



PLANNING COMMISSION MEETING

Tuesday, June 25, 2013

6:30 p.m.

Council Chambers

2nd Floor City Hall

1300 NE Village Street

MEETING AGENDA

1. **CALL TO ORDER:** 6:30 p.m.
2. **CITIZENS WISHING TO SPEAK ON NON-AGENDA ITEMS**
3. **REVIEW AND ADOPT MINUTES:** June 11, 2013
4. **PUBLIC HEARING**
 - 2013-21-ZC, ORD 6-2013
Final Plat Filing Extension
5. **STAFF UPDATES**
6. **COMMISSION UPDATES**
7. **TENTATIVE AGENDA:** TBD
8. **ADJOURNMENT**

NEXT PLANNING COMMISSION MEETING IS *TBD*.

Planning Commission hearings are broadcast live on Comcast Cable Channel 22 and Frontier Cable Channel 33. Replays of the hearing are shown on Comcast Channel 22 and Frontier Channel 33 Saturday at 12:00pm and Monday at 2:00pm, and Comcast Channel 30 and Frontier Channel 39 Wednesday at 7:00pm. Further information is available on our web page at www.fairvieworegon.gov or by calling Devree Leymaster, City Recorder, 503-674-6224.

The meeting location is wheelchair accessible. A request for an interpreter for the hearing impaired or for other accommodations for person with disabilities should be made at least 48 hours before the meeting to: Devree Leymaster, 503-674-6224.



MINUTES
PLANNING COMMISSION MEETING
1300 NE Village Street
Fairview, OR 97024
Tuesday, June 11, 2013

PRESENT: Steve Kaufman, Chair
Jan Shearer, Vice-Chair
Jack McGiffin
Gary Stonewall
Ed Jones
Julius Arceo
Gary Stonewall

ABSENT: Keith Kudrna

STAFF: Allan Berry, Public Works Director
Erika Fitzgerald, Development Analyst
Paul Elsner, City Attorney
Devree Leymaster, City Recorder

1. CALL TO ORDER

Chair Kaufman called the meeting to order at 6:30pm.

2. CITIZENS WISHING TO SPEAK ON NON-AGENDA ITEMS

Chair Kaufman inquired if any person would like to speak on a non-agenda item, hearing none moved to review of minutes.

3. REVIEW AND ADOPT MINUTES

May 28, 2013 minutes approved as written by consensus.

4. PUBLIC HEARING

13-20-CPA, ORD 5-2013

Chair Kaufman read the legislative hearing statement and cited the applicable criteria. There was no disclosure of ex parte contact, conflict of interest, or bias. No objections were noted. City Attorney Paul Elsner stated the disclosure of ex parte contact or bias is not required for a legislative hearing; only applies to quasi-judicial matters.

Development Analyst Erika Fitzgerald presented the staff report. In 2001, the property located on the northwest corner of Sandy Blvd and 223rd (tax lot 1N3E28AD05300) was rezoned from A-1-B to Corridor Commercial, along with other properties, per Ordinance 6-2001; however, the comprehensive plan designations were not changed. In 2004, during periodic review the zoning and comprehensive plan inconsistencies were identified and corrected, except for this property. Staff believes it was overlooked in the 2004 process. The proposed amendment corrects the scrivener's error making this property's comprehensive plan designation consistent with the zoning designation.

Vice Chair Shearer requested clarification of the term scrivener's error. City Attorney Paul Elsner responded it is a non-substantive error. In this situation the wrong color was added on the map.

Chair Kaufman clarified the amendment does not change the property's zoning designation, only corrects the comp plan map. Staff responded yes.

Chair Kaufman inquired if any person would like to speak in favor, opposition, or neutrally regarding the proposed amendment. William Rasmussen, 111 SW Fifth Avenue, Portland, Oregon, a land use attorney representing the property owner, MacDonald family, spoke in opposition of the amendment. Mr. Rasmussen presented a written letter to Planning Commission and to staff. Mr. Rasmussen contended when there is a conflict between a zoning and comp plan map, the comp plan map should prevail and the zoning should be corrected to match, not vice versa. Mr. Rasmussen outlined the proposals procedural deficiencies (i.e. improper noticing) and substantive deficiencies (i.e. noncompliance with state wide planning goals) as identified in the letter. Mr. Rasmussen summarized the proposed comp plan map amendment to re-designate the property commercial would conflict with the residential character of the neighborhood, hurt property values, and violate state and local law. A more accurate "fix" is to make the property residential.

Mr. Mike File, Fairview Terrace Homeowner Association, stated he was not aware of the proposed change until Mr. Rasmussen's firm contacted him. The Fairview Terrace development is adjacent to the MacDonald property. When Fairview Terrace was being built in 2003-2005 the subject property was believed to be residential. Property owners purchased residences in Fairview Terrace with the understanding the property would be developed as residential. Residents and the Fairview Terrace Homeowner Association oppose high impact, high use development of the property.

Mr. Tom MacDonald, PO Box 994, Madras, Oregon, owner of the subject property, stated through action of the City Council and unbeknownst to them the City changed the property's zoning from residential to commercial. The decisions in 2001 and 2004 corrected other zoning and map errors, but not theirs.

Mr. Joe DeJager, One SW Columbia, Ste. 950, Portland, Oregon, a realtor representing Mr. MacDonald, stated the property's topography slopes northward and it would be difficult to develop commercially. The property is better suited for residential/multi-family development. There is more demand and the probability for residential development is higher. Mr. DeJager requested the zoning be corrected to match the comp plan.

Mr. Leland Jakeway, Larkspur Lane, Fairview, Oregon, a homeowner in Fairview Terrace, stated he is concerned for the type of businesses and traffic impacts if the property remains commercial. When he purchased his home he was told the property was residential and would be developed as such. Mr. Jakeway requested the zone be changed to residential.

Commissioner McGiffin inquired what type of development would benefit Fairview. City Attorney Elsner responded the Commission can direct staff to review the issue. The property is currently zoned corridor commercial and the property owner can request a zone change.

Commissioner Shearer stated she recalled the property as never being zoned residential, but rather a non-conforming use. It has been designated commercial since 2001.

Mr. MacDonald responded the property was originally farm land. It was then designated an A-1-B zone with a commercial overlay. In 1990, he received a letter from Development Director John Anderson indicating he believed the property's designation was not legal. The property was

then designated A-1-B. The LID program began assessing the property at an A-1-B rate. Mr. MacDonald believed the property to have a residential designation. When a potential buyer contacted the City regarding development options he discovered the property had a commercial designation. The sale fell through and Development Director John Gessner directed Development Analyst Lindsey Nesbitt to research the property's zoning history.

Commissioner Jones reiterated the amendment is not for a zoning re-designation, but to correct an error that was not corrected between 2001 and 2004 with other property errors. The request is to correct an improper comp plan map designation. The property owner has never submitted a requested for a rezone and the current zone does allow for mixed use development.

Mr. MacDonald responded he has never applied for a rezone, but he never requested the original rezone. The zone change was made by City Council.

Commissioner Arceo inquired what action is needed to initiate a rezone. Staff responded the property owner needs to submit an application for a rezone.

Commissioner Jones moved to close the public hearing and Commissioner Stonewall seconded. The motion passed unanimously.

Commissioner Jones proposed not forwarding a recommendation to City Council until more research could be done and presented. Vice Chair Shearer agreed.

Commissioner McGiffin inquired what the process is to approve a rezone. Staff responded the property owner's application for a rezone would be reviewed by Planning Commission and City Council for consistency with the applicable code for a rezone. Vice Chair Shearer commented a comp plan amendment may also be necessary. The current comp plan identifies the property as medium density residential. Any zoning change other than medium density residential would require the comp plan designation be changed.

Commissioner Stonewall moved to refer the matter back to staff for additional research and Commissioner Jones seconded. Chair Kaufman requested a roll call. The motion passed unanimously.

Mr. File requested the Fairview Terrace Homeowners Association (HOA) be notified of future meetings. Staff responded the HOA would be notified, as well as, any attendee who signed in and provided a mailing address on the public attendance record.

5. STAFF UPDATES

At the request of the land owner (Townsend), staff is looking at the feasibility and options to relocate the creek that runs through the property on the south side of Sandy, east of 223rd Ave. The creek and correlating natural resource protection area make the property less than desirable for commercial development. Staff is researching if the property's marketability and usability can be increased, while enhancing and restoring the natural resources.

Public Works Director Allan Berry reported staff had met with Leland Consulting Group regarding an economic feasibility study for the river front. Leland will provide recommendations for study approach and options.

Development Analyst Erika Fitzgerald will begin her leave on June 28, or prior.

Development Analyst Lindsey Nesbitt's last day was June 7. Ms. Nesbitt accepted a Senior Planner position with Multnomah County. Notice for the vacant Development Analyst position is posted and closes on June 13. Staff is meeting with a Planning Consultant to assist with any applications received in the interim.

6. COMMISSION UPDATES

Commissioner Stonewall inquired about the status of the temporary fencing around the construction area at Alexander's OTB. Staff responded the business owner recently reinstated the building permit. The permit is active and staff believes the owner is actively working with the Health Dept. to correct the issues.

Vice Chair Shearer inquired about the status of the Code Enforcement program. Staff responded the program is currently handled by the Police Dept. A part-time contracted staff person from the City of Gresham is scheduled to begin June 17. The program will return to Public Works, be under the supervision of Development Analyst Erika Fitzgerald, and will remain complaint based.

7. TENTATIVE AGENDA: JUNE 25, 2013

2013-13-ZA, ORD 6-2013
Final Plat Filing Extension

8. ADJOURNMENT

Meeting adjourned by consensus at 7:36PM.

Steve Kaufman, Chair

Devree A. Leymaster
City Recorder

Date: _____



PLANNING COMMISSION STAFF REPORT

TO: Fairview Planning Commission
FROM: Erika Fitzgerald, Development Analyst
DATE: June 25, 2013
SUBJECT: Adoption of Ordinance 6-2013 Final plat recording extension and amendments to Section 19.430.130

ACTION REQUESTED

Forward a recommendation for the City Council adoption of Ordinance 06-2013.

BACKGROUND INFORMATION

Final Plat Extension

The Fairview Municipal Code (FMC) Section 19.430 requires that a final plat be filed with Multnomah County within one year from the date of preliminary plat approval.

In 2010, 2011, and 2012 because of the state of the economy, the City Council approved two code amendments allowing applicants to request additional extensions to the final plat filing deadline.

The following three final plats have not been filed and are set to expire during 2013.

1. Vision Development - 10 lot planned unit development on Depot Street.
2. Spencer Rogers - 7 lot development on Oregon Street (just off 201st).
3. Blue Lake Manufactured Home Park - creation of 93 lots in existing manufactured home park.

The applicants listed above have indicated they are still not ready to file the final plat for their project. The amended code language below will allow for an additional six month extension for the above mentioned plat applications.¹

The proposed changes are shown in underline.

FMC 19.430.130

C. Preliminary Plat Approval Period. Preliminary plat approval shall be effective for a period of one year from the date of approval. The preliminary plat shall lapse if a final plat has not been ~~submitted~~ filed with the County within the that one-year period unless extended consistent with subsection E below.

¹ The additional 6 month extension will only apply to preliminary plats that received an approval in the years 2007 and 2008 and have not already expired. The additional extension will not apply to any other plat applications.

D. Modifications. The applicant may request changes to the approved preliminary plat or conditions of approval following the procedures and criteria provided in Chapter 19.415 FMC, Amendments to Decisions.

E. Extensions. The public works director or ~~his or her~~ designee shall, upon written request by ~~the~~ an applicant and payment of the required fee, grant up to two one-year extensions of the approval period not to exceed one year each. For a preliminary plat approved in 2007 or 2008, the city administrator or ~~the administrator's~~ designee may if requested during the 2013 calendar year, approve a ~~fourth one-year~~ fifth extension for periods of up to six months expiring no later than December 31, 2014.

All extensions are subject to the following:

1. Any changes to the preliminary plat follow the procedures in Chapter 19.415 FMC;
2. The applicant has submitted written intent to file a final plat within the one-year extension period;
3. An extension of time will not prevent the lawful development of abutting properties;
4. There have been no changes to the applicable code provisions on which the approval was based. If such changes have occurred, a new preliminary plat application shall be required; and
5. The extension request is made before expiration of the original approved plan.
6. The fee shall be paid for each extension request.

Decision Making Process

Changes to the Fairview Municipal Code are reviewed as Type IV applications using a legislative procedure². A minimum of two hearings is required, one before the Planning Commission and one before the Council. All required notices for the proposed ordinances have been sent within the required time frame.

The Planning Commission has the following decision-making options on the proposed amendments:

- Recommend approval of Ordinance 06-2013.
- Recommend approval of Ordinance 06-2013 with modifications.

² Fairview Municipal Code 19.413.040

- Recommend denial of Ordinance 06-2013.
- Refer the matter back to staff.
- Take no action.
- Continue the public hearing.

Applicable Criteria

Amendments to the Fairview Municipal Code are subject to the following applicable criteria:

- Fairview Municipal Code 19.413.040 – Type IV Process
- Comprehensive Plan Chapter 2 Policy 7B

Summary

The proposed amendments are consistent with statewide planning goals as outreach has been completed, all required notices were completed.

Staff recommends the Planning Commission adopt a recommendation to the City Council for their approval of Ordinance 06-2013.

Findings in Support of Approval

1. The recommendation of the Planning Commission for the proposed amendments to the Fairview Municipal Code is based on the following factors:

A. The Statewide Planning Goals and Guidelines adopted under Oregon Revised Statutes Chapter 197.

The proposed regulations are consistent with statewide planning goals 1- Citizen Involvement, 2 – Land Use Planning

B. Comments from any applicable federal or state agencies regarding applicable statutes or regulations.

Not applicable.

C. Any applicable intergovernmental agreements.

Not applicable.

D. Any applicable comprehensive plan policies and provisions.

Chapter 2 Policy 7B of the Comprehensive Plan requires that any major revisions require re-evaluation of the public's need.

The amendment was initiated due to a request from an applicant for plat application in 2007 stating they were still not ready to file the final plat for their project. The amended

code language below will allow for an additional six month extension for plat applications approved in 2007 and 2008.

ATTACHMENTS

Ordinance 6-2013

Attachment 1

ORDINANCE

(6-2013)

**AN EMERGENCY ORDINANCE OF THE FAIRVIEW CITY COUNCIL AMENDING
THE FAIRVIEW MUNICIPAL CODE SECTION 19.430.130 TO EXTEND TIME FOR
CERTAIN FINAL PLAT APPROVALS**

WHEREAS, a public hearing was held by the Planning Commission on June 25, 2013 and by the City Council on July 17, 2013, and

WHEREAS, public notice was provided in accordance with Fairview Municipal Code 19.413.040 and ORS 227.186, and

WHEREAS, amendments were made to 19.430.130(E) in 2010, 2011, and 2012 authorizing additional 1 year extensions for the filing of the final plat, and

WHEREAS, amendments are approved to allow a final six month extension for the filing of a final plat for preliminary plats approved in 2007 and 2008 that have not yet expired, and

WHEREAS, this ordinance has been declared an emergency for economic development purposes to allow for an expedited review and approval of a final plat for a new residential development, and

NOW, THEREFORE THE CITY OF FAIRVIEW ORDAINS AS FOLLOWS; the Fairview Municipal Code is amended as follows:

Insert underlined words. Delete words in ~~strikethrough~~

Section 1

FMC 19.430.130

C. Preliminary Plat Approval Period. Preliminary plat approval shall be effective for a period of one year from the date of approval. The preliminary plat shall lapse if a final plat has not been ~~submitted~~ filed with the County within the that one-year period unless extended consistent with subsection E below.

D. Modifications. The applicant may request changes to the approved preliminary plat or conditions of approval following the procedures and criteria provided in Chapter 19.415 FMC, Amendments to Decisions.

E. Extensions. The public works director or ~~his or her~~ designee shall, upon written request by ~~the an~~ applicant and payment of the required fee, grant up to two one-year extensions of the approval period not to exceed one year each. For a preliminary plat approved in 2007 or 2008, the city

administrator or ~~the administrator's~~ designee may, if requested during the 2013 calendar year,
approve a ~~fourth one-year~~ fifth extension for periods up to six months expiring no later than
December 31, 2014. ~~extension.~~

This emergency ordinance is effective immediately from its passage as allowed by Chapter VII
Section 33 of the Fairview City Charter.

Motion adopted by the City Council of the City of Fairview this 21st day of August, 2013.

Mayor, City of Fairview
Mike Weatherby

ATTEST

City Administrator, City of Fairview
Samantha Nelson