

ASTORIA PLANNING COMMISSION MEETING

Astoria City Hall
December 27, 2018

CALL TO ORDER:

President Fitzpatrick called the meeting to order at 6:30 pm.

ROLL CALL:

Commissioners Present: President Sean Fitzpatrick, Jennifer Cameron-Lattek, Daryl Moore, Jan Mitchell (via telephone), Joan Herman, and Brookley Henri.

Commissioners Excused: Vice President Kent Easom

Staff Present: City Manager Brett Estes and Contract Planner Robin Scholetzky (via telephone). The meeting is recorded and will be transcribed by ABC Transcription Services, Inc.

APPROVAL OF MINUTES:

President Fitzpatrick asked if anyone had any corrections or changes to the minutes of the November 27, 2018 meeting. He noted the following:

- Page 2, 2nd full sentence – “This Theatre will be different from the Astor Street Opry Company, Liberty Theater, Performing Arts Center, and Gella *Kala...*”

Commissioner Herman moved that the Astoria Planning Commission approve the minutes of the November 27, 2018 meeting as corrected; seconded by Commissioner Henri. Motion passed unanimously.

PUBLIC HEARINGS:

President Fitzpatrick explained the procedures governing the conduct of public hearings to the audience and advised that handouts of the substantive review criteria were available from Staff.

ITEM 4(a):

SP18-01 Subdivision (SP18-01) by Stan Johnson and Cary Johnson for a Preliminary Plat application for a 22-lot subdivision (no address) located off of Old Highway 30: Map T8N-R09W Section 20, Tax Lot 107. The site is zoned R-3 (High Density Residential). The following Astoria Development Code standards are applicable to the request: Article 2 (Use Zones), Article 3 (Vehicle Access), Article 9 (Administrative Procedures) and Article 13 (Subdivision) and Comprehensive Plan Sections CP.005 to CP.028 (Land and Water Use and General Development).

President Fitzpatrick stated this public hearing was continued from the December 11, 2018 meeting asked Staff to present the Staff report and recommendations.

City Manager Estes and Planner Scholetzky reviewed the written Staff report via PowerPoint, noting the revised Findings of Fact, a revised plat, revised Conditions of Approval, and new recommendations based on feedback from the Commission at the December 11th meeting. Staff also presented information on options for street trees in the subdivision. No correspondence had been received and Staff recommended approval of the request with the conditions listed in the Staff report.

Commissioner Cameron-Lattek asked who would be required to maintain the street trees. City Manager Estes confirmed that the Planning Commission would need to provide direction on that if the Commission decided to require street trees.

Commissioner Henri asked why Tract C was being referred to as a play space and not a park. City Manager Estes explained that a park is defined as being owned and maintained by the City of Astoria and the Code allows the use of the term play space. Since this property would be privately owned, it would not be a park and is referred to as a play space. The City Attorney has opined that the Planning Commission has the ability to require an area be set aside. However, the Development Code does not allow the Commission to require playground equipment. The City Attorney has advised that the Planning Commission refrain from requiring playground equipment as a condition of approval.

Commissioner Moore asked who would maintain the public spaces, specifically Tracts A, B, and C. City Manager Estes noted those tracts would be owned by the developer or another entity, as stated in Condition of Approval 13, and a maintenance agreement would state whether the developer or the other entity would be responsible for maintaining those public spaces.

Commissioner Moore asked if maintenance of the street trees could be included in that maintenance agreement. City Manager Estes confirmed the street trees would be located on different tracts, so a separate condition of approval would be necessary.

President Fitzpatrick opened the public hearing and called for a presentation by the Applicant.

Cary Johnson, 9280 John Day River Road, Astoria, stated he was largely in agreement with the Staff report. There is still one issue to be cleared up with the street trees requirement. He understood that if he was to increase the park area, which he had doubled, that would be in lieu of street trees. This project is surrounded on three sides by trees and several large acre tracts on each side of the property will be left full of trees. He hoped that would suffice. Not requiring street trees does not mean there will be no trees in the development; it just means the trees would be the responsibility of the developer when landscaping is done. That would be his preference, to landscape the individual lots as necessary instead of having tree lined boulevards that he would be responsible for maintain into the future. With 43 other conditions, he believed there were already a lot of constraints on this project and requiring street trees in an unnecessary burden to put on the landowner. The Eagle Ridge Development he did several years ago did not have a park area. He was not proposing a homeowner's association (HOA) because he was planning on eventually owning the HOA. So, any kind of maintenance of a public use is on him anyway.

Commissioner Moore stated he had suggested a larger park area in lieu of street trees. He was speaking for himself, not the Commission, when he said he would be willing to waive the street tree requirement if there was a larger playground area. He confirmed the Commission had not yet decided on that as a whole. The Applicant has said he plans on being the property owner, but Commissioner Moore was concerned that maintenance of the public spaces could become an issue if the property was sold, noting that the Applicant was not legally required to be the property owner.

Commissioner Mitchell said that a tree lined boulevard was much more expansive than the narrow streets proposed for this development. It would be helpful to have an idea of the type of landscaping the developer intends to do so the Commission can get a sense of how this development will fit into the community. She asked if the City had landscaping requirements. There is no indication of any landscaping on the drawings provided. City Manager Estes explained that landscaping is considered as part of the site plan review process and the Commission does not have the jurisdiction to condition site improvements as part of a plat. The City does have the ability to require landscaping improvements when multi-family units are built.

Mr. Johnson stated he planned on having landscaping as part of the multi-family development, in compliance with the City Code. He intended to build a warm and welcoming development that is a nice place for people to live. He believed he could provide something that would be an asset to the City. He did not believe having trees up and down the streets within the street area is necessary. Street trees are not common in Astoria and they result in long term maintenance issues and cost issues.

Commissioner Cameron-Latteck stated she drove around the site and confirmed that Tracts A and B were both wooded with trees.

Commissioner Henri asked where the multifamily properties would be located in the subdivision and how many parcels would have multifamily units that would require landscaping.

Mr. Johnson explained that all of the properties are currently zoned as high density residential and would qualify as multifamily lots. No development is being proposed currently. This subdivision request is just to create the lots.

President Fitzpatrick called for any testimony in favor of, impartial to, or opposed to the application. Hearing none, he called for closing comments of Staff. There were none. He closed the public hearing and called for Commission discussion and deliberation.

President Fitzpatrick reminded that the Planning Commission needed to make decisions on the size of the park and the street trees. He asked how the Commissioners felt about requiring a park of at least 5,000 square feet.

Commissioner Herman said she liked the idea. She questioned what kind of park it would be without playground equipment.

President Fitzpatrick reminded that the Commission had received a legal memorandum on playground equipment.

City Manager Estes added that the park would be considered usable open space. The Code does not allow the Commission to require improvements, but the Commission can require that an area be dedicated for use as a park.

Commissioner Herman said if the City Code was changed to allow the Commission to require playground equipment, the City would take on a liability. City Manager Estes clarified that the City would be responsible if it became a City park. Homeowners associations would likely carry any liability coverage of privately held playgrounds.

President Fitzpatrick added that the memorandum stated the City would be liable if the Commission required playground equipment without the authority to do so.

Commissioner Mitchell confirmed that the City already had liability insurance for all City parks and facilities. Planner Scholetsky noted liability was not the right term. The use of the word liability in the memorandum was in reference to the decision to require playground equipment, not in regard to the land use.

Commissioner Herman believed 5,000 square feet was appropriate for a development of this size.

Commissioner Moore said he was satisfied with the modifications made to the plat, which included a play space of 5,000 square feet.

Commissioner Henri said she thought 5,000 square feet was great. A play space can be many things and does not need play equipment. The important thing is that land will be set aside as shared public land. Landscaping is not in the Commission's preview, but it clearly is going to be maintained by the property owner. Landscaping/the play space will be less than one percent of the size of the subdivision, so it is not over the top to ask for it. And she certainly did not believe the play space was an appropriate substitute for street trees.

Commissioner Cameron-Lattek stated she was happy with the size of the play space.

Commissioner Mitchell believed the proposed size of the play space met the Commission's request.

Commissioner Moore said he was concerned about the play space remaining a public open space in perpetuity.

Staff reminded that the conditions required public access. Tract C shall be designated as play space for the use of the residents of the community and Eagle Point and shall have a public use easement to enable public access. The easement would be noted on the final plat.

President Fitzpatrick stated he had a 5,000 square foot park without playground equipment, which he believed was a reasonable size for this development. His park worked very well for families and he trusted that Mr. Johnson would determine for himself whether equipment should be installed in his park to attract the type of

tenant he is looking for. He confirmed that all Commissioners agreed that a 5,000 square foot play space was appropriate. He asked if Commissioners wanted to require street trees.

Commissioner Henri stated she was a big proponent for street trees because the parcel is 18.28 acres, which is large. There will be 22 lots and the Commission does not know how many of those lots will have single-family dwellings. Street trees are not very daunting. She worked with cities and counties that have unmaintained roads and they do not maintain their street trees after the trees are established. The contractor who plants the trees is responsible for making sure the trees survive and then the trees go unmaintained, unirrigated, and untrimmed. There are low maintenance street trees with small leaves or have a more columnar shape with small canopies. A root barrier can be installed between the curb and the tree, and between the sidewalk and the tree to prevent the roots from buckling the concrete. A smart design means street trees do not have to be high maintenance. She also recommended the Commission require spacing requirements because the trees must jive with the street lighting. The farther apart the trees are spaced, there is less of a high maintenance feeling. The aerial photograph of Tracts A and B makes those tracts look pretty clear and she did not know how much of those tracts were forested. She believed the Commission should consider requiring street trees.

Commissioner Cameron-Lattek said she was undecided on street trees. Other recent subdivisions were required to have street trees. However, Eagle Ridge does not have a park, but it is surrounded by trees and Shively Park is nearby. Mill Pond has a play area and street trees, but no forested area around it. She was glad to know that Tracts A and B could not be developed and were wooded. Additionally, most landscape plans require some trees.

Commissioner Mitchell said Astoria does not need shade, but there are not many subdivisions in Astoria. She did not believe street trees were onerous even though there were woods around. She believed that any decisions the Commission made about a subdivision would set a precedent for the next subdivision. Street trees are appropriate in multifamily developments and they would not result in maintenance problems that would make the trees unviable. She wanted the Commission to require street trees. The trees could be species that are compatible with the climate and are low maintenance.

Commissioner Herman believed that requiring street trees would not be onerous and that it is important to increase the livability of the complex. She assumed apartment complexes would be built. Trees increase the attractiveness and the worth of the property. The upfront expense will make the development more attractive. Astoria is blessed to be surrounded by trees, but many trees will or already have been removed in the development. She believed the Commission needed to require street trees.

Commissioner Moore said the property is zoned R-3, so it is very likely that all of the lots would be developed as multifamily properties, which would be the most economical use of the property with this platting. The Code already requires landscaping for three units or more, so he was not set on requiring street trees.

President Fitzpatrick stated he was undecided. He did not want the Commission to set a precedent, but given the location, the circumstances, and the landscaping requirement for multifamily, he believed there would be a reasonable amount of landscaping in the subdivision. He wanted to leave the decision up to the developer but did not want to set a precedent.

City Manager Estes recommended a straw poll vote since two Commissioners were undecided. Staff would modify the conditions according to the Commission's direction. He reminded that final motions fail when the vote is tied.

Commissioner Cameron-Lattek asked if street trees would satisfy the landscaping requirements for multifamily developments. City Manager Estes explained that those landscaping requirements apply to private property. Street trees would be located in public property.

Commissioner Henri asked for details of the landscaping requirements for multifamily developments. City Manager Estes explained the requirements were not differentiated between uses. A certain percentage of the site must be landscaped.

Commissioner Henri said she guessed only one or two trees would be required per lot. City Manager Estes added that the City did not specify any number of trees. Just a certain percentage of the site must be landscaped.

Commissioner Henri stated she was confused about the maintenance. Stormwater facilities, utilities, and street lights will all become property of and maintained by the City. Street trees would be maintained by the owner even though the trees would be planted in the same public right-of-way. City Manager Estes added that sidewalks are also maintained by property owners. Anything in the right-of-way outside of the curb line is maintained by the adjacent property owner unless common maintenance is required.

Commissioner Henri asked who would maintain any street trees planted by the developer. City Manager Estes said that street trees could be maintained in common by an HOA or by the adjacent property owner. Mill Pond's HOA maintains the landscaping for consistency throughout the development. Staff has no preference on way or the other on this development.

Commissioner Herman asked Commissioner Henri to clarify her comments on tree species that require little to no maintenance once mature.

Commissioner Henri explained that trees are at risk of dying for the first two or three years, but the maintenance period for new plantings is only one year. The landscape contractor would be responsible for watering plants for the first year. Trees would need to be drought tolerant. Leaf removal in the fall would be the main concern. Trees on approved street tree lists tend to not have aggressive roots, so buckling concrete would only become a concern when the trees grow large. Another concern could be broken branches when the trees are older. However, issues can be avoided during the design by choosing the right species of trees.

Commissioner Moore said he was very concerned about the maintenance and ownership of the trees. Mr. Johnson stated he did not have any intention to sell the properties, but he is not required to say either way. So, there may be other property owners in the future. Therefore, an HOA might be applicable. Covenants, conditions, and restrictions (CC&Rs) are only enforceable by an HOA. If the Commission requires street trees, the Commission needs to find some way to ensure the trees continue on. He did not believe there was a clear way to do that.

President Fitzpatrick believed the City was responsible for enforcing CC&Rs. City Manager Estes stated the City has zero responsibility over CC&Rs. If the Commission required that specific provisions be included in CC&Rs, like requiring street trees to be maintained by an HOA, the CC&Rs would have to state that the provision could not be modified without the expressed approval of the City of Astoria because it was a condition of the subdivision. However, the City cannot enforce CC&Rs. CC&Rs are covenants by a collective group of property owners that are only self-enforceable.

President Fitzpatrick said he had been involved in CC&Rs that the city did have the authority to enforce. City Manager Estes clarified that the City can only enforce the Development Code.

Commissioner Mitchell believed the Commission was getting legalistic about street trees. This property will become an apartment development and the developer intends to maintain ownership to make profits from it. She assumed the development would have a high-quality design because the property owner wanted the development to look good. If trees are required, the property owner will maintain the trees. Since landscaping requirements on multifamily properties is less specific, the landscaping may just be shrubs instead of trees since they are easier to maintain. Therefore, the Commission should require street trees. The development is a profit-making venture.

Commissioner Henri asked how long Roads A and B were, and how many street trees would be required. City Manager Estes noted the initial condition stated that a street tree plan would be provided with engineering construction plans because the trees would need to coordinate with the street lights, driveways, and other elements of the plan. Engineering Staff would need to determine the location of available land for trees. At this point, driveway locations have not yet been established because that is not part of the platting process. Additionally, the City's engineering design standards do not include spacing requirements.

President Fitzpatrick reminded the Commission was not determining the number of trees, just whether or not to require a street tree plan.

Commissioner Henri asked if the City would be required to figure out the maintenance. City Manager Estes said the Commission would need to make a decision on maintenance if street trees are required.

President Fitzpatrick called for a straw poll, asking should the Commission require street trees. All of the Commissioners stated they would vote in favor of requiring street trees. Commissioner Cameron-Lattek clarified that she would vote with the majority because Astoria needed this development. Commissioner Moore added that the street tree requirement would not preclude him from voting in favor of the subdivision.

Staff recommended a condition requiring the street trees to be maintained by the adjacent property owners, which is consistent with the way right-of-way improvements are dealt with throughout the rest of the city and because no HOA has been proposed for this development. Staff also recommends that the trees must be installed with the infrastructure improvements or bonded for installation during a phase of the project that would give the trees a better chance of survival.

Commissioner Moore said if the adjacent property owner is responsible for maintenance of the trees, what would preclude the property owner from cutting the trees down? City Manager Estes stated that would be a violation of the subdivision approval and the City would require that a new tree be planted.

Commissioner Henri noted that property owners would not have to replace trees that died, were hit by a car, or struck by lightning. City Manager Estes said over time in all developments, some of the landscaping will die or get damaged.

President Fitzpatrick confirmed that the Commission was in agreement with Staff's recommended conditions for installation and maintenance.

To implement the Commission's direction, Staff recommended that Condition 17. Street Trees include the following sentence, "The street trees shall be maintained by adjacent property owners." The Planning Commission concurred.

Commissioner Moore moved that the Astoria Planning Commission adopt the Findings and Conclusions contained in the Staff report and approve Subdivision SP18-01 by Stan Johnson and Cary Johnson, with the following addition to the Conditions of Approval contained in the Staff report:

- Condition 17. Street Trees – Add the following sentence, "The street trees shall be maintained by adjacent property owners."

Seconded by Commissioner Henri. Motion passed unanimously.

President Fitzpatrick read the rules of appeal into the record.

REPORTS OF OFFICERS:

Commissioner Henri reported that she had been asked to participate in an advisory committee for the Uniontown Reborn Master Plan project.

City Manager Estes added that the project area was between the round about and the Doughboy monument. The project would consider streetscape and transportation improvements, zoning along the Highway 30/Highway 101 corridor, and aesthetic improvements at the city gateways from Washington and Warrenton. The Planning Commission might need to consider Code amendments as part of this project. The Mayor had asked Commissioner Henri to join the committee because she has experience with landscape architecture.

Commissioner Herman reported this was her last meeting. She thanked the Commissioners for being such great colleagues and for educating her.

Commissioner Moore and President Fitzpatrick thanked Commissioners Herman, Mitchell, and Easom for their service and shared parting comments.

STAFF/STATUS REPORTS:

Meeting Schedule

- i. January 8, 2019 – APC Meeting at 6:30 pm (with Riverfront Vision Plan Urban Core work session)
- ii. January 29, 2018 – Discuss possible APC meeting

City Manager Estes noted the work session on January 8th would focus on historic architectural designs. Also, a training session for Councilors and Commissioners had been scheduled for January 10, 2019 at 6:00 pm, hosted by the Department of Land Conservation and Development (DLCD). The training is optional.

President Fitzpatrick confirmed the incoming Commissioners would be updated on the Riverfront Vision Plan.

City Manager Estes said the new Commissioners would be appointed by Mayor Elect Jones after the first of the year, so Staff would work quickly to get the new Commissioners up to speed.

PUBLIC COMMENTS (NON-AGENDA):

There were none.

ADJOURNMENT:

There being no further business, the meeting was adjourned at 7:55 pm.

APPROVED:

[at the 1/29/2019 APC meeting - no changes]

Community Development Director

