CITY OF OREGON CITY
CITY COMMISSION REGULAR MEETING
MINUTES

Virtual Meeting

Wednesday, March 03, 2021 at 7:00 PM

VIRTUAL MEETING OF THE CITY COMMISSION

1. CONVENE MEETING AND ROLL CALL

Commission President Rocky Smith convened the meeting at 7:04 PM.

PRESENT: - 4 Commissioner Denyse McGriff, Commissioner Frank O'Donnell, Commissioner Rachel Lyles Smith, and Commissioner Rocky Smith, Jr.

STAFFERS: - 14 City Manager Tony Konkol, Assistant City Attorney Carrie Richter, Community Development Director Laura Terway, Public Works Director John Lewis, City Recorder Kattie Riggs, Assistant City Recorder Jakob Wiley, Police Chief Jim Band, Finance Director Matt Zook, Library Director Greg Williams, Senior Planner Pete Walter, Parks & Recreation Director Kendall Reid, Economic Development Manager James Graham, Human Resources Director Patrick Foiles, and Project Engineer Patty Nelson

2. FLAG SALUTE

3. CEREMONIES AND PROCLAMATIONS

4. CITIZEN COMMENTS

There were no citizen comments.

5. PRESENTATIONS

5a. Metro Presentation on the Metro South Transfer Station, New Site Search, and Project Update

Christine Lewis, Metro Councilor, gave a background on the use of the Metro South Transfer Station and the process to expand services to meet community needs.

Dan Blue, Systems Planning Manager, discussed the regional solid waste system, Metro South Transfer Station today, current conditions at Metro South, and looking forward with the recently adopted 2030 Regional Waste Plan.

Estee Segal, Project Manager, explained the future plans for the Metro South Transfer Station including expected project elements and benefits, planned project phases, site search criteria, site search area and zoning, site under consideration on SE Jennifer Street, evaluating opportunities and potential risks, next steps and timeline, and site-specific community outreach.

There was discussion regarding expanding the current location in Oregon City and making it more efficient instead of relocating the facility, possible red flags for the site under consideration, looking into other options, and Metro coming back with an update in the summer.

6. ADOPTION OF THE AGENDA

Item 7c was pulled from the Consent Agenda and added to General Business as Item 9e. The agenda was adopted as amended.

8. PUBLIC HEARINGS

8a. AP-21-00001 - Appeal of the Planning Commission's Approval of a 30-Bed Residential Care Facility with Memory Care at 182 Warner Parrott Road (Planning Files GLUA-20-00020: CU-20-00002 Conditional Use / SP-20-00043 Site Plan and Design Review)

Carrie Richter, Assistant City Attorney, read the hearing statement. She asked the Commission if they had any ex-parte contacts, conflicts of interest, bias, or any other statements to declare including a visit to the site.

Commission President Smith often drove by the site. Commissioner McGriff regularly drove by the site and was acquainted with Ms. Donovan but had not discussed this particular issue with her. Commissioner Lyles Smith drove by the site.

Pete Walter, Senior Planner, presented the staff report. He explained how the review was on the record and was limited to those with standing, evidence in the record, and issues raised in the appeal. He discussed the subject site, application for conversion and expansion of an existing two story five room adult care home to a 30 bed residential memory care facility, and Planning Commission approval of a modification to the code for siting of the structure. He described the revisions to the site plan that were made, elevations, and landscaping plan. Then he explained the appeal issues raised including compatibility of a commercial building within a single-family neighborhood and impacts to the use of adjacent properties, lack of capacity to accommodate parking and traffic, the need to exercise discretion or judgment in approving the application, and that the proposal did not comply with OCMC 17.54.010.A.(2) regarding suitability of the use and OCMC 17.54.010.A.(4) regarding altering the character of the surrounding area. He gave options for the City Commission to consider regarding the appeal. Staff recommended denying the appeal and affirming the Planning Commission's decision to approve the application with conditions.

There was discussion regarding how the building had to comply with institutional and commercial building standards, setback requirements, issues with cars parking on the street and remedies for sight obstructions, speed requirements and sight distances in the area, and impact from the number of trips that would be generated.

Commission President Smith opened the public hearing.

Appellant's Testimony: Jerry Yarberry, resident of Oregon City, was representing the group of neighbors who would be directly affected by the expansion of this facility. The proposal for a commercial building in an R-10 neighborhood would not be compatible. The traffic and parking impact on the neighborhood would be significant and detrimental especially during events at Chapin Park which the traffic study did not take into account. The proposal would change the character of the area and would impair the use of their homes.

Testimony in favor of the appeal: Marilyn Fergus, resident of Oregon City, said the building should not change the character of the surrounding area per code. The central feature of the neighborhood was Chapin Park and people walked by her house to the park. The typical front yard setback in the neighborhood was 20 feet from the sidewalk, but this building would be 10 feet from the sidewalk and it would feel like walking in a commercially zoned district. It would impair her peace of mind. She was also concerned that it would set a precedent for more large commercial buildings in neighborhoods. She did not think commercial criteria should be used, but R-10 criteria should be.

Ingra Rickenbach, resident of Oregon City, was concerned about how a facility that large would be compatible with the neighborhood. The building would be ten feet from the sidewalk and traffic was already bad in this area. She thought it would be a detriment to the neighborhood and its safety.

Applicant's Response: Edward Radulescu, architect for the applicant, said the Donovans currently owned the site and wanted to expand. It was a use allowed as a conditional use in the R-10 zone. They designed the project to incorporate all of the base zone standards with the exception of the front setback. Because it was an institutional use they had to comply with the commercial standard for that setback. To mitigate for that, they added pedestrian amenities along the front façade and the roof pitch had been reduced to lower the height of the building. They designed the site to reach the maximum allowed parking and on-street parking was also available. They had enlarged the courtyard in the center of the building to provide larger setbacks to the east and west and looked at how the building would impact the neighbors with shading. The traffic study complied with the City's standards. He thought the building would be an important asset to a neighborhood like this. It was a valid residential use and would cater to the needs of elderly, disabled, and those with memory conditions.

Joe Kaufman, attorney representing Ms. Donovan, said this was a conditional use and no variances were requested. The application had satisfied all of the criteria. They might be able to make an agreement with the churches in the area for use of their parking.

Petronella Donovan, applicant, said they built this facility in 2007 and she had been working in senior housing long before that. There was a need for this expansion as she had a waiting list for the current facility.

Testimony opposed to the appeal: William Gifford, resident of Oregon City, was against the appeal because he thought the arguments in favor of the appeal were that the project violated City Code and he did not think that was true and had subjective discretionary impact. He thought the project would increase property values and be a good addition to the neighborhood. He thought there was a need for this type of facility and this was a good location for it.

Appellant's Rebuttal: Mr. Yarberry thought the parking and traffic report did not hold water. The parking on the side of the road in this area made it impossible to see oncoming traffic. He had seen instances where emergency vehicles could not get to Chapin Park because there were vehicles double parked. He did not think they wanted to turn the neighborhood into a commercial neighborhood but to keep it an R-10 neighborhood. There were better places in the City that this commercial looking building could be placed. He did not think it would be compatible with the neighborhood.

Applicant's Rebuttal: Mr. Kaufman said this was a conditional use which was allowable as long as it met certain criteria. The applicant had worked to satisfy the requirements and tried to address the concerns of the neighbors. He asked that they uphold the Planning Commission's decision and the application's compliance with the code.

Ms. Donovan said regarding emergency vehicles not getting in to Chapin Park, she had emergency vehicles called to her facility many times and the vehicles chose to stay on the street, not because there was no space but because they preferred that location. Around the corner on South End Road there was a memory care facility that was larger than hers and they wanted to expand. These types of facilities were in the existing neighborhood currently.

Commission President Smith closed the public hearing.

Ms. Richter reviewed the criteria that the Commission could base their decision on tonight, which were if the site was suitable for the proposed use, which she thought meant could it physically accommodate the use, and if the proposed use would alter the character of the surrounding area.

A break was held from 8:58 PM to 9:03 PM.

Commission Deliberation: The Commission deliberated on the criteria. There was discussion regarding street parking and reduced visibility which could be addressed through a different process, traffic, scale of the development and how its imposing size affected the character and livability of the neighborhood, setbacks, discretionary authority of the Council, possibility of requiring more parking, how the residential standards should apply especially for the setbacks, increasing the front setback to 20 feet to minimize the scale of the building, how increasing the front setback might create two parking spaces in front of the building, and whether changing the setback would be enough to accommodate for the size of structure in the neighborhood.

There was consensus that the site was suitable for the proposed use. However, the Commission thought it did not meet the second criteria and that the application substantially limited, impaired, or precluded the use of surrounding properties for the primary uses listed in the underlying district.

Ms. Richter thought the use of surrounding properties was residences and the question was if the residences could continue being residences, not if the facility substantially limited, impaired, or precluded livability or compatibility. If the Council wanted to continue the hearing, the applicant would have to agree to extend the 120-day deadline.

There was further discussion regarding how the facility might affect property values, how the setback was too close to the street which was not compatible with residential and modifying the conditions of approval to increase the front yard setback, how the applicant already made many modifications and a setback wouldn't make much of a difference, how the use proposed fit within a residential use as it was a home for the elderly and would not preclude other residential uses, and Planning Commission discussion regarding the setback and how it would affect the parking spaces.

Motion made by Commissioner O'Donnell, seconded by Commissioner McGriff, to deny the appeal and approve the application with the added condition that the front setback be increased to 20 feet and the parking be reduced to accommodate the larger setback. The motion carried by the following vote:

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

Ms. Richter said that was a tentative decision and staff would bring back final written findings and conditions on March 17, 2021 for Commission approval.

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

8b. Resolution No. 21-14, Repealing Resolution No. 04-21, and Adopting a Methodology, Project List, and Amounts for the City's Water System Development Charges and Establishing Effective Dates

John Lewis, Public Works Director, introduced the agenda item.

Patty Nelson, Project Engineer, gave a presentation on the Water System Development Charge (SDC) modification. She gave a background on current Water SDCs and updated rates needed to support growth and the SDC modification process.

John Ghilarducci, FCS Group, explained the key characteristics of SDCs, legal framework for SDCs, and the SDC calculation.

Doug Gabbard, FCS Group, discussed the growth calculation, reimbursement fee cost basis calculation, improvement fee cost basis calculation, and total SDC calculation.

Mr. Ghilarducci discussed the calculated SDC schedule which showed the proposed increases from the existing rates and regional SDC comparison which showed the proposed increases in Oregon City on the high end in the region.

Ms. Nelson explained the public outreach and engagement, public comments that had been received, indexing for inflation, phased-in implementation, collecting SDCs later in the construction process, and reduced interest rate for financing SDCs. The implementation recommendation was 50% implementation on July 2, 2021 and full implementation on January 1, 2022.

Commission President Smith opened the public hearing.

Roseann Johnson, Homebuilders Association, understood the need for SDC collection for infrastructure, however the amount of the collection affected housing costs. She requested the City take out the improvement fee projects from the calculations as those projects would probably not be done in the projected timeframe. She also requested implementing the new SDC charges over two years, collecting SDCs later in the construction process such as at sale transfer with a lien on the property, and reducing the interest rate for financing SDCs.

There was discussion regarding the estimated timing for when the projects on the project list would be built and how everyone between now and the time the projects were built was paying an equitable share of those eligible projects.

Mr. Ghilarducci said if they took projects off the list, they should also take growth out of the calculation because the project list would no longer be able to serve growth to the planned capacity. Leaving the project list in tact would give the City flexibility to spend the SDC money on any one of the projects. If projects were removed from the list, they could not use SDCs for them.

Commissioner Lyles Smith did not think the rate should be implemented as quickly as recommended.

Mr. Konkol explained if they did a longer phasing in, the City would be short funds to accomplish the list of projects and the City was already short on these funds. It would delay the projects by not collecting the full rate. They would need to revisit SDC charges more often than they had in the past so the adjustments were not as large as what was being proposed here.

Commissioner O'Donnell was not interested in locking in rates for the plat holders, deferral of SDC collections, or lowering the interest rate. He preferred not to have a stepped implementation and thought the rates should be imposed in a single step by July 2021. This was a small component of the total cost and he did not think it would affect housing affordability.

Commissioner McGriff was in support of the methodology that was used and the timing of the rate increases.

Motion made by Commissioner McGriff to adopt Resolution No. 21-14, repealing Resolution No. 04-21, and adopting a methodology, project list, and amounts for the City's Water System Development Charges and establishing effective dates. Motion died for lack of a second.

Motion made by Commissioner O'Donnell, seconded by Commissioner McGriff, to adopt Resolution No. 21-14 with the amendment that the full SDC rates would go into effect on July 2, 2021. Motion failed by the following vote:

Aye: 2 - Commissioner O'Donnell and Commissioner Smith, Jr.
Nay: 2 - Commissioner McGriff and Commissioner Lyles Smith

M**otion made by Commissioner McGriff, seconded by Commissioner Smith, to adopt Resolution No. 21-14 to be implemented as recommended by staff. Motion failed by the following vote:**

Aye: 2 - Commissioner McGriff and Commissioner Smith, Jr.
Nay: 2 - Commissioner O'Donnell and Commissioner Lyles Smith

Motion made by Commissioner O'Donnell, seconded by Commissioner McGriff, to adopt Resolution No. 21-14 with the amendment that the full SDC rate would go into effect on July 2, 2021. Motion carried with the following vote:

Aye: 3 - Commissioner McGriff, Commissioner O'Donnell, and Commissioner Smith, Jr.
Nay: 1 - Commissioner Lyles Smith

9. GENERAL BUSINESS

These items were continued to the March 17, 2021 meeting. The Commission agreed to continue the existing Parklets program as is until the next meeting.

9a. Resolution No. 21-15, Revisions to the Parklet & Private Property Restaurant/Retail Guide for March 15,2021 - November 30, 2021

9b. Resolution No. 21-01, Designating Certain Areas of the City Public Sidewalk to be Used for the Display and Sales of Goods and Merchandise

9c. Resolution No. 21-03, Adopting the Sidewalk Obstructions Standard Operating Policy

9d. Resolution No. 21-05, Modifying the Public Works Engineering Fee Schedule, and Amending Resolution No. 20-36

7. CONSENT AGENDA

Approval of the consent agenda was continued to the March 17, 2021 meeting.

7a. Personal Services Agreement with Murraysmith for a Risk and Resiliency Assessment and Emergency Response Plan for the City's Water Infrastructure (PS 21-002)

7b. Public Improvement Contract with Trench Line Excavation, Inc. for the 5th Street Waterline Replacement and Storm System Improvements Project (CI 21-001)

7c. 2019 Heritage Stand Nomination for Park Place Park

Commissioner Lyles Smith asked about the damage to some of the trees in the proposed Heritage Stand due to the recent ice storm.

Laura Terway, Community Development Director, explained the extent of the damage. She thought the Commission could approve all of the trees for designation and deal with it later when they came back to the Commission with permitting for the trees that were removed or they could approve the modified nomination based on the initial tree damage assessment and removing those trees that fell over or had significant damage from the nomination.

A motion was made by Commissioner McGriff, seconded by Commissioner O'Donnell, to approve the modified nomination. Motion carried with the following vote:

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

7d. Minutes of the December 16, 2020 Work Session

7e. Minutes of the January 6, 2021 Regular Meeting

7f. Minutes of the January 12, 2021 Work Session

7g. Minutes of the February 20, 2021 Special Meeting

10. COMMUNICATIONS

City Manager

Mr. Konkol thanked staff for their work during the ice storm and discussed the City's clean-up needs. He had approved contracts in response to the clean-up that normally would have come to the Commission. More clean-up of the parks would be needed and some parks had been closed due to safety issues. A damage assessment had been done and he expected federal reimbursement for up to 75% of the eligible costs.

Commissioners

There were no Commissioner reports.

Mayor

There was no Mayor's report.

11. ADJOURNMENT

Commission President Smith adjourned the meeting at 11:00 PM.

Respectfully submitted,

Kattie Riggs

Kattie Riggs, City Recorder