

## GLADSTONE PLANNING COMMISSION MEETING MINUTES OF FEBRUARY 21, 2023

Meeting was called to order at 6:30 P.M. (In Person and via Zoom)

### **ROLL CALL:**

Chair Natalie Smith, Commissioner Pat Smith, Commissioner Andrew Labonte, Commissioner Thomas Mersereau, Commissioner Jennifer Volbeda, Commissioner Jacob Wease, Commissioner Andriel Langston

### **ABSENT:**

None

### **STAFF:**

Heather Austin, Senior Planner; Josh Soper, City Attorney; Tami Bannick, City Recorder

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### **CONSENT AGENDA:**

#### **1. APPROVAL OF JANUARY 17, 2023 MEETING MINUTES:**

*Commissioner Volbeda made a motion to approve the Consent Agenda. Motion was seconded by Commissioner Labonte. Ms. Bannick took a roll call vote: Commissioner Volbeda – yes. Commissioner Wease – yes. Commissioner Langston - yes. Commissioner Labonte – yes. Commissioner Pat Smith – yes. Commissioner Mersereau – yes. Chair Smith – yes. Motion passed with a unanimous vote.*

### **REGULAR AGENDA:**

#### **2. MONTHLY PLANNING REPORT – JANUARY, 2023:**

Ms. Austin said they had one pre-application meeting and several building permits. At the last meeting it was requested that she provide information regarding a tree house building permit – she shared a slide of the project at the corner of Arlington/Harvard. It has not been approved yet.

#### **3. CONTINUED PUBLIC HEARING: FILE Z0489-22-M, PROPOSAL TO DIVIDE PROPERTY LOCATED AT 18340 CORNELL PLACE INTO TWO LOTS; ONE WITH ROAD FRONTAGE ON CALDWELL ROAD AND ONE WITH ACCESS FROM CORNELL PLACE:**

Chair Smith opened the public hearing at approximately 6:34 P.M.

Ms. Austin said this is a continuance of the public hearing that was held on January 17, 2023. At the last meeting the Planning Commission asked staff to provide evidence that past partition decisions required public improvements such as those proposed for recommended conditions of approval with this application, so two application decisions were submitted to the Planning Commission. The second request was to provide a rough estimate of the cost for the applicant to obtain the construction plan approval – it came in between \$3,000 - \$7,500. The third request was to verify that the City is acting legally in applying special condition #8 to the partition approval – she provided findings in the staff report and the City Attorney has also reviewed this. She shared some slides. Staff continues to recommend approval of this partition with the previously stated conditions of approval.

#### **APPLICANT TESTIMONY:**

Kevin Johnson said he read the examples of partitions that are supposedly similar to this, however, he doesn't feel they are treated at all the same. He went over the reasons why he feels this way. He said it is not the job of the City to require them to do engineering and bond this partition just to sell a vacant lot. He feels the Planning Commission can find the staff recommendations unreasonable. He obtained an estimate for the cost involved – it was approximately \$45,000 if the manhole is required, including the engineering.

Ms. Austin said, regarding the statement about the previous partitions having the condition that the installation of improvements be complete at time of occupancy of the home, because that is what they are recommending here. She said their cost estimates are in the same place and what they're looking for prior to final plat is just the engineering and the assurances in whatever form the applicant would want to do. She maintains that it is consistent with past recommendations and with the laws regarding land use applications. They don't distinguish who submits an application – it can be a developer, property owner, consultant, etc.

Chair Smith said she doesn't believe they've ever required a bond. Ms. Austin said the City does require assurance, whether it's a deposit or a bond, to guarantee that the work will be done once the engineering plans are approved. It's not always explicitly written into the conditions of approval – it may read something like "obtain engineering and public works approval of public improvements". Any actual construction on the site would occur after the final plat is approved and the applicant or new owner is starting to build a home and put in the curb/storm improvements. Commissioner Labonte said the City is asking that if another residence is being added that they prove that it's not going to have an adverse effect on the current system that's in place.

Mr. Johnson said the City has the ability, in the permitting process, to make sure everything is done to their standards – there is no reason that it has to be done beforehand in order to sell a vacant piece of land. There was further discussion. Ms. Austin said again that they are just looking for the engineering plans and the assurances, so no actual construction is required prior to platting. There was further discussion. Commissioner Volbeda feels they are putting the burden of due diligence on the seller and not the buyer.

Mr. Soper said regarding precedent that you are not bound by your prior decisions – your obligation is to interpret the City Code and apply it correctly, even if a previous Planning Commission made a mistake. Their task tonight is to interpret that section of the Code that was referenced in the staff report about when these improvements are to be required – before the final plat or before the final certificate of occupancy. Ms. Austin added that they are only looking at the public improvements (curb, road overlay, and storm catch basin) – nothing on the property itself is being required before the time of development of the home. Chair Smith said she couldn't find anything specific to a vacant lot/wanting to divide in the code that is clear, and it is too vague. Moving forward, she wants to do things right. Ms. Austin agreed that moving forward, that could be something the Planning Commission takes on.

Mr. Johnson asked if the vacant lot has to have a final plat recorded before it's a sellable lot – Ms. Austin said that is correct.

There was further discussion.

Commissioner Wease feels the recommendation is in line with what's in the code right now. Commissioner Labonte agreed. Commissioner Pat Smith said his main concern is that they are executing what they're doing here based on their mission statement, which is to keep things within

the rules of the road and to do the best for the City. He fails to see why this is a roadblock for the applicant.

Mr. Johnson asked where this is in the code – Ms. Austin said it comes under GMC 17.96.010. She read that section of the code. She went over the next steps for the applicant.

Chair Smith said if there were any special conditions that she would like to see done would be exactly what was done on the Glen Echo project and nothing more. Ms. Austin said that would be taking it a step further than what is being recommended already.

There was further discussion.

**PUBLIC TESTIMONY:**

Kim Sieckman asked if six or eight housing units could be put on the property without any of this – Ms. Austin said the maximum would be a quad-plex under the middle housing provisions, and in that case you would apply the sufficient infrastructure standards.

Mr. Sieckman doesn't know that all of these codes that were listed apply. He doesn't believe Mr. Johnson meets the definition of a "contractor" or "developer". He went over further points. He questions if staff's recommendations are right on this time.

*Commissioner Pat Smith made a motion to close the public hearing. Motion was seconded by Commissioner Langston. Ms. Bannick took a roll call vote: Commissioner Mersereau – yes. Commissioner Pat Smith – yes. Commissioner Labonte – yes. Commissioner Langston – yes. Commissioner Wease – yes. Commissioner Volbeda – yes. Chair Smith – yes. Motion passed with a unanimous vote.*

The public hearing was closed at 7:37 P.M.

Further discussion:

Commissioner Mersereau said he supports the opinions of Mr. Sieckman and Mr. Johnson. Ms. Austin said the code changed with the middle housing requirements by State law that they remove design review from duplexes – it's never been required of single-family detached, so regardless of what's being proposed to be built on this lot, they will not see it for design review. Commissioner Volbeda feels that the financial burden lays on the future developer of the site.

*Commissioner Volbeda made a motion to approve application Z0489-22-M with the revision to special condition #5 to "...upon recording of the final certificate of occupancy"; not the final plat, including the submission of the as-builts plans to the City of Oak Lodge. Motion was seconded by Commissioner Langston.*

*Commissioner Volbeda made a motion to reopen the public hearing for Z0489-22-M. Motion was seconded by Commissioner Pat Smith.*

Mr. Johnson asked about the special conditions of approval. Chair Smith said there would be no bond. Commissioner Volbeda said that all special conditions would be tied to the City of Oak Lodge, not to the final plat. Ms. Austin said at that point the improvements would be required rather than any kind of assurity. She said it is standard procedure to require a bond. She wants it to be clear that no promises were made that no assurances will ever be required.

*Commissioner Langston made a motion to close the public hearing. Motion was seconded by Commissioner Labonte. Ms. Bannick took a roll call vote: Commissioner Volbeda – yes. Commissioner Wease – yes. Commissioner Langston – yes. Commissioner Labonte – yes. Commissioner Pat Smith – yes. Commissioner Mersereau – yes. Chair Smith – yes. Motion passed with a unanimous vote.*

*Commissioner Volbeda made a motion to approve application Z0489-22-M with the revision to special condition #5 to "...upon recording of the final certificate of occupancy"; not the final plat, including the submission of the as-builts plans to Oak Lodge Water Services. Motion was seconded by Commissioner Langston. Ms. Bannick took a roll call vote: Commissioner Mersereau – yes. Commissioner Pat Smith – yes. Commissioner Labonte – yes. Commissioner Langston – yes. Commissioner Wease – no. Commissioner Volbeda – yes. Chair Smith – yes. Motion passed (6-1).*

**4. PUBLIC HEARING: FILE DR-23-01, PROPOSAL FOR DESIGN REVIEW APPROVAL FOR AN EXPANSION TO THE EXISTING GLADSTONE NISSAN SITE, 19505 MCLOUGHLIN BLVD.:**

Chair Smith opened the public hearing at 7:50 P.M. She asked if there were any abstentions – there were none. She asked if there were any conflicts of interest – there were none. She asked if there were any ex parte contacts and if the Commissioners had visited the site – there were no ex parte contacts. All the Commissioners have driven by the site.

Chair Smith said this is an item in which they will be receiving public testimony. If you testify you must raise all issues you wish to address at this hearing. If your issue is not raised at this hearing it cannot be raised later in any appeal. Your comments should state why the application should or should not be approved and include your proposed modifications you believe are necessary for approval according to the standards. Because this is the initial evidentiary hearing state law grants any party the right to request a continuance of this hearing or ask that the record remain open after the hearing is closed. If you do not raise specific issues at the final evidentiary hearing or by the close of the record or fail to provide statements or evidence to allow the local government or its designee to respond to the issue you will not be able to appeal the decision to the Land Use Board of Appeals based on that particular issue. Failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to allow the local government or its designee to respond to the issue precludes an action for damages in circuit court.

Ms. Austin went over the staff report. The proposed project is to add approximately 2,200 square feet in a one-story addition on the rear of the existing dealership building. Also proposed is a 227 square foot enclosed storage shed on the south side. There are also improvements to the frontages of the building. This project is in the C-3 zoning district. The site is not subject to any environmental overlays. Public notice was sent out to the applicant/owner, owners of property within 250 feet of the subject site, as well as the public agencies listed. No response was received from members of the public. The Public Works/Engineering Department's email stated that all public improvements are completed around this site and utilities can be addressed during the building permit phase. In this zone they do allow outright automobile service station, which this does include a service component on the rear, car wash or repair garage, body/fender paint shop, and sales of new and used vehicles.

She went over the new concept/renderings of improvements/changes. Staff's recommendation is to approve this design review application with three special conditions of approval in addition to

the standard conditions of approval. A photometric plan needs to be submitted so they insure it's meeting the code requirements for foot candle lighting on the site, as well as not shining off because there is residential housing across River Road in the rear of the property. There was a slight deficiency in the site landscaping, so they are recommending that the minimum of what is there now be met. There is a code section requiring improvement be made according to Tri-Met's long-range plan because the site is adjacent to a transit stop.

Commissioner Pat Smith asked if there are any street closures planned during construction. Ms. Austin was not sure. He asked about page 4-19 – if the sign was an artist rendering because it appears to be taller than the building. Ms. Austin said it is an artist rendering, but there are no signs being approved with this application.

**APPLICANT TESTIMONY:**

Kevin Godwin, SG Architecture, said they don't anticipate any street closures during construction. They don't anticipate the sign being changed. He said they agreed with the staff recommendations.

*Commissioner Labonte made a motion to close the public hearing. Motion was seconded by Commissioner Pat Smith. Ms. Bannick took a roll call vote: Commissioner Volbeda – yes. Commissioner Wease – yes. Commissioner Langston – yes. Commissioner Labonte – yes. Commissioner Pat Smith – yes. Commissioner Mersereau – yes. Chair Smith – yes. Motion passed with a unanimous vote.*

Public hearing was closed at 8:02 P.M.

*Commissioner Langston made a motion to approve design review application DR-23-01 with the recommended findings, standard conditions, as well as the special conditions 1, 2, and 3. Motion was seconded by Commissioner Volbeda. Ms. Bannick took a roll call vote: Commissioner Mersereau – yes. Commissioner Pat Smith – yes. Commissioner Labonte – yes. Commissioner Langston – yes. Commissioner Wease – yes. Commissioner Volbeda – yes. Chair Smith – yes. Motion passed with a unanimous vote.*

**5. PUBLIC HEARING: FILE TXT-2022-02, GLADSTONE DOWNTOWN REVITALIZATION PLAN PROPOSED AMENDMENTS TO TITLE 17 OF THE GLADSTONE MUNICIPAL CODE (GMC) AND NEW DOWNTOWN OVERLAY ZONE:**

Chair Smith opened the public hearing at approximately 8:04 P.M. She asked if there were any abstentions – there were none. She asked if there were any conflicts of interest – there were none.

She asked if there were any ex parte contacts – there were none.

Chair Smith said this is an item in which they will be receiving public testimony. If you testify you must raise all issues you wish to address at this hearing. If your issue is not raised at this hearing it cannot be raised later in any appeal. Your comments should state why the application should or should not be approved and include your proposed modifications you believe are necessary for approval according to the standards. Because this is the initial evidentiary hearing state law grants any party the right to request a continuance of this hearing or ask that the record remain open after the hearing is closed. If you do not raise specific issues at the final evidentiary hearing or by the close of the record or fail to provide statements or evidence to allow the local government or its designee to respond to the issue you will not be able to appeal the decision to the Land Use Board of Appeals based on that particular issue. Failure of the applicant to raise constitutional or other

issues relating to proposed conditions of approval with sufficient specificity to allow the local government or its designee to respond to the issue precludes an action for damages in circuit court.

Ms. Austin said they have Jon Pheanis from MIG and John Southgate, the City's consultant present tonight. Mr. Pheanis gave a presentation. He went over some of the changes that City staff have recommended to the proposed amendments that they last saw in November of 2022. In 2017 the City adopted the Downtown Revitalization Plan – it set a lot of direction for improvements, land use, circulation, transportation, etc. One of the key recommendations was to eventually make some revisions to the zoning code, specifically the C-2 zoning district and adding a new overlay district for the Downtown core. In Spring of 2022 the City hired MIG to look at the amendments. They held a community open house in June of 2022 to hear from the community regarding what they would like to see. They reported back to the Planning Commission in July of 2022 and had a work session to discuss the proposed draft. They held a public hearing in November of 2022 and the Planning Commission recommended approval of the proposed amendments, with one minor change related to the street names. City staff provided additional review and noticed minor changes that needed to be made. Because of those changes it is coming back before the Planning Commission tonight before it goes to City Council. He went over the changes. He said that a lot of the changes have to do with the clear and objective standards for needed housing. He went over the clarifications/changes. There were no changes to the C-2 chapter. They are asking the Planning Commission to make a recommendation to City Council – they will hold their public hearing on March 14<sup>th</sup>.

Mr. Southgate said that after the hearing in November they heard about an intriguing project in the downtown area to have a food cart pod and a new building housing an eatery/food service/brew pub. That gave them an opportunity to look at allowing an exception to the building orientation requirements. He went over the proposed revisions.

Commissioner Pat Smith said a citizen (Mr. Marsh) had written and asked that they consider modifying or eliminating window and transparency requirements – he asked what the arguments are. Mr. Southgate believes the concern related to “upper floor window orientation has to align in its width with lower floor windows”. Mr. Marsh said this could reduce the number of units that could be placed. Commissioner Pat Smith asked about the request to consider the elimination of a 15-foot ceiling minimum on first-floor requirements. Mr. Southgate said that Mr. Marsh's position is that there may be suitable retail uses that support a healthy sidewalk experience but don't necessarily need 15 feet. He agrees that it's simpler and cleaner to say four stories and fifty feet regardless of the ground floor height. He said traditionally retail spaces are taller than the typical residential floor. Mr. Pheanis agreed. He said the real purpose for this one ties back to the Downtown Revitalization Plan. He said they realized that the kind of store front retail aren't necessarily the most viable use in a lot of cases, so pulling that back a little bit and perhaps require more flexibility in what could take place in a ground floor, but still encourage more of a store front feel. The goal of this requirement is to allow some flexibility in uses. He said 15 feet is an industry standard.

Commissioner Labonte asked how a buffer zone works. Mr. Southgate believes that provision is incorporated in the code – along the edges of the Downtown Overlay Zone taller buildings have to be set back some distance. Mr. Pheanis said they have the step-down building transition, so that was one of the clarifications/modifications in the packet. There is a provision to require that transition in design for taller buildings (page 5-36).

Commissioner Labonte asked for clarification regarding parking minimums because of the proximity to 99E/transit route – Mr. Southgate confirmed that they cannot require the minimums. He said there may be a need for a parking management plan to control parking.

**PUBLIC TESTIMONY:**

Craig Lewelling (160 W. Clackamas Boulevard/165 Arlington) said he would like to be included in the overlay zone. He asked if they could push it out to Clackamas Boulevard. Mr. Southgate said it would require some text and map changes. He said it could have a potential effect on traffic. Mr. Pheanis gave some history regarding the area included in the overlay zone. Mr. Lewelling said the parking issue is a problem for them. Mr. Southgate suggested that if the Planning Commission supports this request they could do a quick determination of the effect of the rules regarding parking. They went over some scenarios for the building/business. Ms. Austin went over the parking rules.

Michael Maxwell believes the overlay should be expanded to include all of C-2. He said for development purposes you need larger pieces of property in the overlay. Mr. Southgate said he agrees, but the challenge they faced is that it was potentially a large enough area that additional traffic that could be generated by major redevelopment of a much larger geography started to trigger concerns about traffic impacts. Mr. Pheanis said they discussed this at the time and agreed to extend east and west to encompass at least the extent of the C-2 zone, so that's what's in the current proposal. The goal was to follow along with a lot of the planning and analysis that was done at the time to consider how we keep this compact. If they are going to add more housing/employment there's a possibility that the transportation network that the City has planned out might not be able to accommodate that growth.

Ms. Austin said the recommendation remains to recommend approval to the City Council with the changes proposed tonight. She said there will be conversations between now and the Council meeting regarding the boundaries and staff won't be able to alter the Planning Commission's recommendation, but they can add additional staff recommendations into that packet based on conversations and what they heard tonight from the Planning Commission regarding the parking mandates. They would want to make sure they did a transportation impact analysis. She recommends moving forward with the boundary as shown, and if they decide to expand it, they would do the analysis and they can always expand the boundary moving forward.

Mr. Southgate said this is a really important set of revisions. He feels they will have ample opportunity to expand the overlay zone. He hopes the Planning Commission will support this so they can get this on the books and then see what happens with private development.

*Commissioner Pat Smith made a motion to close the public hearing. Motion was seconded by Commission Langston. Ms. Bannick took a roll call vote: Commissioner Volbeda – yes. Commissioner Wease – yes. Commissioner Langston – yes. Commissioner Labonte – yes. Commissioner Pat Smith – yes. Commissioner Mersereau – yes. Chair Smith – yes. Motion passed with a unanimous vote.*

Public hearing was closed at 8:51 P.M.

Commissioner Wease asked if there will be any notification to anyone in the adjacent areas before the City Council meeting – Ms. Austin said there will be no more public notice sent. The notice they sent for this meeting also applies to the City Council meeting because they noted the date certain of March 14<sup>th</sup> at this hearing.

Commissioner Labonte said he is still not swayed – he doesn't believe that the taller buildings are going to be good for our city. He is very concerned about this decision and how it impacts the future of Gladstone. He doesn't feel like this is the original plan and he has a very hard time supporting it.

*Commissioner Pat Smith made a motion to approve File TXT-2022-02 with the recommended code amendments to include the C-2 zone, Chapter 17.18, and a new Chapter titled DC Downtown Core Overlay Zone. Motion was seconded by Commissioner Langston. Ms. Bannick took a roll call vote: Commissioner Mersereau – yes. Commissioner Pat Smith – yes. Commissioner Labonte – no. Commissioner Langston – yes. Commissioner Wease – no. Commissioner Volbeda – yes. Chair Smith – yes. Motion passed (5-2).*

**BUSINESS FROM THE PUBLIC:**

None.

**BUSINESS FROM THE PLANNING COMMISSION:**

**Commissioner Volbeda:**

She said at some point she would like to discuss some strategic planning for the upcoming months.

**Commissioner Pat Smith:**

He said the Commission worked their way through tonight's agenda as pros and it's a pleasure to work with people such as these.

**Chair Smith:**

She agreed with Commissioner Pat Smith. She said it was challenging, but they found their way through it in a very professional manner and she's proud of everyone.

**ADJOURN:**

*Commissioner Langston made a motion to adjourn the meeting. Motion was seconded by Commissioner Volbeda. Ms. Bannick took a roll call vote: Commissioner Volbeda – yes. Commissioner Wease – yes. Commissioner Langston – yes. Commissioner Labonte – yes. Commissioner Pat Smith – yes. Commissioner Mersereau – yes. Chair Smith – yes. Motion passed with a unanimous vote.*

Meeting was adjourned at approximately 8:58 P.M.

Minutes approved by the Planning Commission this 21 day of March, 2023.

  
Natalie Smith, Chair