

October 7, 2021
Planning Commission Meeting
Virtual Meeting
7:00 p.m.

Commissioners Present: Chairman Jan Kerr, Vice Chairman Julie Jones, and Commissioner Stephan Moss

Commissioners Absent: Commissioner Marcus Wager

City Staff Present: Robert Barnhill: City Administrator
Chris Crockett: City Attorney

Others Present: Bev Graham, Heidi Murdock, Rod Koford, Jordan Anderson, Jed Atherly, Scott Gibby, Jim Flint, Jeff Roberts, Robb Miles

1. 7:00 p.m. - Call to Order and Opening Ceremonies

Chairman Jan Kerr called the meeting to order.

A. Declare Conflict of Interest, if any

Commissioner Jones said that Perry Landing is adjacent to her but she feels that she can remain objective.

2. Action Items

A. Final Plat Application – Ventura Subdivision located at approximately 1240 W 2250 S Parcel #03-157-0131 Applicant: Jose Ventura

Robert Barnhill discussed the property. The zoning has been not been updated yet but has been approved to RE1/2 to match the adjacent lot. This is a one lot subdivision. This lot was created without following the subdivision requirements, it was created by deed, so it is not in compliance. It did not meet the zoning requirements at the time for the lot size. This is why they obtained the zone change and are going through the subdivision process (to become a legal and buildable lot). It is .8 acres and 2250 S is a gravel road. The improvements to the property have been outlined and the adjacent property owner obtained a deferral agreement. They would also be requesting a deferral agreement on those improvements.

MOTION: Vice Chairman Jones made a motion to approve the final plat application for the Ventura subdivision and also approve the deferral agreement on the curb, gutter, sidewalk and half of the asphalt for the road. Commissioner Moss seconded the motion.

Roll Call Vote:

Commissioner Kerr, Yes
Commissioner Jones, Yes
Commissioner Moss, Yes

Motion Approved: 3 Yes 0 No

B. Preliminary Subdivision Application – Perry Landing located at approximately 3200 S 1200 W Parcel #02-034-0038 Applicant: Robert Anderson

Mr. Barnhill noted that this application was submitted and letters were sent out but the application was deficient in some areas, so it is recommended to table this item. The applicant is aware of this and is

preparing more submittals for their review. Mr. Barnhill then reviewed the plat in detail. The property is approximately 15 acres and has been granted the R1 zoning district. It will include single family lots and some townhome lots. He discussed the water system in the area (and some of the comments that were received from public in regard to concern about that). He stated that there is good static pressure and water available but the dynamic pressure (when there is a demand on the end of the line) is not as good. This area (as a lot of the south end of Perry) has a lot of 6 inch main lines, which are undersized. This developer will be required to upsize the 6 inch lines to 12 inch from this location to 2950 south. The city also has some water projects in the area that will also improve the system. If those projects are completed, the developer would still be required to upgrade the line to at least an 8 inch line. This will improve the pressure and flow of water available in this area. He also noted that there are plans along 1200 west for a multi-use trail which will be required by this (and any future) subdivisions along 1200 west to put in. Mr. Barnhill added that this application is in compliance with the density map that allows for limited multi-family housing.

Chairman Kerr said she feels this should be tabled and she would like to see the missing elements in the application so they can make a more informed decision. Commissioner Moss asked what the missing elements are. Mr. Barnhill said there are some comments in the staff report from the Engineer and staff but reviewed those with the Commissioners. He stated that with townhomes there are a few more requirements to review including a preliminary landscape plan, preliminary phasing plan, and preliminary architectural details.

Vice Chairman Jones discussed the two options that were presented with this application. Mr. Barnhill explained that the option 1 concept that was submitted does not comply with the density map. She wondered if they wanted to approve that, if it would need to go to City Council. Mr. Barnhill explained that it would be a code amendment and would have to have a public hearing with the planning commission and then go to city council for a final decision. He said that a letter has been submitted to the Mayor already for a request for that but he is unsure if the Mayor has decided if he wants to put that on the agenda or not. Vice Chairman Jones also wondered (after reading through public comments) if it would be possible to move the units from the south side of the road to the north side. She explained further that when multi-family units are put in single-family areas, it should affect as few residents as possible. She feels that moving the 4 units from the south side that back up to existing single-family lots being moved to the north side would be better for those single family homes that are already existing. She added that she would like to see the code amendment go to City Council for possible approval of changing the density map to allow all of the townhomes to be moved to the west since they would all be part of the same HOA. She also feels that the density map should be zeroed out for the future.

Jordan Anderson, the applicant's representative, responded to Vice Chairman Jones stating that Option 1 is their preferred choice. They will do what the city would like them to but would also prefer that option due to the HOA. He said that as far as moving them to the north, he is not sure that he could do that or not, but it is something they could look at.

Chairman Kerr asked what is developed or proposed to be developed to the north of this subdivision. Mr. Barnhill explained that it is an orchard right now. Vice Chairman Jones said that a lot of people were taken by surprise that multi-family units were allowed in R1 and that if they were moved to the north side, then future homes that come would know what they are getting into (building next to multi-family housing).

MOTION: Vice Chairman Jones made a motion to table the preliminary subdivision application for Perry Landing. Commissioner Moss seconded the motion.

Roll Call Vote:

Commissioner Kerr, Yes
Commissioner Jones, Yes
Commissioner Moss, Yes

Motion Approved: 3 Yes 0 No

C. Amendment to Preliminary Subdivision Application – Harmony cove located at approximately 2200 S Hwy 89 Parcel #03-158-0079 Applicant: Brandt Miles

Mr. Barnhill explained that this application has previously received approval with the street and utilities being private. They are now requesting this road and utilities become public. He explained that the layout is designed as if it were public and the street sections match the city's standard street sections. He said that city code grants Planning Commission as the land use authority the ability at preliminary application to determine the layout of the roads, the street sections, and utilities in a way that would be advantageous to the city, limiting maintenance and liability. He discussed what other cities allow in regards to townhomes and that our policy is not as strict as some. He further explained that whatever decision they choose, staff recommends that it be consistent (that it can be applied from development to development).

Chairman Kerr said if this is a private road and utility, the HOA would be responsible for sending the water bills to their residents. Mr. Barnhill said that it would be paid to the city from the HOA, so the HOA would have to be responsible for charging that as part of their monthly fees. She said that her opinion is that it looks like a dead end street and looks like a private development from the plat.

Vice Chairman Jones said typically she would prefer it to be a private road run by the HOA but this has 20 townhome units proposed (which is the same number as the previously discussed Perry Landing subdivision, and will also be on a public street with an HOA). She added that if they are going to allow it for Perry Landing, why they wouldn't also allow it for this subdivision. She said that townhome units like this are typically built along major thoroughfares and be private and run totally by the HOA. If this is the direction the city is going by allowing it in some areas, this becomes a little muddy for her.

Mr. Barnhill discussed staff perspective being these are roads that the public needs to connect to other properties (so there would be a public interest). He showed some examples of other plans that have been approved (properties with stub roads, public streets, and private streets). Chris Crocket, City Attorney, added that there has to be significant public interest to make a public road.

Vice Chairman Jones asked if lot #1 and #2 were part of the HOA (the single family lots next to the townhomes). The applicants stated that they will not be part of the HOA. They would have to have their own meters but would be on a private road. Vice Chairman Jones said she is leaning towards making the road public but keep the utilities of the townhomes private and as part of the HOA. Mr. Barnhill said it is possible to approve private utilities under our road right of ways, but his recommendation is to make it all one way or another (if a private utility needed repair, they would have to go through a public road to get there).

Jim Flint, the applicant's engineer, stated that they thought this would be public from day one (individually metered with separate sewer and water laterals to each building). Typically townhome developments are built on narrow streets to get the most density possible. He discussed the utilities and collection issues that could happen if it were not a public street (it would be possible, putting in a 4 inch master meter, but could be problematic). Certain things would remain under the HOA including the common area landscaping, the drainage pond maintenance, roof maintenance, and perimeter fencing. The project is not requesting a reduction in city standards of street or public utilities. They just want them to be allowed to be publicly maintained.

Commissioner Moss said that one of the examples that was shown as private was going to be owned and maintained by the developer, so that does change how that is functioning since these townhomes would be sold and owned individually. He added that it also feels weird to have part of the road be public for the two single family lots and then changes into private.

Mr. Barnhill said that city staff and engineer comments stand as they are however, when they make their motion (if they approve this request) they need to site defensible reasons that would be precedent moving forward in other developments. He thinks the transition from public to private in this situation (due to the city requirement of the single family lots and the density map) is a challenge that would be looked at as unique and could be a reason used for allowing it.

Commissioner Moss said it would be difficult to have that transition (from public to private), also the fact they would be owned privately makes it more of a public feel. If you just look at the map and see the dead end it looks like it should be private but in this situation he can see the justification both ways. It would make it more difficult for the city with the road transitioning to private in this situation.

Joseph Graham, public member, asked who would be responsible for snow removal and if there is liability from the city with that. Chairman Kerr stated that it would be the city if they make it public and the HOA or developer if private. Mr. Barnhill added that the decision made tonight will determine that responsibility. Mr. Crockett said that as far as the town homes being sold privately and the bill collecting go, those things are not relevant to the public interest. The things to consider are how it is configured to lot 1 & 2 and the density map.

The Planning Commission discussed their thoughts on whether it should be public or private. They were all in agreement that since lot 1 & 2 were required to be single family homes (due to the density map) and should be separately metered, that they should be allowed to be public in this situation.

MOTION: Vice Chairman Jones made a motion to approve the amendment to the preliminary subdivision application for Harmony Cove to make the road and utilities public, with the reasoning due to the current requirements of the density map requiring Lot #1 and #2 to be single family units instead of townhomes, and also that the entrance comes off of a stub road instead of a main street. Commissioner Moss seconded the motion.

Roll Call Vote:

Commissioner Kerr, Yes
Commissioner Jones, Yes
Commissioner Moss, Yes

Motion Approved: 3 Yes 0 No

D. Conditional Use Permit Application for an auto-body shop located at approximately 1800 S Hwy 89 Parcel #03-159-0074 Applicant: Tim Kraftson

Mr. Barnhill reminded the Commissioners about this application that came to them last month. He reviewed the main topic of discussion being the code requiring a 25-foot landscape buffer adjacent to residential. It does allow for a reduction of that 25 feet based on the buffering that is proposed. He discussed the material and trees that the applicant added to the proposal as well as the slope and retaining wall. He did note on the plan that the plants are flip flopped which can be easily corrected. One thing he thinks is important is the location of the building. The code states that all buildings in this area should be close to the highway with pedestrian features. The applicant would like to know if this project will be moving forward in that regard. Planning Commission will be the land use authority on the conditional use permit, but the site plan application (which has more detail) land use authority is City Council. Mr. Barnhill said that the Planning Commission can give their feedback to the City Council but ultimately they (City Council) could make a different decision. Due to that, Mr. Barnhill sent this application out to City Council to let them know planning commission was reviewing this conditional use permit and get feedback from them. Three of the council members responded back to him (this is not a final decision-he just wanted the planning commission and the applicant to know) and all three said they would apply the code requirement and that if they cannot meet that code requirement, the use may not be a good fit on this property. One council member was a little softer saying that maybe if they made some other improvements to enhance the highway they could consider it. He added that Planning Commission does not have authority to provide an exception to the code, they do have authority to say they believe they are complying with the code in so far as possible. Mr. Crockett also added to look at if there are any detrimental effects and what is being done to mitigate those.

Chairman Kerr expressed concern of the slope of the property next to the townhomes and the retaining wall (will their system be able to handle water flow from the neighboring property). Mr. Barnhill said if the slope is on the neighboring property there would not be anything they could do about it but might be something for them to take note of.

Commissioner Moss wanted clarification that this is the only possible way to have this property become compliant. Mr. Barnhill said in a way, yes, but he may word it in a way that states they are being complying in so far as possible.

Chairman Kerr said her other concern is the sharp turn on a steep slope to get into the property, she does not feel there is enough room. Commissioner Moss reminded that concern was brought up at the last meeting (which he agrees with) but the applicant did not seem concerned.

Vice Chairman Jones said she went to the property to try and visualize what it would look like and did not think the 10 foot buffer would be sufficient between the townhomes and the property. She discussed the retaining walls and added that the fence would be up on a berm. She would feel more inclined to not allow the 10 foot buffer and require the 25 foot.

Mr. Barnhill reviewed the code with the Planning Commission.

Commissioner Moss said that the location is not an issue for him. Chairman Kerr agreed, saying the location is not an issue for her either as long as the front landscape is presentable and pleasing. She understands the concerns with the 25 foot buffer and the townhomes.

Mr. Barnhill explained that the conditional use permit application is a separate application than the site plan application. Planning Commission is the land use authority on the conditional use permit and the site plan will go to City Council after Planning Commission. If there are any negative impacts, they need to specify how those will be mitigated. They will also want to address the 25 foot buffer.

Commissioner Moss clarified that the two boxes they are checking are as follows; if they can overlook the store front being closer to the street (because of the drainage that needs to be there and sloping in the back) and because of the business they are choosing (and the parking they require) they can't have a 25 foot buffer to go along with their plan. The applicant may propose other methods of screening adjacent to residential properties to reduce that 25 foot requirement (which they are proposing juniper trees, grass and 10 foot buffer).

Vice Chairman Kerr asked if they need to look at other negative impacts such as oil and noise. Mr. Crockett said they will have to abide by other laws (in regard to oil going into storm drains and sewer). Chairman Kerr said the applicant had discussed placing the building in a way that the place where most of the work would be done would be away from the townhomes. Commissioner Moss added that they are already next to a highway and would only be operating during business hours.

MOTION: Commissioner Moss made a motion to approve the conditional use permit application for an auto-body shop located at approximately 1800 S Hwy 89 Parcel #03-159-0074 with the understanding that the store front requirement would be difficult to meet with the storm drain and the foliage that was outlined with the clarification that the grass would be on the south side of the Junipers and having the Junipers as outlined and maintained in the plan. Vice Chairman Jones seconded the motion.

Roll Call Vote:

Commissioner Kerr, Yes
Commissioner Jones, No
Commissioner Moss, Yes

Motion Approved: 2 Yes 1 No

3. Discussion Items

A. Density Map

Vice Chairman Jones said she takes some issues with the density map as it currently stands. She thinks the idea of it is good but the application of it (now that they are seeing it in a single family neighborhood) has issues. She said it is essentially taking a complex and putting it in a single family neighborhood. She said in the general plan it says it wants multi-family units to be integrated into a single-family neighborhoods, but the idea is to have it not noticeable. She discussed complexes along Highway 89 and feels that makes sense. She said that the complex being proposed (Perry Landing) is a lot for the street and neighborhood, including more traffic and cars for a narrow road. She feels the number of multi-family units allowed needs to be adjusted going forward. She does not feel like the numbers along Highway 89 need to be adjusted but the ones in the single-family neighborhoods. She discussed going

through the City and counting the number of multi-family households that exist already and the amount of proposed (or are in the process of being built).

Her suggestion is that it is a good idea to integrate some of this into the community (she thinks duplexes are a good idea) but she thinks the density and keeping the feeling of a rural community would be affected by so many townhomes being put in and that there should be adjustments.

Chairman Kerr said that the density map is an experiment and they are seeing how it all plays out. She discussed how the blocked the area at Pointe Perry out to see how that plays out. She said that they have the ability to do that in other areas on the density map. Vice Chairman Jones said she feels that the numbers need to be adjusted on the density map and maybe some other things need to be added to code (for example 4 townhomes per 30 houses) that will allow it to be naturally spread out along the grid, and that the multi-family housing is built in a way that affects the number of existing housing in the least way possible.

Chairman Kerr said they are only a year into allowing multi-family housing and that it has been very popular. She added that is why you sometimes have to adjust the plans (because you don't always know how it will play out).

The Planning Commission discussed 1200 west and how busy it is with walkers and school children riding bikes. Mr. Barnhill discussed actively pursuing grants to develop 1200 west and the desire to connect the north end with the south end (walking/bike trail). He informed the commissioners that Council Member Blake Ostler suggested a joint work session to discuss the density map between the Planning Commission and City Council. He said if they want the density map as an action item, they can do that, but they may want to do a joint work session first to get the perspective of the Council. They discussed dates they could have the work session. They decided to have it tentatively on October 21st at 7:00 p.m.

4. Approval of the Minutes

A. September 2, 2021 Regular Meeting Minutes

MOTION: Vice Chairman Jones made a motion to approve the September 2, 2021 regular meeting minutes. Commissioner Moss seconded the motion.

Roll Call Vote:

Commissioner Kerr, Yes
Commissioner Jones, Yes
Commissioner Moss, Yes

Motion Approved: 3 Yes 0 No

5. Discussion

A. Future Projects

None.

B. Report on past-approved Planning Commission Agenda Items

None.

**C. Report from Commissioner regarding last Council Meeting
(September 9th & 23rd)**

Commissioner Moss said they did a closed session pretty early in the meeting and that he reported on planning commission items to the council. Mr. Barnhill said they approved the zone changes they sent on.

**D. Make Assignments for Representative to Attend City Council Meetings
(October 14th & 28th)**

Vice Chairman Jones will take October 14th and Chairman Kerr will take the 28th meeting.

6. Training

A. Staff

Mr. Crockett briefly discussed appeals to district court, how the court will look at them and why it is important that their motions are clear. He talked about noticing challenges. They also discussed ARPA funds.

7. Review Next Agenda and Adjourn

A. Items for November Agenda (next meeting November 4th, 2021)

None.

B. Motion to Adjourn

Motion: Vice Chairman Jones made a motion to adjourn. Commissioner Moss seconded the motion.

All Commissioners were in favor. The meeting ended at 9:01 p.m.