

**PLANNING COMMISSION MINUTES**

**April 12, 2012**

**7:00 p.m. Regular Meeting  
Newberg Public Safety Building  
401 E. Third Street**

**I. CALL MEETING TO ORDER**

Chair Thomas Barnes opened the meeting at 7:00 p.m.

**II. ROLL CALL**

Present: Thomas Barnes, Chair Cathy Stuhr, Vice Chair  
Art Smith Gary Bliss  
Allyn Edwards Philip Smith  
Lon Wall Kale Rogers, Student Member

Absent: Mayor Bob Andrews, Ex-officio (excused)

Staff Present: Barton Brierley, Planning & Building Director Steve Olson, Associate Planner  
Jessica Nunley, Assistant Planner Norma Alley, City Recorder

Public Present: Shawn Irwin, Ron Manning, David Christie, Kathy Carlson, Steve Winchester, Lisa Nauman, and Josh Nauman.

**III. CONSENT CALENDAR**

Approval of the March 8, 2012, Planning Commission Meeting Minutes.

**MOTION #1:** Phil Smith/Allyn Edwards to approve the minutes from the Planning Commission Meeting of March 8, 2012, as amended. Motion carried (7 Yes/0 No).

**IV. COMMUNICATIONS FROM THE FLOOR**

Shawn Irwin requested the Planning Commission review the ambiguity of the Development Code regarding alley way access to make it more clear. He noted it seemed incumbent upon this group to create clarity.

**V. QUASI-JUDICIAL PUBLIC HEARINGS**

- APPLICANT: Ron Manning**  
**REQUEST: Sherman Oaks Subdivision - Tentative plan approval for a 5-lot subdivision**  
**LOCATION: 504 W. Sherman Street**  
**TAX LOT: 3219BA-800**  
**FILE NO.: SUB3-12-001 ORDER NO.: 2012-02**  
**CRITERIA: 15.235.060(A)**

Chair Barnes opened the public hearing, called for any abstentions due to ex-parte contact or bias, and read the required criteria of a Quasi-Judicial Hearing.

Commissioner Cathy Stuhr stated she went by to view the property. She said her initial reaction was it was a good mix for the neighborhood, but got the feeling it seemed small and expressed concern with how it was going to all fit on the land.

Commissioner Gary Bliss said he drove by the site, but had no contact.

Ms. Jessica Nunley, Assistant Planner, presented the staff report with the use of a PowerPoint and recommended approval (see official meeting packet for full report). Staff recommends adoption of Order No. 2012-02 with the correction in paragraph 4 of Page 14 of the packet, correcting the reference to eight units on Lot 4, which should be Lot 5.

Commissioner Bliss asked is section 15.235.050 part of the criteria for this application. Staff replied that it is not approval criteria, but does describe what needs to be submitted with the application. Commissioner Bliss said under that section a preliminary site grading plan shall be presented and I do not see one. Staff said that was addressed in the application. There are no proposed grade changes so there is nothing to provide at this point. Commissioner Bliss said he found differently as he did not see how Lot 3, and possibly Lot 4, can be drained to the street without filling the lot or putting in a pump; without showing on the plan or describing the application, the applicant should have provided a proposal so one lot does not drain onto another. Staff said part of that is taken under review through the building permit process. Commissioner Bliss stated he felt they have an incomplete application.

Commissioner Phil Smith asked due to the size of proposed Lots 2, 3 and 4, would it be legal to put a duplex on those lots. Jessica Nunley answered I do not believe there is enough for that as 6,000 square feet is required for a duplex.

Commissioner Phil Smith said part of the proposal is going to be made into a tract outside the city limits and the City has no responsibility. He asked does the owner requesting a tract have responsibility to the county and what is the responsibility of the land owner who does not want responsibility. Jessica Nunley replied that she had talked with the county and they are not concerned about it because people do designate tracts instead of lots when the property is not buildable, so the owner's responsibility is to comply with county regulations.

Commissioner Phil Smith asked is the reason this is a type three proposal because there is a stream corridor in the project and since the land is not wholly in the city. Jessica Nunley said it is primarily a type three review because of the portion of the property outside the city limits, but it also has a small stream corridor section.

Chair Barnes opened the public testimony starting with the **proponents**.

Mr. Ron Manning, applicant, presented the application and stated we have created a nice project taking into consideration the best use of the grounds, and we have installed sidewalks and remodeled the existing home to enhance the neighborhood. He continued saying we can address the stormwater with rain gardens, which means the water may not need to leave the multifamily site, and he believes that lots 3 and 4 drain to the street.

Commissioner Phil Smith said you heard the application is not complete because it does not have a grading plan or stormwater drainage plan. He asked what do you think of conditions to supply a stormwater drainage plan. Mr. Manning answered that is already part of the conditions of approval.

Commissioner Stuhr asked in respect to Lot 5 multifamily site, is your intention to rent out the dwellings built? Mr. Manning answered yes. Commissioner Stuhr asked is your intent to build detached small cottages, condos, or townhomes as multi-family units and how is that going to fit. Mr. Manning said at this time he is looking at several design options but in the future he will address drainage and parking at design review.

Commissioner Stuhr asked for clarification in Mr. Rydell's report of findings for the criteria on Page 7 stating Lot 5 is exempt from a new application of the lot requirements at time of development. Jessica Nunley said the Planning Commission is being asked to decide on the density/development site question now, or revert to Option A to look at only that lot in the future. Commissioner Stuhr stated she was not comfortable to make that decision without knowing how all that is going to fit. Mr. Manning said that would go to staff and you put your faith in the code and staff to make the right decision.

Commissioner Bliss asked Ron Manning to clarify that Lot 3 will drain to street. Mr. Manning said yes, it will drain to street and we are considering rain drains off the foundation to get it to the street. As far as the low point, drainage is not required by building code unless water can get within one foot of the building floor.

Commissioner Bliss stated respective of crawl space and the rain drains, according to Mr. Rydell's topography, the southwest corner of the lot appears to be lower than the northwest corner of Lot 4, which means water would have to drain. Mr. Manning said Oregon drainage law says you cannot increase or concentrate the flow onto an adjacent property, but water can follow the natural drainage path. Commissioner Bliss said it cannot be accelerated. Mr. Manning said you are correct, but we will be taking it off the lot.

Commissioner Bliss said this is not setting a good precedent that a lot drain onto an adjacent lot. Mr. Manning commented he owns the single family and would create an easement for drainage if necessary. Commissioner Bliss said if you create the easement you take away from buildable area. Mr. Manning said we would still be within the allowable buildable area.

#### **Opponents:**

Mr. David Christie submitted written testimony that Chair Barnes read into the record.

Ms. Kathy Carlson testified of several concerns such as drainage, protection taken for land sliding during construction since there is a history of it sliding on the northwest corner, adhering to the Code regarding buildable property and square footage required, dividing the property between the city and county and different Codes applying, concerned for development for Lot 5 and what specifically will go there, property values decreasing, lack of off-street parking planned, compliance with ADA, how much green space is provided, and ensuring the embankment is secured.

Commissioner Wall asked you understand the area can be developed even without the subdivision they are asking for and the development would not be different because it is already zoned for this. Ms. Carlson asked are you telling me if you turned this down tonight it can be developed without going through this process? Yes, the subdivision is not required to develop the property.

Commissioner Stuhr stated we share your desire to know more of exactly what is going to happen in the future planning. She asked staff to confirm the details about what comes later in the process, when will property owners be notified, what is before us, how the Commission is making the decision, and what comes later. Jessica Nunley said staff is asking the Commission to make an interpretation on the lot area per lot or development site and, as shown, Lot 5 would allow six units outright or, looked at as a development site, 8 units. She continued with Lot 5 requires a type 2 design review, which is an administrative process where neighbors will be notified of the requirements the applicant must meet and will have a chance to submit comments on the design.

Mr. Steve Winchester stated Morton Street still has a rise and all the water runs down through all the property lines there causing a swampy area. The southwest corner has a slight incline and the physics of taking a piece of

property of that nature and turning it into what this gentleman is trying to do would cause the flow to go up hill. Why create all this density and make it worse than it already is; this is not encouraging homeowners to buy. Sherman Street has cars going down that street thinking it goes some place. Take eight, six, or four homes in there, the coming and going of two cars per house along with the current vehicles will create a traffic jam. He recommended the installation of a light at the intersection.

Commissioner Wall asked when you moved in seven years ago, you had a reasonable expectation more development would happen on the property. Mr. Winchester answered originally the family brought in a surveyor and decided to put on three homes and then we heard about this development, but yes, we knew homes would go in eventually.

Ms. Lisa Nauman expressed concern for the neighborhood being  $\frac{3}{4}$  developed with  $\frac{1}{4}$  left, eight residents currently residing on  $\frac{3}{4}$  of the land and 11 more on  $\frac{1}{4}$  making it feel shoe-horned, the development providing the potential of 22 extra cars on this road with one exit, the increased traffic level, and what will happen to property values. She testified she lived there ten years and knew it would be developed eventually, but thought it was going to be three houses which would be wonderful; this seems like an extreme. She continued saying you have your zone of R-2 medium density and asked it be looked at literally instead of as a development and not put more than what is allowed. She said she would much rather match the neighborhood and not add so many residents causing crowding in the neighborhood; consider the tone of the neighborhood. She added my ten year old said she wanted to speak to the Planning Commission to ask for respect for the neighborhood. She closed with that and asked for the Commission to look at it as a neighborhood and not a development.

Mr. Josh Nauman testified he lives directly across the street from the proposed development and traffic is the biggest thing he looks at in this neighborhood. He stated it is expected adding development would increase that, but when looking at this it adds 20 plus cars and when both sides are lined it is difficult to get two cars down that road. The egress down Morton Street is dicey depending on the time of day and the increase of traffic would be a detriment to the area; not only for Sherman Street but also for Morton Street. Adding density to a dead end street as opposed to a street or block with open ends, makes it that much more congested; this is a safety concern. The improvements of sidewalk, street, and sewer has an effect on the larger neighborhood; not just my block. There is going to have to be roadway, curbs, and sidewalks pushing development close to the breaking slope and how practicable is it to develop that close to that. It concerns me because I know I do not let my kids get too close to it because it is an unstable edge. I bought a house on a block with duplexes and I knew what I was getting into. High density is out of character of the neighborhood. It is all single family or duplex neighborhood on Sherman and Morton Streets. This changes the character of the neighborhood with higher density, which is going to affect the property value.

Jessica Nunley provided the final staff report with clarifying on Page 13 of the packet stating the lot area of the section is only applied when calculating minimum density; it is not taking out area when calculating maximum units on the lot. The criterion stated above has the density requirement; Section C is a clarification and is a confusing requirement. Continued subdivision applications, like this one, are a two part process. First, it goes for a preliminary plat with condition of approval in most cases. Then, the application has two years after preliminary plat approval to get to final plat approval. Staff believes the application meets all the required criteria for approval. Staff recommends approval of Order No. 2012-02.

Commissioner Stuhr asked could the units on Lot 5 be duplexes. Staff answered yes. Commissioner Stuhr asked has anyone looked at Lot 5 as to setback requirements and the issue of being close to the slope. She expressed concern that if allowed there would be no way to go back. Staff replied yes, six units can be there and meet requirements. The applicant will have to supply a detailed design for approval at the next stage. At this point, the request is only for the subdivision.

Commissioner Stuhr said is that why a traffic study isn't included. Staff stated a traffic study is required for developments adding over 40 trips in p.m. peak hour; this development would need to include around 40 units before a traffic study would be required.

Commissioner Bliss asked will an analysis of the slopes be required for Lot 5. Barton Brierley said based on testimony we heard of a potential land slide issue, we will include as a condition that the applicant look into that during the development stage.

**Commissioner Deliberations:**

Commissioner Bliss stated accepting the understanding of the applicable lot area requirement, my original concerns that drainage easement were not included in the developable area was based on Mr. Manning's explanation that crawl spaces do not need drains and the City will allow flower beds as drainage; from that stand point that quells the drainage easement issues. I do not feel willing with looking at four lots and a multi-family lot to thwart this application under the criteria of going with Option A.

Commissioner Phil Smith said the choice the Commission has is for Lot 5 to allow six or eight units; it is not about design review or what is allowed for design review. He asked if we are not going to have a higher density on this particular one then when are we going to do it. If we have worries with drainage then we presume there is an easement. Both lots are far bigger than required and the lot averaging will still work. The reason we have two figures is because we have a minimum to include all that has to be given away to the street. I do not see any reason why we should not do it as one total development.

**MOTION #2: Phil Smith/Allyn Edwards** to approve Option B with up to eight units on Lot 5 with the condition the slopes have a geotechnical analysis submitted for Lot 5 when the design application is submitted.

Commissioner Wall said the city has spent a lot of time and effort talking about smaller lots and I have been one of the people complaining with previous applications that we don't often vote in favor of it. Second, this is way more complicated with the lousy economic situation. There is an awful lot of pressure to take on development and to look the other way, but we are desperate for development. It is not reasonable for folks to suspect this is not going to get developed, but is a question of developing six versus eight units; that is all this hearing is about. I am inclined to vote no because based on earlier comments. I think we have a good staff that is competent and is under the gun with the prevailing mentality the economy is horrible. I would have felt a lot better if there was more information on how it would be accomplished. I am inclined to vote no for this reason. We also have codes, regulations, criteria, and information we are to have when making decisions like this and from what I can see all of it is not here. I am not willing to say yes at this point.

Commissioner Stuhr said I hear what has been shared tonight and we have rules and criteria, which the criteria in front of us are well within going for six or eight units.

Commissioner Edwards said with all that has been said so far, I would have to vote in favor. I think the development would be aesthetically suitable to the neighborhood. These are new homes, more modernized, green friendly, and will enhance the neighborhood. This is offering a wide array of selection for the neighborhood and I do not think it is going to be a detriment. The density for the development has met the standards. Drainage will be handled at a later time and not a part of this consideration. Therefore, I approve this as a development.

Commissioner Art Smith said I have listened carefully to the neighbors and staff and am in support of increasing density. Although I am not convinced this is the best place to do that, as I do not think it meets the current need of the neighborhood. There is enough concern of what I have heard tonight, so I vote no.

Commissioner Rogers commented what the applicant owns is R-2 and has a legitimate ability to put in more houses than he is proposing. He is being reasonable and is not putting in something that is not aesthetically appealing.

Chair Barnes stated he sympathizes with the neighbors and is concerned about traffic. Traffic in Newberg is terrible in any neighborhood but it is not part of the criteria; therefore, I am inclined to approve this application.

Commissioner Wall said I suspect I might change my vote, when are we going to get the guts to do this it stops now. I hope the next time we have another applicant we have equal amount of courage.

Commissioner Stuhr called for the question.

<b>VOTE #2:</b> Motion carried (6 Yes/1 No [Art Smith]).
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## **VI. ITEMS FROM STAFF**

### 1. Update on Council items

Barton Brierley said Council will be continuing discussion of the affordable housing trust fund policy and procedures at their April 16, 2012, meeting. On May 7, 2012, they will be looking at amendments to our downtown bicycle rack design and the SE Industrial UGB/EOA. Two things they want to do is look at the commercial land needs and staff discussion with principal proponents of 1,000 Friends of Oregon.

### 2. Other reports, letters, or correspondence: school-zone flashing speed signs

Barton Brierley announced many participated in the sixth grade Design Star process and the City staff has been recognized for that project from the Oregon chapter of the American Planning Association by receiving the Special Achievement Award. He thanked Jessica Nunley and Jan Wolf for all their hard work and efforts.

### 3. Next Planning Commission Meeting: May 10, 2012

Barton Brierley proposed staff prepare a memo for the next meeting on the alley access concern brought up under public comments tonight. Staff will look at the issue and provide some possible options to consider. Barton Brierley reported staff provided a memo in the packet in response to the school flashing beacon signs and asked for any questions. Commissioner Edwards thanked Barton Brierley and staff for preparing the report addressing the Commission's concerns about the money being spend for the flashing lights in schools zones.

## **VII. ITEMS FROM COMMISSIONERS**

Discussion commenced on the decisions of subdivision criteria versus the design application criteria, what criteria is to be decided on at the time of the hearing, the amount of information being submitted into the record to make an educated decision, and if concerns are being addressed properly through this process.

## **VIII. ADJOURN**

Chair adjourned the meeting at 9:02 p.m.

Approved by the Planning Commission on this 10<sup>th</sup> day of May, 2012.

AYES: 6

NO: 0

ABSENT: 1

ABSTAIN: 0

*Philip Smith*

*Karen Berill*

*Planning Recording Secretary*

*Thomas O'Brien*

*Planning Commission Chair*