

Minutes
FAIRVIEW CITY COUNCIL REGULAR MEETING
FAIRVIEW CITY HALL
1300 NE VILLAGE STREET
FAIRVIEW, OREGON 97024

AUGUST 21, 2002 – 7:30pm

I. CALL TO ORDER/
ROLL CALL

Mayor Vonderharr called the meeting to order at 7:30pm.

PRESENT: Mayor Roger Vonderharr
Councilor Ken Quinby
Councilor Sherry Lillard
Councilor Steve Owen
Councilor James Raze
Councilor Barbara Jones

ABSENT: Councilor Len Edwards

STAFF PRESENT: Mary Jo Briggs, City Administrator
Gilbert Jackson, Chief of Police
Bob Cochran, Public Works Director
Roy Wall, Finance Director
John Andersen, Community Development
Director
Melissa Slotemaker, Assistant Planner
Tammy Shannon, Administrative Assistant

II. CITIZEN COMMUNICATIONS

Mayor Vonderharr called for anyone wishing to speak on non-agenda items. Larry Cooper, 844 NE Market Drive, Fairview, spoke on behalf of the Multnomah County Drainage District No. 1, and reported to Council that the Drainage District had approved the draft agreement between the City of Fairview and the Fairview Lake Property Owners Association and wished to thank all who had provided assistance during the process.

City Administrator Mary Jo Briggs reported that the Draft Agreement was currently with the Fairview Lake Property Owners and was scheduled to come before Council on September 18, 2002.

Mayor Vonderharr thanked all the participants for their efforts in the process.

Betty Ann Goetz, 21208 NE Interlachen Lane, Fairview, spoke on behalf of the board of the Fairview Lake Property Owners Association and submitted a letter from the Association stating concurrence from the Association on working with the City towards the Draft Agreement with the City.

Randy Jones, 1200 NW Naito Parkway, Portland, spoke on behalf of Holt & Haugh and to assure Council of their desire to work with the City prior to the parking study being initiated by City Staff. Mr. Jones also wanted to make sure both the Council and Planning Commission have correct and true information with regards to the parking issues in Fairview Village.

Lynnia Woods, 20315 NE Sandy Boulevard, Fairview wanted to express her congratulations on the success of the Fairview Summertime Festival and thanked all whose hard work and efforts made the festival possible.

III. Consent Agenda

Councilor Owen moved and Councilor Jones seconded the motion to approve the Consent Agenda, consisting of the Minutes of August 7, 2002.

AYES: 5
NOES: 0
ABSTAINED: 1 (Raze)

IV. Public Hearings
APPEAL –
The Lodges at Lake Salish
Apartment Project
(Andersen)

Mayor Vonderharr read the following statement before opening the Public Hearing:

Ladies and Gentlemen: I call this hearing of August 21, 2002 to order. My name is Roger Vonderharr and I am Mayor of the City of Fairview. This hearing concerns the appeal of the Lodges at Lake Salish. This hearing concerns the number #0225PD. The role of City Council tonight is to make a decision about a land use matter. In making that decision, we must apply to the law of Fairview and cannot vary from or change that law. State Law provides that applications must be judged based on the law that existed at the time the application was filed. Members of the Council are to be unbiased. Before the start of the hearing on this item, I will ask the members of the Council whether they have any actual or potential conflicts of interest. If a Council member believes an actual conflict exists, he or she will be asked to step down during this case. I will also ask if they have been contacted by anyone or otherwise gained knowledge about this application outside of this hearing. If they have had any ex-parte contact, they will be required to disclose the substance of that contact. I will give the audience an opportunity to challenge the impartiality of the Council and the Council Member in question may respond to the challenge. The agenda and copies of the staff report are available at the back of the room. I will start the case by asking the staff to summarize their written report, then the applicant and those in favor of the application will testify. Afterwards, witnesses who oppose the application or those who have questions will be given a chance to speak. The Council members may have questions of the witnesses throughout the hearing. If new evidence is introduced in response to a question, everyone will get a chance to respond. Then the applicant can make a closing statement without introducing new evidence. Then I will close the Public testimony portion of the hearing and the Council will deliberate about what to do with the application. During deliberation, the Council may reopen the public testimony of the hearing if necessary to receive additional evidence before making a decision. Any person with an interest in today's agenda may offer relevant written or oral testimony. You must testify orally or in writing before the close of the Public testimony portion of the hearing to preserve your right to appeal the decision to the Land Use Board of Appeals. You must raise the issue clearly enough so people can understand what it is and offer evidence in support of it or you cannot raise that issue in the appeal. If you need more time to prepare, you can ask the Council to hold open the record or continue the hearing. You must make the request before the close of the Public portion of the hearing. If the Council holds the record open, you can submit additional written testimony and evidence into the record before the Council makes its decision. If the Council continues the hearing, it means oral or written testimony, including new evidence, can be offered at a future hearing. If additional testimony is submitted, the record will

be held open for seven days in order that the applicant may consider the information and submit comments unless the applicant waives that right. We must also comply with State Law that requires the City to make the final decision including all appeals with 120 days after the City staff found the application was complete, unless the applicant waives that right. To the Applicant: please be advised that failure to raise Constitutional or other issues relating to the proposed conditions of approval with sufficient specificity to allow the City to respond precludes an action for damages in Circuit Court. When you testify tonight, please come forward to the podium. Please begin your testimony by giving your name and address, and if you represent someone else, please say so. If you have exhibits you want us to consider, please hand them to me or to staff. The staff will keep exhibits until appeal opportunities expire and then you can ask them to return your exhibits.

Mayor Vonderharr concluded the introduction and asked if there were any Council Members wishing to declare any potential conflicts of interest, ex-parte, or independent knowledge of relevant facts.

Councilors Quinby, Owen, and Jones disclosed that each of them had had communications with Community Development Director John Andersen regarding the proposed project. Each assured all participants of their ability to make a fair, unbiased and informed decision regarding the appeal. Additionally, Mayor Vonderharr disclosed that he had walked the site in order to get a better perception of the project.

Mayor Vonderharr asked the audience if anyone wished to challenge the Council's impartiality. As there was no response, the Mayor called for the staff report.

John Andersen, Community Development Director, reported that the appeal for the Lodges at Lake Salish Apartment Project was based on the proposal to add additional density to the project.

Melissa Slotemaker, Assistant Planner, summarized the written staff report included in the Council packet. Planner Slotemaker commented that the apartment project, proposed for the Northwest corner of Glisan Streets and 207th Avenue, was approved by the Planning Commission at the July 11, 2002 meeting. A 15% density bonus had been included in the approval as is allowed in the Master Plan Development Code when open spaces, streetscapes, views and other amenities are provided. Planner Slotemaker reported that the Planning Commission had determined that the project provided enough amenities to warrant the additional bonus of 25 units to the project. The amenities the Planning Commission cited as meeting qualifications for the density bonus included:

- Public access to the trail and pond buffer area;
- Native Vegetation and buffer restoration;
- 10 shared parking spaces for public use;
- A pedestrian trail along the pond with benches and interpretive signage.

Planner Slotemaker reported that the Public Works Department had appealed the Planning Commission's approval of the project to the City Council due to the potential adverse impact to the park due to the density increase along with the expected maintenance costs associated with the buffer area if the land is dedicated to the City.

To address these concerns, Planner Slotemaker reported that staff was making the following suggestions:

1. To protect the wetland mitigation area to the north of the property and to limit liability, the northern wetland area should be fenced off.
2. Require a maintenance agreement between the developer and the City if the City accepts the buffer area as a land donation.

Planner Slotemaker stated that the following two questions were to be decided by Council:

1. Whether or not the 15% density bonus approved by the Planning Commission was warranted given the amenities provided while considering potential impact to the Park; and,
2. Whether or not the Council would accept the buffer land as a donation to the City's Parks System.

Planner Slotemaker stated that if the Council's answers to both questions above were yes, then Council's decision would be to uphold the Planning Commission's approval of the project and deny the appeal. If the Council wished to impose additional conditions such as a maintenance agreement, the Council's decision would be to grant the appeal in part and modify the Planning Commission's decision. Additionally, if Council wished to deny the density bonus or decline to accept the land dedication, the Council's decision would be to grant the appeal and overturn the Planning Commission's decision.

Councilor Owen asked how long the developer would be required to maintain the buffer area. Planner Slotemaker responded that the developer would be required to maintain the plantings in the buffer area for three years. After that, the City would take over maintenance.

Councilor Jones asked about the effect of increased lighting to the wetlands and wildlife in the buffer area. Planner Slotemaker responded that there would be no lighting within the buffer area.

Councilor Quinby inquired about the current public access to the park. Planner Slotemaker responded that the current public access was provided by the property owner's generosity and the Council's decisions tonight would finalize public access provided to the park.

Mayor Vonderharr opened the Public Hearing and directed the applicants to come forward and give their presentation. Steve Pfeiffer, legal counsel for the applicants, gave a brief overview of the applicant's presentation and stated that he interpreted the building code as having no maximum density, and as a result, Council did not have the ability to make a decision based on the density bonus.

Mike McKeel, President of GRA development Corporation, 108 NE Second, Gresham spoke to Council and stated that he had bought the property 10 years prior with the intention of making the property into a high quality development. McKeel reported that he had picked Oregon Pacific Corporation to develop the property because of their commitment to high quality developments.

Julie Leuvrey, 1800 SW 1st Avenue, Ste 600, Co-President of Oregon Pacific Capital Management Corporation, presented a brief overview of the Lake Salish Lodge Apartment Project. Ms. Leuvrey reported that the

goal was to deliver a project that reflects well on all and is sensitive to the unique natural amenities of the site while providing a superior housing option for the residents of Fairview. Ms. Leuvrey stated that this project would revitalize the wetlands area in the park as well as providing a permanent solution for access and parking to the park. She stated that Oregon Pacific did not set out to build 203 units; they backed into that number based on the costs of developing and the economics of the market, and that Oregon Pacific could not deliver a quality project without receiving the density bonus as requested.

Following this, Jeff Myhre of Myhre Group Architects made a Power Point presentation to the Council on the proposed project. The presentation included:

- Photographs of the site and surrounding areas
- Proposed Master Plan
- Design Objectives to work with the site forces
 - To create a resort environment within an apartment setting and maximize views of the lake
 - To block wind from the east
 - To block the vehicular noise from 207th Avenue and Glisan Streets
 - To minimize environmental impact
 - To create a clear and organic flow of pedestrian circulation within the site
 - To provide a clear vehicular flow within the site
 - To design well articulated buildings
 - To create a streetscape design on 207th Avenue
 - To minimize linear massing
 - To create an inviting entry to the site from Glisan Street
 - to promote security through a community plan
 - To provide increased landscaping
 - To enhance the connection to adjacent wetlands and the lake

Mr. Myhre stated that with approval of the project from Council, the applicant would be able to:

- Provide enhanced architecture
- Provide a better project for the community
- Provide a better project for Oregon Pacific Capital and the target market
- Avoid buildings that are simple extrusions of the "box"
- Provide connectivity to the wetlands park
- Promote a sense of community and to create a relationship within the site and buildings
- Provide enhanced wetlands and promote community oriented activities
- Complete the pedestrian trail system to the north and south
- Provide access to the pond for fishing
- Provide the potential for interpretive signage as an educational opportunity
- Provide integrated viewpoints along the trail
- Provide enhanced landscaping and improved riparian buffer
- Provide improved wildlife habitat
- Provide shared parking along the southern end of the site

- Provide for increased native vegetation which will assist in maintaining the balance of the wetlands, lakeshore, and streetscapes
- Provide a connection to the existing city path on the southwest corner of the lake
- Provide bench and rest areas along particular points of the trail
- Provide an enlarged view along the wetlands area
- Provide northern buffer to the wetlands
- Provide increased mitigation to increase wildlife habitat values of the wetlands and buffer areas

Mr. Myhre also reported that storm water treatment would discharge to the city's previous mitigated area to the north and would increase the hydrology to the enhanced northern wetlands. Additionally, Mr. Myhre stated that in the proposed master plan, the total area to mitigate was 81,671 square feet.

Councilor Jones asked if the proposed chain link fence to be added at the edge of the northern wetland was to keep people out of the apartment complex or to keep people out of the wetland. Mr. Myhre responded that as he had just heard about the fence earlier that day, he was not quite sure of the purpose of the fence. Planner Slotemaker added that the fence could be used to lessen the possible impact on the northern wetland area from the apartment complex. Slotemaker reported that this was not part of the Planning Commission's original approval- it would be something that the Council would need to add as part of their approval if wanted.

Councilor Lillard asked if the shared parking would be off limits to the residents of the apartments. Mr. Myhre stated that as shared parking, anyone would be eligible to use it- but there were a larger amount of parking spaces in the complex than is normal.

Mayor Vonderharr reminded everyone that the apartment complex had already been approved and that Council would only be deciding on the increased density and whether to accept the land donation to the City.

Councilor Jones asked what safeguards were in place to protect an apartment resident from parking their extra vehicle in the shared parking for an indefinite period of time. Julie Leuvrey stated that the management company would police the situation and not allow cars to be parked in the shared parking for more than 24 hours.

Steven L Pfeiffer, Attorney for Oregon Pacific, commented that the applicants were less than enthusiastic about the proposed fence for the northern wetland area. Mr. Pfeiffer felt the fence would be inconsistent with the purpose of the park and would be visually intrusive. Mr. Pfeiffer also asked Council to consider the possibility of a Parks SDC credit if the city did not accept the buffer area as a land donation from the property owner.

Mayor Vonderharr asked the Planning Commission members present if they had any comments. Sam Asbury, Planning Commission Chair, reminded Council that as a part of the SEC permit process, a fence would be required to section off the northern buffer area.

Mayor Vonderharr called for testimony in support of the project. Rachael Tullis, 21961 NE Chinook Way, Fairview, spoke in support of the project. As a potential resident of the apartment complex, Ms. Tullis felt the proposed apartments would provide the quality she would be looking for as a renter by lifestyle.

Rick Holt, 1460 NE Village Street, Fairview, reported that he was in support of the project. Mr. Holt felt that by the City accepting the land donation, a link from the park to the existing trails would provide access and would therefore help support the existing businesses in Fairview Village.

Carlin Conkin, 1800 SW 1st Avenue, Portland read two letters of support for the project. The letters from Jerry Lawson and Gordon Stoney are attached as part of the record.

Jan Shearer, 130 Main Street, Fairview, expressed her support for the project. Ms. Shearer felt that with the City accepting the land donation, public access to the park would be guaranteed. Additionally, Ms. Shearer stated that with the density obligations the city has to meet, this project could help meet those obligations.

Mike McKeel, 108 NE Second Avenue, Gresham read a letter in support of the project. The letter, signed by Fairview residents Kerry Ann O'Halloran, Darren O'Halloran and Chris & Haley Lisignoli is attached as part of the record.

Mayor Vonderharr called for persons wishing to speak in opposition of the proposed project. As there was no response, Mayor Vonderharr closed the Public Hearing.

Councilor Owen inquired about the statement made by the applicant's attorney regarding maximum density and SDC credits. Pam Beery, City Attorney, responded that although the City's Zoning Ordinance is less than clear regarding maximum density, it would be absurd to interpret the Ordinance as meaning there were no limits on maximum density. With regards to SDC Credits, Ms. Beery stated that SDC credits cannot be spent on maintenance- only on Capital Improvements and the issue of SDC credits should be addressed in a separate process.

Councilor Raze expressed his support for the apartment complex, as it enhanced the area without adversely impacting areas around the project. He felt this was the best project for the spot.

Councilor Jones also spoke in favor of the project but was opposed to the fence around the northern wetlands. She also felt that by having people living in the area, there might be less problems at the ponds.

Councilor Lillard also spoke in favor of the project and felt the apartment complex would be an asset to the city.

Councilor Owen expressed his support for the project but was opposed to the fence around the northern wetlands. He felt that if in the future a fence should be needed, the City could address the issue at that time.

Councilor Quinby voiced his support for the project and opposition to the fence around the northern wetlands.

Mayor Vonderharr also supported the project and opposition to the fence. Mayor Vonderharr felt this apartment complex would be the type of housing that could help promote industrial and economic development in the City. Mayor Vonderharr also felt that the project would allow the city more flexibility in dealing with density issues throughout the City.

Councilor Owen moved and Councilor Raze seconded the motion to uphold the Planning Commission's approval of the Lodges at Lake Salish apartment project with the following amendments:

1. Condition 4 of the Planning Commission's SEC Permit Approval is amended to read as follows: "Section 19.100.090.E requires fencing or screening around the SEC area. The screening as proposed by the applicant is adequate to meet the requirements of this section."
2. Condition 19 of the Planning Commission's Site Design Review Approval is amended to add an additional sentence reading "The instrument by which the donation is accomplished shall be in a form acceptable to the City."

AYES: 6
NOES: 0
ABSTAINED: 0

V. Council Business
Fairview Recreation Plan
(Slotemaker)

Assistant Planner Melissa Slotemaker reported that members of the Parks Advisory Committee had developed the Fairview Recreation Plan with the intention of taking advantage of the existing resources within the community. A city-wide survey had been sent to residents and the Parks Advisory Committee had met with several recreational providers including the YMCA and Sports League. Planner Slotemaker stated there had been two priorities in the Recreation Plan:

- To use the Community Center to provide recreation programs for the city's residents and to develop active recreational spaces which included helping local schools improve their recreational areas
- The long-term development of a potential larger sports park facility.

Planner Slotemaker reported that the Parks Advisory Committee had reviewed the plan and was recommending acceptance of the plan by Council.

Councilor Raze commended all on the Committee and voiced his support for the Fairview Recreation Plan.

Councilor Owen moved and Councilor Lillard seconded the motion to implement the Fairview Recreation Plan as resources become available.

AYES: 6
NOES: 0
ABSTAINED: 0

VI. Departmental Reports
A. Police

Police Chief Gilbert Jackson reported that he had heard, but had been unable to confirm, that the \$1.6 million set aside for the Gang Task Force funding had been signed by the Governor. However, Chief Jackson also reported that there might be a problem with the distribution

schedule of the money. Chief Jackson said that the managing group of the task force would schedule a third meeting once those questions had been answered.

B. Public Works
(Cochran)

Public Works Director Bob Cochran reported that bidding for the construction of the final pump house for Well #8 was in process. Director Cochran also reported that the County was scheduled to pave 213th, Bridge, Shaw and Crestwood Streets during the first week of September, but he was trying to get the paving rescheduled for the second week of September so as not to interfere with back to school traffic. Additionally, Director Cochran reported that two permits from the Drainage District had been received for the dam and water storage and he was in the process of making an appointment with Dave Hendricks to review some questions with him.

C. Community Development
(Andersen)

Community Development Director John Andersen reported that land use applications had been slow but that building construction had continued to be strong during the summer. Director Andersen also reported that the Community Center usage has been increasing, with activities ranging from the performing arts to YMCA day care. He also said that the Community Center had shown income of \$2,660 during the first year. Director Andersen also wanted to remind Council of the upcoming Visioning Workshop scheduled for September 4, 2002.

D. Finance
(Wall)

Finance Director Roy Wall reported that he was completing the final paperwork to turn over to the independent auditor who is scheduled to begin his field work in September.

E. Administration
(Briggs)

City Administrator Mary Jo Briggs reported to Council about a tour she and Chief Jackson had taken of the Multnomah County Correctional Facility and wished to thank Major Jim Turney and Captain Ray Edgers for their hospitality. She also reported that she and Chief Jackson were participating in a group looking for areas to enhance police cooperation in East County. The group's focus will be on major crime, gangs and drugs.

VII. Mayor/Committee Reports
& Council Concerns

Councilor Jones wished to congratulate everyone who participated in the agreement with the Drainage District on the Fairview Lake issue.

Mayor Vonderharr reported that he was at a meeting with Senator Minnis and Representative Minnis and reported that the meeting showed how the State can impact the cities through the laws and legislation passed.

VIII. Adjournment

Councilor Owen moved and Councilor Quinby seconded the motion to

adjourn. Mayor Vonderharr adjourned the meeting at 10:30pm.

Mayor Roger Vonderharr

Dated:

Tammy Shannon
Administrative Assistant