC had not yet seen the arborist's report with the information that the entire grove was going to be lost. She indicated that the new information brought up a lot of questions about the character of Lake Grove and the meaning of a significant grove within the district. She added the concept was to preserve some of the trees on this site and the arborist's report was very drastic, new information. She noted that the PAC was aware that significant trees would be lost with this project, however replacement trees would take time to mature. She indicated that the PAC believed the treed character of Lake Grove was important to bring forward with this project. She recalled at the Work Session she had talked about a tree-planting grant to fund some plantings on residential properties within Lake Grove; for example, a resident

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behind the commercial district could plant trees in their yard for screening through such a program. She encouraged the City to look at this further, especially in light of this new information.

Commissioner Brockman asked Mr. Buck to clarify that if the trees were allowed to remain, they would only have be removed when the parking requirements would necessitate if the lot were to redevelop. Mr. Buck agreed the Parking Plan gave them the option, but did not require them to be removed. Ms. Hastay countered that it actually was the project design team's recommendation for all of those trees to come out as part of the improvements on the site because they didn't want to leave a hazardous situation. She acknowledged this was based on the arborist's recommendation but that it was one arborist's report, it was not an exact science; if there were another arborist's report, that information could be considered. She added that per the report, most of those trees were in fair to poor condition mostly because they were suppressed in that grove. As a grove, there was a high probability they would do fine, but once some were taken out their viability would not be very good. Vice Chair Ward opined that if there was a public parking site, the parking mitigation would be greatly reduced, but that was not what they were discussing this evening. Commissioner Sweers wondered if another arborist could assess the trees to confirm if the "yellow" trees were taken out, the remaining "green" trees would be compromised. Ms. Hastay suggested they could bring forward another report for the City Council to consider, however she trusted Ms. Holen's professional opinion. She advised that if the Commission wanted to make this recommendation, staff would follow it. Vice Chair Ward opined he did not think another report would be necessary; he thought highly of Ms. Holen's work and that she would not recommend removal of the trees if she did not think it was necessary. Commissioner Brockman agreed a second opinion made sense. Ms. Krebs wondered what the property owner thought about this new information. Mr. Buck suggested losing large native trees was a big deal. In response to a question from Commissioner Sweers, if a second arborist report came to the same conclusion what would he think, Mr. Buck responded they would need to negotiate with the property owner as well as work to get public parking to reduce the need to mitigate. Ms. Krebs added that perhaps the Commission could suggest to the City Council that now was really the time to look at public parking in accordance with the Lake Grove Parking Management Plan so they could make the best of these competing values. Vice Chair Ward agreed this could be helpful but not really something the Commission could put in place tonight except for perhaps a recommendation that it be looked at.

Mr. Buck also addressed the potential landscaping loss with many properties being able to use the full 5% reduction. He pointed out that for sites with a lot of street frontage, if all of the landscaping improvements that were part of the ROW dedication were used to meet the landscaping requirement, they would fall below 5% landscaping on the site. It was noted the public improvements would provide additional new landscaping. Vice Chair Ward expressed concern that landscaping could drop that low on some sites. Mr. Buck responded there would not be too many sites in this situation.

Dienne Irwin, 4343 Sunset Dr., Lake Oswego, 97035, referred to the written testimony she had submitted that day. She thanked Mr. Buck for bringing up the grove of trees on the Jenike property. She expressed concern about approving code amendments for parking at the expense of our trees. She noted the tree canopy was referred to in the August staff report as one of the unique characteristics of the Lake Grove Village Center. She pointed out that the BFR project was going to remove 113 trees, including 18 large firs and cedars, and now more trees were slated for possible removal due to proposed code changes. She added that originally the Plan called for the City to find property to serve for public parking rather than change the codes that protect our trees. She opined that once they come down they were irreplaceable, big trees with small buildings were the character of Lake Grove; the original

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Lake Grove Village Center Plan did not envision having large buildings like downtown. She read from the Comprehensive Plan regarding the importance of preserving existing significant trees and tree groves. She added that the Lake Grove neighborhood was losing many old growth trees due to redevelopment and that overall Lake Oswego was losing its wooded character. She held that removing this many trees would have a negative impact to tree canopy and went against city codes and values. She suggested creative solutions were needed to prevent this and that they should not be pressured by deadlines. She agreed with the earlier testimony that urging the Council to look at other solutions would be most appropriate. She recalled that as bike lanes and pedestrian access were added, the goal was to use less vehicle transportation. She opined that protecting a large grove would be more important than protecting smaller landscaping. She indicated that replacement trees would be smaller street trees, not the larger old growth trees that made Lake Oswego valuable. She asked the Commission to consider that these amendments would greatly impact needs of residential property owners.

Michael Robinson, Land Use Attorney, 1120 NW Couch Street, Tenth Floor, Portland, 97209, and Dave Kimmel, Presentation Design Group, 1335 SW 66th Avenue, #201, Portland, 97225. Mr. Robinson noted they had been working with Caine Petroleum and that he also happened to live in Lake Grove and he appreciated Boones Ferry Road as a local customer. He stated that throughout this and prior planning processes Chevron had been protected against the loss of parking. He indicated that Chevron still needed to be protected from the loss of parking, the convenience store needed these parking spaces. He noted that the proposal they submitted should not change what staff was trying to do. He clarified that shared parking off site did not work for a service station and convenience store. Mr. Kimmel described how the site changed and became more constrained when the owner remodeled the bay into a convenience store and added a propane tank. He noted that they had been working with Ms. Bluhm to reorient the propane tank to vertical in the same location so parking was not lost; however, this had not been fully agreed upon in writing so they were looking for the opportunity to amend the Code to ensure that if they lost the parking spaces as a result of the propane tank being moved, they would get parking credit. Mr. Robinson confirmed in response to a question from Vice Chair Ward that he had provided language to amend two of the amendments the Commission was considering. Mr. Kimmel explained how they would need a custom vertical tank, as the City Code did not allow the full height of a typical vertical propane tank and the cost could be up to \$50,000. Ms. Hastay added the City had been working with the Chevron station's representatives to make sure there would be minimal impacts to the frontage of this property; for example the sidewalk would be narrower to reduce the need to move the propane tank and subsequent loss of parking. She noted that the design had been agreed upon but the compensation package had not yet been settled; it was not in front of the Commission, though they were related.

Ms. Hastay suggested it was up to the Planning Commission to make the suggested changes, though she felt they would get to the point where a vertical tank could be installed without the loss of parking spaces. She agreed that the proposed language was fine, if a bit wordy, and suggested she could simplify it. She added that the compensation question might well be resolved prior to the Council hearing. Mr. Robinson agreed to have Ms. Hastay work on the language and she agreed to bring it back with the findings if that was the Commission's direction. Commissioner Brockman agreed it would be important to protect the company's interest.

At Vice Chair Ward's request Ms. Hastay reviewed the letter received that day from the new owner of the Jenike property, Teka, LLC. She noted they were still working with the City on the compensation package. She stated that the letter was generally supportive of the Project, with two exceptions. They would like to expand the Code Waiver beyond the replacement

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parking plans currently agreed upon; they would like to be able to come in with a different plan in the future. Ms. Hastay noted that the proposed parking replacement plan considered many factors for the constrained site. The property owner was asking for changes to the proposed code language to be able to come back later with a plan that was not necessarily in substantial compliance with the replacement parking plan without having to go through expensive land use reviews. She indicated that staff did not support this recommendation, as the replacement parking plans were clear plans showing the anticipated exceptions to the Code. She added the replacement parking plans were stop gap measures to preserve parking on the sites until such time as the properties redeveloped, including a new parking plan. Without full redevelopment, there was not much room to be flexible about the replacement parking.

Ms. Hastay then shared that the second part of the written testimony that addressed the proposed landscaping requirement, with a suggested change that the total amount of land lost to ROW improvements should count toward the landscaping requirement. She noted that staff agreed with the PAC that the up to 5% reduction cap should remain in the proposed language.

Commissioner Sweers wondered if parking studies were done to show how much parking was being used at peak hours and if replacement parking was really needed on some of these sites. Ms. Hastay referred to the LGVC Parking Management Plan adopted in 2016, which did not find there was a capacity issue for this particular site. She clarified that it was a parking inventory and analysis at that time and that this proposed plan was also looking at potential future businesses, including future changes in use that could have a higher parking demand.

Rebuttal

None.

Questions of Applicant

Vice Chair Ward stated he wanted to be clear that the ministerial process for parking approval would only be used for the Lake Grove/BFR Project area; that ministerial approvals would not be used in other areas. Ms. Hastay responded that the intent with the amendments was that they could also cover a future public transportation project with similar type and scale of impacts that could be quantified in advance. She added the amendment was broad but well defined as to the types of projects and situations where it would apply within the bounds of the Ministerial classification.

Deliberations

Vice Chair Ward opened deliberations. He opined the proposed amendments were good ones that would be helpful to the process, they remedied some of the problems that were bound to come up with the broad vision for the project many years ago, such as flexibility with ROW width and flexibility with parking. He hoped the City would be able to find a location for a public parking facility.

Commissioner Baker **moved to accept the staff report for LU 17-0028 and recommend to City Council that they approve Ordinance 2753 as amended to address Project 22 (Chevron station) parking space loss.** Commissioner Sweers **seconded** the motion.

Commissioner Brockman wondered if other Commissioners felt strongly about requesting a second arborist report. Vice Chair Ward asked staff if the door was open to having a second arborist's opinion without it being incorporated into the Commission's action tonight. Ms. Hastay suggested though there was a tight timeline she might be able to get a second arborist report, but she was unsure if there would also be time for the project design team to consider it

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in relation to frontage improvements or to meet with property owners to discuss new recommendations. Mr. Boone stated he saw this as a request to staff to provide additional evidence for the City Council's review and consideration. He added this was a separate question than moving forward with a Code change. Commissioner Arthur wondered if the property owner's opinions about the trees carried any weight. Ms. Hastay responded that discussions were ongoing with property owners.

Ms. Bluhm addressed the Commission noting that project staff was modifying the temporary construction easement based on the presumption the trees on the Jenike property would have to come down. She added that it was a safety issue versus the trees, not parking versus the trees.

The motion **passed 5:0**. The vote on the Findings, Conclusion, and Order was scheduled for September 11, 2017 at 6:30pm.

8. WORK SESSION

8.1 Tryon Creek Wastewater Treatment Plant Overlay – Work Session #3 (PP 16-0007).

The Commission continued their discussion on a proposal by the City of Portland, Bureau of Environmental Services (BES), for potential code amendments that would provide a process for facilitating required upgrades to the Tryon Creek Wastewater Treatment Plant (TCWTP). *Staff coordinator was Debra Andreades, Senior Planner. City of Portland team in attendance included Jim Brown (BES Senior Engineer), consultant Eric Eisemann, (E² Land Use Planning) and Ho-Ping Wei (Black and Veatch).*

Discussion focused on building materials, noise and odor standards, and traffic.

Input/Action Items:

- The Commission expressed preference for listing prohibited materials and not listing permitted materials.
- Noise and odor criteria should be found in Chapter 50 in the Overlay District standards. To be approved, a new project would have to show compliance with the standards. Any violation of those standards would be governed by Chapter 34 for enforcement purposes.

Commissioner Baker asked about odor and noise and the question staff raised as to where odor should be defined. He opined it should be unique to this overlay and should be included in the overlay and not the definitions. Vice Chair Ward suggested that odor can be measured and could apply elsewhere so should be in the definitions section of the CDC.

There was no public comment.

9. OTHER BUSINESS

None.

10. SCHEDULE REVIEW

There were no updates to the schedule.

11. ADJOURNMENT

There being no other business Vice Chair Ward adjourned the meeting at 9:45 p.m.