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**PHILOMATH PLANNING COMMISSION
MINUTES**

December 16, 2019

1. **CALL TO ORDER:** Chair Stein called the meeting to order at 6:00 pm. at the City Hall Council Chambers, 980 Applegate Street, Philomath, Oregon.

2. **ROLL CALL:**

Present: Commissioners Steve Boggs, Gary Conner, Jeannine Gay, Lori Gibbs, David Stein, Joseph Sullivan and Peggy Yoder.

Staff: Deputy City Attorney David Coulombe, City Planner Pat Depa and City Recorder Ruth Post.

3. **APPROVAL OF MINUTES**

3.1 Minutes of November 12, 2019 – Commissioner Sullivan requested two corrections: Page 3, first paragraph: strike “without Planning Commission involvement.”

Page 3, last paragraph: add reference to the distributed memorandum. Ms. Post suggested adding “(Supplemental Agenda Item)” and the memorandum would be filed with the agenda packet.

MOTION: Commissioner Gay moved, Commissioner Yoder second, to approve the November 12, 2019 minutes as amended. Motion APPROVED 7-0 (Yes: Boggs, Conner, Gay, Gibbs, Stein, Sullivan and Yoder; No: None).

3.2 Minutes of November 18, 2019 – Commissioner Gibbs requested the following correction:

Page 3, Line 111: Replace “Chair” with “Commissioner.”

Commissioner Sullivan requested the Page 1, Line 25, approval of the minutes, show that he abstained because he was not in attendance at the September 16 meeting.

MOTION: Commissioner Gay moved, Commissioner Yoder second, to approve the November 18, 2019 minutes as amended. Motion APPROVED 7-0 (Yes: Boggs, Conner, Gay, Gibbs, Stein, Sullivan and Yoder; No: None).

4. **NEW BUSINESS**

4.1 Public Hearing on PC19-10

382 N 7th Street / 12-6-11AD #1900

Applicant: Kevin Sullivan

Application Type: Class C Variance for rear yard setback

Chair Stein opened the public hearing at 6:08 p.m. The rules for testimony were read by Mr. Coulombe. Commissioner Joseph Sullivan declared an actual conflict of interest as the applicant is his brother.

Commissioner Joseph Sullivan recused himself at 6:09 p.m. and left the room.

48 Presentation of Staff Report: Mr. Depa summarized the staff report as included in the agenda
49 packet and reviewed the findings of fact. He stated that staff determined that the application did
50 not meet any of the six approval criteria and recommended denial of the application. He
51 suggested a variance request from the front of the property would possibly result in better
52 findings and be more in line with the other homes on the street. There was discussion about
53 potential circulation issues with only a five foot setback on both the rear and south side yards,
54 the footprint of the original house with the lot slope, and the definition of human scale
55 development. Commissioner Yoder questioned if there were other homes with variances in the
56 area and concern for the potential for drainage issues. Mr. Depa stated none of the other
57 homes in the area had variances.

58
59 Presentation of Applicant: Kevin Sullivan, Philomath, OR – Mr. Sullivan described the footprint
60 of the original home, retaining wall issues and the desire to avoid building a house that looked
61 into the backyard of the home behind it. He suggested J.D. McGee engineering did not think
62 ponding was an issue. Mr. Sullivan described the current water drainage from the lot and the
63 driveway grade plans. Mr. Sullivan described occupancy plans for the new house. Mr. Depa
64 explained that lot coverage limitations would only allow for the one car garage. Mr. Sullivan
65 explained the reasoning for selecting the floor plan and footprint that was selected for the lot
66 and the desire to keep the project inexpensive. He stated it is a fairly small house. There was
67 discussion about the reduced rear setback and the location of the current house to the west
68 and possible future development to the west. Mr. Sullivan stated that close doesn't matter as
69 much as visibility and their intent was to reduce that issue. He stated the neighbor doesn't have
70 an issue with the proposed setback.

71
72 Mr. Depa reviewed some options that staff had proposed to the applicant in lieu of the rear-
73 yard setback variance. He explained that the North 7th Street right-of-way is 80 feet wide but
74 would more likely only ever be developed to a 50-foot right-of-way. Mr. Sullivan stated that the
75 neighbor is not interested in an access easement. He described the driveway situation.
76 Commissioner Yoder noted there are no opponents to the request and it is plainly posted. Mr.
77 Depa pointed out the Commission would have to develop new findings that supported approval
78 of a variance to replace the findings in the staff report. Mr. Coulombe reminded the
79 Commission that the decision should be fact driven based on the criteria, not based on
80 opponents or proponents.

81
82 Mr. Sullivan described the information he has received that there is no pooling of water. Mr.
83 Depa described the effect of downspouts draining water away from the house and the need for
84 sufficient area for the drainage to permeate before shedding onto the neighbor's property. Mr.
85 Sullivan stated he could work with an engineer to resolve any issues and suggested a
86 condition of approval to that effect.

87
88 Commissioner Conner suggested working through each of the findings. On Criteria (a), he
89 requested clarification about the five foot setback creating a safety issue. He questioned what
90 type of circumstance would allow a variance under Criteria (a). There was discussion about
91 North 7th Street not being a through street and questioning the criteria to slow traffic down. Mr.
92 Depa explained if the side yard was a larger setback it might not be an issue but it is also a five
93 foot setback.

94
95 Commissioner Conner stated he believed the steep grade is a hardship. Commissioner Gay
96 described steep slope runoff issues on Southwood that don't create adverse impacts. Chair
97 Stein stated his observation is that the runoff from adjacent properties will go right where the
98 house is intended to sit. There was further discussion about slope and runoff. Mr. Sullivan
99 described the driveway issues that result in even a smaller footprint having to be placed in the
100 back of the lot. He stated the engineering opinion he had received didn't think the runoff was an
101 issue. He stated if the variance were approved, they would then review the engineering needs.

102
103 Commissioner Conner stated he felt findings could be developed, with the exception of Criteria
104 (f), questioning if this was the minimum variance that would alleviate the hardship. He stated
105 there may be other possible solutions.

106
107 Chair Stein suggested that an approval to this request could have consequences from a future
108 application. Mr. Coulombe stated it is the applicant's burden to provide the information needed
109 for the Commission to reach an approval. He suggested completing the public hearing process.

110
111 Testimony by Proponents: None.

112
113 Testimony by Opponents: None.

114
115 Testimony by Neutral Parties, including Governmental Bodies: None.

116
117 Rebuttal by Applicant, limited to issues raised by Opponents: None.

118
119 Mr. Coulombe explained there has been no request for a continuance by either the applicant or
120 any other party.

121
122 Commissioner Conner stated he did not believe the Commission was required to completely
123 alleviate the issues. He stated he did not believe sufficient information had been provided to
124 show the variance was the minimum required.

125
126 Chair Stein closed the public hearing at 7:04 p.m. Mr. Sullivan waived the right to submit final
127 written arguments.

128
129 **4.2 PC19-10 Discussion and Possible Decision** – Commissioner Yoder questioned if the
130 only issue is the setback. Mr. Depa explained the lot coverage is not an issue. He explained
131 that cost is not a qualified hardship. Commissioner Conner stated it may not qualify but it is
132 problematic. There was additional discussion. Mr. Depa stated it would probably be easier to
133 make a justification for a front yard setback variance based on the location of the original house
134 and the neighboring houses.

135
136 **MOTION:** Commissioner Boggs moved to table the discussion and consider a front yard
137 setback variance. No second. Mr. Depa stated that would be a major material modification and
138 would require re-notification.

139
140 At 7:15 p.m. Chair Stein reopened the hearing to hear from Mr. Sullivan again. There was no
141 other testimony added. There was further discussion about possible alternatives and the need
142 to revise the findings.

143
144 **MOTION:** Commissioner Gibbs moved, Commissioner Boggs second, to deny the application
145 as proposed. Motion APPROVED 4-2 (Yes: Conner, Boggs, Gibbs, and Stein; No: Gay and
146 Yoder.)

147
148 *Commissioner Stein called a recess at 7:23 p.m. and reconvened at 7:30 p.m. Commissioner*
149 *Joseph Sullivan rejoined the meeting.*

150
151 **4.3 Urban Fringe Agreement discussion** – Mr. Depa distributed a memorandum and draft
152 Urban Growth Management Agreement documents (Supplemental Agenda Item #4.3). He
153 explained that Benton County was conducting a review of their code and there were zoning
154 districts that had been specifically created to address delayed annexation agreements that
155 exist within the Philomath Urban Growth Boundary. He described how those properties were

156 being treated as subject to the Philomath Zoning Code due to future expectation they would be
157 annexed. He stated the revisions were intended to address those delayed annexations and to
158 spell out the process between the two jurisdictions that is already being used. He stated the
159 Benton County Commissioners have reviewed and approved the revisions. He requested the
160 Planning Commission review the revisions and come back with any potential concerns before
161 sending it to the Council for final approval. There was discussion about this formalizing the
162 actual process that has been used.

163
164 Ms. Post provided a history of delayed annexation agreements in Philomath. Commissioner
165 Yoder stated she would like an opportunity to read the document before making a
166 recommendation. It was agreed by consensus to place the agreement on the January Planning
167 Commission agenda.

168 **5. OLD BUSINESS**

169 **5.1 2040 Comprehensive Plan Advisory Group update** – Mr. Depa summarized that the
170 City Council did accept the Planning Commission’s recommendation and added two members
171 of the Commission to the Advisory Group. Ms. Post explained that the City Council approved
172 the nine proposed members and added Commissioners Yoder and Stein.

173 **5.2 Development Code & Annexation Amendments (PC19-08 & PC19-09)**

174
175 **A) City Council decision review** – Chair Stein explained that Mr. Workman was
176 unavailable tonight. Mr. Coulombe reviewed the legislative process, including the public
177 hearing and decision process at the City Council level. Ms. Post reviewed the City Council
178 minutes of November 25 related to the removal of Section “G” from PMC 18.135.030 in the
179 annexation code. Chair Stein stated there is a communication issue because the Council didn’t
180 understand why the Commission put section “G” in, and he was disappointed in the action. Mr.
181 Coulombe suggested in the future adopting a statement to submit with text amendments
182 providing an explanatory statement. Commissioner Yoder questioned if the Planning
183 Commission could have requested the Council respond back if they made any changes. Mr.
184 Coulombe described the lengthening of the process that scenario could create. He stated the
185 goal of code drafting is for it to be clear and concise and doesn’t require further explanation.
186 Commissioner Sullivan described the possibility of having a City Councilor in attendance at
187 future Planning Commission meetings.

188
189 **B) Major/Minor modifications: PMC 18.130** – Chair Stein stated the issue of a major
190 versus minor modification had been raised. Commissioner Yoder stated she and
191 Commissioner Boggs had submitted a letter of objection to the minor modification application
192 for Millpond Crossing. There was discussion about the Commission having an opportunity to
193 review the letter they submitted. There was discussion about the decision being within City
194 Manager Workman’s authority based on the code definition of a minor modification. Mr. Depa
195 stated the staff report on that application is posted on the City’s website and addressed the
196 three issues that were raised by Commissioners Boggs and Yoder. There was discussion
197 about the issues related to the change in phasing for the development and the timing of
198 construction of the extension of South 17th Street. Mr. Depa explained the review of the trips
199 generated showed they were still within the threshold with the change in the phasing.
200 Commissioner Yoder questioned if the language in 18.130.030 should be amended to add
201 changes in phasing. Commissioner Sullivan questioned what the Planning Commission’s
202 response would be if it was felt that the City Manager had overstepped in approving a
203 modification. Mr. Coulombe stated that the Commission’s review authority does not extend to
204 whether an administrative decision-maker exceeded authority. There was further discussion
205 about an appeal process for a modification decision. Mr. Coulombe explained ramifications
206 related to the discussion of a specific case such as the Millpond modification before the appeal
207 period has expired. It was agreed to put further discussion on the January agenda.

208 **C) Recreational Vehicle Park code considerations: PMC 18.50.010, 9.15.025 & 18.45 –**
209 Mr. Depa explained this was a request from a member of the City Council to consider adopting
210 changes related to the specific code sections. He stated this was something that the
211 Commission could consider in further code amendment discussions. There was discussion
212 about the definition for a Recreational Vehicle Park for Section 18.15.010. Commissioner
213 Sullivan stated this appears to be an example of the City Council sending information to the
214 Planning Commission for consideration. There was discussion about this potential language
215 not impacting the existing Lepman project because of the goalpost rules.
216

217 Robert Biscoe, Philomath, OR – Mr. Biscoe described the intentions of the Councilor who had
218 submitted the proposed language. He stated it was a result of the concern from public
219 testimony that was concerned about RV Parks.
220

221 **6. OTHER BUSINESS**

222 **6.1 Communication expectations between Commission, Council & Staff –**

223 Commissioner Stein stated this topic had been sufficiently addressed through earlier
224 discussions in the meeting.
225

226 **6.2 Setting meeting dates: January and February 2020 holiday conflicts –** After
227 discussion about availability, it was agreed to move the January meeting to Tuesday, January
228 21, 2020, and the February meeting to Tuesday, February 18, 2020.
229

230 **7. ADJOURNMENT:**

231 There being no further business, Chair Stein adjourned the meeting at 8:30 p.m.
232

233 SIGNED:

234 *David Stein*
235
236

ATTEST:

Ashley Howell

Commit Clerk

