

**CITY COUNCIL MEETING
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**City of Dundee
City Council Meeting Minutes
October 2, 2018**

Call to Order

Mayor David Russ called the meeting to order at 7:00 P.M.

Council and Staff Attendance

Present: Mayor David Russ; Council President Kristen Svicarovich; Councilors Storr Nelson, Doug Pugsley, Ted Crawford, Tim Weaver, and Jeannette Adlong. Staff members: Rob Daykin, City Administrator; Tim Ramis, City Attorney; Cheryl Caines, City Planner; Greg Reid, City Engineer; and Melissa Lemen, Administrative Assistant.

Public Attendance

Andrew Estroff; Don Lowe; Matt McCaw; Stacey Goldstein, Goldstein Planning, LLC; William Kehrli, CWK2 Land Development Consultants; and John Stevenson.

Agenda Changes

None.

Public Hearing: AP18-19, Appeal of Planning Commission Decision for McCaw Subdivision (S17-26)

Mayor Russ opened the public hearing for Appeal of the Planning Commission Decision for McCaw Subdivision approval.

Call for Declaration of Conflict, Bias, or Ex-Parte contact by any members of this body: C. Svicarovich discussed that City Council had Ex Parte contact at the September 18, 2018 Council meeting where opponent Don Lowe was present. City Attorney Ramis reviewed that Don Lowe appeared and made some comments that could be related to the appeal, and noted his advice to include in the record of the case that testimony, but it's not something that he believes needs to be disclosed word for word by the Council members; it's in the record now. M. Russ confirmed that he did view the property and did not note there to be any inconsistencies.

Staff Report:

City Planner Cheryl Caines introduced herself and discussed that the proposed project is an appeal of the Planning Commission decision for the McCaw Subdivision. Planner Caines read the staff report into record. She discussed the application proposal and application history. Each appeal issue raised was reviewed and how Staff addressed those issues in their revised staff report to the City Council.

With regard to DMC 17.305.020 – Public Improvements and Utilities: Water main and fire hydrant water pressures for lots 2 and 4, City Engineer Reid discussed that the Oregon Administrative Rules require 20 psi at the service connection, and that water pressure has been demonstrated to be met at 45 psi in this area. He clarified with regard to the discussion of private booster pumps; they were not intended to be required to meet Code requirements, but were suggested as an option if higher pressure was desired. Private booster pumps are not connected to the public system and are placed inside the house; if the power goes out the home will still have water meeting the required minimum level of pressure.

With regard to DMC 17.305-050 – Storm Drainage: C.E. Reid indicated that according to the requirements of the development, a ¾ street improvement is required. To do this, C.E. Reid explained that they will need to widen the street on their side of the street, and install curb and sidewalk. The existing ditches and culverts will not suffice and so they will need to put a pipe drainage system in with the street improvements, and then connect it to the downstream ditch. C.E. Reid explained that this is very feasible and is what is done on similar projects in Dundee. Additionally, he discussed dealing with the onsite storm water and that Dundee's standards reference the Portland Bureau of Environmental Services standards which allow both mechanical and green types of treatment, such as vegetative swales or ponds. The applicant can certainly go mechanical to deal with their detention or onsite water quality treatment, and those facilities can be located under ground beneath the access drive, or can also choose water quality swales or ponds; all of these options are available to them though the standards set forth. C. Pugsley inquired as to whether or not there is a requirement that there be onsite storm water treatment. C.E. Reid explained the applicant would need to do water quality for the private access drive, as well as detention for the run-off from the residences; these can oftentimes be planters right along the side of the house. C.E. Reid discussed that the detention requirements reduce the outflow from that site, make them detain it and hold it either through a pond, planter or even a buried pipe. Additional detailed discussion continued and C.E. Reid informed that the rate of flow going into the City's storm drain system will not be increased.

Planner Caines reviewed the Staff's recommendation, prior to public testimony, is that the Planning Commission's decision approving the subdivision be upheld. She also reviewed that for this hearing they did mail notice and advertised in the Newberg Graphic as required by Code, but the site was not posted until later than 20 days prior to the public hearing and, therefore, there will be a continuance to the October 16, 2018 City Council meeting for this hearing in order to give opportunity for anyone who was not aware of tonight's hearing an opportunity to come and to testify.

Applicant Presentation:

Matt McCaw, introduced himself and noted that he and his wife, Shannon, are the owners of the subject property and applicants. He provided an overview of their family, interests, and history of working and as business owners in the local community, indicating they have lived in Newberg for the last seven years. He indicated that real estate investing is not their livelihood but instead is something that they do to support different causes that they believe in. McCaw discussed that almost two years ago when they saw the two properties that they now own come up for sale they saw an opportunity to do something different and interesting, while also earning a return on their money. He indicated that their hope was to get families they knew into the existing homes at a great price and then develop the lots. Additional discussion ensued and he informed that their intention was to develop the lots into something nice, and not to try to extract the maximum value out of the properties. He explained that this process has been long over the last 1.5 years, costly, and contentious, but throughout he indicated that they have worked hard to meet every requirement, request, and suggestion from the City while also taking into consideration input from the community. He indicated that they look forward to finally moving forward on the project, and thanked Council for their consideration.

Stacey Goldstein, Goldstein Planning, LLC introduced herself and expressed her appreciation of the process and requested that Council uphold the Planning Commission decision. Goldstein discussed the background on this project and the process they've gone through; their company has worked for over a year on this project with the City Planner and City Engineer and believes that they have met the Code criteria. She discussed that there were instances during the review where Planning Commission asked for some additional information which they provided.

Additional discussion ensued. She reviewed that the property is developable land to provide for future housing. She provided a visual aid enlargement of the site plan (as also provided in the agenda packet materials) and discussed the process involved with the revision of a proposed 5 lot subdivision to a 4 lot subdivision. She also reviewed some of the complexities of developing an infill site in general, as well as specific details pertaining to the proposed site and noted the code standards that they have met as a result of the design process.

C. Pugsley asked for more specifics with regard to the McCaw's desire to provide the homes for an affordable price. Mr. McCaw discussed that when they originally bought the properties the two houses present were empty. He explained that they were able to provide families from their church a very good deal which allowed them to move in because they weren't looking to maximize what they could get for rent for the houses; they were looking to get their return on the lots in the future. Additional discussion ensued and McCaw indicated that there are local people in the homes at this time. C. Pugsley inquired about whether or not it is known what the selling price of the proposed homes would be. McCaw discussed that there has already been an agreed upon price for one of the existing homes once the subdivision is approved; those living their presently wish to purchase the home. With regard to the proposed subdivision, he shared that their intention is to sell the lots.

William Kehrli, Professional Civil Engineer, CWK2 Land Development Consultants, introduced himself and indicated that if land use approval is granted then this will begin the process of them working with the City Engineer to prepare formal engineering documents which meet the City code and standards for construction and approval.

C. Crawford noted that a second potential option for obtaining water for the proposed subdivision could be coming down from Carmen Heights Drive. C.E. Reid confirmed that during the initial planning of this development that potential option (which offers higher water pressure) was also discussed though an easement would be required from a neighboring property.

C. Nelson inquired about the proposed shared driveway slope and potential fire access issues. C.E. Reid indicated that the Fire Chief reviewed the project and did not identify any issues with access; with the reduction of the number of lots being developed they are not required to do the turnaround because the length of the access drive is not over 150 feet. C. Nelson inquired about what the final slope of the shared driveway would be. Kehrli informed that they haven't done the final design, so it would be premature for him to indicate what the final slope would be; he indicated it would likely be in the neighborhood of 15-20%.

C. Adlong inquired about the preliminary grading plans. With regard to Lot #2, the smallest lot, she inquired about the lot slope area. Kehrli reviewed the preliminary site plan included in the agenda packet. He explained that the entire lot area, inclusive of 9000 square feet, it is shown on the plan conceptually how the lot could be graded to meet the City standards for slope which is less than 10% for at least 60% of the lot area. Additional discussion ensued and C. Adlong inquired about the average lot slope on Lot #2. Kehrli offered a detailed explanation of calculations involved in determining appropriate slope area for the lots, though discussed that the average slope on the entire lot is not required by the Code for determining lot size. C. Adlong further inquired about what the average slope on Lot #2 is if it had not been graded to which Kehrli indicated was not calculated but noted in the preliminary storm drainage report the average slope over the entire existing site was identified as 22%.

C. Svcarovich asked if the new impervious surfaces areas of the widening of the street are being treated to which C.E. Reid affirmed to include the public street as well as detention on the private lots.

C.A. Ramis inquired, based on their study of the topography and the existing utilities, whether they have reached the professional conclusion that it is feasible to design all required public improvements and utilities to meet all applicable City standards. Kehrli confirmed this and explained that it is their intention to work with the City Engineer and develop a subdivision that is within the City code standards, including storm drainage facilities.

Opponents:

Andrew Estroff, 825 SW View Crest Drive, introduced himself to Council and indicated that he and his legal counsel, John Bridges, will return and present their full case at the continued hearing on October 16, 2018.

Estroff stated that his interpretation of the laws don't take any account of financial situations into account. Additional discussion ensued and he shared that he has also been a charitable person and had people who don't have homes or places to stay sleeping on his couch, which don't impact the rest of the neighborhood at the expense of the neighbors. He voiced support of discussing the code and the law and how it applies to subdividing land. Estroff noted that the development of infill lots with existing neighborhoods, as opposed to the development of a green field, is much harder to design to the happiness of all concern. Estroff stated the issues they will raise support why the code is set up to prevent the wealth transfer from the existing neighborhood to developers who want to maximize their profit.

Stacey Goldstein discussed her belief that they have provided support of the recommended findings that are in the record. She indicated that the appellants have raised some issues which really don't apply to any specific code requirements including the generosity of their client or how the code is currently set up for transfer of wealth; she indicated that she is unsure how this fits in with the code. Goldstein asked that if anything were to come into the record prior to the continued hearing on October 16, 2018, that they receive a copy.

C. Svicarovich discussed that on the second page of Exhibit B, mid-page, it indicates that the applicant must complete the following prior to applying for a final plat approval: Item #4 discusses no parking signage within a private street access easement: where it discusses that the access easement will need to be signed no parking along its length and the turnaround bulb – it is her belief that the turnaround bulb is applicable because there is no longer a private street. Planner Caines confirmed that to be correct and indicated that this change can be made to Exhibit B prior to the hearing continuance on October 16, 2018.

A motion was made and seconded to continue the public hearing to the October 16, 2018 City Council meeting. **The motion** passed unanimously.

Public Comment

Andrew Estroff, inquired about comments noted in the minutes from the last meeting with regard to issues with storm water drainage on existing properties in the City. C.A. Daykin discussed that he had reported that when the repaving of First Street and Canyon Place was completed the contractor did not follow the specifications, resulting in several driveways not having sufficient lip. He explained that subsequently when there were hard rains those driveways were flooded. C.A. Daykin explained that since that time the contractor has remediated that situation. It was also noted by City Engineer Reid that on Walnut Street some ditches were cleared where driveway culverts had become blocked where skunks had been living. This initial blockage during early fall rainstorms caused water to flow out into the street, down First Street, and made the issue worse at the driveways that didn't have sufficient lip.

Consent Agenda

The motion was made and seconded to approve Consent Agenda Item 6.1 City Council Minutes, September 18, 2018 and Item 6.2 Financial Report Ending August 31, 2018. **The motion** passed unanimously.

Old Business

Locust Street Trees

C. Adlong expressed her support of the placement of Acer Rubrum trees as they grow really well in our climate and are also more of a native tree in comparison to the other options; they don't grow extraordinarily large or extraordinarily fast. She discussed her belief that it is important when planting street trees to plant trees that will allow some sun to filter through to people's yards, which the Acer Rubrum allows. Additional discussion ensued with regard to the Acer Rubrum tree as well as the other trees.

C. Svicarovich raised the issue of standards and spacing for street trees with relation to new street lighting. She referenced a street light on Locust Street which is about midblock and is close to a street tree, and indicated that there seems to be space available closer to Seventh Street. C.E. Reid discussed that there really is no standard for spacing between street lights and street trees presently. He expressed concern that moving the tree closer to Seventh Street may restrict the sight vision for people at Seventh Street looking down Locust Street, especially as the tree matures; this area was intentionally left open near the intersection.

M. Russ discussed that a resident commented to him that at the south end that PGE is moving a pole. C.E. Reid clarified that the existing pole is presently right on the proposed new curb and ADA ramp. He discussed that his original preference was to move the pole down Eighth Street though PGE said that in order to do that would require them to place a new pole across from the existing pole on down Locust. C.E. Reid discussed that he selected the smaller impact option of moving the pole down Locust Street approximately six feet rather than being required to add a whole new pole next to another residence.

A motion was made and seconded to select the Acer Rubrum tree for the Locust Street construction project. **The motion** passed unanimously. C. Nelson inquired as to how long the construction company is required to maintain the survival of the trees to which C.E. Reid indicated one year.

C.E. Reid discussed that while the list of City street trees includes approximately 20 trees, there is no ground cover guidance for developers (including no restrictions that can be enforced). Moving forward C.E. Reid would like Council to consider whether they are interested in a street tree standard and what they would like to have for ground cover between street trees. Potential ground cover options were discussed, and C.E. Reid pointed out that the current standards don't provide restrictions at this time. Additional discussion ensued. M. Russ voiced support of offering choices for trees and ground covers, and determining some standards moving forward. C. Weaver voiced support of restricting hedges, which can make it difficult for people to get out of their cars.

Planning Commission Training

C.A. Daykin informed that he had a discussion with Doug Rux, Newberg Development Director, regarding Planning Commission training. After discussing some different options, Rux suggested using John Morgan, who also helped with the planning process for the Dundee Park & Open Space Plan. C.A. Daykin explained that Morgan provides training coming to Cities as well as

through the League of Oregon Cities and other outlets. After discussing training needs with Morgan, a session program totaling approximate 6.5 hours was noted to be indicated. It was discussed that breaking the training up into two 3 to 3.5 hour sessions would be best and different options for doing so were discussed. The consensus of Council was to potentially schedule one of the training sessions in place of a regular City Council meeting and begin the session at 6:00pm with food served with the other session similarly set at a regularly scheduled Planning Commission. The estimated cost of the training was noted to be \$2,500, no matter the number of participants. C. Svicarovich pointed out that there are people in the community who are interested in being involved, and being able to extend the training opportunity to them may be helpful. C.A. Daykin discussed that the City has received two applications for the Planning Commission vacancy. Discussion ensued and the consensus of Council was to keep the application period open for an additional 30 days. C. Crawford suggested potentially extending the invitation for training to the City of Newberg in an effort to share costs. C.A. Daykin indicated that he will discuss this idea with Doug Rux at the City of Newberg and look at scheduling this sometime in the next couple of months, or potentially after the first of the year.

New Business

Assistive Listening System Quote

C.A. Daykin reviewed that when the original recording system was installed in the Fire Station community meeting room there was an assistive listening option, though the City decided to wait until a need was heard for the service. A need for a listening device has arisen and the upgrade can be set up fairly quickly. C.A. Daykin discussed that two receivers would be available for audience members to use once installed. **A motion** was made and seconded to accept the quote from Pro Sound & Video in the amount of \$1,255 for the installation of an assistive listening system with two receivers. **The motion** passed unanimously. C. Adlong inquired about those requesting an assistive listening device to which C.A. Daykin responded that one person was elderly and the other person has had difficulty hearing due to the acoustics. Additionally, Don Lowe voiced from the audience that he has difficulty hearing in noisy environments and could see the benefit in the City offering assistive listening devices.

Mayor's Report

M. Russ noted that some of the street light conduits in the City sidewalks have lost their cones which he feels present a safety hazard. C.A. Daykin indicated that he did talk to ODOT Project Manager Alvin Shoblom about ten days ago, and he discussed his frustration with the process of transferring responsibility of the street light installation from ODOT to the City. Shoblom indicated at that time that he has everything he needs to begin the process for preparing the funding agreements which he indicated would take approximately two months. M. Russ discussed that he understood that this was to be completed by the end of the year.

Council Concerns and Committee Reports

C. Svicraovich indicated that she received a phone call from a resident concerned about existing short-term vacation rental properties within the City, their distributions and requirements. C. Crawford discussed that this topic has been raised as well by the Tourism Committee, and noted that they would like to revise some of the standards in an attempt to place some restrictions on vacation rental properties. C.A. Daykin offered to provide an updated map of current vacation rentals within the City of Dundee at a future Council meeting, which Council voiced their support of reviewing.

C. Weaver discussed that the Yamhill County Transit District is going through a lot of changes with some new funding from ODOT. He discussed that the Yamhill County Transportation Advisory Committee, which he has been a part of for the past few years, will be revamping and changing its name; C. Weaver does not know if he will move forward on the new Committee. He

discussed that the Committee will include representatives from Newberg and McMinnville as well as one or two representatives from the smaller Cities in the County on a rotating basis.

C. Adlong discussed that the Parks Advisory Committee did complete review of the survey for Sander Estate Park. The survey will be promoted in the next City newsletter and made available online via the City website and also available in hardcopy format at City Hall.

C. Crawford discussed that though the crosswalk signs are visible; he has received some complaints that the crosswalk markings are no longer visible on the streets. Discussion ensued and it was noted that ODOT had indicated previously their desire to wait to refresh the crosswalks on the Highway until the resurfacing, though now it appears that could be two years. C. Svicarovich pointed out that ODOT placed new thermoplastic down for the school crossing at Fifth Street; she discussed that she can't differentiate the importance between marking school crossings and cross walks. C.A. Daykin explained that ODOT's position is that they are responsible for Fifth Street; any other markings not at a signalized intersection are the City's responsibility. C.A. Daykin discussed that the City would also need to obtain a permit from ODOT to complete the work. Also, the new crosswalk locations have received tentative approval, but there has not been a formal order from the ODOT Traffic Safety Engineer. He suggested that encouraging ODOT to complete the work would be the best option. C. Nelson suggested the possibility of doing an IGA with the City of Newberg to complete some work on Dundee's behalf; C.A. Daykin will look into this option. C. Svicarovich discussed that ODOT came through Newberg this summer and did all new thermoplastic crosswalk markings in the downtown area at all signalized intersections as well as the railroad crossings. The crosswalks at Seventh, Ninth, and Eleventh Streets were noted to be the crosswalks which would be candidates for marking. C. Svicarovich requested contact information for ODOT so that Councilors could send individual requests to address the crosswalks. C.A. Daykin indicated that he will follow up with this information.

City Administrator's Report

C.A. Daykin discussed the Verizon withdrew their second application for the proposed cell tower at the Fire Station. He discussed that his understanding is that their intent is to repackage it one more time and come back to the City with a new application. It is his belief that Verizon was not satisfied with the consultants they were working with.

He reviewed that Council previously voiced concerns regarding the sandwich style signs placed by various businesses in the City. Public Works Superintendent, Alan Mustain, provided him documentation where signs are being placed. C.A. Daykin explained that he then visited these areas after regular business hours and though most signs were put away, some were not although there were some activities taking place after regular hours. C.A. Daykin reviewed the sign regulations already in place with regard to these types of signs. He discussed that there were several instances of signs being placed next to an undeveloped vacant lot; even though the area is zoned commercial, given the fact that there is no business there a sign should not be placed. C.A. Daykin also discussed that Public Works Superintendent Mustain was asked to remove three signs that were placed in City right-of-way areas unrelated to businesses already. C.A. Ramis discussed that the problem with regulating signage by what the sign says is that the first amendment is then implicated; signs must be regulated without reference to what they actually say. C. Nelson inquired as to whether there is a regulation about the spacing between the signs. C.A. Daykin indicated that Dundee does not have a regulation pertaining to this. C.A. Ramis supported that a spacing requirement could be accomplished without violating the Constitution. C. Weaver voiced that his biggest concern with the signs is them potentially posing visibility and safety issues, especially at very busy intersections such as Seventh Street. C.A. Daykin discussed that with regard to businesses with two frontages, the Code reflects that one sign is

allowed per business, and in some cases it is noted that businesses have placed two signs; Council voiced support of the interpretation of the Code to support one sign being allowed in these instances. C.A. Daykin raised a potential concern that there are several businesses with door entries and businesses on the backside of a building placing their sandwich board signs out in front of the building on the Highway. The consensus of Council was to consider that sign display to be still adjacent to the building that the business occupies, and thus within compliance.

C.A. Daykin informed Council that ODOT proposed an idea for traffic control during reconstruction of the highway in Dundee that would only allow traffic southbound on the highway through Dundee and northbound traffic would be required to take the Bypass prior to entering Dundee. C.E. Reid pointed out that closing the Highway in this way will reduce their schedule and reduce their costs significantly; however, there would be unacceptable impacts to Dundee businesses and residents.

C. Weaver discussed that there is more traffic driving through on Highway 99W now and not using the bypass; that number is increasing each month. He noted that the bypass has helped the downtown area a lot, but traffic congestion in general has simply been displaced.

C. Nelson inquired about the First Street triangular property previously discussed at a recent City Council meeting. C.A. Daykin discussed that Yamhill County started the bidding process. He reviewed that he talked to the owner of the adjacent private property that's interested in purchasing the triangular property and affirmed his intent to bid against the City.

M. Russ inquired about the RV located on Ninth Street. C.A. Daykin informed that he had a discussion with the police department and they estimated the cost of removal to be approximately \$1,500 for the City. Daykin added the department is looking into the possibility of an arrangement with a tow company to have exclusive rights for removals, including unsalvageable autos as well as those which have more value, and then be able to remove those without charge to the City.

Public Comment

Andrew Estroff returned for an additional public comment. He suggested that providing pertinent photos/visuals on the projector for the audience at City Council meetings would be helpful.

The meeting was adjourned at 8:50 P.M.



David Russ, Mayor

Attest:



Rob Daykin, City Administrator/Recorder