

Cornelius

Oregon's Family Town

CORNELIUS PLANNING COMMISSION

MEETING MINUTES

Tuesday, August 22, 2023

Location: 1355 N Barlow Dr., Cornelius, OR - Council Chambers.

Commissioners Present: Vice Chair Jared Hartrampf, Vickie Cordell, Nathan Braithwaite, and Greg Vaughn

Commissioners Absent: Chair Dave Waffle

Staff Present: Barbara Fryer, Community Development Director; Tim Franz, Senior Planner

Vice Chair Hartrampf called the Planning Commission meeting to order at 7:00 PM

A. WELCOME

B. APPROVAL OF PLANNING COMMISSION MINUTES – None

C. NEW BUSINESS – None

D. PUBLIC HEARINGS

A.

Request: A Zone Change (**ZC-01-23**) application to amend the Zoning Ordinance to change the zoning for one property.

Applicant: Dehen Homes OR336, LLC

Property Owner: Dehen Homes OR336, LLC

Location: 0 336th Avenue

Map: Township 1 North, Range 3W Map 35 CD, Tax Lot 1200 – 0.61 acres

Zone: Washington County AF-5 proposed to change to City R-10

Review Criteria: Cornelius Municipal Code (CMC) 18.10 & 18.15 (Application & Review Procedures) and CMC 18.25 Very Low-Density Residential Zone (R-10), CMC 18.125 Amendment to the Zoning Ordinance.

Vice Chair Hartrampf read the opening statement and procedure for the public hearing.

Vice Chair Hartrampf opened the hearing at 7:06 pm.

Vice Chair Hartrampf requested that all Planning Commission members announce any potential conflict of interest, bias, ex parte contact, or if they had visited the site.

Commissioners Hartrampf, Cordell, Vaughn, and Braithwaite had no conflicts, ex parte contact or bias; they all are familiar with the site.

Vice Chair Hartrampf asked any member of the audience wished to challenge the right for any commissioner to hear the matter before them for reason of conflict of interest, bias, or ex parte contact. There were no challenges.

Community Development Director Barbara Fryer explained that the television in the Council Chambers is not working and provided paper copies of the presentation. She reviewed the staff report. The application is for a Zone Change; an annexation occurred in July 2023 and is effective. The parcel in question is at the corner of 336th & TV Hwy. The area was brought into the Urban Growth Boundary as part of the Grand Bargain (House Bill 4058). The city went through a process with the residents in the area and identified various Land Use designations that would be appropriate for the area. In this particular area, the parcels were identified as county AF5 zoning; the parcels immediately to the West were identified as or the current zoning is AF5 zoning the parcels immediately to the West

In 2015 staff met with the residents in the area and identified two different comprehensive plan designations for the area. One would be very low density residential and then immediately to the West is low density residential. As a result of the very low density residential comprehensive plan land use designation, city staff developed a new zoning district called R10, a very low density residential. That was to implement the very low density residential comprehensive plan land use designation. She explained it is her understanding that at the time staff worked with the residents to develop that zone and the land use designation. This particular lot is in Township 1 North, Range 3W Map 35 CD, Tax Lot 01200. It's about .61 acres. The documents include a staff report dated August 15th, 2023; exhibit A, the applicant submittal; exhibit B, which includes a public notice that was sent to DLCD; a newspaper notice; and mailed notice. The first mailed notice was sent to a 250 foot radius; the second notice was mailed to a 500 foot radius. At the time of the staff report publication no written public comments were received. However, as of today we have received three public comments. One from the Bank's family, one from the Taylor family, and one from the Svicarovich family. The three sets of public comments are in the record. The project before the Planning Commission is not a specific project applying the code to the land; it is a matter of assigning zoning to the land as the property has annexed to the city. It is a matter of saying AF5 in the county is most closely matched to, in this case, very low density residential R10 in the city. This is not a development project; it is applying zoning. Any development that is proposed on the site would go through an additional process as a later date. There are a few criteria in the city's code for amending the zoning district. The 1st one is that it conforms with the city's comprehensive plan. The proposed zone is the only zone that implements the very low density land use designation that's applied on this particular property. The area was planned in 2015 and the permitted uses were worked on with the neighborhood. Criterion 2 is the permitted uses of the proposed zone will not materially or adversely affect the character of the neighborhood. The proposed zone is what was developed in coordination with the neighborhood; it is not intended to be dissimilar to such a degree that it materially or adversely affects the character of

the neighborhood. The City has adopted and provided for the opportunity to have livestock in the city as well, similar to the county. It requires a certain acreage in order to have livestock. The Swallowtail School has requested a certain number of goats; they were allowed to have 2 goats. The City allows some livestock in the city. The properties to the West of this particular site, if it annexed to the city, would receive R7 zoning. The properties to the east would receive R10 zoning, similar to this option. The properties to the north would also receive R10 zoning, if they should annex to the city. That is a voluntary option for the residents; it is not a requirement. Criterion 3 is that the proposal will place all property similarly situated in the area in the same zoning category or inappropriate complementary categories without creating a spot zone. This particular property is coming into the city and it, along with the neighborhood, has a comprehensive plan designation already identified on it. Some properties are identified as low density residential and some are identified as very low density residential. This property is identified as very low density residential. The R10 zoning district is a same zoning district that would apply to the abutting properties to the north and east of the property if they should annex. She noted the properties to the west would receive the R7 zoning district. The R10 zoning district was created to apply only to this area. It was in concert with working with the property owners in this area. Transportation planning rule requires findings and the first clause of the transportation planning rule says that an amendment that would significantly affect an existing or planned transportation facility must include measures to mitigate the performance of the facility with one of 5 options. the second half of the statement, however, notes that unless the amendment is allowed under sections 3, 9, or 10. This particular amendment complies with section 9. Section 9 applies if all of the following are met: A. that the zoning is consistent with the existing comprehensive plan map designation and that the proposal does not change the comprehensive plan map. The zoning is R10. It is the only zoning district that implements the very low density residential land use designation. The proposal is not proposing to change the comprehensive plan map; to change it from very low density to anything else. The second criteria is that the local government has an acknowledged Transportation System Plan (TSP), and that the proposed zoning is consistent with the TSP. The city does have an acknowledged TSP, and the proposed zoning is consistent with that TSP. Any subsequent development would potentially have to provide a traffic study, if it adds significant numbers of trips to the facilities. The third criterion is that the area was not exempted or an exception was not applied, and that is the case. There was no exemption or exception for bringing this area into the urban growth boundary. In conclusion, all three of these requirements are met, as noted on page 6 of the staff report. This proposal, should you choose to recommend approval, would be reviewed by the City Council. Staff recommends that the subject area be zoned as very low density residential or R10 which is 10,000 square foot minimum lot size. She opened the discussion for questions.

Vice Chair Hartrampf asked why one side would be zoned R7 and the other R10.

Director Fryer answered that was a consideration that was made when the staff worked on the amendment, land use designation amendment, with the neighborhood. The neighbors in this particular area wanted the R10 zoning; they wanted the larger lot sizes, they wanted a different character for the area, and the area to the west wanted the R7 zoning.

Vice Chair Hartrampf asked what can be built on low density R10 zoning land.

Director Fryer answered that a lot of things could be built on R7 or R10. The Legislature made a change in 2019 that required local jurisdictions to implement what's called Middle

Housing. Middle Housing, for cities within the metro region, are required to allow, on any lot that allows a single family dwelling, up to a quadplex.

Commissioner Braithwaite asked if there was an available definition of spot zoning.

Director Fryer answered there is a definition that was given to the Commissioners in testimony. That is a pretty good definition of spot zoning. She explained she believes it does not apply in this case, because it's implementing the zoning the annexation. It has to be zoned, and this is the zoning that implements the land use designation.

Commissioner Cordell commented that she was part of the Urban Growth Boundary (UGB) Committee for Cornelius and on the Planning Commission when this property was brought into the city. Many hours were spent with the residents, trying to designate what any future zoning would be for those properties, and she think that it was done as best it could be done to make the residents comfortable with coming into the city at some point.

Vice Chair Hartrampf asked the Applicant to speak.

Mimi Doukas introduced herself. She is with AKS Engineering; presenting on behalf of the Dehen Homes Team. She noted that she brought a PowerPoint Presentation, but will continue without it, given the technical difficulties. She discussed the application. She described the site's location and lot size. She explained the lot was annexed into the City in July of 2023. The lot is currently AF5 zoning designation and the application is requesting an R10 City of Cornelius zone. She reminded everybody that the application does not propose any development; there is no physical proposal. It is a regulatory application and any development proposal will need to do its impact analysis when it comes forward. It is at that point the application will include the number of lots and what the end users are, and the Commission can analyze the impacts at that time. The zone change criteria that apply to the application are found in the municipal code chapter 18.125. There are three criteria. It needs to conform to the comprehensive plan. It cannot materially affect or impact the character of the neighborhood. The proposed zoning will not create a spot zone. More specifically, the code language states, "the proposal will place all property similarly situated in the area in the same zoning category or in an appropriate complementary category without creating a spot zone." Fundamentally, it means this is a residential zone. The AF5 Zone that surrounds it is also a residential zone. It is in Washington County; you have to go to their rule book to find out what this zone is. It is regulated by the Washington County Development section code 348-1, which defines the intent and purpose of the Washington County AF5 Zone. She read the section of code stating, "the AF5 district is intended to retain in areas rural character and conserve the National Resources while providing for rural residential use in areas so designated by the comprehensive plan." She explained it is still fundamentally a residential zone; it is allowing the agricultural and residential uses to work together in a highly parceled area. She continued to read the code stating, "the purpose of this agricultural and forestry district is to promote agriculture and forest uses on small parcels in the rural area, while recognizing the need to retain the character and economic viability of agriculture and forest lands, as well as recognizing that the existing parcelization and diverse ownerships and uses exist within the farming forest area. Residents of rural residential tracks shall recognize that they will be subject to normal and accepted farming and forestry practices. She explained nothing in this proposed zone change application is going to compromise the existing farming rural residential uses that exist around this site. The site can move forward with urban residential uses and the rural residential uses can be adjacent to it.

Cities put different types of residential uses next to each other all the time. For example, townhomes next to single family home; small lots next to large lots. In this case, it will be rural residential next to urban residential. It is not spot zoning, it is different types of residential. Staff talked about ordinance 2015-07; that is the planning effort that happened for the land that was added to the urban growth boundary. At that point, the city worked hard to find planned land uses that could work within this district, based on public outreach, statewide planning goals, and targets for what urbanization should look like. As part of that same ordinance infrastructure was analyzed (sanitary sewer, water systems, and transportation); they were analyzed to accommodate the residential growth and urbanization. Since that, Middle Housing has come into adoption; that allows division of single family lots into additional dwelling units to address the housing crisis that we have across the state and across the nation. Some of the testimony the Planning Commissioners received says that that infrastructure analysis in the 2015 ordinance did not account for the Middle Housing implications. That's not what transportation planning rules says you have to analyze; it says analyze the zoning as it is. In discussions with staff prior to hearing, and discussions with the DLCDC prior to the hearing, the applicants are comfortable with a condition of approval and this zone change that says with any future Middle Housing land use application infrastructure needs to be analyzed to see if mitigation is warranted. That condition of approval can bridge the gap between our current transportation planning rule and any concerns that may exist within the community. She discussed the allowable units per lot with and without Middle Housing, the difference being unsubstantial by her estimation. The Planning Commission receive some letters from a few neighbors with many concerns about traffic. She put transportation into context for a zone change; transportation planning rule when it talks about reviewing for significant effect. It is talking about the 20 year planned infrastructure, not for the current day. For a development impact analysis, some elements considered are the physical improvement, the number of trips that are functioning today, how many trips are projected for the proposed use, and the existing infrastructure. This information is analyzed to determine if the existing infrastructure is enough or if improvements need to be made. For a zone change, the 20 year planned system is considered. That includes looking at roadway classifications, such as the major arterial and local streets, and if those classifications still correct for the proposed zoning, as well as the cross streets. For the twenty-year planned analysis there will still be a major arterial road and local road. It is the build out analysis that may require mitigation on needs to happen, for this piece of property, for the proposal. That is when improvements will be analyzed and determined. The concerns about traffic impacts are too early for that analysis; that will happen with the development proposal, whatever it may be. There was also a question about the neighborhood meeting notice area. The notice area within section 18.10.030 of the municipal code, clearly states that the notice area for a neighborhood meeting is 250 feet. There may have been some confusion about the noticing requirement for a public hearing. With the AF5, it triggered a 500 foot radius; that's not applicable to neighborhood meetings. Neighborhood meetings are strictly regulated by the City of Cornelius, which has an express notice area of 250 feet. She requests that the Planning Commission have a favorable recommendation to City Council. She opened the floor for questions from the Planning Commissioners.

Vice Chair Hartrampf asked if there was anyone in the audience wishing to speak in favor of the proposal.

Margaret Banks, 260 NW 336th Ave, thanked the City for using the R10 zone from the Comprehensive Plan. She commented on the zone change and possible development. The

zone change is expected to lead to development of the property, and she encouraged everyone to have a well thought out plan from beginning to the end to make certain all of the issues can be addresses. She explained that it is really critical that drainage and infrastructure is consider as this moves forward, and that it is adequate to address the needs of the neighborhood on 336 as it drains to TV Highway. Safety is of paramount importance for schoolchildren waiting for the bus and vehicles trying to get in and out of the street and off a very busy highway. She expressed the need to be able to ensure that emergency vehicles and service vehicles, as well as all the other passenger vehicles, can enter and exit the highway safely. She explained that 336th is a county right away for part of it, then it turns into a private drive, and you cannot visibly see where that change occurs. Even though the city cannot require minimum parking spaces, the developer has said they would like to include parking. She encouraged everyone to work with the developer to ensure that happens. Developers can choose to include parking. She explained that 336th is privately maintained; it is not maintained by the county or by the city. Residents that live on that street should not be required to provide, nor pay for, added wear and tear. Whether it is during the construction, from the big vehicles, or whether it's from additional parking later. She explained she thinks it's very important for this to move forward that those are addressed adequately and the road is repaired and maintained after and restored to its original condition without any damage. If the developer can put parking on the lot that will take care of a lot of concerns. One of the goals of the CFEC is to increase the number of people that you use bus and transit. If people use the bus stop at 336th, and the stop across the highway, it creates an extremely dangerous situation; it is an extremely hazardous highway for people to cross.

Commissioner Braithwaite asked if Ms. Banks believes the proposed new zone will adversely affect the character of the neighborhood.

Ms. Banks answered that if any development is done properly, and there is parking on the lot, she does not believe it will adversely impact the neighborhood. If it is not done properly, parking is helter-skelter, driveways are blocked, and emergency vehicles can't enter from the highway, then it will adversely impact the character of the neighborhood.

Vice Chair Hartrampf asked if there was anyone in the audience wishing to speak in opposition of the proposal.

Kristen Svicarovich, 729 SW Graystone Place, Dundee, OR, (speaking on behalf of her parents who live on 336th Avenue), voiced her concerns regarding the staff recommendation before the Planning Commission. There are three criteria to approve a rezone and she does not believe that the three criteria are being met. She understand this type of action is new for the city; this will be the first R10 zoned parcel, if approved, in the City of Cornelius. The hearing had to be rescheduled once, due to improper noticing by city staff. It was originally noticed to 250 feet. She identified that it was improperly noticed. She thinks that there have been other missteps along this process, and that the decisions that have been made during this process are not consistent with state law, the City Municipal Code, and general best practices. She briefly explained that all of her concerns can be found in the written comment section of the Planning Commissioners packet materials. She provided 19 pages worth of comments and she expressed her hopes that the Commissioners had time to read and consider those comments. A lot of time and energy went into that document. She reported on a few of the larger concerns; notably the traffic safety and traffic performance. She does not believe the process has been followed correctly. The municipal codes states that if the city engineer finds that a traffic impact

attributable to the action have the potential to significantly impact the safety and efficient operation of an existing public transportation system, they can require a traffic analysis. The city engineer determined not to require a traffic safety analysis. She asked how the City Engineer made that determination. She explained that she does know because the City Engineer never returned her phone calls. She called twice and left voice messages and Barbara let her know that the City Engineer would not be returning her phone calls because he did not want to have that conversation. She encouraged the Commissioners to ask staff how they made that decision, what analysis did they do, and what data did they look at to make the determination that a traffic impact analysis was not required. She (and her parents) paid for a traffic count; received an AM and PM count, through it in SYNCHRO (a traffic engineering software), and looked at if this property was rezoned what is the highest potential use under the rezone and what those traffic impacts would be. What they show is that today the intersection is not meeting the performance standards, and when you add the additional trips of the potential worse case outcome of that rezone, which is middle housing (high density housing; two four-plexes) you end up with more trips. More trips mean more traffic, they mean you are continuing to exceed the volume capacity ratio of the intersection, and it means you are continuing to impact one of the highest transportation hazard corridors in the state of Oregon. Mr. Keyes' decision not to require an analysis feels like it obfuscates the ability to determine whether there is an adverse effect, because we don't have the analysis because he did not require one. She encouraged the Commissioners to direct staff to get one done. To the issue of spot zoning, the criteria says the proposal will place all similar situated in the same zoning category or appropriate complementary categories without creating a spot zone. She explained that staff reported that what is proposed is consistent with a comprehensive plan; she does not deny that it is consistent with the Comprehensive Plan, as it was adopted in 2015. However, with the adoption of Middle Housing it is no longer consistent with the Comprehensive Plan. Middle Housing is increased density and has impacts to the surrounding community. She referred to the map provided on page 15 of her comments, stating you can clearly see the spot zone. The proposed lot is surrounded by AF5 and RR5 and city or state right away. The nearest tax lot, that staff noted, is in abutting zone is R7 is two tax lots and two public streets away approximately 420 feet to the West. Washington County zoning does not allow for Middle Housing in AF5 or RR5. To put Middle Housing on a lot surrounded by properties that disallow Middle Housing, is not a complimentary or appropriate category and is a result of spot zoning. She asked the Planning Commission to continue the hearing, until a later date, to allow the staff and developers to adequately investigate concerns brought forth, and to provide the Commissioners with the best available information to make a determination and recommendation. She told the Commissioners they shouldn't make the decision without the right information. She expressed appreciation of the proposed additional Condition of Approval proposed by the applicant and would love to see the language, and believes that could address some of the concerns brought forth about consistency with the Comprehensive Plan. She requested the record remain open for seven days to be able to submit additional materials into the record. She thanked the Commissioners for their time and the commitment to the citizens of the community.

Commissioner Vaughn asked about the traffic study Ms. Svicarovich discussed.

Ms. Svicarovich answered when you look at a rezone of a property, the TPR analysis is performed to look at the worst case of what the impacts of the rezone could be; to the transportation system. The City is making the claim that it is not a requirement. She explained

that while it is not required by state law, it doesn't mean that it isn't best practices and the City can ask the applicant to have it done. She believes by doing so there would be documented proof of an adverse effect

Commissioner Braithwaite asked if there is a reason why the city engineer did not want to do the traffic analysis.

Director Fryer responded that she will address that when all the testimony is over.

Vice Chair Hartrampf asked if the applicant would like to provide a final rebuttal.

Ms. Doukas responded to Ms. Bank's testimony. She appreciates her concerns; they mirror what she had in her letter. Her concerns are all reasonable and need to be reviewed with the ultimate land use application for development. Ms. Banks had concerns about parking; any development application is going to be required to do infrastructure improvements, the most visible to the community being the frontage improvements. The comprehensive plan and the transportation system plan have 20-year plans; they have a 20-year cross section that's planned for both local streets and the major arterial. Development on the site needs to bring those two facilities up to standards. It will include street widening, sidewalk, and storm drainage. There will be parking that needs to be addressed through that application. If there is on-street parking then the street will need to be designed to accommodate on-street parking, from a width standpoint, to address community concerns. To make sure that the site can circulate and accommodate parking if parking is proposed. She thinks future applications will address Ms. Bank's concerns. She responded to Ms. Svicarovich's concerns. The concerns were outlined in Ms. Svicarovich's letter and many were addressed in Ms. Doukas' initial presentation. Ms. Doukas noted that she will let staff speak to why the city engineer didn't require a traffic study, adding that the City Engineer can choose not to require a traffic study at his own discretion and that Ms. Svicarovich was correct when she acknowledged that state law does not require one. The zoning is consistent with the Comprehensive Plan and the System Transportation Plan. Both analyze the property as R10, reviewed the impacts, and came up with a plan for an R10 development. Middle Housing, with the condition of approval previously discussed, will analyze the impacts of the additional trips and delta beyond what the original R10 zone planned for. That is accounted for in the process; that analysis will happen before there is any physical development on the site. Ultimately, the property has been annexed and needs to have a zone. R10 is as low a density as you can permit. It is a special zone that was created as part of this process to find some transition from AF5 to urbanization. It is a good compromise. With the additional condition of approval there will be balance of making sure that if there are impacts, they will be mitigated. She requests that the hearing be held open and that the Commission reconvenes in seven days, if the Planning Commission's schedule can accommodate that. Final rebuttal can be presented at that hearing, after any new evidence is submitted.

Commissioner Braithwaite asked if Ms. Doukas was aware of what plans the developer has for the property.

Director Fryer responded that it is not relevant. The development plans will be looked at a future date. The decision today is for the zoning.

Commissioner Braithwaite added that he is speaking on behalf of concerned citizens. There are valid points being discussed that will affect the way he chooses to agree or disagree with the zoning.

Ms. Doukas explained the site currently does not meet the maximum lot size and has to be divided into at least 2 lots. Those two lots would be traditional lots. Beyond that, the remaining Middle Housing rules are available but not required. Middle Housing is complicated and she doesn't know if there is anything definitive at this time. She added that, from a regulatory standpoint, with R10 zone, a lot partition will need to happen that divides the property into two parcels. There will be another application that comes before the Planning Commission. A single home cannot be built on the property and has to be subdivide, because it does not meet the maximum lot size currently.

Commissioner Braithwaite commented that he is familiar with developers and they're going to maximize the return on their investment.

Ms. Doukas responded that maximizing value is not always maximizing the number of units. Sometimes you can get higher value out of larger lots. She reiterated that Middle Housing is a complicated topic and she is not sure what the end result will be. The applicant can't get infrastructure until the lot is in the city and the applicant can't build anything if zoning is not applied. Those are the incremental steps that have to be taken before the applicants can invest in all the studies and analysis that go into a development proposal.

Commissioner Braithwaite noted that Middle Housing is new to the Planning Commissioners and they are still trying to learn you know all the nuances of it. It is a difficult topic to the Commissioners to consider.

Ms. Doukas agreed and explained that as a consultant she has had to learn new rules in every jurisdiction; rules that are newly being tested out.

Vice Chair Hartrampf asked if there are any more comments by staff.

Director Fryer responded with additional comments. The lot is in the urban growth boundary and is currently zoned AF5 in the County. The most closely matched zoning district, that was specially developed for this area, is the City's R10 zone. The testimony heard tonight referred to a traffic study as a "best practice," that is not necessarily correct. Neither the Oregon Department of Transportation (ODOT) nor the City Engineer felt that a traffic study was warranted for this zone change. When a development comes forward, then a traffic study would likely be appropriate, but not for the zone change. This particular application of zoning is to effectuate, or to allow for, zoning to be applied following an annexation. This property is in the city; the zoning that should be applied based on the land use designation on the property is R10. The City does not have another zone that would be applied. The City could potentially apply R7, however that would require a Comprehensive Plan Amendment. Staff is not recommending that. R10 is the least impactful zone to this this area. The fact that we have applied Middle Housing to all of our zoning districts, because the City is within the Portland Metropolitan Region, is more or less a de minimis action in terms of how it impacts the infrastructure overall. The City's densities are higher than in a lot of areas and when you add a few more homes it does not make a significant difference, when you apply that zoning. When you look at the specifics of a development, that is when you would look at specific mitigation for that particular development and its incremental increase and how it affects that particular area. Drainage, for example, developers would have to deal with quality and quantity of water coming off their parcel; they don't have to deal with everybody else's drainage, they deal with the drainage on their parcel and how it affects downstream. It is the same thing with traffic; they would have to deal with the traffic that comes off of their parcel, not necessarily

everybody else that is already using those facilities. It is not their job to solve that issue. It is ODOT's job to solve that issue. It is TriMet's job to solve that issue. It is ODOT and TriMet's job to get people across the street safely, because it is a State facility. It is something that the City doesn't have a lot of control over. Applying zoning after an annexation is something that is really important. As Ms. Doukas noted, this property doesn't have any zoning right now and they can't develop. The City doesn't have a way to implement the AF5 zone in the City, and they would not be able to develop. The city needs to apply a City zone, and the City zone that most closely matches and works best for this area is the new R10. The R10 zone was developed for this area. She added that the Commissioners need to leave the record open for seven days, because Ms. Svcarovich requested it. Ms. Doukas asked the Commissioners to continue the hearing until the 29th. It is the staff's recommendation to leave the record open for the seven day period and continue the hearing to a date and time certain, of August 29th at 7pm in the Council Chambers.

Commissioner Braithwaite commented that he understands the lot needs a zone. He expressed discomfort in leaving the matter open for a developer to do whatever they want on the property. If, at a later date, the City requires the developers to meet all of the city requirements (storm water, sewer systems, transportation, transportation analysis, etc..) he would be more comfortable. He explained that he is familiar with the parcel of land, and has seen a number of accidents, some of which were fatal. The safety is a big concern, and he does not believe the City should be irresponsible and approve the zone for the sake of it needing a zone. Some very thorough thought and analysis needs to be done before the Commission approves an R10 zone.

Vice Chair Hartrampf asked if there was a reason that 336th is privately maintained, and if it can be changed in the future.

Director Fryer explained that if the property is developed, the applicant would have to build the frontage of 336th and TV Highway to City standards. That includes a 6 foot sidewalk, curb, gutter, and at least ½ street width of 336th. For that portion of the street, the City would request that Washington County turnover to the City, because it would be built to the City standards. The city would maintain that half of the street.

Vice Chair Hartrampf asked if Middle Housing did come into effect, would the site still be zoned R10.

Director Fryer answered yes. The R10 zone is the only one that can be applied without a Comprehensive Plan Amendment.

Commissioner Cordell noted that on Page 4, Ms. Svcarovich identified a Transportation System Plan (TSP) project C2, that was adopted in 2020. She asked why this has not been addressed.

Director Fryer explained that the City Engineer indicated that in the project is a safety study of that area. He said is that ODOT had conducted a safety study, so the City did not need to fund a safety study, and that they are putting in a signal further west of this project, at the entrance to the manufactured home park. She committed to supplying a copy of the ODOT study for the record, at Ms. Svcarovich's request.

Commissioner Cordell referred to Page 11, of Ms. Svcarovich's comments. She asked if the current City Comprehensive Plan conforms to the very low density residential Comprehensive

Plan approved in 2015, and if that is now part of the Comprehensive Plan, or if it needs to be added.

Director Fryer answered no. The ordinance that adopted that area as very low density land use designation was ordinance 2015.07. It adopted all the public facilities for that area. It adopted the very low density residential. She referred to the map on Page 5 of the staff report explained that the lighter shade of peach-orange is all the R10 or low density residential that was adopted. R10 would be applied in that low very low-density residential area. The darker orange-peach would be R7 if it came into the city. It is designated with the land use designation of low density residential, and it would be applied with the R7, just as it is in the City. The parcel with the manufactured home park would get medium density residential, and it would get manufactured home park zoning, should it come into the City.

Commissioner Cordell stated for the record that at the time that the property was brought in to the UGB there were many many meetings to determine zoning that would take effect at some point down the road. She noted that she experienced this process personally. The zoning was set like it was so that not just one person, but everyone in that zone had an opportunity to determine whether they wanted to be annexed into the City under the R10 or the R7. It is not one piece of property that is particularly affected, all of them are affected, and they all have the same opportunity to ask for annexation.

Commissioner Braithwaite asked if it is the requirement, when it comes to rezoning, for the proposed property be adjacent to something similar in zoning.

Director Fryer answered that is typically the case. However, in annexations, it is typically not the case, unless it is directly abutting a property that is already in the city, that is zoned in the same way. The properties that are directly abutting the property, in the City, are across the street and are zoned commercial. There aren't any other properties that are zoned similarly in the City, except for the Cascadia Gardens development, further down the road, that came into the city in the same way this one did, and received the R7 zoning district. She reiterated that the area that is immediately adjacent to this area would all be R10 if they came into the City, and the area to the west would be R7.

Commissioner Braithwaite asked if that was the case because it is on the City's Comprehensive Plan.

Director Fryer answered yes. She added that the Comprehensive Plan was developed with extensive public involvement by the neighborhood. Those different designations were worked on several times, to determine what should be in that location, should they choose to annex.

Commissioner Cordell made a motion that the record for Dehen Homes OR336 LLC zone change (**ZC-01-23**) application be left open for seven days, at the request of Kristen Svicarovich, and that the hearing be continued to a date and time certain of August 29th, 2023, at 7pm in the City Council Chambers. Commissioner Braithwaite seconded the motion. Motion passed 4-0.

Vice Chair Hartrampf announced a five minutes recess before reconvening.

Vice Chair Hartrampf requested a motion be made to continue the hearing on July 18th, 2023, at 7pm, in the Cornelius City Council Chambers, due to an error in publication of the notification of the hearing of this matter.

B.

- Request:** A Type III Design Review (**DR-21-23**) application to redevelop a commercially zoned property by building a new banking facility with a drive-thru ATM for Chase Bank. The development will include a new 2,951 sf building, a new parking lot, landscaping, a water quality facility, and new frontage improvement.
- Applicant:** Arian Sanders
- Property Owner:** 442 West Baseline, LLC
- Location:** 442 Baseline Street
- Map:** Township 1 North, Range 3 West, Map 33 CD, Tax Lot #03600 – 0.46 acres
- Zone:** Highway Commercial (C-2)
- Review Criteria:** Cornelius Municipal Code (CMC) 18.10 & 18.15 (Application & Review Procedures), CMC 18.45 (Highway Commercial, C-2), Chapter 18.100 (Site Design Review), Chapter 18.145 (Off Street parking and Loading), and Chapter 18.155 (Solar Access for New Development).

Vice Chair Hartrampf noted that the agenda item was read-in to the public on a prior Planning Commissioner meeting, and began the hearing with proposed action of a Type III Site Design Review (DR-21-23) application to redevelop a commercially zoned property by building a new banking facility, with a drive-thru ATM for Chase Bank. The development will include a 3195 sf building, a new parking lot, landscaping, a water quality facility, and new frontage improvements. Applicable regulations of the CMC are 18.45 (Highway Commercial, C-2), Chapter 18.100 (Site Design Review), Chapter 18.143 (Transportation Facilities), Chapter 18.145 (Off Street parking and Loading), Chapter 18.140 (Special Use Regulation), and Chapter 18.155 (Solar Access for New Development). He opened the public hearing.

Vice Chair Hartrampf requested that all Planning Commission members announce any potential conflict of interest, bias, ex parte contact, or if they had visited the site.

Commissioners Hartrampf, Cordell, Vaughn, and Braithwaite had no conflicts, ex parte contact or bias; they all are familiar with the site.

Senior Planner Tim Franz presented the staff report for the application for Chase Bank, city file Land Use number DR-21-23, with a PowerPoint presentation. The purpose of this hearing is for a Type III Site Design Review application, a technical review for developing the site, for a new Chase Bank facility with a drive up ATM. He reported the Tax Lot Map number, and described the location and lot size. He entered into the record the staff report dated June 20th, 2023; which was amended on August 8th, 2023. The reason for this amendment was that there was a noticing error with the paper [publication of notice], as well as the applicant requesting to modify the site plan that staff originally prepared a staff report for. He briefly described the Exhibits included in the staff report; exhibit A is the applicant submittal, exhibit B is the city engineer and fire department comments, exhibit C is the public notice, exhibit D is the 120-day waiver, and exhibit E is the revised submittal by the applicant. Staff has received no public comments regarding the proposal. He described the project proposal and site plans. The building is proposed to be approximately

3,195 sf in size. The applicant is proposing frontage improvements along North Adair, North 4th, and Baseline Street to City standards. That will include sidewalk, planter strip, street trees, and street lights. There will be a new access on to Baseline Street and a new access along North 4th Avenue. Along North 4th, because of the length between N Adair and Baseline, the City Engineer is requesting a concrete median be included. This is to mitigate traffic turning conflicts in that small couplet area, because there are two stop lights and a lot of head-on traffic.

Commissioner Braithwaite asked if there are plans that reflect that median.

Mr. Franz answered yes. In the exhibit, there is a detail of the raised medium. He described the median and location.

Commissioner Braithwaite asked if that was to keep people from turning left.

Mr. Franz answered yes. He provided a brief description of the site. There are seventeen's onsite parking spaces are proposed, there's a strained trashing enclosure, there is a nice pedestrian pathway from the public right of way of North 4th Avenue to the front door, a lot of landscaping, on site lighting, on site bicycle parking's, and ADA accessibility. Seventeen parking spaces is the Cornelius Municipal Code maximum allowance. Originally, the applicant wanted additional spaces, but that exceeded the code. With the size of the building, the applicants are at the code limitation of maximum on-site parking. The street trees do need to be mixed per the City Engineers comments, which are within the exhibits and his recommended condition of approval. Conditions will be placed to ensure compliance with state county and local provisions for storm water quality and quantity and access and grading requirements. The redevelopment of the site has to have a storm water quality facility to handle all their on-site storm drainage, which will be piped and treatment. This will comply with Clean Water Services requirements. It is going to be a nice one story building drive thru ATM. They are meeting the stacking requirements for the ATM, with a five vehicle reservoir. When someone's at the ATM, there's space for five vehicles within that drive aisle, so they won't be in the parking lot area or blocking other vehicle maneuvering and on-site parking. He explained the recommended conditions of approval.

Commissioner Braithwaite asked about the 17 on-site parking space maximum. Noting that typically, the City would not let applicants go below a minimum number of parking spaces. He asked for clarification, that in this case the City doesn't want them to go above the 17 required spaces.

Director Fryer answered there are two reasons. The first reason is back in the 90s Metro wanted development to have a maximum number of parking spaces within a half a mile of transit. Within a quarter mile of transit, there are even fewer spaces that are allowed. The City adopted that; all of the Metro jurisdictions adopted the same maximums. The maximum parking spaces are based on the use and the size of the structure. She provided some examples; for school it might be number of classrooms; for a theater it might be the number of seats. It is very specific for the different types of uses. It is all within the parking table that the City typically use with parking minimums. There's a parking minimum column, but with Climate Friendly the parking minimum column is ignored because the City can no longer apply that minimum. Developers can provide as much parking as they want to up to the maximum. The City does not have the ability to give anyone a variance from that maximum because it's a Metro requirement that the City is implementing. With the climate friendly requirements, the City is also supposed to apply a maximum. Metro negotiated that their set maximums would be the City's maximums, so the City does not have to adopt a new

one. The maximums are set for that quarter mile and then ½ a mile. The intent is to try maximize development so that people take transit instead of drive.

Mr. Franz continued presenting the staff report. Prior to building permits submittal, the appropriate public improvement plans need to be reviewed and approved by the City Engineer. Building permits are submitted, to the city of Forest Grove Building Division, who the City contracts Building Services from. Forest Grove Building Division likes to see a geotechnical report for the foundation and foundation drainage. That will be incorporated into the submittal of their building. The site abuts ODOT. North Adair and Baseline are ODOT facilities. The applicants need to receive all the appropriate applications and permits from ODOT for construction and access. They need to meet all the ODOT requirements. They need all applicable building, plumbing, electrical, mechanical permits and meet all applicable Building Code, Fire District, and Clean Water Services requirements. They have to put in all the appropriate bonding for public improvements, for water quality facilities and erosion control. All new utilities serving the site need to be located underground. Prior occupancy, there is a county wide transportation development tax that will need to be paid. All the conditions of approval within the staff report need to be satisfied, such as landscaping, vehicle parking and circulation bicycle parking, lighting, storm facilities, and public improvements installed. All other maintenance and agreements are assigned and recorded. Staff recommends approval with the recommended conditions of approval for DR-21-23.

Commissioner Braithwaite asked if the current power was above ground or underground.

Mr. Franz described the type of lines that run in the area, answering that he doesn't know if they are above or underground currently. He stated that they will need to be underground for this project.

Commissioner Cordell asked about landscaping and if there needs to be identified a clear vision for people coming out of the parking lot.

Mr. Franz answered that is a reasonable concern. The final landscaping plan for the frontage improvements, for street trees, is part of the City Engineer's review. He will make a note for the City Engineer to pay attention to that corner when he is reviewing the final public improvement plans.

Commissioner Cordell commented that that is a really busy corner not just for traffic, but for people also.

Vice Chair Hartrampf asked the applicant to speak.

Chuck Dougherty introduced himself. He is with PM Design Group, presenting on behalf of the applicant. He commented that overall, the applicants are very comfortable with the staff report. Most of the conditions of approval the applicants can work with the City on. He asked for relief on one of the recommendations in the staff report; for the undergrounding of the utilities. He noted some discrepancies in the information he has, some referring to "new" utilities, and others referring to "existing" utilities. He explained that on the site there are upper power lines that go by on 4th Street, and there are lower power lines (and communication lines) that service current residence on both sides of 4th. He asked about undergrounding new utilities, noting that the high power lines would be much more challenging. He asked if the requirements for landscaping and tree requirements conflicted with that. He noted that the cost of the of undergrounding that major facility could push the project beyond viability, and the jobs and services that are associated with

the project. The high power lines are not undergrounded on the neighboring block. He asked the Commissioners to consider those elements. Beyond that, all of these the other recommendations are workable on the applicant side of things, and the applicants can work with staff on them.

Commissioner Braithwaite commented that it does seem a little unfair if there are power lines along Adair and Baseline above ground, and the developer would be required to put the power lines underground, just for this development. He expressed a need for clarification as to what the underground utilities would entail. He asked about the lines and location of undergrounding lines.

Mr. Dougherty agreed, and reiterated that the applicants are willing to work with staff. He explained there are two major poles on the south end of the property. He asked if the requirements are asking for the lines to come down the poles to go across the sidewalk and back up the other pole, or if the lines have to go across the ODOT facilities. He noted the effort it would take to underground the lines across the ODOT facilities.

Mr. Braithwaite asked what the City requirement is for existing power lines.

Mr. Franz answered that the policy is that along the frontage of a subject site all utilities are underground. He went on to discuss other developments along the same street that have met this requirement. He noted that the City Engineer's notes about the power liens are included in the staff report, and that the requirements are how the City gets each site to conform and have a nice City block.

Commissioner Braithwaite asked what is considered frontage, and if frontage includes all three roads that this property is adjacent to.

Mr. Franz answered the property has three frontages; and the applicants will do frontage improvements on all three sides.

Commissioner Cordell asked if the adjacent properties are underground.

Mr. Franz answered that he doesn't believe they are. He reiterated that as properties develop the lines will eventually all go underground.

Director Fryer added that there are high voltage power lines on TV Highway. They are the really tall poles, that were raised as part of the town center. They will not be undergrounded. As properties are developed, the lower lines would go underground, but the higher voltage lines will stay above ground; everything else will go underground. When the properties that are kitty corner to the site came before the Planning Commission, those lines were required to go underground. That project has not yet broken ground, but when they do, they will be required to go underground, except for the super high voltage lines. It is incremental as Mr. Franz noted. The ultimate goal is for the lines to be undergrounded to lessen that visual blight of the power lines in the City.

Commissioner Braithwaite commented that he is not familiar with the location of the power lines on the property. He asked if it would only be the power lines that the bank need to tap into that would need to be taken underground.

Director Fryer answered no. She explained that if a pole is at 4th and Adair, and a pole is at 4th and Baseline, everything in between would go underground. If it then crosses the street, that does not go underground. If it continues down the same side of the street, along Adair and Baseline then along that frontage that whole section would go underground. It would come back up at the edge of the property.

Commissioner Braithwaite asked for clarification. He explained if on the property itself all the power lines would need to be taken underground, in order to take them underground and then have them come back up off the property, they would need to go across the street.

Director Fryer responded that is incorrect. She used a sketch to demonstrate how the lines would connect and be underground.

Commissioner Braithwaite responded that it makes a little more sense.

Mr. Dougherty asked for clarification about which lines go underground, and if Ms. Fryer is suggesting that the high voltage goes underground, or just the service level.

Director Fryer answered that the high voltage lines would not go underground.

Mr. Dougherty asked if the two main poles on the property were for high voltage.

Director Fryer answered that she is unsure of the exact placement of the poles in this particular case.

Mr. Dougherty explained that the site has two main poles at the north and south end that have the high voltage lines. He asked for clarification, that the high lines can stay in place, and the lower lines can be brought in underground.

Director Fryer answered yes. PGE will not let the high voltage lines be put underground. The City does not want it either, because it is not safe. She noted that she has not seen the site, and cannot speak to the placement of the high voltage lines. She reiterated that it is the other lines that would go underground.

Commissioner Braithwaite commented that Commissioner Vaughn brought a picture of the site. He explained that the power lines do run north and south along 4th Ave. The lines include high up high-power lines, and lower level power lines. It would only be the lower level lines that would be taken underground.

Director Fryer agreed.

Mr. Dougherty explained that currently one of the service level power lines does cross 4th Avenue, to the residence to the West. He asked how that would work with the City process.

Director Fryer answered that the City would probably have to work with the applicants and PGE to make sure how that is addressed. She commented that she has a contact at PGE, and can work with the applicants on how to make sure that they continue to have service and that we get the applicants' lines underground without the applicants having to pay for the other lines to go underground too.

Mr. Dougherty expressed appreciation for the communication. He explained all of the other staff recommendation in the comments were fine with the applicants.

Commissioner Cordell commented that she likes the new design on the ATM, on the northeast corner.

Vice Chair Hartrampf noted that there is no one in the audience to speak in favor or in opposition of the proposal.

Vice Chair Hartrampf asked if the cost of undergrounding was entirely the responsibility of the applicant.

Director Fryer answered yes it is.

Vice Chair Hartrampf asked the applicant if they wanted the hearing prolonged, to evaluate the power lines, before making a recommendation.

Mr. Dougherty responded that he has a good understanding of what Barbara explained.

Director Fryer recommended an amendment to the condition of approval so that it specifically excludes high voltage power lines.

Mr. Dougherty agreed that would suffice.

Mikay Carcher, 17911 NE 391st, Amboy, WA, asked about dropping the utilities underground, and if the applicant would pay for the initial undergrounding, but then when it's time to drop the polls there would be relief.

Director Fryer answered that the applicant would not be responsible for the poles. As she understand it, there is still high voltage power lines on the poles, and would not go underground. The poles would stay in place as is, and carry the high voltage power lines. The applicant would be responsible for lowering underground the other service lines, such as phone and cable.

Mr. Carcher asked if there is mass transit to Cornelius.

Director Fryer answered that there is a frequent bus route that runs on 15 minute headways from downtown Portland to Forest Grove. It runs on TV Highway to the east, and on Adair to the west.

Mr. Carcher commented that from the proposed chase property, there aren't any crosswalks or stop lights to get to a larger parking lot. The applicant will be limited by the amount of parking they include.

Director Fryer answered yes they will be; it will be 17 parking spaces. There are crosswalks at the stoplight at Adair that connect to the Walmart parking which has a lot of parking.

Mr. Carcher explained that he didn't know there was an existing cross walk there.

Vice Chair Hartrampf asked the applicant if they would like to provide a final rebuttal.

Vice Chair asked for any further comments by staff.

Commissioner Braithwaite made a motion the application DR- 21-23, a Type III Site Designer Review, to redevelop the commercially zoned property by building a new banking facility with a drive-thru ATM for Chase Bank be approved, based on the facts, findings, and conclusions presented in the staff report and public testimony and evidence in this hearing with the following changes: excluding the requirement to underground high voltage power lines and excluding the relocation of power poles which would stay in their current location. Commissioner Cordell seconded. Motion passed 4-0.

E. **PRESENTATION** – None

F. **OLD BUSINESS** – None.

G. **ANNOUNCEMENTS** – None

H. **ADJOURNMENT**

Vice Chair Hartrampf adjourned the meeting at 9:03 p.m.

Date Approved

Dave Waffle, Planning Commission Chair

DRAFT