

Minutes
Aurora Planning Commission Meeting
Tuesday, May 06, 2014 at 7:00 P.M.
Aurora Commons Room, Aurora City Hall
21420 Main St. NE, Aurora, OR 97002

STAFF PRESENT: Kelly Richardson, City Recorder
Renata Wakeley, City Planner

STAFF ABSENT: NONE

VISITORS PRESENT: Eman Sadek, Tigard Oregon
Carl McKnight, Aurora

1. Call to Order of Planning Commission Meeting

The meeting was called to order by Planning Chair Joseph Schaefer at 7:03 p.m.

2. City Recorder Did Roll Call

Chairman, Schaefer -	Present
Commissioner, Willman	Present
Commissioner, Gibson	Present
Commissioner, Graham	Absent
Commissioner, Fawcett	Present
Commissioner, Weidman	Present
Commissioner, Rhoden-Feely	Present

3. Consent Agenda

Minutes

- I. Aurora Planning Commission Meeting –April 01, 2014
- II. City Council Minutes – March, 2014
- III. Historic Review Board Minutes –

A motion is made by Commissioner Gibson to approve the consent agenda as presented and seconded by Commissioner Fawcett. Motion Approved by all.

Correspondence

- I. NA

4. Visitor

Anyone wishing to address the Planning Commission concerning items not already on the meeting agenda may do so in this section. No decision or action will be made, but the Planning Commission could look into the matter and provide some response in the future.

Carl McKnight, States that he had submitted a business license for 21680 Main Street for a food cart this last Thursday and thought that it would be on the agenda however I see that it

is not. I was told this last Monday that I would need to do a conditional use permit. I have already had an electrical permit submitted and approved. On April 18th I had asked what the next steps were but through some miss communications I was not told until Monday morning that I needed a conditional use permit. So I would like to get it on the agenda for this evenings meeting rather than wait another month. My question is why it was not on the agenda since I had put in a business license application. **Schaefer** we don't as commissions take care of business license. Now a conditional use permit is a fairly precise procedure first you make application then property owners are notified and then a public hearing is scheduled. **McKnight** and I can appreciate all of that but since this process started in September and Council approved the food cart and because I was in communication with the city on this it really would be a shame to have it go another month. **Schaefer** well what the city council approved was a text amendment it was not geared towards any one project so the process is what it is. We really rely on the applicants to pay close attention to what the rules are and apply with the correct applications to move it forward properly and to get all the information in on time.

City Recorder Richardson asks if she may interject and Chair **Schaefer** states no. At which point Commissioner **Willman** asks why not and then goes into a discussion with the group regarding the fact that he is here now and needs approval in order to move forward with his plans. Is there anything we can do for him? **Chair Schaefer** explains that this is not allowed expressly by law and we cannot violate the law. **Weidman** did he have his application in by the deadline to be on tonight's agenda? Chair **Schaefer** no that's the whole point. **Willman** was he made aware of this process? **Chair Schaefer** I can't say but we were very clear in the text amendment what needed to be done and the process to follow. **McKnight** I still don't see why since you have a short agenda this evening. **Chair Schaefer** it would violate State law to do so because the process and postings along with notifications have not been done it's just not going to happen tonight. **McKnight** well I am not asking it to be approved this evening I asking it to be discussed so it can be sent out for comment. Well it cannot be discussed either.

Willman so there is nothing we can discuss to help him further along in this process? Chair **Schaefer** no not until the process and application is followed. **Schaefer** we have to follow the fundamental state laws.

Could you please tell me the process Chair **Schaefer** please contact City Planner **Wakeley**. City Planner **Wakeley** explains that she can get him an application and help him through the process.

McKnight then asks what criteria is needed for the HRB meeting it's my understanding that many of these items are listed and addressed therefore no approval is required except by staff. Chair **Schaefer** these are questions for HRB not us. Chair **Schaefer** thanks Mr. **McKnight** for coming.

5. Public Hearing Opens at 7:22 pm

A. Discussion and or Action on Variance Application File Continuance VAR-14-01

- Chair **Schaefer** reads the script and asks for ex-parte contact with the applicant or any reason to declare an issue. No one comments or raises an issue.
- City Planner **Wakeley** reads her staff report as follows.

CITY OF AURORA PLANNING COMMISSION

STAFF REPORT: Interpretation 2014-01 [INT-41-01]
DATE: April 21, 2014

APPLICANT/OWNER: Erika Zurita

REQUEST: Interpretation of the Aurora Municipal Code (AMC) by the Planning Commission in regards to approval of a non-remonstrance agreement for sidewalks in lieu of installation.

SITE LOCATION: 14943 Walnut Street NE, Aurora, OR 97002 (also known as Map 41W13CA Lot 4700)

SITE SIZE: Approximately 5,000 square feet, or 0.11 acres

DESIGNATION: Zoning: Moderate Density Residential (R2)

CRITERIA: Aurora Municipal Code (AMC) Chapter 16.34 Public Improvement and Utility Standards

ENCLOSURES: Exhibit A: Assessor Map
Exhibit B: Non-remonstrance Application
Exhibit C: Photos of Walnut Street

I. REQUEST

Approval of a non-remonstrance agreement in lieu of sidewalk improvements as part of building permit review under AMC 16.34.030.A.2.

II. PROCEDURE

Pursuant to 16.34.030.A.2. and subject to approval of the Planning Commission, the City may accept and record a non-remonstrance agreement in lieu of street improvements. AMC 16.78 requires Limited Land Use Decisions be processed as written notice of a decision to be provided to owners of adjacent property for which the application is made.

The application was received on April 10, 2014. The application was determined complete by Staff and placed on the next available Planning Commission agenda. Notice of a limited land use decision on this property was also posted at City Hall with the Planning Commission agenda on April 29, 2014. Pending a decision from the Planning Commission at the May 6th meeting, a Notice of Decision will be mailed to adjacent property owners. The City has until **August 4, 2014**, or 120 days from acceptance of the application to approve, modify and approve, or deny this proposal.

III. APPEAL

Appeals are governed by AMC 16.78.120. An appeal of the Commission's decision shall be made, in writing, to the City Council within 15 days of the Planning Commission's final written decision.

IV. CRITERIA AND FINDINGS

The applicable review criteria for non-remonstrance agreements are found in AMC Chapter 16.34 - Public Improvements and 16.78- Limited Land Use Decisions

16.34 Public Improvement and Utility Standards

16.34.030.A.2. Subject to AMC 16.78 and approval of the Planning Commission, the City may accept and record a non-remonstrance agreement in lieu of street improvements if the following conditions exist:

A. A partial improvement creates a potential safety hazard to motorists or pedestrians; or

FINDING: Staff finds installation of a sidewalk along the frontage of the subject property along Walnut Street would result in an unconnected sidewalk along properties to the north and south (see Exhibit C). Staff finds an unconnected sidewalk could create a safety hazard to pedestrians in an elevation change and a potential trip hazard. Staff finds this criterion is met.

B. Due to the nature of existing development on adjacent properties it is unlikely that street improvements would be extended in the foreseeable future and the improvement associated with the project under review does not, by itself, provide a significant improvement to street safety or capacity.

FINDING: Properties to the north and south of the subject property along Walnut Street do not have sidewalks. The applicant is proposing a new single family dwelling which staff finds does not result in a significant increase to vehicle or pedestrian traffic to the residential neighborhood. While the transportation system plan does identify Walnut Street as requiring sidewalks, it is unlikely other properties along Walnut will undertake frontage improvements in the near future. Staff also finds the installation of sidewalks along the subject property would not create a significant increase to safety or capacity and finds this criterion is met.

16.78 Limited Land Use Decision

16.78.090 Standards for the decision.

A. The decision shall be based on proof by the applicant that the application fully complies with:

1. The city comprehensive plan; and

FINDING: Staff finds the application meets the criteria under 16.34 for approval of a non-remonstrance agreement. The implementing ordinance of the comprehensive plan is included under Title 16- Land Development. A review of Title 16 is included below. Staff finds this criteria is met.

2. The relevant approval standards found in the applicable chapter(s) of this title and other applicable implementing ordinances.

FINDING: The property is zone Moderate Density Residential (R-2). Staff finds the property meets the size, width, and depth required under the zone. The applicant proposes construction of a single family residence on the property which is a permitted use under the zone and the building permit has been approved in compliance with height and setback requirements.

AMC section 16.34.060.A. states, "on public streets, sidewalks are required except as exempted by the Aurora transportation system plan (TSP) and shall be constructed, replaced or repaired in accordance with the City's public work design standards." While the City TSP does identify Walnut Street as requiring sidewalks, the AMC does allow the Planning Commission to accept a non-remonstrance agreement in lieu of improvements under certain conditions.

Staff finds the criteria under Title 16 can be met, with conditions.

V. CONCLUSIONS AND RECOMMENDATIONS

Based upon the findings outlined in the staff report, staff recommends Planning Commission action **VI.A.1** as outlined below for the Interpretation application (File No. INT-14-01) with the following conditions of approval:

1. The applicant executes and records a non-remonstrance agreement for sidewalks with Marion County. The non-remonstrance agreement shall be reviewed and approved by the City prior to recording.

VI. PLANNING COMMISSION SAMPLE MOTIONS

- A. Motion to adopt the findings in the staff report and approve Interpretation 14-01:
 1. As presented by staff, or
 2. As amended by the Planning Commission (stating revisions)

OR

- B. Motion to deny Interpretation 14-01 (stating how the application does not meet the required standards),

OR

- C. Continue the decision to a time certain or indefinite (considering the 120-day limit on applications) in order to collect additional information from the applicant or staff (stating the information required in order to make a decision)

Discussion and or testimony on the application as follows.

- Applicant Saul Ramirez explains his situation to the commission regarding what he is asking for and why. Once I take into consideration all of the setback requirements there is simply not enough room in my opinion to build the carport I cannot park my trailer and my other vehicles safely.
- Chair Schaefer asks a few questions regarding size of the proposed structure.
- Applicant it will be under 200 square feet.
- Through much discussion it is determined that the applicant really would like not to have a carport it would be much easier for me considering the size of the lot.

Public Hearing closes at 7:41pm

Discussion between the Commissioners again they consider a few options for the applicant but over all they all agree that the lot is small and it would hinder the applicant.

A few of the Commissioners are in favor of a carport if there is some way to make it work but through the discussion it is clear the applicant would prefer not to have one.

Commissioner Willman makes a motion to grant the variance as requested and not require a carport on this lot as recommended by staff's report provided and is seconded by Commissioner Mercedes-Feely. Passed by All.

6. New Business

- A. **Discussion and or Action on Non-Remonstrance Agreement [INT-14-01] with Applicant Erika Zurita Property Address 20855 Walnut Street.**

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It would be staff recommendation to approve the non-remonstrance agreement as presented in my staff report.

Chair Schaefer welcomes Erika Zurita the applicant and ask her to tell the group a little about why she is here this evening. Erika gives some background about what it is they are doing which was replacing a mobile home with a new construction stick built home and didn't realize that sidewalks were her responsibility so that is why I am here tonight.

There is a brief discussion amongst the group hearing no more from the audience or the applicant Chair Schaefer calls for a motion.

A motion to approve the non-remonstrance agreement as recommended by staff is made by Commissioner Fawcett and is seconded by Commissioner Willman. Passed Unanimously.

B. Discussion and or Action on ODOT Letter of Concurrence Regarding Corridor Study.

Chair Schaefer, this is something we worked on for a couple years there is a sample letter from me to ODOT for an update on this, no comments from PC. **Wakeley** the draft has been available for review at City Hall. We really didn't like 1st & 2nd street proposal but we like Ottaway segment so we are thanking them is basically what this is about.

7. Old Business

A. Discussion and or Action on the City Regulation of Marijuana.

Chair Schaefer informs the Commissioners that the City Council adopted the 1 year moratorium they want us to continue discussion but not move forward with approving or recommending anything until after the November election.

Councilor Sallee how is that going to affect us right now, **Schaefer** we are not going to be allowing it in the commercial zone at this time until the moratorium is lifted and language in the code is changed.

How does Aurora citizens feel about this Chair Schaefer states it is mixed about 20% say absolutely not ever then the next smaller group says yes do it and then the rest are saying what is everyone else doing.

I (Emma Sadek a Realtor in the area) have always been no don't do it however now that I have seen children benefit from marijuana I have changed my mind. I think it will benefit Aurora because it can be a draw for Aurora. The reason we would allow this is to help people with the pain.

Mayor Graupp, the council and I have spoke to many others regarding this issue and it's not that we don't see the need for it but we are stepping back because we don't want to be the first we simply cannot afford a legal battle or changing our code language more than once.

Last Thursday there was a conference in Portland on this issue that the League of Oregon Cities put on which was very informative.

Everyone is cautious because legislature moved so quickly and there were attorneys from the league and many local police chiefs in the room and the opinions were so varied.

- Currently the question is what is public use or consumption? If someone is growing and there was some consumption and this is growing in back yard ok but if you can see it from the sidewalk then that is illegal because its public space or view.
- So you can't smoke on the sidewalk because you're in public view.
- Sean Oday does think local jurisdictions or states will be able to ban it but the legislative council doesn't agree with him so even attorneys at this point can't agree. No city wants to move forward on this.
- Land use regulations and what is or not approved cities should be able to say what zone.
- What priority is in 2015 require background check for people who work there a lot of safety issues as well.

So that really is why the council is taking the wait and see approach at this point.

B. Discussion and or Action regarding Manufacturing in the Commercial Zone.

Current Code 16.14.030D. Retail or wholesale business with not more than fifty (50%) percent of the floor area used for the manufacturing, processing or compounding of products in a manner which is clearly incidental to the primary business conducted on the premises;

Proposed Addition,

16.14.030E Retail or wholesale business with not more than seventy-five (75%) percent of the floor area used for the manufacturing, processing or compounding of products on lots that do not abut a residential zone.

after brief discussion it is decided to have the proposed wording read as below;

16.14.030D. Retail or wholesale business with not more than fifty (50%) percent of the floor area used for the manufacturing, processing or compounding of products in a manner which is clearly associated with to the retail business conducted on the premises;

16.14.030E Retail or wholesale business with not more than seventy-five (75%) percent of the floor area used for the manufacturing, processing or compounding of products in a manner which is clearly associated with the retail business conducted on the premise on lots that do not abut a residential zone.

We can discuss further at our next meeting.

**C. Discussion and or Action on Email from Cliff Bixler regarding Property in Aurora.
Discuss regarding granting extension, and then we can notice.**

Platt status,

- Signatures have been done.
- Application of sub division and lot division. He received approval and then council granted a 1 year extension because things were slow. This comes to an end this June 2014.
- Now he has submitted Mylar and met conditions of approval and the Mylar is signed and off to be recorded.

It sounds like he will create the lots and record it for subdivision.

Chair Schaefer requests a copy of the Bixler bond. There has been discussion of not doing a 2nd storey.

Wakeley there isn't anything on agenda at this point but maybe for next month. There is no limit on your 1 year extensions.

Mayor Graupp remember that there is a for sale sign on the lot.

7. Commission Action/Discussion

A. City Planning Activity (in Your Packets)

Status of Development Projects within the City.

- City Planner Wakeley had no discussion items in addition to what has been previously discussed or presented on her report.

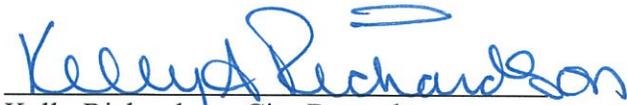
8. Adjourn

Chairman Schaefer adjourned the meeting at 8:52 pm



Chairman, Schaefer

ATTEST:



Kelly Richardson, City Recorder