

MILL CITY PLANNING COMMISSION
Meeting of July 16, 2019

**The meeting was preceded with a site visit to
Freeman Meadows Subdivision – corner SE Hazel St. and SE 6th Ave. at 4:30 p.m.**

Planning Commission members present: Chair Ann Carey, Dennis Chamberlin, Marge Henning, Woody Koenig, David Leach and Grant Peterson.

Staff in attendance: Planning Advisor David Kinney and City Recorder Stacie Cook.

City Council Representatives: None.

Agency Representatives: None.

Citizens: Scott Baughman, Pat Cook, Cheryl Coplen, Robert Johnston, Donna Jones, Anita Leach, Natalie Levesque, Karen Lucas, Rex Lucas, Mike Matthews, Carrie Peterson, Mark Stanley, Michelle Stanley, Mark Stegeman, Sandi Stegeman, John Wills and Ron Wiseman.

The meeting was called to order at 6:30 p.m. Chair Ann Carey led the pledge of allegiance.

APPROVAL OF MINUTES: *Marge Henning moved, seconded by Grant Peterson to approve the minutes of June 3, 2019, as amended. The motion carried, (5:0).*

Woody Koenig arrived at 6:32 p.m.

PUBLIC COMMENT: None.

PUBLIC HEARING: File No. 2019-09
Applicant: Rex A. Lucas and Scott Baughman, SBC Construction, Inc.
Proposal: Freeman Meadows Subdivision – 15 Lots/Partial Street
Vacation – SE 5th Avenue ROW
Location: 9S3E32BA Tax Lot 3400 4.12 Acres – SE Ivy Between SE
5th Avenue and SE 6th Avenue
Property Owner: Rex A. Lucas

Chair Carey opened the public hearing at 6:32 p.m. Chair Carey read the procedures for land use hearing asking if there were objections to the notice that was sent in this case.

Mike Matthews, SE Hazel Street, stated his objection to the notice sent, access to the proposal documents and the application based on inadequate time and access, under ORS 192 Oregon's Public Meeting and Public Records Law, given for members of the community to review the proposal, application and all exhibits/appendices. Mr. Matthews added that he felt that the seven days provided for review of the information was not adequate to allow members of the community to contact relevant authorities such as DEQ, DLCD and ODFW. Mr. Matthews requested that the Mill City Planning Commission table the public hearing until August 20, 2019 to allow for public review.

Chair Carey asked Mr. Matthews when he received his notice of the hearing. Mr. Matthews said that he received his notice at the same time everyone else did; about a month ago. Access to the document was not provided until a week ago and that proposal was limited to coming to City Hall to pick it up. Mr. Matthews said that since he works during the day, as do most of his neighbors, it was hard to obtain the documents.

Chair Carey asked if there were objections to the jurisdiction of the Planning Commission to consider this matter. No objections stated.

City Planner David Kinney stated that the City has an obligation to mail out notifications for public hearings before only the Planning Commission at least 20 days prior to the hearing or 10 days prior to each meeting if the hearing will be heard by both the Planning Commission and the City Council. The City also has an obligation to provide the staff report and supporting documentation seven days prior to the hearing. Mr. Kinney said that he understands that this could be considered a complicated proceeding but the City has complied with the statutory requirements. If the Planning Commission recommends approval of this application, the City Council will hold a public hearing and the public will have an opportunity to provide testimony at their hearing as well. Staff recommendation is to proceed with the hearing.

Chair Carey asked if the Planning Commission would like to proceed with the hearing. Robert Johnston said a motion should be made.

Grant Peterson moved, seconded by Dennis Chamberlin to continue with the public hearing. Chair Carey asked for a show of hands for those in favor. Grant Peterson, Dennis Chamberlin and Chair Carey voted aye. Dave Leach abstained. Woody Koenig and Marge Henning stated reservations.

Mr. Peterson asked for clarification on what the Planning Commission will be doing this evening. Mr. Kinney said that the Planning Commission has the option to grant the request to table the hearing until the August meeting. This is not the only opportunity for the public to provide testimony; the Council will hold a hearing once they receive the Planning Commission recommendation. The Planning Commission also has the option of moving forward with the hearing tonight.

Marge Henning asked if it would be possible to postpone the meeting to hold a hearing with the City Council. Chair Carey said that this option was considered and it was decided to hold separate hearings.

Woody Koenig said that at the end of the hearing the Planning Commission has four options; approve, approve with modifications, continue or deny.

Mr. Chamberlin said that he understands people may wish to delay the decision until more information could be obtained but the City should not delay this hearing.

Mr. Kinney asked if Mr. Koenig and Ms. Henning are voting in favor or against proceeding with the hearing. Both stated they vote in favor of continuing the hearing. Motion passed,

(5:0:1) with Mr. Leach abstaining due to a conflict of interest.

Chair Carey called for ex parte contact, bias or conflicts of interest. Dave Leach is an adjacent property owner within the notice area and, therefore, stepped away from his seat for the hearing.

APPLICANT'S PROPOSAL: Scott Baughman, applicant, stated that the original plan for the street flow did not include SE 5th Avenue but after a conversation with the City Planner and Fire Chief they revised the plan to include a flow through SE 5th Avenue to SE Hazel Street. The SE 6th Avenue right-of-way shows a gravel road at the north end. This is preferable to not be graveled but blocked with a sign.

Another change in the overall plan is extending the 12" water main on SE Kingwood clear up SE 6th Avenue rather than ending it at the SE 6th Avenue and SE Kingwood intersection.

The applicant would like to construct a 40' wide street instead of a narrower one.

Mr. Kinney asked if the construction entrance comes off of SE Kingwood Avenue. Mr. Baughman said that no construction traffic will come off of SE 5th Avenue.

The SE 6th Avenue is proposed as a 47' wide street with utilities on the east unimproved section so that if the property to the east ever develops it will be easier to connect to utilities without cutting into the street.

Mr. Kinney asked about fire hydrant locations and spacing. Mr. Baughman said that there is a hydrant on the opposite side of SE 6th Avenue off of SE Kingwood Avenue. There are two hydrants proposed within the subdivision on SE Ivy Street at the SE corner and one 250' to the west.

STAFF REPORT: Mr. Kinney said that a subdivision can be developed by anyone within a zone that is large enough to create one while meeting zoning requirements.

The application, engineering plans and a storm drainage analysis have been submitted. The City Engineer and Fire Chief have reviewed the plans and provided comments back to the City. The Fire Department agrees with the wider street and the traffic flow. The Linn County Road Department stated that they will require a permit to complete the street connection at SE 6th Avenue and a road construction permit for the new water line in SE Kingwood Avenue.

The City can require land for public space. There is no need for a park site within this development. The recommendation is that if the subdivision is recommended for approval, the drainage swale and tract of land be dedicated to the City for public maintenance.

The R-2 zone allows for single-family and multi-family lots. The proposed lots are large enough for a single-family home or a duplex.

The proposed streets comply with the street requirements for the City. The Planning Commission has the ability to require wider streets and with the applicant's testimony of the preference being

for wider streets this should be considered as a recommendation to the City Council.

There are no sidewalks proposed on SE Hazel Street. A determination would need to be whether requirement to install sidewalks is proportional to the development or if this should be a City requirement. If the Planning Commission wants to see sidewalks this can be a recommendation and the City Attorney would need to determine who would install them.

The storm drainage plan shows a small detention basin for water during peak storms. A piping system runs into SE 5th Avenue north, connecting to SE 5th Avenue north of SE Hazel Street and continues north until it connects to an existing outlet and swale in Kimmel Park.

Staff recommends that the City pay a proportional share for the upsizing of the storm drainage system being installed. The City is also required to pay for the upsizing of the water main installation in SE Kingwood Avenue. The cost sharing for each would be determined once the City Engineer and the applicant's engineer review the overall project design and make a recommendation. The Council will have to agree to the cost sharing and a development agreement outlining the terms would be entered into between the applicant and the City.

The City Engineer has recommended a series of conditions of approval and modifications have been made by City Planner Dave Kinney based on the proposal.

Conditions of approval include:

1. Approved map and time limit of subdivision approval will expire August 31, 2020 if the plat has not been submitted to the City for final review.
2. The final subdivision plat must be recorded with Linn County no later than December 31, 2020. The final plat must include; Tract A dedicated to the City of Mill City, reference to any existing City of Mill City Sewerage Easements, a 10' wide PUE on the street frontage boundary for all lots and vacation of 25' x 120' section of SE 5th Avenue ROW, upon City Council approval.
3. Developer will install required public improvements prior to recording the final plat or provide the City with a performance bond/guaranty. Upon completion, the City engineer will recommend City acceptance and require submittal of a one-year warranty/maintenance bond
4. City and developer will enter into a Development Agreement stipulating terms of completion of the subdivision improvements and timing and amount of City reimbursement for SDC eligible water system improvements.
5. Developer shall provide performance bond and warranty bond in an amount established by the City Engineer, as required by the City's Public Works Design Standards (PWDS).
6. Applicant shall submit final engineering plans for the subdivision for review and approval by the City Engineer prior to the City approval of the final plat. Improvements will be designed and installed in accordance with the City PWDS and construction specifications as outlined in Mill City Planning Commission Staff Report and Findings dated June 30, 2019 per Section IV D, including:
 - a. Permits
 - b. Street Improvements

- c. Water Improvements
- d. Sewer Improvements
- e. Storm Drainage Improvements

PROPONENT'S TESTIMONY: None.

OPPONENT'S TESTIMONY: Anita Leach, SE Hazel Street, provided a written outlined of testimony. Mrs. Leach said that her biggest concern is the traffic that will be brought onto SE Hazel Street from the subdivision and the safety issues that this may cause.

Mrs. Leach said that the intersection of SE 4th Avenue and SE Hazel Street is one of the most dangerous in the City and this will probably be where most of the traffic from the new subdivision comes from.

Mrs. Leach strongly recommended the Planning Commission not include a gravel section on SE 6th Avenue, rather leave it unimproved entirely with a road closure sign.

Mrs. Leach asked that the fire hydrant specifications be changed to require red instead of yellow since they have all been painted red.

Mrs. Leach asked that any duplexes be on the south side of the subdivision. Mr. Baughman said that he is looking to build all single-family homes at this time.

Mrs. Leach asked if the increased run-off into the river contradicts the three basin rule. Mr. Kinney said that this is a criteria that needs to be considered.

Sandy Stegeman, SE Hazel Street, said that there are floods on her street all of the time when it rains so if the runoff is going to be directed toward SE Hazel Street with the swale behind her property, this is concerning.

Mrs. Stegeman said that the development of SE 5th Avenue will take a third of her property.

Mrs. Stegeman asked about the sewer system and if the addition of these homes will cause issues with the sewer or if the swale might.

John Wills, SE Hazel Street, said that he thinks that the review of this subdivision should be done with a second meeting if needed.

Donna Jones, SE Hazel Street, handed out written testimony and read it into the record. Ms. Jones said that she is opposed to this development, that the SE 5th Avenue right-of-way should be vacated to the property owners at the corner who have used it for many years.

The property includes a large aquifer and a natural disaster such as an earthquake could result in the loss of water and the collapse of the aquifer.

Ms. Jones said that she does not feel the subdivision is compatible with the surrounding area.

Robert Johnston, SE Hazel Street, handed out written testimony and read it into the record, stating that his property borders SE Hazel Street, SE 5th Avenue and the City well site. There is a section of SE 5th Avenue recommended for vacation. If this is completed, then the statement in Criteria #6 concerning his property would be in error. This will not allow for him to have access to SE 5th Avenue. At some point in the future, the property to the west of SE 5th Avenue would not have the ability to connect in at SE Juniper Street. Mr. Johnston recommended that the City retain ownership in SE 5th Avenue.

The proposal does not include curbs and sidewalks on SE 5th Avenue. Mr. Johnston recommended that the City require sidewalks and curbs to be extended north to SE Hazel Street for pedestrian safety.

The grade and angle required to made SE 5th Avenue functional is concerning. If the bank between the road and his property is not reinforced or cut below grade of the existing drive it may slough off into the SE 5th Avenue right-of-way.

Mr. Johnston said that he is opposed to this project.

Dave Leach, SE Hazel Street, said that his concern is with 5th Avenue and the impact it will have on adjacent property owners as well as the amount of traffic that will be brought onto SE Hazel Street from the subdivision. The road is not wide enough and on-street parking causes issues already. This will only get worse with the increased traffic. There needs to be some other compromised solution to get access to this property.

Mike Matthews said that he objects to this proposed subdivision and that he will be sending his concerns to the Governors public records advocate and transparency in government advocate.

Mr. Matthews said that access to the site creates a public safety and quality of life issue for current and future residents. The street does not have accommodations for pedestrians. The City should not vacate the 5th Avenue right-of-way or exert influence on property owners to accommodate a private for-profit development.

Mr. Matthews said that the proposed work to infrastructure will impact access and use of streets and property by homeowners and the proposal to tie into the existing 4" sanitary line will increase its load by 100%-200%, noting that this must present an overload issue.

Mr. Matthews ended by stating that the Linn County Surveyors report is not included in the information and the DEQ report for the storm drainage has not been completed at this time.

Mr. Johnston asked why a traffic study was not done. Mr. Kinney said that a 15 lot subdivision will generate approximately 150 vehicle trips per day. In consultation with the Linn County Engineer, the conclusion was that a local street is typically designed to allow for 1000 vehicle trips per day. With the low impact of 150 trips added, the decision was that a traffic study was not warranted. Mr. Johnston asked that the Planning Commission require a traffic study.

Natalie Levesque, SE Hazel Street, asked if the streets have to be for two-way traffic or if SE 5th Avenue could be limited to one-way traffic. Mr. Baughman said that the original proposal was to install a turn-around for emergency vehicles and not open the streets other than to SE Kingwood Avenue. Ms. Levesque suggested installing a traffic barrier on SE 6th Avenue for emergency vehicles.

Cheryl Coplen, SE Ivy Street, asked how this subdivision will affect water pressure. The pressure is low now. Mr. Kinney said that by adding the new lines there should be an increase in flow within the area, but this may not affect SE Ivy Street.

GENERAL TESTIMONY: Pat Cook, SE Hazel Street, said that there is a big stand of trees east of this property and he is concerned with the possibility of there being fires caused.

The excavation of the SE 6th Avenue roadway may cause damage to these trees roots. This is concerning as the root damage could cause the trees to die and fall.

Dennis Chamberlin said that he would think that 150 additional cars a day would be a big impact on SE Hazel Street.

Michelle Stanley, SE Hazel Street, said that there are kids in this area all of the time. People already don't stop at the intersection and this increases the danger.

Ron Wiseman, SE Hazel Street, said that he recently went through a similar situation behind his home with a home being constructed on the property line and this could happen within the proposed subdivision.

Mr. Chamberlin asked Mr. Johnston for clarification on his statement concerning SE Juniper. Mr. Johnston said that if the south end of SE 5th Avenue is vacated then there would not be an ability to connect SE Juniper Street through to SE 5th Avenue.

Grant Peterson asked what the naming reasoning was for SE Ivy Street. Mr. Kinney said it was a question of which street name to continue with, Ivy or Juniper.

APPLICANT'S REBUTTAL: Mr. Baughman said that the original street plan was to include a cul de sac and the change in the layout was due to the Fire Chief and City. The developer is open to not opening SE 5th Avenue.

The detention pond will flow directly into the storm sewer line, not onto the open ground or street.

Mr. Baughman said that he agrees with the issues on SE Hazel Street and noted that they are open to whatever the Planning Commission and City come up with.

Mr. Kinney explained that the entire City grid system for the sewer system is a 4" system, which is adequate to handle the water flow that goes into it.

STAFF SUMMARY: Mr. Kinney said that there were a bunch of issues raised tonight, the biggest

being the access onto SE Hazel Street. Staff recommendation is to take time to review the comments this evening and call for a special meeting to deliberate on the points raised.

Chair Carey asked if the record should be kept open for additional testimony. Mr. Kinney said that staff can provide information without holding the record open. Should the Planning Commission want information for a source other than staff then the record would need to be held open to receive it.

Mr. Kinney recommended closing the hearing and setting a special meeting for July 30 to complete deliberation.

CLOSE OF HEARING: Chair Carey closed the hearing at 8:27 p.m. The meeting will be continued to July 30, 2019 at 6:30 p.m.

Rex Lucas, Aumsville, thanked everyone for their attendance and comments this evening.

Dave Leach retook his seat.

Mrs. Cook noted that the full Planning packet including the staff report and maps is available on the City's website and there is a mailing list that people can sign up for to receive an electronic copy of the packet.

Mr. Leach asked if the City well road could be used as an emergency access to the subdivision.

Mr. Kinney said that he will look at this option as well as any others that may be viable to address the traffic flow issues raised by the SE Hazel Street residents.

PRESENTATIONS: None.

OLD BUSINESS: None.

NEW BUSINESS: None.

INFORMATIONAL ITEMS: None.

BUSINESS FROM THE PLANNING COMMISSION: None.

OTHER BUSINESS: A brief conversation regarding the TIGER grant ensued. Further information will be provided as updates are available.

Mr. Kinney said that there could be one or two applications for the September meeting; a site plan review for SW Spring Street and a site plan review for the old Hoover building on S 1st Avenue. There is also the possibility of the Chevron application coming in soon as well as a minor partition for Santiam Pointe. These are all small applications so if Mr. Kinney is not available to attend the meeting, Mrs. Cook can present the staff report.

Chair Carey asked for an update on the charging stations. Mr. Kinney said that he and Mrs. Cook need to set a meeting to go over the agreement with the property owner. If all goes well the project will commence.

The meeting was adjourned at 8:52 p.m.

Prepared by:

Stacie Cook, MMC City Recorder

Minutes approved by the Planning Commission on the 30th day of July, 2019