

GLADSTONE PLANNING COMMISSION MEETING MINUTES OF APRIL 18, 2023

Meeting was called to order at 6:35 P.M. (In Person and via Zoom)

ROLL CALL:

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

ABSENT:

Commissioner Andriel Langston

STAFF:

Heather Austin, Senior Planner; David Doughman, City Attorney; John Schmerber, Police Chief; Matthew Okerman, Police Sergeant; Tami Bannick, City Recorder

CONSENT AGENDA:

1. APPROVAL OF MARCH 21, 2023 MEETING MINUTES:

Commissioner Volbeda made a motion to approve the Consent Agenda. Motion was seconded by Commissioner Wease. Ms. Bannick took a roll call vote: Commissioner Volbeda – yes. Commissioner Wease – 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 – MARCH 2023:

Ms. Austin said the report is included in the packet. There was a slight reduction in customer phone/email contacts due to a week off for spring break.

3. CONTINUED FROM MARCH 21, 2023: APPEAL OF HOME OCCUPATION PERMIT – ADAM BAKER TOOL COMPANY - 7470 CASON CIRCLE:

Ms. Austin gave some background. The Ormes had appealed the home occupation permit that was issued by the City. At the March 21, 2023 meeting there was testimony from Adam Baker (as well as written testimony from his attorney), Mr. Orme, and some of his neighbors. The Planning Commission closed the public testimony portion of the hearing and took a vote, coming up with a 3-3 tie whether to overturn the City's decision regarding the home occupation. Tonight they will continue to discuss the topic and whether the City's administrative decision to grant the home occupation business license should be overturned or upheld.

The home occupation business license criteria were met, as determined by the City Administrator when the permit was issued at the beginning of 2023. The City staff report that was provided for the March meeting continues to find that the home occupation criteria are met in this case. At the March meeting there was a question brought up about the clear vision triangle at the corner of Cason Circle – that was forwarded to Code Compliance, but it is not a requirement of the home occupation criteria. Staff continues to find that the home occupation criteria are met.

PUBLIC TESTIMONY:

George Orme said that Mr. Baker's business has changed the look of the neighborhood. He requests that Mr. Baker move all his business vehicles to the address in Damascus and not have them in this neighborhood. He said there are still trucks making deliveries to the home.

Discussion:

Commissioner Pat Smith asked Mr. Doughman for comments regarding the letter received from the law firm representing Mr. Baker. Mr. Doughman said he agreed with the conclusions of the Barnet Firm. He said the charge of the Planning Commission is to consider the facts and the evidence presented and to limit their decision based on what the criteria are. The staff report recommends that the Planning Commission reject the appeal and approve the permit. If there is a denial, the Planning Commission would need to confine its decision to what the relevant criteria are for home occupation.

Commissioner Pat Smith said the first paragraph of the Snap-On Tool website franchise agreement states "Snap-On Tools, LLC, offers a license to operate a franchise retail mobile store selling high quality repair and diagnostic tools and equipment". He said it's a mobile business - not a business taken care of out of his own home. He said the GMC 17.78, Home Occupation, page 3-14, #4 says "All aspects of the conduct of a home occupation shall be confined, contained, and conducted within the dwelling or with a completely enclosed accessory building". He said Mr. Baker does all his selling off-premises, so he doesn't feel it meets the criteria of a home operated business. #7 on page 3-14 says: "The premises shall at all times be maintained as residential in appearance, cleanliness, and quietness" - he said that's the neighbors' main objection to allowing it to continue as a home business.

Ms. Austin agreed that #4 does make it seem that it all needs to be within the house/garage. She said #5 does allow you to have a vehicle. She said #7 is a very subjective standard, so that is for the Planning Commission to decide.

Sgt. Okerman explained that Mr. Baker operates the franchise as a mobile sales business, so his sales headquarters is done out of the residence (invoicing, payments, etc.). He does store some goods as they are received, sorts them in his garage and shed, and loads his truck from that stock. He parks the truck at the residence, drives his truck away and does his rounds to sell the tools, then returns home and parks the truck again. He doesn't make any sales from home.

Commissioner Labonte said it seems like things are becoming contentious in the neighborhood. He understands the neighbors' complaints. He said as a business grows you need the appropriate area. He asked if the RV is registered to the business - Sgt. Okerman said all the vehicles are registered to Mr. Baker or his wife, except for the business trucks/trailer. He asked if Mr. Baker was doing any kind of mechanic work there - Sgt. Okerman said Mr. Baker doesn't do any work for other people, but he works on his own vehicles. Sgt. Okerman said he is allowed to have the truck parked in his driveway and receive deliveries of goods. If he has the home occupation business then he would be prohibited from having an employee show up there. If it's not granted and he retains the place in Damascus, he would be allowed to have an employee come to the house and carpool. Sgt. Okerman said that Mr. Baker has recognized that the neighbors were concerned with his operation and that's why he built the second driveway and was able to park the trailer behind the front set-back of the house to try and hide it.

Commissioner Wease feels that if they approve the home occupation that Mr. Baker actually has more guidance around what he can do.

Commissioner Mersereau said he still stands firmly on the appeal.

Commissioner Labonte doesn't love the options. He isn't confident that Mr. Baker will be moving his vehicles to the other location because he wouldn't have to.

There was further discussion regarding parking/options.

Commissioner Wease asked if they could refund the fee for the petition to the Ormes if this doesn't go the way that they had hoped. Ms. Bannick and Mr. Doughman said typically that is not done.

Commissioner Volbeda made a motion to close the public hearing. Motion was seconded by Commissioner Mersereau. Ms. Bannick took a roll call vote: Commissioner Volbeda – yes. Commissioner Wease – yes. Commissioner Labonte – no. Commissioner Pat Smith – yes. Commissioner Mersereau – yes. Chair Smith – yes. Motion passed (5-1).

Chair Smith closed the public hearing.

Discussion:

Chair Smith re-read the criteria from 17.78. Commissioner Pat Smith went over #4 again. Chair Smith said there is zoning for a reason, and this is all R-7. Commissioner Wease said that 17.78 applies to R-7 zoning as well. Chair Smith doesn't feel that this business fits the criteria. Commissioner Labonte said that if it's a home occupation business then the City has some input. He feels for the neighbors. Commissioner Pat Smith said Mr. Baker is operating a warehouse/distribution center at the residence as well as a sales office. Chief Schmerber said nothing restricts deliveries. There was further discussion regarding the other location, options, reasons for the license, etc.

Ms. Austin asked about the possibility of changing the code to require a review each year prior to reissuing a business license to insure compliance with criteria and if Mr. Baker would be grandfathered in. Mr. Doughman didn't think it would be non-conforming and therefore, if you had new criteria he would be subject to that.

Commissioner Volbeda asked if they could approve it on a temporary basis to see if Mr. Baker is following the code, then review it after six months. Ms. Austin said the code says a home occupation shall remain valid indefinitely. Mr. Doughman agreed and said they could have conditions that are meant to ensure that the criteria are met, such as appearance.

Commissioner Volbeda made a motion to adhere to the City staff with approving the home occupation permit with the condition of approval to uphold the residence as residential in appearance. Motion was seconded by Commissioner Wease. (Mr. Doughman clarified that a yes vote would be to deny the appeal and to uphold the approval from staff. A no vote means they would grant the appeal and the City should not have approved the home occupation in the first place and void the original approval.) Ms. Austin clarified that the condition would be linked to sub-criteria #7, that the premise shall, at all times, be maintained as residential in appearance, cleanliness, and quietness.)

There was discussion regarding quietness, residential, etc.

Ms. Bannick took a roll call vote: Commissioner Mersereau – no. Commissioner Pat Smith – no. Commissioner Labonte – yes. Commissioner Wease – yes. Commissioner Volbeda – yes. Chair Smith – no. (The motion did not carry (3-3)).

Mr. Doughman went over their options. They can wait until they have a quorum and vote again. They could say the initial approval was denied, so it would basically cancel out staff's approval initially, uphold the appeal, and the applicant could appeal the decision to the City Council. Ms. Austin said the appeal was received on February 1st, so the deadline would be June 1st. Chair Smith said she would like to say it is denied and have the applicant go before the City Council. Mr. Doughman said the appeal would have to be filed by the applicant. He said they could vote again to see if someone changed their vote.

Commissioner Pat Smith made a motion to vote again. Motion was seconded by Commissioner Wease. Ms. Bannick took a roll call vote: Commissioner Volbeda – yes. Commissioner Wease – 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 uphold the City in approving the home occupation, therefore rejecting the appeal for the home occupation of Adam Baker Tool Company with the condition of approval of maintaining an appearance as a residential zone. Motion was seconded by Commissioner Pat Smith. Ms. Bannick took a roll call vote: Commissioner Mersereau – no. Commissioner Pat Smith – yes. Commissioner Labonte – yes. Commissioner Wease – yes. Commissioner Volbeda – yes. Chair Smith – no. Motion passed (4-2).

Mr. Doughman said they will get a written decision together. Both sides will have the opportunity to appeal the decision to the City Council if they desire.

There was a five-minute recess – reconvened at 7:45 P.M.

4. PUBLIC HEARING: FILE DR-23-03, DESIGN REVIEW TO RENOVATE AND ADD A VESTIBULE TO THE EXISTING PUBLIC WORKS BUILDING. PORTLAND AVENUE STREET IMPROVEMENTS FOR VEHICULAR AND PEDESTRIAN CIRCULATION AND PARKING, 18595 PORTLAND AVENUE, CITY OF GLADSTONE:

Chair Smith opened the public hearing at 7:46 P.M.. She asked if there were any abstentions or any conflicts of interest. Commissioner Volbeda declared that she knows one of the project executives for P&C, but she does not believe that will cloud or hinder her judgment in any way. There were no others. She asked if there were any ex parte contacts – there were none. She asked if the Commissioners had visited the site. All the Commissioners had been by it.

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 or include your proposed modifications you believe are necessary for approval according to the standards. Because this is the initial evidentiary hearing, State laws grant 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 any specific issues at the final evidentiary hearing or by 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 (LUBA) 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/Power Point presentation. This is a design review application for the Gladstone Public Works building renovation. The proposal is to use the existing building, do an interior remodel, an exterior upgrade, and add a vestibule next to the parking area on the west side. The parking is going to be switched from angled to parallel in the front, with street improvements along Portland Avenue. The vestibule is 134 square feet in size. This is zoned light industrial. The site is just under two acres in size. There are no flood plain or environmental overlays that they needed to consider. They sent public notice to property owners within 250 feet of the site, as well as the applicable review agencies. They received comments from Public Works and Oak Lodge, which are included in the staff report.

Uses permitted outright in the zone include uses permitted outright in the C-3 zone.

The fence that runs from the building to the property line on the west side will be moved back to accommodate new parking on that side of the building. She shared renderings of how it will look when completed. She went over the landscaping improvements – street trees/planting strip along Portland Avenue, buffer area, and more street trees on the back.

The recommendation of the planning staff is to approve this design review application with four special conditions of approval: add street improvements to the adjacent frontages, 8-foot wide public utility easements are needed along both street frontages, sanitary sewer line needs scoping, and submit a short narrative to assess whether waste water connection fees will be needed. Chair Smith asked if the flooding problem on Portland Avenue has been addressed or repaired. Ms. Austin said that would be addressed in the street improvements.

Commissioner Pat Smith asked if any foot traffic will be impeded during construction, and if so, for how long. Ms. Austin was not sure, but the applicant might have the answer.

APPLICANT TESTIMONY:

Brandon Dole, from Scott Edwards Architects, said they are looking at starting construction in early September and planning for a ten-month construction period, so the sidewalks/street frontages would be impacted during that period. The contractor will work on providing access/a way around.

Commissioner Volbeda asked what exterior lighting will be like. Brandon said they are proposing two types of lighting – both geared toward egress pedestrian scale lighting. The new concrete walkway from the parking areas to the vestibule will be lit per code minimum. They are adding street lighting as well. They will be meeting code minimum requirements in terms of egress lighting. They are not putting any lighting on the building. Commissioner Volbeda asked if the vestibule will be open all the time. It will be open during normal business hours and they are limiting public access. They are going to provide a lobby from the vestibule that is controlled security-wise. They will also have a conference room off the lobby space intended for public meetings (pre-construction meetings).

PUBLIC TESTIMONY:

None.

Commissioner Volbeda made a motion to close the public hearing. Commissioner Pat Smith seconded the motion. Ms. Bannick took a roll call vote: Commissioner Volbeda – yes. Commissioner Wease – 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 8:00 P.M.

Commissioner Pat Smith made a motion to accept as presented application #DR-23-03 with the special conditions (Watts Street improvements, easements, sanitary sewer scoping, and Oak Lodge condition). Motion was seconded by Commissioner Volbeda. Ms. Bannick took a roll call vote: Commissioner Mersereau – yes. Commissioner Pat Smith – yes. Commissioner Labonte – yes. Commissioner Wease – yes. Commissioner Volbeda – yes. Chair Smith – yes. Motion passed with a unanimous vote.

5. MUNICIPAL CODE UPDATE PROJECT:

Ms. Austin said she wanted to bring forward some of the code language they are talking about working on. They are looking into home occupation language. They are planning on bringing it before the Planning Commission in the coming months. The City Council held a meeting and had a presentation from the Department of Land Conservation and Development staff to talk about the Climate Friendly and Equitable Communities project that applies to all of the metro areas in the State. Gladstone is subject to those standards so they will need to look at parking regulations as the first piece. They are required to update the code by June 30th of 2024. There might be some funding available to help with code writing. The DLCD is putting together some model code and they are hiring some interns over the summer from the U of O and PSU Planning Programs, so there might be some more resources available if we wait a bit on that. The City Council asked to have more information brought before to them in early fall and they will choose a policy direction. All three options relate to parking. The first step of the State legislation was to remove all parking mandates within ½ mile of high frequency transit, which is McLoughlin Boulevard for the City of Gladstone. The other piece that is in place is multi-family housing – you can only require one parking space per unit (the code says 1.5). She went over the three options they have to choose from.

Clear and objective residential review standards – she worked with City Attorney Josh Soper on this. He gave her three viable options: 1) Update the conditional use chapter and have a specific subsection regarding residential uses. 2) prohibit these types of residential development in GMC Chapter 17.14 – MR (Multi-Residential Household Residential Zoning District. 3) Allow these types of residential development in the MR zone to be “allowed outright” and reviewed under the existing clear and objective standards applicable to duplexes and multi-family. She recommends a hybrid of 2 & 3 – everyone agreed.

She said they needed clarification between the final plat and the final certificate of occupancy. The language clarifies that in the language of the improvement agreement. She has examples of the language that other cities are using. There was further discussion. There was discussion regarding improvements (17.42.030) and language that could be added to require public improvements to our standards. There was discussion regarding “fee in lieu” as an option. Ms. Austin will come back with more information at the next meeting.

Commissioner Pat Smith said it seems reasonable that whatever our municipal codes are they ought to be somewhat in parallel to our neighboring communities and if other communities are doing things that work and we’re not, maybe we should adopt those or consider them. Ms. Austin agreed and said that planners look at other jurisdictions to write code. They talk with city staff and ask how things are working.

BUSINESS FROM THE PUBLIC:

None.

BUSINESS FROM THE PLANNING COMMISSION:

Commissioner Labonte:

He said, regarding their vote on the Adam Baker Tool Company, that he hopes the neighbors can have a peaceful time and he hopes Mr. Baker will be mindful of the large vehicles and their impact on the neighborhood.

Commissioner Wease:

He said he appreciated that the discussion today was all about trying to take care of the residents in Gladstone. He appreciates the other Commissioners for the thoughtful discussion.

Chair Smith:

She hoped that everyone got their filings done – everyone had. She agreed with Commissioner Wease and said it is a privilege and an honor to volunteer/serve on this Commission. They work well together. She thanked everyone for their time.

ADJOURN:

Commissioner Volbeda made a motion to adjourn the meeting. Motion was seconded by Commissioner Wease. Ms. Bannick took a roll call vote: Commissioner Volbeda – yes. Commissioner Wease – 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 8:25 P.M.

Minutes approved by the Planning Commission this 20th day of June, 2023.



Natalie Smith, Chair

