

MINUTES OF PLANNING COMMISSION MEETING – January 15, 2013

Call to Order at 7:00 p.m.

Roll Call: The following Planning Commission members answered the roll call: Michele Kremers, Sean McDonald (after sworn in), Pat McMahon, Kim Sieckmann, Kirk Stempel, and Tamara Stempel.

Absent: None.

Staff: Clay Glasgow, City Planner; David Doughman, City Attorney; Jolene Morishita, and Assistant City Administrator.

Oath of Office:

Assistant City Administrator administered the oath of office to new Commissioners Sean McDonald and reappointed Commissions Patrick McMahan, and Kirk Stempel.

Election of Chair and Vice-Chair

Commissioner Kirk Stempel moved and Commissioner Kim Sieckmann seconded a motion to elect Commissioner Tamara Stempel as Commission Chair.

Motion carried unanimously.

Commissioner Kirk Stempel moved and Commissioner Pat McMahon seconded a motion to elect Kim Sieckmann as Commission Vice-Chair.

Consent Agenda:

1. Minutes of September 18, 2012; October, 2012 and December 18, 2012 Meetings

Commissioner Kim Sieckmann moved and Kirk Stempel seconded a motion to approve the consent agenda consisting of the minutes of September 18, 2012 as presented; October 16, 2012 as revised (p.1-5, Kim Sieckmann); and December 18, 2012 as presented.

Motion carried unanimously.

Regular Agenda:

- 2. Public Hearing: Z0276-12-D, excavation and removal of approximately 37,000 yards of previously placed fill to be replaced with a like amount of structurally sound fill material. Property is along the Clackamas River, adjacent to McLoughlin Boulevard (just south of Walgreen's). This item was originally scheduled for review June 19, 2012, then continued due to judicial interpretation(s) of the Endangered Species Act relative to floodplain administration. Applicant has subsequently received conditional FEMA recognition of map revision to remove property from floodplain designation.** Chair Tamara Stempel opened the hearing at 7:09. She explained the hearing format and asked if there were any ex-parte contacts or conflicts of interest to declare. There were none. Commissioners were asked if they visited the site. Commissioners Kim Sieckmann, Kirk Stempel, and Patrick McMahon visited the site. Chair Tamara Stempel asked the audience if they wished to make a challenge

of any council member's impartiality or ability to participate. There was no response. She asked if there were any objections to the Council's jurisdiction to consider this matter. There was no response.

Commissioner Kirk Stempel left the meeting at 7:10 p.m.

Staff Report: City Planner Glasgow submitted a staff report for Commission review. This hearing was scheduled for June 19, 2012; however, a delay was caused by the County becoming aware of certain issue relative to the Endangered Species Act relative to FEMA's application of flood plain regulations. There have been several suits filed because it is felt the flood plain regulations do not adequately address Endangered Species Act regulations. Until this information is resolved there is no way to process this application.

The applicant went through a FEMA process to take a closer look at the subject property and make a determination that it was not in the flood plain at all. They were successful and received a conditional letter of a map revision from FEMA showing the property is by elevation out of the 100-year flood plain and therefore removing the Endangered Species Act issue.

This application is going through design review because it can be interpreted as development even though there are no buildings or development beyond taking out fill and replacing it with structurally sound fill. After the 1996 flood there was a large amount of fill dumped on the property. The county issued a grading permit for a small portion of the property; that grading permit was never finalized. Walgreens found the fill was inadequate for future development of the sites approved in a master plan previously. The applicant's proposal is to remove a portion of that fill (37,000 cubic yards) and replaced with the same amount of clean engineered fill to prepare the site for buildings, parking, etc.

The Planning Commission is authorized to approve design review applications pursuant to Subsection 17.94.060(2)(c) of the GMC. Staff recommends the Planning Commission approve this application based on the submitted application materials and discussion at the public hearing subject to conditions as presented.

Kirk Stempel returned to the meeting at 7:16 p.m.

Questions from the Commissioners:

- When Walgreens was developed, was the fill taken out and replaced at that time. Answer: Chair Tamara Stempel said yes.
- Did staff see anything that was prohibited in the design review process? Answer: City Planner Glasgow said no.

Applicant Presentation: Craig Harris, Partner, AAI Engineering, 4875 SW Griffith Drive, Suite 300, Beaverton 97005 has read and agrees with the staff report. Walgreens was not on the fill area, it was in the old Bowling Alley area. They are removing undocumented fill and putting in good fill so more development can be brought to the site.

Questions from the Commissioners:

- What is the difference between undocumented fill and engineered fill? Answer: Mr. Harris stated the undocumented fill consisted of material that was not compacted, hay-bail material, wood, car parts, etc. With this type of fill it doesn't settle correctly and does not provide stability because of the decay in the ground. Their engineer has given them direction to remove four feet and bring it back up to bridge other components.

There were no further questions from the Commission.

Public Testimony in Favor: None

Public Testimony in Opposition: None

Applicant Rebuttal: None

Commissioner Pat McMahon moved and Commissioner Kim Sieckmann seconded a motion to close the public hearing.

Motion carried unanimously.

Commission Discussion:

Commissioner Kim Sieckmann moved and Commissioner Pat McMahon seconded a motion to recommend to City Council approval of Z0276-12-D, Excavation and removal of approximately 37,000 cubic yards of fill, to be replaced with like amount of structurally sound fill with the conditions 1-5 proposed by staff.

City Planner Glasgow noted there were comments submitted into the file from the Fire Department and the neighboring property owner from the east (Craig Danielson through Bruce Goldson) submitted discussion and conditions which were included in the proposed conditions to leave a buffer and insure there is not sheet flow coming off the property onto the Danielson site.

Motion carried unanimously.

Other Business:

Len Nelson, 6950 Winfield Court asked the Commission to discuss the possibility of regulating residents selling product from their front yard, driveway, or in front of their business. Arlington Market has been getting comments for several years. He asked if it was possible that anyone in the City of Gladstone that has a retail business, anything sold through that business has to be inside the structure. No storage on the sidewalk, beside the structure only inside the structure. Garage sales are regulated by time and other regulations; however those that are selling items displayed on their yards is not regulated.

City Attorney Doughman recommended consideration of a city-wide regulation, not directed to specific residents. City Planner Glasgow explained within the commercial zones it indicates sales are to be conducted wholly within an enclosed building with the exception of displayed merchandise along the outside of a wall of a building provided such display does not extend more than three feet from the walls and does not obstruct pedestrian, bicycle access, emergency access, or off-street parking areas. In the residential zones there are requirements in the yard sale/garage sale ordinances. This is an enforcement issues and the codes need to be enforced.

It was decided that Councilor Nelson will address the issue with Council.

Councilor Kim Sieckmann reported Council approved the zone change from residential to commercial based on need that was denied by the Planning Commission. He questions whether the Planning Commission needs to make commercial zone changes at the City level rather than on a piece-by-piece property level. Staff was asked to see if Council would like the Planning Commission to consider this issue.

Upcoming Commission Considerations:

City Planner Glasgow reported the Commission will be receiving an application for a new apartment complex (100 to 160) on the property adjacent to and north of the proposed library site.

Business from the Commission:

- Chair Tamara Stempel reported she was appointed to the Clackamas County Economic Development Commission. She asked if the Commission has any issues they would like her to take to that Commission to let her know.
- Chair Tamara Stempel reported the City received a letter from Aaron Huddard who is resigning from the Planning Commission and Budget Committee effective immediately.

Adjourn:

Commissioner Kim Sieckmann moved to adjourn the Planning Commission meeting. Commissioner Pat McMahon seconded the motion.

Motion carried unanimously.

Minutes approved by the Planning Commission this 16TH day of JULY, 2013.

 Tamara Stempel, Chair