

**CITY OF OREGON CITY
PLANNING COMMISSION HEARING**

July 23, 2012, 7:00 P.M.
City Commission Chambers - City Hall

1. CALL TO ORDER

Chair Kidwell called the meeting to order at 7:01 p.m.

Roll Call:

Paul Espe
Zachary Henkin
Charles Kidwell
Damon Mabee
Denyse McGriff
Robert Mahoney

Staff Present:

Tony Konkol, Community
Development Director
Pete Walter, Associate Planner
Laura Terway, Associate Planner
Jennifer Bragar, Assistant City
Attorney

2. PUBLIC COMMENT ON ITEMS NOT LISTED ON AGENDA

There was no public comment on items not listed on the agenda.

3. PLANNING COMMISSION HEARING

VR 12-01: Sign Variance

Commission Report

VR 12-01 Staff Report

Vicinity Map

Applicant's Narrative and Submittal

Comments from Oregon Department of Transportation

Comments from Tom O'Brien

Chair Kidwell read the hearing statement describing the hearing format and correct process for participation. He asked if the Commission had any ex parte contact, conflict of interest, bias, or statements to declare.

Chair Kidwell opened the public hearing.

All of the Commission had visited the site and had seen the signs in the exhibits.

Laura Terway, Associate Planner, said the application was for the Oregon City Shopping Center. She explained the subject site, adjacent properties, and gave a sign variance summary. There were three variance requests, one for a variance to the number of freestanding signs to add one more sign that would result in a total of six freestanding signs on site. The second was a variance to the height of the freestanding sign to allow a 57 foot sign instead of 30 foot as allowed. The third was a variance on the size of the freestanding sign to allow a 438 square foot sign with 219 square foot per face instead of 300 square foot sign with a maximum of 150 square foot per face as allowed. She discussed the criteria and how the proposal did not comply with four standards. There were other opportunities for signage on site and if the applicant intended signage to be visible from Highway 205, they could work with ODOT. Staff recommended denial of the application. She explained how in 1994 an amortization ordinance was adopted that gave everyone ten years if they had non-conforming signs to utilize those signs for ten years and then they were to be removed. Staff had not researched the validity of any existing sign on site.

There was discussion regarding whether or not there was a hardship.

Kristin Jones was representing the owner of the Oregon City Shopping Center. The Center was purchased two years ago and the new owner did not know about the non-conforming signs. They had tried several different tactics to get a freeway sign. There was a need for visibility from the freeway to draw potential customers. A lot of money had been spent to renovate the Center and another anchor tenant was in final negotiations. An ODOT sign would not be adequate. There were no other large strip malls right off the freeway in Oregon City, it was a unique property, and sat below the freeway which made visibility a problem.

Raymond Braden??, General Manager of Meyer Sign Company of Oregon, explained the need for a sign to show traffic on the freeway what the Oregon City Shopping Center had to offer and how the ODOT sign was not sufficient. Regarding the existing signs on the property, two were billboards which were not regulated in the Sign Code as they were off-premise permits with the State. There was one main sign in the front, but coming south on I-205 traffic could not see that sign. A lot of work had been done on the Center, and nothing else could be done with the current sign. The owner originally wanted a larger sign than proposed, but he thought this fit the right height and readability. It was not a sign for an individual business, but for a shopping center. Regarding pedestrians and bikes, the sign was in the parking lot towards the front and no bikes or pedestrians were allowed on I-205.

Commissioner Mabey said the location was an awkward spot as people would already be exiting before they saw the sign. He thought it should be on the north end of the center.

Mr. Braden explained the location was the first common area away from the building and it would not disturb any existing parking flow or spaces.

The sign would be illuminated and people would see it before reaching the off ramp.

Commissioner McGriff thought wall signage or an exit sign on the freeway would be better options.

Ms. Jones said the CIC unanimously liked the idea.

Tom O'Brien, resident of Oregon City, was a member of the CIC but was not in attendance when this application came to the CIC. He added to his written comments by saying signs could be positive for business when done properly. He referred to the United States Sign Council Rules of Thumb which discussed how large the letters needed to be on signs in order to be legible. He also displayed aerial photographs showing the areas where people would have to make the decision to get off the freeway in order to have enough time to make the exit. He thought it was not possible due to the size of the lettering proposed to have enough time to get over. He thought the solution should be signs placed on the roof.

Mr. Braden did not think rooftop signs were allowed. He knew the scale of the sign would be visible.

Ms. Jones stated there were 25 tenants in the Center, but only the four anchor tenants would be advertised on the sign. They were not trying to get people off the freeway coming north on I-205 because they could already see the Center. The concern was those already coming off the exit south on I-205 for them to know what stores were there.

Ms. Terway explained the requirements for wall and roof signs. The billboards were part of the sign inventory for the site and the City did regulate billboards.

Chair Kidwell closed the public hearing.

Commissioner Mabee thought the Center needed more visibility as it was a gateway to the north end of the City, however he thought the hardship to get the variance had not been proven. This was not a pedestrian area, so that criterion did not apply, but he thought the application did not meet the other three criteria.

Commissioner McGriff understood the issue of visibility, but did not think bigger would be better. She thought it was more pedestrian friendly. All the variance criteria had to be met, and she concurred with the staff's recommendation.

Commissioner Henkin thought pursuing an ODOT sign and embracing the walkable pedestrian friendly aspect was the way to go. He also concurred with staff.

Commissioner Espe concurred as well. There was a need for signage, but this application did not meet the criteria. He thought the sign plan for the Center should be reviewed.

Commissioner Mahoney was concerned about the scale of the sign and public safety. He did not think the criteria had been met.

Chair Kidwell also concurred that the sign did not meet the need of getting people off of the freeway. He thought an ODOT sign or wall or roof sign would be more appropriate. Since the Center already exceeded the signage regulations, the signs should be reviewed and reduced.

Motion by Denyse McGriff, second by Paul Espe to to deny VR 12-01 per staff recommendation.

A roll call was taken and the motion passed with Paul Espe, Zachary Henkin, Charles Kidwell, Damon Mabee, Denyse McGriff, Robert Mahoney voting aye. [6:0:0]

AN 12-04: Annexation of 0.89 acres within the Urban Growth Boundary (Low Density Residential).

Commission Report

Staff Report

Applicant's Petition

Review of TPR Analysis

All Public Notices

Land Use Transmittal Form

Signed Affidavit of Newspaper Notice

UGMA

Metro Ordinance 79-77

Proposed Findings, Reasons for Decision and Recommendations

CRW comments

Chair Kidwell read the hearing statement describing the hearing format and correct process for participation. He asked if the Commission had any ex parte contact, conflict of interest, bias, or statements to declare. There was none.

Chair Kidwell opened the public hearing.

Pete Walter, Associate Planner, gave a summary of the application, which had come before the Commission in 2011 but was not approved by the voters. If annexed, it could be zoned to R10, single family residential designation. The only thing that had changed from the original application was the Transportation Planning Rule had changed to provide that properties that had a Comprehensive Plan designation which was adopted in the City's Transportation System Plan and there had been no change to the designation since the TSP was adopted, applicants were not required to

show further compliance with the Transportation Planning Rule. The previous application was also found to be in compliance based on the designations. That had not changed, only the rules had changed. The R10 zoning would be compatible with the surrounding zoning. The utilities were nearby and before any development of the property they would have to extend service lines. He reviewed the approval criteria which staff believed had been met. He explained Exhibits 1-9. Staff recommended the Planning Commission determine that the proposed annexation demonstrated a positive balance of factors as set forth in the code, recommend the City Commission adopt the staff report, and recommend the City Commission send the application to the November 6, 2012 ballot.

Tony Konkol, Community Development Director, clarified the two separate actions that needed to occur. The Planning Commission needed to determine if a balance of the seven approval factors had been met and make a recommendation to the City Commission. If the City Commission made the same finding and recommended approval, a resolution would come back to set an election date. These were private property driven annexation requests and if an application was submitted and they met the factors, it would go to a vote. He emphasized that the land use was the focus and the politics were a separate issue.

Tom Sisul, consultant, explained why this annexation was coming back. He thought the placement of this annexation in the Voters Pamphlet confused voters with a controversial annexation. He hoped to make it clearer this time that it was less than an acre. This was the only parcel in the block that was not in the City limits. It was logical to bring it into the City to have a break between the City and County. Due to its triangular shape, this parcel could only be divided into two lots, although theoretically it could have three. He hoped there was a recommendation of approval to the City Commission again.

Gary Bowles, owner of the property, felt like he was already in the City and he would like to get the City utilities and increase the value of his property.

There was no further public testimony.

Chair Kidwell closed the public hearing.

Commissioner Mabee said this would close a gap in the area. It was unfortunate that the other annexation was controversial and affected this one.

Commissioner Espe asked about the process for a property with a failing septic system. Mr. Konkol explained if there was a failing septic system and the property was within 300 feet the City would extend it to the property. It would still need to go to a vote of the people. The property owner paid for the hook up and the application was put on the next available ballot. If it was voted down, there was an option for extra-territorial extension of the sanitary service to alleviate the safety hazard.

Commissioner Espe thought there should be relief for the smaller, less controversial annexations that had a septic hardship that they not have to go through the voting process.

Motion by Damon Mabee, second by Zachary Henkin to to recommend to the City Commission approval of AN 12-04 with staff recommendations 1 and 2.

A roll call was taken and the motion passed with Paul Espe, Zachary Henkin, Charles Kidwell, Damon Mabee, Robert Mahoney voting aye and Denyse McGriff abstained. [5:0:1]

**TP 12-01 / VR 12-02: Crabtree Terrace II - 30-lot Subdivision
with Variance Request from Alley Requirement**

Commission Report

Staff Report

Exhibit 1 Recommended Conditions of Approval

Exhibit 2 Vicinity and Zoning Map

Exhibit 3 Application Packet (Stormwater Report intentionally left out)

Exhibit 4 Grading Permit FP07-0006

Exhibit 5 Grading Permit FP07-0004

Exhibit 6 Comments on Applicant's Traffic Study - Replinger

Exhibit 7 Public Notices

Exhibit 8a Public Comment Support Letters

Exhibit 8b Kosinski Comments 6 11 2012

Exhibit 8c Kosinski Comments 6 25 2012

Exhibit 9 Additional Variance Responses, AKS Engineering

Exhibit 10 Technical Memo Todd Mobley

Exhibit 11 Project Timeline Milestones, AKS Engineering

Exhibit 12 Mike Robinson letter to Chair Kidwell including responses to Christine Kosinski

Exhibit 13 OCMC 1204255 Alleys

Exhibit 14 LL 12-02 Property Line Adjustment Staff Report and Plans

Chair Kidwell read the hearing statement describing the hearing format and correct process for participation. He asked if the Commission had any ex parte contact, conflict of interest, bias, or statements to declare.

Commissioner Mahoney recused himself from the hearing due to a potential

conflict of interest.

Chair Kidwell opened the public hearing.

Mr. Walter stated this request was for approval of a 30 lot subdivision and variance of alley requirements to allow direct garage access to local streets in the R3.5 zone. The property was located at 14616 Maple Lane Road. This was the second phase of a subdivision. He gave details of the site and proposed subdivision including existing conditions, shadow plat, and timeline of development approvals. Staff was not able to approve a subdivision without alleyways, and he summarized the applicant's justification for the variance. He then reviewed the variance criteria and how he thought the application met the criteria. He entered Exhibits 1-4 into the record. These were an addendum submitted by the applicant of crash history for the four key intersections, and the findings showed no safety issues needed to be further studied or mitigated. There were also letters submitted by residents of Holly Lane in opposition of the application. Staff recommended approval with conditions. He said Christine Kosinski provided two sets of written comments and verbal comments for this public hearing. He explained her concerns and staff's response to those concerns.

John Jones, applicant, had owned the property for 18 years. The first phase, Crabtree 1, of the subdivision was started in 2007, and the second phase, Crabtree 2, was put on hold due to the economy. He was trying to complete the subdivision and keep the housing the same as the first phase.

Michael Robinson, representing the applicant, clarified the subdivision could have been 41 houses, but the applicant was going to develop 30. He explained the applicant had already graded the property pursuant to an approved grading plan issued by the City. The fact that it might be a self-created hardship was not relevant to the Code. The grading permit had been submitted in 2007 and the Code changed in 2009 and in that year there was a recession. Mr. Jones did not know the Code would be changed to require alleys in every circumstance in the R3.5 zone. He could have submitted an application to avoid having to meet the requirement in 2009, but it was the worst time of the recession for construction of homes people would not buy. The first phase was not built with alleys and it would not make sense to do so for the second phase plus there was not enough room to do alleys on all of the lot rows and they would only be able to do them in the middle row of lots. Mr. Jones would like to finish the way he had started. He had not seen in any other jurisdiction where every lot in every subdivision in a single zoning district had to be served by alleys. He thought this was an appropriate candidate for a variance. They agreed with the staff report and conditions of approval. This was a 30 lot subdivision in the R3.5 zone which was appropriate zoning and the lots were allowed outright. It was not a discussion about use or what the zoning should be. They could do more lots if they wanted, but they wanted wider lots with more separation between driveways. In terms of traffic, all of the four intersections met the threshold and City standard and there was no adverse operational or safety impact. Regarding the traffic impact analysis, he discussed the number of trips the application would add in the morning and the afternoon, level of service, volume capacity ratio, and percentage of trips for three of the four intersections. If the application was approved and built by 2014, there would be less than 1% increase in traffic at the intersections. This was a continuation of phase 1 and the intent was to build the same type of

subdivision in phase 2. He did not think alleys were appropriate for every circumstance. The applicant had already graded the property and had intended to develop it but was delayed due to the recession. If that had not happened, it would have come in before the Code change in 2009. There were nine letters signed by 11 people in the record who were in support of the variance. He then discussed the variance approval criteria and how the application met the criteria.

Commissioner McGriff questioned if there were other layouts for the property that would allow the alleys.

Monty Hurley of AKS Engineering said multiple layouts had been tried, but none worked well with the Code and the site due to the constraints on the property.

Jane Davidson, resident of Oregon City, said the idea of adding more traffic to Holly Lane did not make sense. Speed was an issue and it was a dangerous road without adding more cars. There were many accidents already, why add more traffic to the quotient. Adding neighborhoods with easy access to Holly Lane would be hazardous to the health and safety of families and pets.

Donna Gates, resident of Oregon City, gave examples of traffic problems on Holly Lane due to speeding. There might not be a lot of accidents at the intersections, but there were many around the curves on Holly Lane. Children could no longer walk to school due to the traffic and it was difficult to get out of her driveway. There were also many accidents on Redland Road. She thought safety should be taken into consideration.

Clinton Hodson, resident of Oregon City, said the plan was to widen Holly Lane for the development, and that was not reasonable. Widening the street, adding sidewalks and bike lanes to Holly Lane took land away from the existing property owners and made Holly Lane more attractive to use. The speed had just been reduced to 40 mph and it was not patrolled. Adding more traffic would cause bottlenecks at many intersections. He did not think it was right to penalize existing home owners for this development.

Kirk Hansen, resident of Oregon City, said there was an imbalance between the County and City in regard to traffic control and safety. He recommended the Commission not approve the variance for balance of control.

Shawn Wisehauer, resident of Oregon City, thought the alleys should not be allowed. Alleys would not look good and were not conducive to the neighborhood. With the alleys, the cars would not fit in the garages and people would park on the street. He did not want this type of development in this neighborhood.

Christine Kosinski, resident of unincorporated Clackamas County, entered a letter into the record from the Oregon City School District dated November 2007 declaring Holly Lane as hazardous for the health and safety of students. Speeding and unsafe travel conditions already existed and adding more traffic would only exacerbate the situation. There was no bike and pedestrian infrastructure for the residents. She compared the traffic impact analysis from 2007 and 2012 and questioned the analysis for Thayer Road and Holly Lane. The residents on Holly Lane should have been able to

comment on the impact of the added traffic.

Les Fish, resident of Oregon City, was opposed to the variance due to the traffic control and public safety on Holly Lane. Speeding was common and there was no safe place for bikes and pedestrians. He gave examples of accidents that had happened on the road. The increased traffic impacted the current residents. He was in favor of growth, but there needed to be growth with thought that did not impact those around the growth.

Ms. Davidson discussed the speed and dangers on the road and the only way to make it safer was to limit the amount of traffic.

Mr. Robinson introduced Todd Mobly??, traffic consultant with Lancaster Engineering. Mr. Mobly responded to the comments on the traffic impact study. He reviewed the traffic volume numbers and how little the traffic would impact Holly Lane. All intersections operated acceptably. The 2007 numbers were for the first phase and 2012 were updated numbers. Holly Lane was a county facility and the impacts were very minor. He then explained the trip generation numbers.

Mr. Robinson understood the concern regarding the traffic. Holly Lane was a County facility and there was not a lot the City could do about it. This situation was typical in a rural area close to urban development. It was not the applicant's responsibility for fixing problems that existed before them and would exist after them regardless of whether the subdivision was built. The application would not generate 1,100 trips a day, it was 288 trips. The level of service was acceptable by the standards. Holly Lane was not going to be widened. There would be no street improvements except the internal streets in the subdivision. All of those who testified against the application lived on Holly Lane, not in the subdivision. This application would not make the traffic worse. Holly Lane took 10% of the trips from the subdivision, six trips in the morning and eight in the afternoon. It was not relevant to the approval criteria and it met level of service D. There was no testimony about the variance except the neighbor who wanted to see the same type of development that he lived in. He thought it was fair to give those in phase 1 what they expected in phase 2. He thought they met the variance criteria and requested approval of the variance.

Chair Kidwell closed the public hearing.

Mr. Konkol hoped the issues on Holly Lane would be taken to the Clackamas County Commission who could affect change and have it patrolled by County police. Speed was an enforcement issue.

Mr. Walter said it would take annexation followed by zoning followed by development to get urban level street improvements that met City standards.

Commissioner Mabee recognized the speeding on Holly Lane was a problem. He did not have an issue with the variance as alleys were not appropriate and did not create a cohesive community plan.

Commissioner Henkin was sensitive to the traffic problems. The Commission was only looking at this due to the alley situation. If it wasn't for the code change in 2009, they would never have seen this. The development worked better without the alleys and he agreed with staff's

assessment.

Commissioner Espe said this property was annexed and zoned R3.5. The applicant met the burden of proof regarding traffic. He thought it was good urban form to have alleys and traffic calming strategies. The grading had painted them into a corner for a certain subdivision design. He did not think alleys would be good in this setting. He supported the application.

Commissioner McGriff said there was potential for the property to the north to request a variance. She thought they would be setting a precedent for this to continue on adjacent properties. She read from the staff report that stated prior approval of the grading permit did not create a basis for approval nor relieved the applicant of compliance with the Code.

Mr. Mabee did not think that applied given this was an in progress development. The grading was done prior to the Code change, and should be looked at as an existing topography not a created topography.

Chair Kidwell concurred that this development anticipated using the same groundrules as phase 1. The grading was in conformance at the time. The rules were changed in the middle of the game for this developer. The variance was the only matter that was relevant. The continuity of the development without alleys made sense. The next development would have to conform to the current Code. Regarding the traffic on Holly Lane, he said the speed was the problem more than the traffic. It needed to be brought to the County Commission. He thought the variance was consistent with phase 1 and was in support.

Motion by Paul Espe, second by Zachary Henkin to to approve TP 12-01 / VR 12-02 with conditions recommended by staff except to strike Condition 16 which had been met.

A roll call was taken and the motion passed with Paul Espe, Zachary Henkin, Charles Kidwell, Damon Mabee voting aye and Denyse McGriff voting no. [4:1:0]

4. COMMUNITY DEVELOPMENT DIRECTOR UPDATE

Mr. Konkol said the County purchased the West Linn Blue Heron property.

Commissioner McGriff suggested writing a letter from the Planning Commission to the County regarding the need for mitigation of the traffic issues on Holly Lane.

5. ADJOURN

Chair Kidwell adjourned the meeting at 10:58 p.m.