



COUNCIL PUBLIC HEARING

Wednesday, July 20, 2022

APPROVED MINUTES

MEMBERS PRESENT

Mayor Rick Scholl
Council President Doug Morten – 5:39 p.m.
Councilor Patrick Birkle
Councilor Stephen R. Topaz
Councilor Jessica Chilton

STAFF PRESENT

John Walsh, City Administrator
Kathy Payne, City Recorder
Lisa Scholl, Deputy City Recorder
Jacob Graichen, City Planner
Jenny Dimsho, Associate Planner
Tina Curry, Event Coordinator

OTHERS

Ken Sandblast	KAJ	Shannon Julien	Kai Huschke
Shauna Stroup	Jeanne Morain	Brook Steele	Vicky Njust
Art Leskowich	Abbie Dawson	Brady Preheim	Julia G.
S. Moore	Jacob Holder	Andrea Snook	Matt Snook
Brady Preheim	Janette Schwartz	Cheryl Williams	Ken Williams
Josh Brown	Jane Garcia	Val O.	Molly Matchak
Suzanne Bishop	Jolene Walsh	Christian Walsh	Nick Hellmich
Kanale Tumlinson	Heidi Oliver		

OPEN PUBLIC HEARING – 5:31 p.m.

TOPIC

1. Planned Development (Zoning Overlay) located SE of the Intersection of Pittsburg Road and Meadowview Drive (Comstock)

City Planner Graichen covered preliminary matters. Mayor Scholl declared that he did some work for Jeanne Morain, who is the applicant, by mowing and identifying wetlands on the subject property. He does not think it will affect his ability to make a fair decision. Vicky Njust objected to his ability to make a fair decision. He was either paid or did it as a favor. He also argued with people when he was asked why he is mowing things down. It showed bias or conflict to her. Vicky asked if he feels he can rule against something that has to do with their cause. Mayor Scholl feels he can make rule clearly and justly. People were upset that he was mowing the field. Vicky said he argued with her when she questioned him mowing. Then she found out he was going to vote on this decision, and it made her uncomfortable. Mayor Scholl apologized. He does not recall that. He recalls one conversation because he misunderstood how to access the property. Abbie Dawson objected to Mayor Scholl's ability to make a fair decision. When he was crossing her property, he did not tell her who he was. It is a conflict of interest for him to

make a decision impacting that property and the surrounding areas. Matt Snook thinks Mayor Scholl is on side of the development. He does not think he can be unbiased in the decision.

Graichen informed Mayor Scholl that he can voluntarily step down or the Council can discuss it. Mayor Scholl confirmed that he does own his own landscape business. He did mow the yard for Jeanne Morain to identify the wetlands for delineation. He did go through the wetlands but didn't realize that's what it was. He was trying to access the property and not destroy wetlands. He does not have an issue with stepping down. He is fair and honest and would appreciate them accepting that. He has owned his business and lived here for years. He works for all citizens of St. Helens.

Councilor Chilton thinks it would be best practice for him to step down, based on what was presented.

Mayor Scholl turned it over to Councilor Topaz. Before leaving, he stated that he is stepping down voluntarily, but it does not meet the criteria.

Graichen continued with preliminary matters.

Council President Morten arrived at 5:39 p.m. Councilor Topaz handed the gavel to him. Council President Morten declared that he has no conflicts. There was no objection from the audience for him to make a fair decision.

Graichen reviewed the staff report, a copy of which is included in the archive packet for this meeting.

- Wetland protection zones
- Planning Commission
 - Consensus to adopt this with a minimum of 7,000 sq. ft. lots and seven-foot side setbacks
 - The proposal was compact and did not honor the R7 zoning
 - When it was discussed at the Annexation hearing, R7 was chosen to keep the lots larger
 - Trying to prevent spot zoning
 - Concerns about proposed small lot sizes
 - 22% are greater than 7,000
 - 50% are between 5,000-6,999
 - 28% are less than 5,000 sq. ft.
- Council needs to determine
 - If they are going to approve it
 - Stipulation added by staff that the larger and smaller parcels be used in tandem for development proposal
- The idea of a Planned Development Overlay is to allow flexibility. The zoning still dictates density.
- There is a related subdivision application, which is separate from this one. It was denied and will come to Council if it's appealed.

Council President Morten asked if there were any concerns about transportation. Graichen said there was a traffic impact analysis done for the subdivision. There were no identified functional deficiencies that this development would create. Developed lots would have to meet parking requirements.

APPLICANT TESTIMONY

- ◆ Ken Sandblast, Westlake Consultants. He is testifying for the applicant. The Planned Development is an overlay zone on top of the R7 zone. It is not a rezoning of the property. That seemed to have been lost in the Planning Commission hearing. The Planned Development Overlay provides flexibility and is allowed in the Code. It is designed for properties like this, which has significant natural resource areas and buffers, street stubs coming in from different locations, and a rectangular configuration. The Planned Development allows them to divide the land with flexibility and achieve what is allowed in R7 Zoning. The density of R7 is not in question. The number of units proposed does not change with the Planning Development Overlay. It is simply a way for

the land to be divided with flexibility to protect the natural resources. The subdivision has a specific layout. There are ways to revisit the subdivision, but not without the Planned Development Overlay approved. They are requesting Council approve the Planned Development Overlay to allow the subdivision. The current recommendation takes away flexibility, which defeats the purpose of a Planned Development Overlay. In order to still use the Planned Development Overlay, they are requesting Council allow an average of 7,000 sq. ft. lots and not a minimum. They believe they could modify the subdivision application by reducing some density with a few lots, with no lots below 5,000 sq. ft.

Graichen pointed out that Ken didn't talk about side setbacks. Ken said they requested five-foot side yard setbacks and Planning Commission recommends seven feet. He thinks it is more than adequate to have 10 feet between homes. The seven feet takes away the flexibility Planned Development Overlays allow. The purpose of a Planned Development Overlay is for flexibility. They are requesting to keep the five-foot side setback as proposed.

Ken clarified their requests:

- Average of 7,000 sq. ft. lots
 - Five-foot side setbacks
 - Minimum of 5,000 sq. ft. lot sizes
 - Approve the rest of the application as proposed
- ◆ Jeanne Morain, applicant. She is the Power of Attorney for James and Chieko Comstock. The landscaping done by Mayor Scholl was for health and human safety. She called 12 different landscapers. He was the only one willing to do it. It is a fire hazard. Once the application was submitted, he said he could no longer do it. She is still trying to find another company to do it. It was also done to access the property for wetland delineation. She was not aware of a Planned Development Overlay sooner, so did not do it with the annexation. They hired an expert to determine what would be best there and that was his recommendation. They were the only ones who were willing to do what the community wanted, and not just push for R5 zoning. They will have a Homeowners Association to care for the wetlands and wildlife.

TESTIMONY IN FAVOR – NONE

TESTIMONY IN NEUTRAL

- ◆ Shannon Julien. She lives on Edna Barr Lane, which is a proposed through-access from the subdivision. Her concern is regarding functionality versus quality of life. She finds it doubtful that two cars could pass each other on that street. People must pull over to let other cars pass through. All the additional traffic does propose a problem for side streets. Can it be done? Maybe. Should it be done? No. It is a quality of life and safety issue for people who live on Edna Barr Lane.

TESTIMONY IN OPPOSITION

- ◆ Shauna Stroup Harrison. She is in opposition. They skated right past the sewer issue. They were here past 1 a.m. at the Planning Commission meeting. The lack of sewage infrastructure cannot support the new building. Can someone apply for an Annexation and Planned Development Overlay at the same time?

Graichen said conceivably. Shauna was confused because the applicant said they would have applied for it at the same time if she had known. The builder said he couldn't guarantee the price of the house. She is very familiar with the area. Her husband's dad built Meadowview Drive. At that time, it was zoned as R10. He kept the lots at half acre to maintain the aesthetics of the rural setting. This has been pushed and pushed, which is why the Planning Commission was here until 1 a.m. It was already a push to zone it as R7 and then the overlay was added. The property has wetlands and that has to be figured in when

developing property. You don't get gross value; you get net value. The main concern during the Planning Commission meeting seemed to be the sewage issues. The real estate market is slowing. It will be interesting to see how they do with all the new dwellings being built now. Only 22% of the lots meeting the 7,000 sq. ft. minimum is failing. There is a lack of sidewalks, ingress, and egress. What water municipality will service this? They are still pushing to fill the lagoon with superfund site dredge spoils. She doesn't understand the thought process. They're going to need that lagoon for all the new building. It's a bad idea.

- ◆ Vicky Njust. She attended the last meeting. It keeps being said that the density meets the 7,000 sq. ft. standards. From what she understands, it's a 12-acre parcel, but you can't include the wetlands in the total because you can't use it. Commissioners Toschi and Pugsley both felt it was like a bait and switch. They should stick with the 7,000 sq. ft. minimum and 7-foot side setbacks. Why is it impossible to do that? It's high density and doesn't fit. People would prefer larger lots, fewer houses, fewer cars, and less congestion. She is opposed to Ken Sandblast's new proposal. The sewer is a big issue, but she understands it's not what they're considering.

Council President Morten asked about wetlands not being included. Does that include setbacks from the wetlands? Graichen said yes. The Code allows a portion of the open space areas to be folded back into the density calculation, but not all of it.

- ◆ Matthew Snook. This is a big job for them to protect their community. They know this will increase traffic. There are already clogged streets on Barr Avenue. There are parts that do not allow to vehicles to pass at once. To increase the traffic could result in the loss of life, which is unacceptable. It's already a challenge on Meadowview Drive to get in and out onto Pittsburg Road. There is an increase of crime, and they are not increasing the police force. Councilor Chilton clarified that they are adding officers. Matthew went on to talk about crime being up. If it keeps increasing, he will leave. Referring to Mayor Scholl, if he had no idea where the border of the protected wetlands was located, he should have found out before mowing everything down. All the wildlife was run out of there. He was directly or indirectly employed by the people trying to push this through, which creates a bias. The community should come first. The streets are all named after the surrounding area. The wildlife is just now starting to come back. What is their acceptable risk for the sewer system? It's not fair if it backs up into their homes.
- ◆ Jacob Holder. He was not at the last meeting but has heard a lot from neighbors. He is concerned about access through Meadowview Drive. Their neighborhood is very quiet and is a dead-end street. It will increase traffic. It's already hard to turn onto Pittsburg Road. There are areas on Barr Avenue that are difficult to pass when cars are parked on the street. They should keep the minimum lot size at 7,000 sq. ft. He left Hillsboro and Beaverton to get away from density. How are they going to support all the new apartments coming in? There is only have one major grocery store, which can take 15-20 minutes to check out. They have a tight nit neighborhood. Now they'll have people coming through thinking that the road goes through. He expressed his concerns about policing and the sewage system. It's unbelievable that they would go through this without adequate infrastructure. He understands the need for growth, but at what expense?
- ◆ Abbie Dawson. Her property backs up to the southern portion of this development. She is highly opposed to allowing less than 7,000 sq. ft. lots. It will increase noise pollution. Noise echoes and goes everywhere. The developer wants to use the open space for backyards. That's protected wetlands and they run the risk of damaging them. The wetland areas should not be considered as developable area in calculations. The roads around there are not wide enough to accommodate two lanes of traffic. Barr Avenue has blind corners and parking on both sides. There are a lot of trucks and big vehicles. Kids play on the streets and it's dangerous. There are no sidewalks on

Sykes Road. Adding houses and increasing density will create more accidents. The density is a major issue. The lot sizes are not consistent with what is there and not adequate for the size of houses proposed. People will end up using the wetlands for their yards, which will destroy them.

- ◆ Heidi Oliver. Ms. Comstock is a lawyer. She says she cares about this area but lives in Arizona. She wants to see her father-in-law's Will. Why is she representing everyone in the family? Heidi was instrumental in putting in a stop sign. Public Works Director Zaher is going to put in another one. People drive fast. She will fight for this neighborhood. They are suffering and can't take anymore. They don't need any of this. They need a quiet neighborhood again. They are not an HOA, and they don't have any dumpy cars in their neighborhood. She's mad about the apartments across from Walmart. It's a total mess. The traffic is bad. She was in a wreck on Highway 30. She can't take this much longer. Do they all need to move away? She's lived here for 33 years. She is not happy about the sewer and the excursion boat. She sees accidents all the time. It's ridiculous.

REBUTTAL

- ◆ Ken Sandblast. The Planned Development Overlay is what they are reviewing. They heard about traffic, sanitary sewer, and wetlands. That is all related to the subdivision and not what is before them. If the subdivision is appealed, those issues will come before the Council. This is about the flexibility of developing the land. There is nothing about reducing setbacks in the rear yards. They are not encroaching in the wetland areas or setbacks. The testimony about apartments and a grocery store are not at issue in approving the Planned Development Overlay. This is for single family residential development. He wants to continue to focus on what this is and not what it isn't. He understands that it is confusing. In addition to what is in the staff report, they are requesting an average lot size of 7,000 sq. ft. and no lots less than 5,000 sq. ft.
- ◆ Jeanne Morain. She is not representing the entire family. She is representing the only legal heir. That property has been in her father-in-law's family for over a century. Many of those who spoke are living on Comstock property that was earlier developed. She is not an attorney. She is in high tech and has taken time off to help with this. This is about the Planned Development Overlay. They are not trying to do anything that will hurt the City or the protected wetlands. Some of what is being said is creating fear and doubt. She can't even get police to go out to address a neighbor's garden that has gone over onto their property. She asked that everyone stick to the facts. The HOA will be responsible for maintaining the wetlands. There are no safe walkways in that area, which is why they are proposing a trail. She encouraged everyone to look at supply chain and construction costs. Everything has increased. They have a five-star quality developer who is willing to work with what is there. They are not trying to do anything underhanded. She requested that anyone who is encroaching on the property to cease and desist. The property is owned by Cheiko Comstock. She has rights to sell and develop the property. They are trying to do what is right because St. Helens means so much to their family.

CLOSE PUBLIC HEARING – 7:04 p.m.

Respectfully submitted by Lisa Scholl, Deputy City Recorder.

ATTEST:

/s/ Kathy Payne

Kathy Payne, City Recorder

/s/ Rick Scholl

Rick Scholl, Mayor