

City of St. Helens
Planning Commission Meeting
October 11, 2016
Minutes

Members Present: Dan Cary, Chair
Al Petersen, Vice Chair
Greg Cohen, Commissioner
Sheila Semling, Commissioner
Audrey Webster, Commissioner
Kathryn Lawrence, Commissioner
Russell Hubbard, Commissioner

Members Absent: None

Staff Present: Jacob Graichen, City Planner
Jennifer Dimsho, Assistant Planner & Planning Secretary

Councilors Present: Ginny Carlson, City Council Liaison

Others Present: Andrew Tull
Mark Zoller
Keith Forsyth
Mike Wilkins
Ken Jillson
Agnes Petersen
Erin Geile

The Planning Commission meeting was called to order by Chair Dan Cary at 7:00 p.m. Chair Cary led the flag salute.

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Consent Agenda

Approval of Minutes

Commissioner Semling moved to approve the minutes of the September 13, 2016 Planning Commission meeting. Commissioner Webster seconded the motion. Motion carried with all in favor. Chair Cary did not vote as per operating rules.

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Topics From The Floor

Vice Chair Petersen said the final Waterfront Redevelopment Open House is tomorrow on the Veneer property in the event tent. It starts at 5 p.m. and anyone can show up to view the materials or ask questions until 7 p.m. The event will be a celebration of the process and final framework plan product.

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Public Hearing

3J Consulting, Inc.

Subdivision / SUB.1.16

Elk Ridge Estates (Phase 6)

It is now 7:01 p.m. and Chair Cary opened the public hearing. Vice Chair Petersen declared he has a conflict of interest and an ex-parte contact in this matter. His mother, an attorney, is representing someone who is testifying tonight. He will not participate in the hearing.

City Planner Jacob Graichen entered the following items into the record:

- Staff report packet dated October 4, 2016 with attachments

Graichen introduced the proposal and the recommended conditions of approval, as discussed in the staff report. He said a preliminary plat was originally approved in 2013 (SUB.1.13), but they did not finish development within the allotted time. Graichen discussed the conditions that have been added to the original SUB.1.13 conditions.

Commissioner Cohen asked about the proposal's proximity to quarries. Graichen pointed out surrounding quarries on the map. Chair Cary asked about the water tank on the aerial photo of the site. Graichen said it is a city-owned high-elevation water tower. Commissioner Webster asked who is responsible for maintenance of the required booster pump once installed. Graichen said it would be the City's responsibility once installed.

Graichen discussed the history of condition 3(d) which is a plat restriction regarding the rights of the mining operations surrounding the site. Knife River, a quarry operator, supports the condition as written and recommends incorporating into the lot deeds that future landowners are restricted from remonstrating against such lawful mining activities.

Commissioner Cohen asked how long the 2013 traffic impact analysis is accurate. Graichen said there hasn't been substantial development in that area since 2013. Staff feels the existing report is sufficient, but the Commission can come to a different conclusion.

IN FAVOR

Tull, Andrew. 3J Consulting, Inc. Applicant. Tull is grateful to the Commission for volunteering their time and to staff for helping them through this process. Tull said the site is currently under construction and nearly finished. Tull feels the applicant, staff, and engineering all have a good idea of what is necessary to receive final plat approval as soon as possible. Tull agrees with all conditions that Graichen has included in the staff report, except for 2(f), which was worked out between the City and applicant before the hearing. He has entered a letter into the record addressing this requested change.

Tull addressed the stormwater plan. He said sometimes preliminary plans change, but they will provide as-builts for the system if any changes are made. Although they may not be addressed in the stormwater plan initially, any underground springs encountered on-site will be addressed with piping and included in the as-builts. Tull said the water tower just north of the property is for the site. City Engineering is requiring a booster pump to properly serve the properties.

Commissioner Cohen asked if erosion has been addressed. Tull said most of the erosion threats are over and that sedimentation is intercepted before reaching the catch basins.

Zoller, Mark. St. Helens Assets, LLC. Property Owner. Zoller is a managing member of St. Helens Assets, LLC, the property owner of the site. Chair Cary asked what work is left to be done on site. Zoller said the streets have been paved and curbed. The wet and dry utilities are already in the ground. The location for the booster pump station has been established, the pump has been designed, street lights have been paid and the pedestals are installed, but they are waiting on the PUD for installation, and 99 percent of grading is done. Zoller said there will be some erosion control before winter to take care of, but the site is pretty much home-ready.

Commissioner Cohen asked where the proposed retaining walls will be. Zoller said there are none proposed because the slopes are not significant enough. However, Zoller said if they sold the site to another builder and they chose to develop it differently, then the retaining wall condition would require that they submit engineered plans and provide easements.

Petersen, Agnes. 222 S. 1st Street. Petersen is representing Ken Jillson and Keith Forsythe. She submitted a document into the record and discussed with the Commission what was included. Jillson owns ten acres and Forsythe owns fifty acres of property near the subdivision. Petersen wants to ensure that future land owners understand they are within a short distance to mining operations before they purchase the property. She said the only thing preventing future property owners from staring at the quarry are a few trees. Some future homes will be within 60 feet of Forsythe's mining operation. Petersen went through photos that demonstrate the proximity of the quarry to the lots. Petersen said these quarries are hard-rock quarries. They cause vibrations from blasting.

Petersen is requesting a Waiver of Remonstrance (WoR) that would require future property owners to waive their right to remonstrate against the existing mining operations, so long as they operate within the law. She explained that the WoR runs with the land and is recorded on the deed. She said this a reasonable request and well within the Commission's authority.

Petersen described the importance of aggregate and quarries in maintaining and building street networks in Oregon. Petersen said quarrying operations are heavily regulated and inspected by the state. Goal five protects their right to operate. On the flipside, Petersen said the consumers should also have the right to be notified. Petersen said that when a title examiner is gathering materials for the preliminary title report for a potential buyer, it is important that there is documentation of the mining operations that has been recorded with the County (e.g., WoR). If it is only on the final plat, the information may be lost.

Commissioner Cohen asked if the state has a required setback from mining operations. Petersen said it is 50 feet. Commissioner Cohen clarified that the current operations cannot expand any closer to the subdivision than they already are.

Jillson, Ken. 35091 Hankey Road. Jillson is not opposed to this project. He has owned a quarry and been mining for 42 years. Jillson would like potential buyers to be notified of their purchase up front. The City's proposal to include the notice on the plat will never be seen by the potential buyers because it is not picked up by the title company. Jillson does not want the subdivision to be filled with people who have not been notified about their operations (which are legally operating under state and federal laws). Jillson said he has to protect his property and resources.

Forsythe, Keith. 3329 Tide Creek Road, Deer Island. Forsythe owns the 50-acre quarry directly west to the subdivision. He wants to be good neighbors to the people who move in adjacent to this operation. He doesn't want to create 50 enemies because of a mining operation that has been in operation since before World War II. Forsythe said he is required to stay away from the Prairie Creek Road and Prairie Creek, so their operations cannot get any closer to the subdivision than they already are.

Geile, Erin. 35661 Spotted Hill Drive. Geile just bought her home. She loves it, but has no water pressure. Geile said on a good day, their pressure might hit 40 PSI. She said if it hits 25 PSI, the City will step in. Geile said they are at the top of the development, so they do not have enough draw. She said the City has told her that she can put in a private pump or they can ask the developer to fix the problem when they expand. She asked if there is any accommodation that the developer can make to increase her water pressure. Commissioner Cohen asked if she was the only one who has complained to the City about the low water pressure. She said everyone on her block has problems and she is not the only one who has complained.

REBUTTAL

Zoller, Mark. St. Helens Assets, LLC. Property Owner. Zoller said they did not develop the infrastructure of the existing lots. This is the first time he is hearing of the low water pressure issue in the existing lots. Zoller said for the lots they are developing, one of the solutions was to install individual pumps to increase water pressure. However, there were too many lots, so a booster pump became the solution. He said they just paid \$18,000 to design and engineer the booster pump. He does not know if it will increase the water pressure to existing lots as well as the new lots.

Zoller said he personally owns a 30-acre rock quarry in eastern Oregon, so he understands the permitting process. Zoller said giving potential buyers full disclosure is important, because he doesn't want buyers to come back and say they did not know there was a mine nearby. However, Zoller said he feels the method of notice may be wrong. Zoller said they have a disclosure document that states the mining operations in their Purchase and Sale Agreement. It requires a signature. Zoller said he doesn't feel a WoR is necessary. He has mixed emotions about the Commission's authority to prevent any future legal action on the mining operations with a WoR. He said it seems unconstitutional in some ways, but it may also protect them in the future. Zoller feels that the notice on the plat seemed like a good compromise.

END OF ORAL TESTIMONY

CLOSE PUBLIC HEARING

FURTHER QUESTIONS OF STAFF

Commissioner Lawrence asked about the scope of the decision being made tonight. Graichen said the Commission has the authority to approve the preliminary plat. Graichen said the applicant's change to condition 2(f), as included in the record, is pretty straight forward. Graichen said the condition to include the notice on the plat regarding mining is what the Commission needs to make a decision on. Two additional proposed conditions are included in testimony provided by Petersen. Commissioner Cohen asked if the City has a history of including Waivers of Remonstrance. Graichen said yes, particularly for the formation of Local Improvement Districts (LIDs) for street improvements.

Graichen said the Commission can leave the record open to allow the applicant to research and confirm the new proposed conditions. In particular, Graichen said the applicant is concerned about the accuracy of the specific deed references. The Commission asked those who already spoke to address the Commission and answer a few questions.

Petersen, Agnes. 222 S. 1st Street. Petersen said that the Commission could accept the proposal with the additional conditions as proposed tonight and require that the applicant verify and correct any incorrect deed references. She said incorrect deed references are not enough of a reason to continue deliberations.

Tull, Andrew. 3J Consulting, Inc. Applicant. The applicant would like to leave the record open so that

they can submit additional information into the record. Tull said they have concerns about the Waiver of Remonstrance requirement. They would like to consider a revised condition for the next meeting. Tull said they want to come to a mutually agreeable condition. Commissioner Cohen asked if the applicant would waive the 120-day rule. Tull agreed to extend the 120-day period for the additional time to leave the record open and continue the Commission's deliberations to next month.

Jillson, Ken. 35091 Hankey Road. Jillson hopes the wording on the deed continues onto each subsequent phase. He said it has been 22 years and this issue has still not been solved. He has to fly in from out of the country to ensure that his interests are represented. He wants his assets to be protected.

MOTION

Commissioner Cohen moved to leave the record open an additional seven days for the applicant, seven days for a response, and seven days for the final written argument from the applicant. Deliberations will continue on November 8, 2016 at or after 7:30 p.m. Commissioner Webster seconded. All in favor; none opposed; motion carries.

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Acceptance Agenda: Planning Administrator Site Design Review

- a. Site Design Review at Lots 1-16, Block 27 of the South St. Helens Addition - OHM Equity Partners, LLC

Assistant Planner Dimsho said there will be a revised version of this decision on next month's agenda.

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Planning Director Decisions

- a. Sign Permit (Banner) at 2100 Block of Columbia Blvd. - Kick-off Halloween Parade
- b. Home Occupation (Type I) at 48 Red Cedar St. - Cupcake bakery delivery business
- c. Sign Permit (Wall) at 58731 S. Columbia River Hwy - Replace existing Papa Murphy's sign
- d. Sign Permit (Wall) at 745 S. Columbia River Hwy - Replace gas station canopy signs
- e. Home Occupation (Type I) at 34966 Roberts Ln. - Home office/brewery
- f. Tree Removal Permit at 203 S. Columbia River Hwy - Remove six trees (2 clusters) along Milton Creek

There were no comments.

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For Your Information Items

There were no for your information items.

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There being no further business before the Planning Commission, the meeting was adjourned at 9:00 p.m.

Respectfully submitted,

Jennifer Dimsho
Planning Secretary

2016 Planning Commission Attendance Record

P=Present A=Absent Can=Cancelled

Date	Petersen	Hubbard	Lawrence	Cohen	Cary	Semling	Webster
01/12/16	P	P	P	A	A	P	P
02/09/16	A	P	P	P	P	P	P
03/08/16	P	P	P	A	P	P	P
04/12/16	P	P	P	P	P	P	P
05/10/16	P	P	A	P	P	P	P
06/14/16	P	P	P	P	P	A	P
07/12/16	P	P	P	P	P	P	P
08/09/16	CAN	CAN	CAN	CAN	CAN	CAN	CAN
09/13/16	P	P	P	P	P	P	P
10/11/16	P	P	P	P	P	P	P
11/08/16							
12/13/16							