

CITY OF DUNDEE

Meeting: Planning Commission Meeting
Location: City Council Meeting Chambers
620 S.W. 5th Street
Dundee, Oregon 97115
Date: February 19, 2020
Time: 7:00 p.m.

I. Meeting called to order.

Commissioner Hinoveanu called the meeting to order. Commissioners present, which consisted of quorum, were Maria Hinoveanu, David Hinson, Doug Pugsley, Eugene Gilden, and Ed Carlisle. City Administrator Rob Daykin, City Engineer Greg Reid, and Interim City Planner Jim Jacks were also present. Commissioner Howland was absent due to illness.

Members of the audience included Suzanne Palanuk, Erin Briggs, Kim Riccitelli, Hayden Wooton, Linda Delong, Aaron Delong, Alec Schmidt, Randy Scott, Jeff and Lisa Peck, Christopher Harper, Linda and Richard Herbert, Geoff Hill, and Dan and Sandy Friedman.

II. Election of Chair and Vice-Chairman for 2019

Commissioner Howland was nominated to serve another term as Chairman. Motion was seconded. Motion carries to re-elect Commissioner Howland as Chairman.

Commissioner Hinoveanu was nominated as Vice-Chairman. Motion was seconded. Motion carries unanimously to elect Commissioner Hinoveanu as Vice-Chairman.

III. Public Comment

There was no public comment.

VI. Approval of Minutes from Previous Meeting(s)

Secretary Osborne noted that a typo on Commissioner Ormonde's last name, on the final page of the minutes, had been corrected. It was moved and seconded to approve the September 18, 2019 minutes. Motion carries, unanimously.

V. Public Hearing

City of Dundee, S19-15/CA19-19/V19-17 – Olivia Beach Construction (Sitton Subdivision)

1. Declarations of Ex-Parte, Bias, or Conflict of Interest

Vice-Chairman Hinoveanu opened the hearing and read the statements into record. She then questioned the Commissioners about ex-parte, bias, or conflict of interest. There were no declarations. Vice-Chairman Hinoveanu then questioned if there were any objections to jurisdiction. There were none.

Vice-Chairman Hinoveanu asked for the record if the Commissioners had driven by the property. The Commissioners responded affirmatively.

2. Staff Report

Interim Planner Jim Jacks introduced himself to the Commission. He then directed the Commission to reports and documents included in the packet and gave some direction on establishing a final order. Planner Jacks proceeded to narrate a summary of the staff report.

Commissioner Gilden asked a question about minimum lot area and size of lot, stating that he calculated the area and square footage and felt that none of the lots met the minimum lot sizes. Planner Jacks stated that the question should be asked of the applicant as it was incumbent on the applicant to show proof of compliance with the requirements.

Planner Jacks passed out an addendum staff report, explaining that he had overlooked a late submittal that had been requested by the previous planner and the engineer. The addendum staff report corrected some of the dimensions and findings that were on the submittal. After noting these corrections, he continued with the staff report and findings.

There was a request to explain the difference between an adjustment and a variance. Planner Jacks explained that an adjustment was for a change in code of 20% or less; a variance was meant for anything over.

Planner Jacks concluded by noting the points in the letter submitted by the Schmidt's.

Commissioner Pugsley asked if there was anything submitted or noted having to do with absolute elevation differences between properties. Planner Jacks noted that there was an elevation sheet included for the subject property, but not the elevations of the adjoining properties. He stated that if viewed in person it was visible that the subject property was higher. Commissioner Pugsley asked if there was anything in the development code that addressed differences in elevation or offered limitations. Planner Jacks responded there were none that he was unaware of any.

Commissioner Hinson asked a process question about when and of whom questions could be asked. This was answered by CA Daykin and Planner Jacks.

Commissioner Carlisle asked, regarding the fire turn around and the requirement of the developer to install "no parking signs", whether this was the only enforcement action that the City had. City Engineer Reid responded that Chief Stock will call the police department for enforcement.

Commissioner Gilden asked how the applicant would go about obtaining easements. Planner Jacks responded that the applicants would need to talk to the neighbor and explain the situation, he also stated that the Commission could ask the applicant about the circumstances of how they plan to

obtain the easement. There was clarification about whether the process was then only between the property owners and the City was not involved in obtaining that easement.

Commissioner Gilden asked about HOAs and who collected and held them. Planner Jacks answered that the City could require one to be formed and have bylaws created, which would be approved by the City Attorney. He further stated that while the city could require one as a way to make things work, it is up to the owners to form it and keep it going. Engineer Reid also responded that the maintenance agreement would be on the plat, so that if the HOA did not perform repairs or maintenance as needed the city would be able to complete them and charge the homeowners for the work. Commissioner Hinson asked if this also included the sidewalk. Engineer Reid responded affirmatively.

There were some additional clarification questions regarding the fire and utility access easement. Once completed, Vice-Chairman Hinoveanu opened the public hearing.

3. Public Testimony - Proponents

Vice-Chairman Hinoveanu asked for the applicant to introduce themselves and present their proposal.

Hayden Wooten, with Reece and Associates, spoke and thanked Planner Jacks. He stated that they were willing to work with the adjacent neighbors to mitigate any privacy concerns or impacts of the development with fencing or landscaping. He stated that they worked to meet the city's standards and even though there were requests for code adjustments and variances they still meet the minimum lot sizes. He concluded by stating that they had no issues with the conditions of approval and would accept them if the request was approved.

Commissioner Carlisle asked how the applicant proposed to deal with the conditions of tax lot 901. Mr. Wooten responded that they were going to move a little north to create the 30-foot needed. Commissioner Pugsley asked if the 30-foot easement would require the owner of 901 to need to request variances or code adj. Mr. Wooten responded that he could not respond to the future development of the adjacent lot. Planner Jacks responded and stated that there was not room for the adjacent lot to be able to develop. The developer and adjacent landowner would need to work together to provide access to the rear of the lot. Vice-Chairman Hinoveanu asked if the proposal would allow 901 to develop in the future. Planner Jacks responded that, with the conditions of approval, they felt that yes, they could.

Commissioner Gilden asked about the minimum lot sizes and how they were computed if not by width and depth. Mr. Wooten responded that CAD had been used to calculate the lot sizes. He was unable to speak to how the program worked. Engineer Reid also responded that lot width and depth would only really work for a rectangular lot, but because the lots were irregular shape, they were calculated using a CAD program. It was questioned whether staff was comfortable with the CAD numbers. Engineer Reid stated that the numbers would be verified prior to final plat recordation, but he did not see anything that jumped out as being incorrect.

Clarified that there was no parking on the street. Affirmed. Question about post office boxes. Mr. Wooten responded that they had not coordinated with the post office yet, but that would be done as one of the first things after approval. Engineer Reid noted that it would be a community mailbox,

likely placed on 3rd Street, but placement would ultimately be decided by the post office. It was noted that Waste Management would also be able to access the private street.

Vice-Chairman Hinoveanu asked about whether there was a slope that was more than 11% over more than 60% of the property. Planner Jacks responded that slope calculations were not submitted with the application, however eyeballing the property did not appear that it was over 11%. Commissioner Pugsley noted that the developer could grade to make it less than 11%. Planner Jacks concurred. It was questioned of the applicant whether the slope numbers had been calculated yet. Mr. Wooten responded that they had not checked the slope, however if they were above 11% they would grade to correct.

No further applicant testimony; no additional proponents.

4. Public Testimony – Opponents

Aaron Delong stated his address and noted that the south end of his property abutted proposed lot one. He stated that his lot slope was severe, and he was worried that privacy was a concern because his property was much lower; or, alternatively that he would be staring at a giant retaining wall when he looked outside. He noted that there was a lot to be taken into consideration with the proposal given the number of adjustments and variances. He also stated that one of his biggest concerns was that of fire. He did not think there was adequate space for fire equipment as the houses proposed appeared to be very close together. He noted worry that the sun would be eliminated from the rear of his property. Mr. Delong also talked about his long-standing ties to the community, and his belief that this type of infill did not fit the “feel” of Dundee. He concluded by stating hope that Planning Commission did not approve the configuration as-is.

Alec Schmidt gave his address for the record and stated that he had submitted the letter that was a part of the commission’s packet. He said that he mainly wanted to talk about the variance requirements. He noted a case from LUBA 99-056 Robinson vs. City of Silverton. He stated that the City of Silverton has the same requirements for the passage of a variance that Dundee does, and that LUBA found that if lots were removed or reconfigured then a variance would not be needed, and he believed that the variance was not needed in this case because elimination of a lot would eliminate the need. Mr. Schmidt stated that he felt that the lot was best suited for 2-5 lots. Also, he did not believe it was viable to have “no parking”. Further, he stated that he had a 6-foot fence and if someone went 15-feet on to the subject property then they would be even with the top of the fence. So, the house being built behind him would mean that he was staring into their windows from his yard. He argued the applicants comment regarding tax lot 901 being “developed” because there was a house on it, since the property they were hoping to develop also had a house on it. He concluded with the statement that with the slope the trees needed would have to be 15 to 20 feet which would shade all the adjoining property, which would destroy the enjoyment and use of their property.

Jeff Hall gave his address. He stated that the people that had spoken before him had stated many of his concerns, but he wanted to echo a few of the same issues. First, he did not believe that the no parking signs would deter people from parking on the road, since the closest place to park on the street was approximately a five-minute walk away. There was a question by one of the Commissioners about the parking lot at the park on 3rd that was closer. Mr. Hall responded that he did not believe that was a viable option as there were no sidewalks or streetlights to/from the

parking lot. He also spoke to the 22-foot depth of one of the homes and did not believe it would fit with the current aesthetic of the neighborhood.

Randy Scott gave his address. He stated that he lived next to the home on tax lot 901. He also stated that the speakers prior to him had stated a lot of his concerns, but he wanted to also add his voice to the concern with parking and public safety.

A speaker, who did not give his name for the record, talked about what parking was like at the park during events. He commented that most people parked on the grass and that there was a likely expectation that anyone needing to park in that location would do the same, which would destroy the grass.

Jeff Peck gave his address. He stated that he had the same concerns. He wanted to bring up the idea of reducing the number of lots so that the code adjustments and variances would not be necessary. He talked about height of buildings and he was concerned about them. He also stated that tax lot 901 had tried to do a partition and that they had asked for a variance which was denied by the city and he hoped that the city would review those records.

Commissioner Pugsley asked Mr. Wooten if they had looked at having fewer lots. Mr. Wooten responded that they had looked at many different configurations and due to the infill and limitation of the existing lot lines they needed to have the turnaround. It always came down to the inability to work around the turnaround. Even if they tried different configurations of the street (hammerhead, going wider, etc.) they kept coming up with the same frontage or depth issues. The goal was to come up with lots that could meet most of the requirements and not overstress the land. Commissioner Pugsley asked if limiting the number of lots would allow for a public street. Mr. Wooten replied that the application would look much different.

Vice-Chairman Hinoveanu asked if there was a way to reconfigure lot 1 to negate the need for the variance. Planner Jacks responded that in his opinion, he believed so. Vice-Chairman Hinoveanu asked if Mr. Wooten could address the negotiations with the current property owner. Mr. Wooten responded that the current property owner had set their lot lines first and were willing to work with them to configure the rest of it. He stated that they did not have room to negotiate or flexibility and they were limited to the area they were given. There was clarification from Commissioner Carlisle that when they played with the lot configurations, they stayed within the boundary they were given. Mr. Wooten affirmed that they played with the layouts they could and did not overstep the land they were given.

Erin Briggs with Olivia Beach Construction spoke and stated that they had played with different layouts and had chosen the smaller scale. Originally, they had looked at the idea of putting 14 duplexes on the property but that was not the style of development they constructed. He stated that they are traditional home builders, many of the homes they built were in the 1500-2200 square foot range, but that on the coast they have built down to 400sqft. The bottom line is that the development needs to be able to pencil out to be able to do it and eight lots was the result.

Commissioner Pugsley asked Engineer Reid if he had talked to Chief Stock regarding any concerns regarding the 35' entrance and rolling sidewalks. Engineer Reid responded that the standard fire access was 20', but because they had a fire hydrant, they needed a 26' wide drive surface. The

requirement for the mountable sidewalk was so that it would allow the fire truck to park next to the hydrant while allowing additional vehicles to drive by.

Planner Jacks stated that, with affect to the properties to the north, the applicant had not indicated the adjacent property was also zoned R-3 with a 5000sqft lot size minimum. He then suggested some ways to mitigate the impacts to the adjacent properties on Oliver Court.

Some discussion between the citizens, applicant, commission, and planner took place regarding the proposed square footage of the new houses, possible landscape easements, possibly doubling the rear setback requirement to help alleviate the concern about the loss of sun. Additionally, building height was discussed as well.

Lisa Peck gave her address for the record and asked if the intent of the homes was to be vacation rentals or permanent single-family homes. Mr. Briggs responded that they were meant to be homes.

Linda Delong gave her address for the record. She stated that there was a home on Oliver Court that did not have a house on it, and she wondered why they could not make the cul-de-sac abut 2701 and eliminate lot 8.

Mr. Wooten stated that they understood all the comments that had come forward tonight. He reiterated that the lots all met the minimum lot sizes and they feel confident that what they are proposing was in the feel and aesthetic of the R-3 zone.

There was some discussion regarding parking spaces and rear-loaded garages. Commissioner Hinson asked if there would be something in the HOA about having no vacation rentals. Mr. Briggs responded that they had not planned the CC&Rs yet, but they were not building with the idea of them being vacation rentals.

Commissioner Hinson asked if they could address how the variance was not self-imposed. Mr. Wooten responded that when they were doing in-fill development there were a number of limitations, such as existing lot lines and setbacks of existing buildings and they had done their best to work around them to provide adequate access. Alec Schmidt stated that profitability was not a special or unique circumstance inherent to the lot, so they could use less lots and not need a variance.

Mr. Wooten responded that he had gone through how they felt they were restricted and that he was comfortable with his testimony.

It was questioned if there were any exhibits to submit for the record. Planner Jacks replied that the only thing he had was the addendum staff report. There was a question about the fire district and their concerns. He read the fire code into record ORS 368.039 "Road standards adopted by local government supersede standards in fire codes" (1)When the governing body of a county or city adopts specifications and standards, including standards for width, for roads and streets under the jurisdiction of the governing body, such specifications and standards shall supersede and prevail over any specifications and standards for roads and streets that are set forth in a uniform fire code adopted by the State Fire Marshal, a municipal fire department or a county firefighting agency." (Exhibit B – Email)

CA Daykin asked if the applicant felt that they had had adequate time to rebut. Applicant responded affirmatively.

Planner Jacks talked and reminded the Commission of the decisions they needed to make, and that they were able to impose conditions of approval if they wished.

Vice-Chairman Hinoveanu closed the public hearing.

5. Deliberation

Vice-Chairman Hinoveanu stated that what bothered her was the idea of setting a precedent of a 40% variance. Planner Jacks noted that the variance would be 35% and not 40%. Commissioner Gilden stated that he felt that was a big number to him. The other thing that gave him some disquiet was about the question of it being self-imposed. That there had been a good faith effort to look at other configurations, but he was dissatisfied with the answer regarding why there needed to be 8 lots and why there could not be adjustments made.

Commissioner Carlisle stated that he agreed that the big variance is concerning. Regarding privacy in the backyard, he noted that most of Dundee was on a hill, so someone was always going to be uphill from someone. He believed that the variance was self-imposed, and he did not feel as though the configurations had been adequately explored.

Vice-Chairman Hinoveanu dissented and felt that it had been adequately explained and that it was about money. She felt like the variance was self-imposed and restated that she was concerned with the idea of setting a precedent.

Commissioner Pugsley stated that he was in favor of infill and density because Oregon cannot have protected farmland and increasing population and not address it with infill. He was not concerned with design and trusted the applicant on what they were suggesting with design. However, he felt that criteria 2 and 5 were adequately addressed. Further, he thought that the 901 issue was something that had not been dealt with and that they should spend some additional time on it.

Vice-Chairman Hinoveanu stated agreement with Commissioner Pugsley. She did not believe the owner of tax lot 901 was present. However, she believed that there was a way to redesign the subdivision to allow 901 to develop. CA Daykin stated that the issue of 901 could be handled with a condition of approval.

Commissioner Hinson stated that he also agreed with the concern of the variance not being self-imposed. If there were fewer lots, they would not be having the discussion. He also stated a concern with parking.

Planner Jacks recommended an order for how the Commission might motion on the application.

It was **moved** to deny the variance for lot 8 because 2, if not 3, of the criteria were not met. Motion was seconded and passed unanimously.

There was some discussion regarding the code adjustments and why they may still be necessary even if lot 8 was eliminated.

It was **moved** to approve the code adjustments for depth on lots 6 and 7, and frontage on lots 5, 6, and 7. The motion was seconded and passed unanimously.

There was a discussion about whether some additional conditions of approval should be added to mitigate neighborhood concerns, and what those should be.

It was **moved** to add conditions of approval increasing the rear setback on lots 2 and 3 to 30-feet; 90% site obscuring fencing on all the rear property lines of all lots, except lot 1. The motion was seconded and passed unanimously.

The Commission went through the conditions of approval. Planner Jacks noted that the page number references would be removed from the final order. CA Daykin questioned whether the condition regarding streetlights and power should be amended to specify that it is the responsibility of the HOA.

It was **moved** to approve the Sitton View Subdivision with amended conditions of approval as noted – conditions 4 and 5 have been removed; condition 16 has been amended to include streetlighting and payment responsibility of the HOA ; and, condition 24 has been added addressing setbacks to rear backyards and fencing. The motion was seconded and passed unanimously.

VI. Planning Issues from Commission Members.

CA Daykin notified that Char had resigned from the Commission. He stated that there were no Commissioners from the east side and asked that if the Commissioners knew someone that might be a good candidate to encourage them to apply.

VII. Adjournment

The meeting was adjourned.



Shannon Howland, Chairman

ATTEST:



Melody Osborne, Planning Secretary