



City of Lake Oswego Development Review Commission Minutes

January 7, 2002

I. CALL TO ORDER

Vice Chair Nan Binkley called the Monday, January 7, 2002, meeting of the Development Review Commission to order at 7:00 PM in the Council Chambers of City Hall at 380 A Avenue, Lake Oswego, Oregon.

II. ROLL CALL

Commissioners present were Ms. Binkley, Sheila Ostly, Bill Tierney, Krytsyna Stadnik and Gary Fagelman. Julie Morales and Dave Powers were absent.

Staff present were Hamid Pishvaie, Development Review Manager; Debra Andreades, Associate Planner; Evan Boone, Deputy City Attorney; and Janice Bader, Senior Secretary.

II. ELECTION OF OFFICERS

Ms. Binkley announced that election of officers had been postponed until the next DRC meeting in order to allow all of the members to be present for the vote.

Ms. Ostly moved to appoint Nan Binkley as Acting Chair. Mr. Tierney seconded the motion and it passed with Ms. Stadnik, Ms. Binkley, Ms. Ostly, Mr. Fagelman and Mr. Tierney voting yes. Ms. Morales and Mr. Powers were not present for the vote. There were no votes against.

IV. APPROVAL OF FINDINGS, CONCLUSIONS AND ORDER

LU 01-0034, a request by Dr. Tuan A. Nguyen

Mr. Tierney moved for approval of LU 01-0034 Findings, Conclusions and Order. Ms. Ostly seconded the motion and it passed with Ms. Binkley, Ms. Ostly, and Mr. Tierney voting yes. Ms. Stadnik and Mr. Fagelman abstained from the vote. Ms. Morales and Mr. Powers were not present. There were no votes against.

V. PUBLIC HEARING

LU 01-0066, a request by the City of Lake Oswego to construct the Palisades 2 reservoir on a 3.95 acre site owned by the City of Lake Oswego. This project requires approval of the following requests:

- A Conditional Use Permit to build a major public facility in the R-7.5 residential zone.
- A Development Review permit to ensure design standards are met for the construction of a 2.5 million gallon reservoir.
- Delineation of the Resource Conservation (RC) boundary, and establishment of the Resource Protection Area.
- Approval to remove approximately 230 trees to accommodate the project. All trees will be mitigated at a 1:1 ratio.

The site is located at Tax Map 21E 15BA, Tax Lot 1200. The staff coordinator is *Debra Andreades, Associate Planner*.

Ms. Binkley opened the public hearing and explained the procedures and time limits to be followed. She asked the commissioners to report any ex parte contacts, biases, conflicts of interest or site visits. Ms. Binkley, Mr. Tierney and Ms. Ostly reported they had visited the site. No one present challenged any commissioner's right to consider the application.

Debra Andreades, Associate Planner, presented the staff report (Planning Division Staff Report dated December 26, 2001). She advised that a reservoir was a conditional use in the R-7.5 Zone and all criteria for a conditional use had been met, the site was physically capable of accommodating the reservoir and the use was reasonably compatible with other uses in the vicinity. She stated that the proposal also met specific standards for Major Public facilities. She explained that because the site contained a Resource Conservation (RC) District, 50% of the area was to be preserved and protected after the RC Boundary was delineated. She related that although the applicant proposed to protect 57% of the site, the staff recommended that two additional areas be added to the protection area. She pointed to the two areas located on the site's southern boundary and in its eastern portion (Exhibit E-10). She clarified that a Type 2 tree removal permit would be required to allow the applicant to cut trees in order to accommodate construction on the site. She recommended approval of the application subject to recommended conditions listed on pages 24-26 of the staff report.

During questioning by the Commissioners, Ms. Andreades advised that if the applicant was not able to fit the total number of mitigation trees on the site, the City would be allowed to plant some mitigation trees on another site owned by the City. She said she would not be certain how many mitigation trees would fit on the site until the applicant provided a more specific mitigation plan. She pointed out on the map the location of the access road leading up the site to the reservoir. She also pointed out that a December 24, 2001, letter from Bernard and Ethel Jordan, 1180 Hallinan Circle, Lake Oswego, 97034, expressed opposition to the project (Exhibit G-2). She clarified that a

page designated "G-1" in the exhibit section of the staff report included no written testimony and was simply a placeholder in the staff report.

Applicant

Joe Dills, OTAK 17355 SW Boones Ferry Road, Lake Oswego, 97035, stated that he represented the applicant. He said the City would agree to the recommended conditions of approval. He related the City had purchased the site in the 1930s as a water facility site. He said the proposal would construct a circular 2.5 million gallon reservoir that would be buried in the center of the site. He said the top of the tank would be covered by about two feet of soil and the completed development would slope downhill towards Aspen Street. He pointed out that a pathway system on the site would include construction of a pathway that would run along Aspen Drive and then slope upward to connect with the site's access road. He noted the proposal would formalize existing informal pathways that connected to properties at the southeast and southwest corners of the site. He explained that the pathway plan reflected the applicant's discussions with the neighborhood and the City's pathway connection standards. He noted the informal pathways led into neighboring properties. He anticipated the southwestern pathway would provide a connection to a future pathway through the Stafford triangle area. He explained that grasscrete would be used to construct the lower portion of the access drive. He said that the facility was intended to allow pedestrian access through the open space and to a viewpoint and small play area at the top of the site, but vehicle access would be restricted by a gate that could be used by maintenance and emergency vehicles. He reported the applicant had attended three neighborhood meetings in July and August 2001; between 15 and 25 people had attended each meeting; and the proposal had addressed as many of their concerns as possible. He related there had been a strong consensus that the site should not feature an active sports area, and there had been differing views as to whether the site should feature any recreational facilities at all. He explained the proposed configuration of the driveway had been determined after the applicant had considered the impacts of alternative plans on grading and trees and how they would conform to the City's slope standards. He said the designers also wanted to minimize the visual impact of the access. He recalled that the neighborhood had been concerned about how steep the access would be.

Mr. Dills also recalled the neighbors had been concerned about flow of ground water in the area and they had reported instances of soggy basements. He said that engineers would address storm water runoff by placing monitoring devices in the ground to collect data and designing drainage facilities under the tank that would collect water on site and direct it down to the lower storm water facility where it would be sent into the City's piped system. He reported that the neighborhood had indicated they did not want curbs, sidewalks, street widening or additional lighting on Aspen Street and the City Engineering staff supported that position. He said no improvements to Aspen Street were proposed and existing lights would be augmented with shields to direct light downward and solve an existing glare problem described by the neighbors. He said the new pathway on the south side of Aspen Street would parallel the street in a similar manner as a sidewalk until it angled up the slope to connect with the path on the top of

the reservoir. He then addressed tree impacts and mitigation. He said the applicant would meet the 1:1 mitigation requirement of 122 trees, with perhaps 30 or 40 of them to be planted offsite, depending upon how many trees could be accommodated on the site. He said onsite mitigation trees would be planted on the slope and in the lower area, and then in other portions of the site that would accommodate them.

During questioning by the Commissioners, Mr. Dills estimated the difference in elevation between the top and bottom of the tank would be 30 feet. He clarified that the tank itself would not be visible because it would be covered with a soiled and vegetated slope that would also feature trees. He clarified the pathway going to the southeast corner of the site would terminate at the property line and there was no easement or public right of way there over which it could continue. However, he observed there were signs of informal pedestrian use over the neighboring property. The staff explained the pathway to the southwest corner of the site would connect to City-owned open space and the City believed there might eventually be an opportunity to extend the formal pathway system to the southeast past Tax Lot 1600 to Cornell Court in the event that property was partitioned.

Mr. Dill referred to the Summary of Construction Management Plan (Exhibit F-1). He noted the Plan listed requirements all contractors were to fulfill during the 15-month construction period:

1. Designate specific construction hours
2. Establish traffic routing for trucks
3. Establish parking areas for construction workers
4. Establish sanitary arrangements for portable toilets
5. Manage dust
6. Clean up the adjacent street
7. Designate an in-house contact person for questions or complaints
8. Erect perimeter fencing to prevent access during non-working hours
9. Install protective fencing around preservation areas

He said the play area was to be on a level 100-foot-diameter area at the top of the site. He related that residents as far as two blocks away had reported basements that flooded and he advised that it was a challenge to connect cause and effect over that distance. He said that storm drainage improvements the City had made in recent years seemed to be successfully redirecting some storm run off private property and into the storm system. He said the City was to monitor the run off at the site.

Mr. Boone advised that the City Engineer had reviewed and approved the proposed drainage plan under the Drainage Development Standard [LODS 11]. Mr. Dill confirmed that the entry gate would be locked at all times and maintenance workers or emergency personnel would have the ability to unlock them and obtain access to the site. He confirmed that no additional off street parking was proposed and he estimated there would be two or three on street parking places in the wider portion of Aspen Street. He said the pathway along Aspen Street would be of all-weather compacted

gravel, and not a hard surfaced pathway. He said that the access drive would transition from grasscrete to asphalt as it rose up the slope. He said the circular walkway around the top lawn was to be composed of compacted gravel. He pointed out on Exhibit E-11 the location of a future water and sewer line extension through the site. He explained the future lines would provide connections to properties along Cornell Court, where there was currently problem with septic systems. He confirmed that staff had recommended that more mitigation trees be planted on the slope. He confirmed the applicant would consider site views as they were creating the tree-planting plan.

Proponents

None.

Opponents

Norm Locati, 1437 Aspen Street, Lake Oswego, 97034, explained he was concerned about the orientation and safety of the entryway. He proposed changes to the entry in Exhibits E-21 and E-22. He noted that Aspen Street narrowed at the entry point and the slope increased there. His proposal was to move the access point another 10 feet downhill, turn the gate to face west and configure the approach to the site so that vehicles would use the wider portion of Aspen Road to begin turning into the site and they would not have to stop on the steep hill before turning. He pointed out his proposed new access was on the property line between Tax Lots 800 and 900. He said his plan would provide a safer entry.

Don Keopke, 1427 Aspen Street, Lake Oswego, 97034, indicated that he supported Mr. Locati's proposed change.

Hamid Pishvaie, Development Review Manager, clarified that Aspen Street was also identified as 10th Street (Exhibit E-1)

Dona Keopke, 1427 Aspen Street, Lake Oswego, 97034, questioned whether a four-foot-wide walkway would be adequate to accommodate two people.

Bill Thropp, 223 Cornell Ct., Lake Oswego, 97034, stated that he owned Tax Lots 1600 and 1700, and that the informal trail to the site's southeast corner continued through his property. He said he was not adverse to local residents' use of the trail because it was safer than the walk down Cornell Street; however, he worried that formalizing the trail would lead to increased foot traffic across his yard near, his sports court and an increased risk that someone using the trail might be hurt on his property. He inquired as to what kinds of utilities could be installed in the utility easement, which he said ran between the Sport Court and his house (Exhibit E-1).

Ms. Binkley related the Commissioners believed the lines shown on Exhibit E-1 showed a property line change, and not an easement. Mr. Boone clarified that there might be an easement there, but a utility easement would not be shown on a subdivision

plat. Mr. Thropp related that he had observed someone marking an area in his garden and had believed that might indicate the future location of a utility line of some sort. Ms. Binkley advised that staff and the applicant would have to clarify that for the Commission. Mr. Thropp related that he had observed people parking near the informal trail to access the trail. He stressed that he had not indicated he planned future development action on his property. He confirmed for Mr. Tierney that he did not desire to erect an unsightly “No Trespassing” sign in his yard and he did not want to close the access because it served local kids, but he did worry about someone getting hurt on his property. He estimated that five people per day walked through his yard.

Mr. Boone advised that the City could mark the boundary of City property and perhaps construct a physical barrier across the trail at the property line. Ms. Binkley recalled that the Commission had conditioned other projects to end onsite trails 10-20 feet short of an actual connection to adjacent property.

Neither for nor Against

None.

Rebuttal

Mr. Dill explained the proposed configuration of the entrance set back the gate a sufficient distance to allow a maintenance vehicle to enter without stopping on Aspen Street before making the turn. He pointed out the entry had already been slightly angled toward the downhill side for appearance and access reasons. He said the relocation suggested in testimony would lead to other problems related to the grade. He said he did not believe that relocation would provide a significant gain in safety. He advised that four feet was the minimum width typically used in pathway planning and was sufficient for an adult and child to walk side by side, but not two adults. He said the applicant chose the narrower width pathway to minimize impact on the side of the hill and they had tried to configure it so it would not become very steep and would not impact the best trees. He advised that more site impacts would be felt if the pathway was widened by even one foot. He then addressed the trail connection. He suggested that the applicant could erect signage such as “Entering private property, please respect neighbor’s privacy”, and a “No Parking” sign near the sport court. Mr. Boone advised the authority to impose parking restrictions was with the City Engineer and the City Council, and the Commission could recommend those restrictions but not impose them as conditions of approval. He clarified that the Commission could require on-site signage.

Mr. Tierney suggested that the trail be terminated with an end loop near the corner of the site and Ms. Ostly suggested bollards be installed to show the boundary between public and private property. Mr. Dill said the applicant could agree to that, but he stressed that connectivity was important to the City and was reflected in Comprehensive Plan and Code requirements.

A request was heard to hold the record open for additional written evidence or testimony related to Mr. Dill's response. The Commissioners generally agreed to allow testimony related to Mr. Dill's answer to the Commissioners' questions about the configuration and signage of the trail.

Mr. Thropp said he believed that to loop the trail onsite or create a trail cul de sac at its end would help to prevent people from walking over his yard. He also indicated that he favored a sign that would warn trail users that they were entering private property. He said he desired to allow local residents to come through his property, but not strangers.

Mr. Pishvaie observed there was a looped end to a trail in Roehr Park that was 15 feet in diameter and featured signage and additional landscaping. Ms. Keopke observed the measures being considered at the trail end did not address liability issues. Mr. Locati also observed that the development plan would direct people toward his and Mr. Thropp's properties and create additional liability for the owners. He explained that was one of the reasons he had proposed a modified entry configuration.

Rebuttal

Mr. Dill stated that a condition requiring a 15-foot loop terminus to the trail would be acceptable to the applicant. He said he could not comment on the issue of liability and he noted that was not a factor that the Commission could consider.

No one requested that the hearing be held open for an additional seven days for submission of additional written evidence or testimony. Ms. Binkley closed the public hearing. The applicant waived their right for additional time to submit a final written argument. Ms. Binkley opened deliberations.

Deliberations

Ms. Ostly indicated that she favored a condition for a looped trail end. She observed that the path already existed as an informal path. Ms. Binkley wondered if the Commission should specify the distance between the terminus and the property line.

Mr. Hamid pointed out that Exhibit E-14 (page 27) showed an area approximately 30 feet from the southeast corner of the site where the trail crossed the utility easement. He suggested the turnaround be located there because that area would be disturbed anyway during construction of utility lines. He also suggested a condition that additional shrubbery was to be planted at that corner of the site to help prevent people from walking further. Mr. Tierney suggested a new condition to provide that a sign indicating private property was to be installed at the southeast corner of the site. Mr. Pishvaie clarified that the trail at the southwest corner of the site led to additional City property. He offered to include in the Commission's recommendation that the City Council consider some restrictive parking signage in the right of way of Cornell Court in the findings.

Ms. Ostly recalled testimony that the angle at the entrance to the site had been carefully calculated, and the applicant had considered the grade of the access point. Ms. Binkley noted that the right-angled entrance and use of grasscrete made the access less approachable and drivers might be less inclined to park there. Ms. Stadnik observed that the open apron configuration of the entrance provided a better view of traffic coming down the hill than a curved approach would provide. Mr. Fagelman observed that the four-foot-wide pathway was sufficiently wide to accommodate an adult and small child.

Ms. Ostly moved for approval of LU 01-0066, subject to conditions recommended by the staff, amended as follows:

- **New Condition A(4)(c) was to require a revised pathway plan terminating the southeasterly path approximately 30-40 feet short of the southeast corner with a looped terminus. The southeast corner was to be landscaped with additional shrubbery to help prevent people from walking further.**
- **New Condition A(4)(d) was to require a sign indicating private property at the southeast corner of the site.**
- **In addition to conditions of approval, the Commission was to recommend that the City Council consider restricting parking in the right of way of Cornell Court.**

Mr. Tierney seconded the motion and it **passed** with Ms. Stadnik, Ms. Binkley, Ms. Ostly, Mr. Fagelman and Mr. Tierney voting yes. Ms. Morales and Mr. Powers were not present. There were no votes against. Ms. Brinkley announced the written findings, conclusions and order were to be considered on January 3, 2002.

VI. GENERAL PLANNING & OTHER BUSINESS

Infill Development Ad Hoc Task Force

The staff announced a joint DRC/Planning Commission meeting to discuss the report of the Infill Development Ad Hoc Task Force was scheduled for February 11, 2002, at 7:00 PM.

Land Use Seminar

The staff distributed information and a schedule describing a series of land use seminars. They asked interested Commissioners to advise the staff if they were interested in attending some of the seminars.

VII. ADJOURNMENT

There being no further business, Acting Chair Binkley adjourned the meeting at 8:35 PM.

Respectfully submitted,

Janice Bader
Senior Secretary

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