

MINUTES
CANBY PLANNING COMMISSION
7:00 PM – Monday, July 8, 2019
City Council Chambers – 222 NE 2nd Avenue

PRESENT: Commissioners John Savory, Larry Boatright, Andrey Chernishov, Jeff Mills and J. Ryan Adams
ABSENT: Derrick Mottern and Jennifer Trundy
STAFF: Bryan Brown, Planning Director, Sandy Freund, Senior Planner and Laney Fouse, Recording Secretary
OTHERS: Gina and Robert Taylor, Lisa and Buzz Weygandt

CALL TO ORDER

Chair Savory called the meeting to order at 7:00 p.m.

CITIZEN INPUT ON NON-AGENDA ITEMS – None

MINUTES

a. Minutes not available.

NEW BUSINESS - None

PUBLIC HEARINGS

- a. City staff is requesting to annex all remaining portions of SE Township Rd public right-of-way (ROW), including the portion of ROW that crosses Union Pacific Railroad crossing DOT 760205P, MP 748.30. The public ROW subject to this annexation is located between the western boundary of the Molalla Forest Road and the western boundary of Mulino Road. (ANN 18-06 SE Township Rd Annexation).

Chair Savory opened the public hearing and read the public hearing format. He asked if any Commissioner had ex parte contacts or conflicts of interest to declare. There were none.

Sandy Freund, Senior Planner, entered her staff report into the record. This was a request to annex 2.32 acres of all remaining portions of the SE Township Road right-of-way. She pointed out a typo in the staff report. The portion of the right-of-way to be annexed was located between the western boundary of the Molalla Forest Road and the western boundary of Mulino Road and included one railroad crossing. There had been four annexations along Township, however only one of those four included right-of-way. This annexation proposed to bring in the remaining portions of Township into the City's jurisdiction. She reviewed the applicable criteria. Staff received one phone inquiry from Mr. Brink about how the annexation would affect his property. Staff recommended the Commission recommend approval of the annexation to the City Council.

Commissioner Mills said this annexation would stitch together all the property and make everything contiguous in this area. Ms. Freund said that was correct. It was a technical clean up.

There was no public testimony.

Chair Savory closed the public hearing.

Motion: A motion was made by Commissioner Boatright and seconded by Commissioner Chernishov to recommend approval to the City Council of ANN 18-06 SE Township Rd Annexation to annex all remaining portions of SE Township Rd public right-of-way (ROW), including the portion of ROW that crosses Union Pacific Railroad crossing DOT 760205P, MP 748.30. The public ROW subject to this annexation is located between the western boundary of the Molalla Forest Road and the western boundary of Mulino Road. Motion passed 5/0.

- b. City staff is requesting consideration of a legislative text amendment to streamline, clarify, and update numerous sections of the Canby Land Development and Planning Ordinance Title 16 Canby Municipal Code (CMC). The text amendment proposal edits and updates 32 chapters and the Table of Contents from Title 16 of the Canby Municipal Code (CMC), and also amends one specific provision of the Canby Comprehensive Plan to delete Area “K” of Policy NO. 6 under Finding NO. 1 of the Buildable Lands Section. (TA/CPA 19-01 Development & Planning Ord. Title 16 CMC & Canby Comprehensive Plan – Area K).

Chair Savory opened the public hearing and read the public hearing format. He asked if any Commissioner had ex parte contacts or conflicts of interest to declare. There were none.

Bryan Brown, Planning Director, entered his staff report into the record. This hearing was continued from the last meeting. He would be addressing the concerns in the four page submittal from the first public hearing. The first concern was regarding townhomes with common walls and the requirement for an alley or sidewalk type connection at the rear so that middle units would be able to exit the rear yard. Mr. Brown responded by trying to make it clear that staff was supportive of townhomes that would be accessible by rear alleys, however requiring rear alleys or public sidewalk easements at the back would not always work. In the situations when they could plan ahead in the design of the block length and circulation pattern in an area they could get to the option or requirement of rear alleys. Usually alleys like that were private streets and maintained by the adjacent lot owners or HOA. He gave an example of the option for alleys for townhomes in N Redwood Landing, although detached single family homes with no alleys were ultimately built there. He proposed changing the wording to strengthen and clarify that the preference was to have alleys and in situations where there were master planned areas that alleys would be required. In-fill development sites where rear alley access could not be feasibly accommodated would be permitted to be excluded from this requirement. He recognized that none of the townhomes that had been built in the past had rear alleys and they would not have alleys added as there was no way to connect them to a public street. Staff had no knowledge of any building code requirements or fire safety code requirements that required rear access for middle units. He read the new wording that was proposed. The next concern was changing the standard review process for partitions from a Type III to a Type II review. It was also proposed to delete the distinction between a major and minor partition. There was a right to appeal the Type II decision with a \$250 appeal fee. The main concern was removing the option for public testimony in a Type III Planning Commission review to a Type II staff review. He thought it was suitable to be staff level approval as partitions were limited land use decisions that had to be

approved by clear and objective standards. Applications either met the standards or they did not and there was little room for discretion.

There was discussion regarding whether or not staff should be making these decisions and the amount of the appeal fee.

Mr. Brown said most jurisdictions did partitions administratively because of the clear and objective standards and it was similar to other administratively approved applications. These would be partitions that would result in no more than three lots.

Commissioner Adams would be comfortable with the staff approval if the appeal fee was \$0.

Commissioner Boatright thought the Commission needed to hear the public input. He was not in favor of administrative approval for partitions.

Chair Savory agreed with Commissioner Boatright as the public should have the opportunity to give input on partitions. People needed to feel connected to their government and putting distance between the government and the people was not good.

Mr. Brown said the next concern was the 15 foot buffer and step up height provision for multi-family development. The request was for an exception to the 15 foot buffer in the case where the Comprehensive Plan showed the adjacent property to also be high density suitable for rezoning but was still R-1 zoned today. It came down to what was more important, always protecting the existing house or recognizing there was a difference in protecting it when it was low density on the Comprehensive Plan and not protecting it as much when it was intended to transition to high density in the Comprehensive Plan. He read the new wording that was proposed.

There was discussion regarding HB 2001 where any zone that allowed a single family home also could allow a duplex.

Mr. Brown clarified that the exception would change the setback from 15 feet to 7 feet.

Commissioner Mills was opposed to this change as it would in effect change the zoning of the adjacent property whether they wanted it or not. He read an article from the City of Portland, titled, "What is the difference between the Comprehensive Plan Map and zoning?" He thought it was improper to utilize the Comprehensive Plan Map to effectively make a zoning change that had not been approved. It was not a proper use of the Comprehensive Plan.

Mr. Brown said the last concern was related to use of private streets in a manner that impacted minimum lot size and density. Whenever a private street was utilized it was the responsibility of the property owners to maintain it. This could be done by making it a separate tract and establish CC&R's and a HOA to collect money to repair the street. By making it a tract, that area could not be counted towards the lot areas and developers could not make a 7,000 square foot lot with one-third of it in the middle of the road, changing the density in that area.

Commissioner Mills pointed out they needed to change the language in the partition chapter to remove the “major” and “minor” terminology.

Commissioner Boatright supported getting rid of the terminology and did not mind the \$250 appeal fee, but still thought partitions should come before the Planning Commission.

Mr. Brown clarified the \$250 appeal fee would not be applicable if the partitions still came to the Planning Commission because it would be an appeal of the Planning Commission’s decision, not of the staff’s decision, which was \$2,000.

Commissioner Boatright asked what if instead of putting in the alleys for middle units, they could put in sprinkler systems.

Mr. Brown said neither the building code nor fire code had any requirements for alleys for middle units.

Commissioner Chernishov explained how fire trucks needed a minimum of 250 feet for the fire hoses to wrap around the building. If they did not have the 250 feet, there needed to be an access into the property to get within 250 feet. If that could not be done, then fire sprinklers were required.

Public Testimony:

Gina Taylor, Canby resident, submitted a copy and read her public comments into the record. She did not think they should amend the major and minor partitions from Type III to Type II decisions as eliminating both public testimony and review by the Planning Commission eliminated the expertise these individuals could provide. She gave examples of this from her own experience on previous land use applications where the public had found requirements that staff had missed. Land use decisions were complicated and they needed to retain the current process which promoted and encouraged public participation. She pointed out the lack of attention to detail that included grammatical and technical errors that occurred in the reports submitted by the Planning Director and his staff. She was confused about in which zones the 10 foot separation between townhomes would be enforced. Her fifth concern was not addressed in the staff report where she had asked what provisions would be imposed on the 10 foot separation between townhomes. She thought the Commission should limit the authority of the Planning Director to Type I review only and not include Type II review. She asked the Commission to create an enforceable definition of a private street. She had requested including rear sidewalks or alleys for townhomes that included a middle unit and asked that the Commission individually give their opinions on this topic.

Mr. Brown explained how some of the examples Ms. Taylor gave did not apply.

Chair Savory closed the public hearing.

Commission Deliberation:

1. Townhouse Dwellings having Common Wall Construction.

Commissioners Mills, Chernishov, Adams, and Savory were in support of the exception as they thought the Fire Department would review these applications and raise any fire safety issues.

Commissioner Boatright was opposed to requiring back alleys for any application.

2. Changing the Standard Review Process for Partitions from a Type III Public Hearing to a Type II Planning Director Decision, now deleting the distinction between Major and Minor Partitions, and providing the right of appeal with adopted \$250 appeal fee.

Commissioner Chernishov supported changing partitions to a Type II review as most jurisdictions did them as administrative review and it made the process easier for developers.

Commissioner Adams was against the change as citizens gave valuable input and he did not think there should be a \$250 appeal fee as it could be a barrier to citizens from having access to their government.

Commissioner Boatright was against the change of review. He was not opposed to getting rid of the major and minor partition terminology as long as the applications came before the Planning Commission. He thought the opportunity for public input was important to maintain.

Commissioner Mills was supportive of the language change and deleting the major and minor partition. He would support changing it to a Type II if there was a \$0 appeal fee.

Chair Savory thought the more public access the better and was not in support of the \$250 appeal fee. He was fine with eliminating the major and minor partition distinction, but was against changing it to a Type II decision with an appeal fee.

Commissioner Chernishov asked who paid for the costs incurred for an appeal.

Mr. Brown said if the appeal was zero cost, the tax payers would be paying for the administrative work required. He noted if the appellant was successful and the Type I or Type II decision was overturned, the \$250 fee was refunded.

There was consensus to get rid of the “major” and “minor” terminology and the majority was in agreement to change the partitions to a Type II decision with a zero appeal fee.

3. Multiple family 15' Buffer/Step-up Height Provision.

All of the Commission was opposed to allowing an exception for the 15 foot buffer/step up height provision.

4. Private Street Use as it Impacts Minimum Lot Size and Density

All of the Commission was in favor of this change.

Motion: A motion was made by Commissioner Adams and seconded by Commissioner Mills to recommend approval to the City Council of TA/CPA 19-01 Development & Planning Ord. Title 16 CMC & Canby Comprehensive Plan – Area L. The text amendment proposal edits and updates 32 chapters and the Table of Contents from Title 16 of the Canby Municipal Code (CMC), and also amends one specific provision of the Canby Comprehensive Plan to delete Area “K” of Policy NO. 6 under Finding NO. 1 of the Buildable Lands Section with the changes discussed tonight by the Planning Commission. Motion passed 5/0.

FINAL DECISIONS

- a. ANN 18-06 SE Township Rd Annexation

Motion: A motion was made by Commissioner Mills and seconded by Commissioner Adams to approve the final findings for ANN 18-06 SE Township Rd Annexation. Motion passed 5/0.

- b. TA/CPA 19-01 Development & Planning Ord. Title 16 CMC & Canby Comprehensive Plan – Area K

Motion: A motion was made by Commissioner Chernishov and seconded by Commissioner Adams to approve the final findings for TA/CPA 19-01 Development & Planning Ord. Title 16 CMC & Canby Comprehensive Plan – Area K. Motion passed 4/1 with Commissioner Boatright opposed.

ITEMS OF INTEREST/REPORT FROM PLANNING STAFF

- a. Next regularly scheduled Planning Commission meeting – Monday, July 22, 2019

Mr. Brown discussed the items that would be on the next agenda.

ITEMS OF INTEREST/GUIDANCE FROM PLANNING COMMISSION

- a. Status Update of HB 2001: Requires the allowance of duplexes in all residential zoned areas.

Mr. Brown passed out an article from the Sunday *Oregonian* regarding HB 2001. He also discussed the summary from the League of Oregon Cities. They would have to wait to see what needed to be done as far as implementing the bill.

Chair Savory thought this was a bad idea.

There was discussion regarding what could be done about the bill and encouraging citizens to contact their elected representatives about it.

ADJOURNMENT

Chair Savory adjourned the meeting at 9:25 p.m.