



CITY OF OREGON CITY

CITY COMMISSION REGULAR MEETING

MINUTES

Virtual Meeting
Wednesday, May 05, 2021 at 7:00 PM

VIRTUAL MEETING OF THE CITY COMMISSION

1. CONVENE MEETING AND ROLL CALL

Mayor Rachel Lyles Smith called the meeting to order at 7:00 PM.

PRESENT: 5 - Mayor Rachel Lyles Smith, Commissioner Adam Marl, Commissioner Denyse McGriff, Commissioner Frank O'Donnell, and Commissioner Rocky Smith, Jr.

STAFFERS: 11 - City Manager Tony Konkol, Asst. City Attorney Carrie Richter, Community Development Director Laura Terway, Public Works Director John Lewis, City Recorder Kattie Riggs, Police Chief Jim Band, Finance Director Matt Zook, Library Director Greg Williams, Parks & Rec. Director Kendall Reid, Planner Kelly Reid, and Building Official Mike Roberts

2. FLAG SALUTE

3. CEREMONIES AND PROCLAMATIONS

3a. Proclamation Declaring May 16-22, 2021 as National Public Works Week

Mayor Lyles Smith proclaimed May 16-22, 2021 as National Public Works Week. She thanked Public Works for their service.

3b. Preservation Month Proclamation

Mayor Lyles Smith proclaimed May 2021 as National Preservation Month.

4. CITIZEN COMMENTS

Tom Geil, resident of Oregon City, discussed a fire safety issue with a neighbor who had downed trees and debris piles on his property. He was especially concerned about the dry conditions in late summer and the chance of fires in the neighborhood.

Mr. Konkol indicated that City staff would look into the situation.

5. PRESENTATIONS

There were no presentations.

6. ADOPTION OF THE AGENDA

The agenda was adopted as presented.

7. CONSENT AGENDA

Motion made by Commissioner McGriff, seconded by Commissioner Smith, to approve the consent agenda. The motion carried by the following vote:

Aye: 5 - Mayor Lyles Smith, Commissioner Marl, Commissioner McGriff, Commissioner O'Donnell, and Commissioner Smith, Jr.

- 7a. Resolution No. 21-23, Declaring an Emergency and Temporarily Exempting Oregon Department of Transportation Road Safety Improvements from the Prohibition Against Unlawful Noises
- 7b. Acceptance of Settlement Agreement for the Fox Property for the Molalla Avenue Streetscape Project (CI 18-004)
- 7c. Personal Services Agreement with Barney & Worth, Inc for the 2021 Water Ballot Community Engagement (PS 21-014)
- 7d. Selection of On-call Consultants for Transportation Design and Engineering Services
- 7e. 2020 Heritage Tree Nominations
- 7f. OLCC: Liquor License Application – Off-Premises, applying as an LLC, The Hive Catering Co., LLC (dba The Hive Social), 602 7th Street, Oregon City
- 7g. OLCC: Liquor License Application – Full On-Premises, Commercial, applying as an LLC, SPHOC, LLC (dba Schmizza Public House – Oregon City), 818 Main Street, Oregon City
- 7h. Minutes of the April 13, 2021 Work Session
- 7i. Minutes of the April 21, 2021 Regular Meeting

8. PUBLIC HEARINGS

- 8a. Appeal Fee Waiver associated with AP 21-02: Appeal of the March 23, 2021 Historic Review Board approval with conditions of Planning Files GLUA-21-00001/ HR 21-00001 through 21-00005 for five Cottage Homes in the Canemah National Register District

Mayor Lyles Smith opened the public hearing. Carrie Richter, Assistant City Attorney, read the hearing statement for both public hearings. She asked if any Commissioner had conflicts of interest, ex parte contacts, bias, or any other statements to declare.

Commissioner O'Donnell drove by the site. Commissioner Marl read the discussion posts on Facebook, but it would not affect his decision. Commissioner Smith drove by the site. Commissioner McGriff had not been by the site recently. She was contacted by Mr. Staggs, but she did not meet with him. Mayor Lyles Smith had received emails from the appellant over the last year expressing concerns about this property and the development. The last one was before the first of the year which was before the appeal was filed.

Kelly Reid, Planner, presented the staff report. The appeal fee waiver was associated with the appeal filed by Paul Edgar, resident of Oregon City and applicant. The appeal fee of \$250 was paid upon filing of the appeal. Mr. Edgar thought the waiver should be granted in fairness to all previous applicants who had been in compliance with their conditions of approval. Staff recommended denial.

Mr. Edgar said this appeal was important because the development had many instances of non-compliance with the conditions of approval. He was concerned it would set a precedent for future development. He believed it put the integrity of Canemah Neighborhood in jeopardy as a historic district as well as the integrity of the City. It was mandatory that this be brought before the City Commission.

Linda Baysinger, resident of Oregon City, thought this request should be denied. No special treatment should be given to a Historic Review Board member who was not able to vote on the matter due to his prior actions on this project. He continued to hold up the project and he should not be relieved of the financial responsibility.

Karen Blaha, resident of Oregon City, agreed with staff's recommendation to deny the waiver.

Mr. Edgar provided rebuttal. He thought it was critical for this application to come before the City Commission.

Mayor Lyles Smith closed the public hearing. The Commission deliberated on the reasons for granting or denying the fee waiver.

Motion made by Commissioner Smith to deny the appeal fee waiver request. The motion did not receive a second.

There was further discussion regarding the reasons for the fee waiver.

Motion made by Commissioner McGriff, seconded by Commissioner Marl, to deny the appeal fee waiver associated with AP 21-02. The motion passed by the following vote:

Aye: 3 - Mayor Lyles Smith, Commissioner Marl, and Commissioner Smith

Nay: 2 - Commissioner McGriff and Commissioner O'Donnell

- 8b. AP 21-02 and AP-21-03: Two separate appeals of the March 23, 2021 Historic Review Board approval with conditions of Planning Files GLUA-21-00001/ HR 21-00001 through 21-00005 for five Cottage Homes in the Canemah National Register District

Mayor Lyles Smith opened the public hearing.

Ms. Richter explained the hearing procedures. She asked as a result of a site visit if any facts needed to be disclosed.

Commissioners Smith and O'Donnell did not learn anything more by driving by the site than what was included in the meeting materials.

Ms. Reid presented the staff report. She gave a background on the project, which was a development of 5 cottage homes in Canemah. There were discrepancies on what was constructed and what was approved. These discrepancies came before the Historic Review Board (HRB) for approval, and that was being appealed tonight. Mr. Edgar objected to the following modifications stating they would detract from the Canemah National Register District: retaining wall height, skylight locations, and window design and placement. Chris Staggs, appellant, argued that textured fiber cement siding met the design guidelines and the condition of approval to replace the siding should be overturned. She discussed the code the HRB used to make their decisions and reviewed the design guidelines for new construction on retaining walls, skylights, windows, and siding. She outlined the City Commission's options. Staff recommended denying both appeals and affirming the HRB's March 24, 2021 decision approving the application with conditions.

There was discussion regarding the hearing procedures and how precedence should be viewed in this decision.

Mr. Edgar discussed the ways the developer did not comply with the approval they were given by the City. This act was precedent setting and allowing it would degrade the value of what everyone else had to comply with over the years. The development had detracting elements that should not have been approved for a national register district especially the windows, skylights, retaining wall, and siding. He wanted to protect the integrity of the national register district.

Mr. Staggs requested the Commission remove Condition #7 and allow the existing siding to remain on the homes. The guidelines for new construction were silent on whether the siding should be textured or smooth. The current siding looked better than smooth and was more in keeping with the Canemah character of a rich variety of textures. It was difficult to discern any difference between smooth and textured siding from the street. It would serve no public good to change the siding and would have significant environmental impact. Fiber cement board was safer and longer lasting than wood.

Susan Borger, resident of Oregon City, was in favor of removing the condition to replace the siding. She did not think using the commercial building on Center Street as justification for this condition was an equitable comparison. She suggested lifting the conditions of approval and accepting the staff report recommendations submitted at the March 24 HRB meeting.

Dennis Anderson, resident of Oregon City, thought from the start Mr. Edgar did not want the cottage homes built in Canemah and had made every attempt to subvert their development. Canemah was respectfully diverse and welcomed new neighbors. It was a unique neighborhood that continued to grow both economically and aesthetically. This cottage development had been widely discussed and reviewed. He asked the Commission to mitigate the issue and support the items given by the HRB or offer another remedy rather than the punitive removal of siding.

Linda Baysinger, resident of Oregon City, did not think the siding should be removed as it was a waste of materials currently on the homes and a waste of money and time. The HRB used a commercial building in the McLoughlin Neighborhood as a comparison for the siding. She explained why that was not an appropriate comparison.

Karen Blaha, resident of Oregon City, asked the Commission to overturn the HRB's decision to require replacing the siding. The surface was virtually imperceptible and other homes in Canemah had the same surface. Mr. Edgar objected to the retaining wall height, ignoring the geologic and topographic factors. The historic nature of Canemah was not being denigrated. It was being protected as the modern homes were supposed to be differentiated from the truly historic homes.

William Gifford, resident of Oregon City, thought these new homes fit in beautifully with the historic neighborhood. There was an expense to removing and replacing the siding which would increase the prices of the homes. There was also a safety issue as the current siding was fire resistant and an environmental issue with the waste of these materials in the landfill. He urged the Commission to remove the condition.

Ken Baysinger, resident of Oregon City, agreed with what had been said in support of removing the condition regarding the siding.

Celeste Blythe, resident of Oregon City, said the original application included natural shiplap wood siding which was approved by the HRB. The development was not built with that material and the applicant did not inform or get approval from the City when it was substituted by the textured cement siding. She thought it was clear that textured siding was not allowed. It did not matter if it was commercial or residential, all new construction should meet the guidelines. Many other items were not built to the approved application. The HRB considered the influence of the total project on the historic district and the HRB allowed many other deviations to remain. She did not think the appeal on the siding should be granted.

Chris Sweet, resident of Oregon City, said this type of siding was not visible from the street. The project needed to be completed and construction needed to stop.

Mr. Edgar gave rebuttal. The HRB, City Commission, and LUBA approved a plan and it was not followed. Substitutions should have been brought back to the City to be approved, not installed and then ask for approval. There needed to be integrity in the process and compliance to the standards, especially for a national register district. The windows, siding, and skylights were not right.

Mr. Staggs gave rebuttal. He discussed what he thought were misrepresentations that had been stated. The design guidelines were silent on smooth or textured siding. The neighborhood had been supportive of the development and he thought they were appropriate for the neighborhood. All the windows were wood and the siding had the appearance of wood siding. There was one skylight that would be visible from the street, but it would be blocked by a tree. He asked that the condition regarding the siding be removed.

Mayor Lyles Smith closed the public hearing.

The Commission deliberated on Mr. Edgar's appeal. There was discussion regarding the discrepancies that had not been approved by the HRB, unclear how the skylights were inconspicuous, retaining wall height change from 3.5 to 5 feet, disregard for the process on the part of the applicant, clarifying the guidelines and HRB conditions, site inspections, issues with the HRB's justification for the windows and skylights, and grading required if the wall height was reduced.

There was consensus to continue the meeting past 10:00 PM.

There was further discussion regarding how the original conditions of approval applied to these issues and that the process had been compromised.

Motion made by Commissioner McGriff, seconded by Commissioner Smith, to deny AP 21-03 and uphold the decision of the Historic Review Board which would require the appellant to remove and replace the siding. The motion passed by the following vote:

Aye: 4 - Commissioner Marl, Commissioner McGriff, Commissioner O'Donnell, and Commissioner Smith, Jr.

Nay: 1 - Mayor Lyles Smith

Motion made by Commissioner McGriff, seconded by Commissioner Smith, to continue the hearing for AP 21-02 to May 19, 2021. The motion carried by the following vote:

Aye: 5 - Mayor Lyles Smith, Commissioner Marl, Commissioner McGriff, Commissioner O'Donnell, and Commissioner Smith, Jr.

9. GENERAL BUSINESS

9a. Resolution No. 20-37, Update to the Guidelines for Transportation Impact Analyses

Motion made by Commissioner McGriff, seconded by Commissioner Smith, to continue Resolution No. 20-37, update to the guidelines for transportation impact analyses to a future meeting. The motion carried by the following vote:

Aye: 5 - Mayor Lyles Smith, Commissioner Marl, Commissioner McGriff, Commissioner O'Donnell, and Commissioner Smith, Jr.

10. COMMUNICATIONS

City Manager

The City Manager did not provide communications.

Commissioners

There were no commissioner reports.

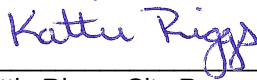
Mayor

The Mayor did not have any communications.

11. ADJOURNMENT

Mayor Lyles Smith adjourned the meeting at 10:22 PM.

Respectfully submitted,



Kattie Riggs, City Recorder