

Cornelius

Oregon's Family Town

CORNELIUS PLANNING COMMISSION

MEETING MINUTES

Tuesday, August 29, 2023

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

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

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

Applicant Representative:

Mimi Doukas, AICP, AKS Engineering and Forestry

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.

Chair Waffle announced that the public hearing is a continuation of the public hearing on August 22, 2023. No new testimony will be heard at this meeting. He read the opening statement and procedure for the public hearing. He explained that the public hearing will pick up where it was left off. The last meeting ended after **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.

Commissioner Braithwaite made a comment for the public record. He explained that at the last meeting he got ahead of the procedure, and asked questions about future development. He understands that

Chair Waffle explained that he was not present at the last meeting. On the advice from the City Attorney, he was able to watch the proceedings on TVCTV. He watched the meeting in its entirety. He has read the staff report. He is confident he can resume his role as Planning Commissioner on this matter.

Director Fryer requested that Chair Waffle announce any potential conflict of interest, bias, ex parte contact, or if he had visited the site; noting that the other Commissioners made announcements at the previous meeting.

Chair Waffle had no conflict, ex parte contact or bias and is familiar with the site.

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

Commissioner Cordell noted that she visited the site since the last hearing, she drove down to the end of the street, turned around, and drove back to Tualatin Valley Highway

Chair Waffle asked the Ms. Svicarovich to summarize her comments.

Ms. Svicarovich summarized her additional comments made in the last seven days. The criteria matters. Ms. Svicarovich noted that the first criteria is that the zoning is consistent with a Comprehensive Plan and Ms. Svicarovich discussed her position that the zoning is not consistent with the Comprehensive Plan. Ms. Svicarovich noted that since the original R-10 zoning was adopted the Middle Housing requirements were adopted allowing a property owner to build 25 units on the property. Ms. Svicarovich posited that this is not consistent with the Comprehensive Plan. This is a spot zoning. Therefore, it does not meet the criteria. There were a couple of other items noted as other points of concern regarding coordination and collaboration with the Oregon Department of Transportation, and wanting to ensure that happened. The City needs to be party to that conversation and cannot wait for the State to take care of the safety problem. The City is party to the safety problem because their land use is creating it. The applicant did process an expedited annexation that has left this property in limbo. That is not the City's responsibilities to fix. The applicant a calculated risk to process the annexation ahead of the zoning. That typically does not happen; it happens concurrently. The zoning is not consistent with the Comprehensive Plan, it is it is a spot zone, there are adverse effects, and those three criteria are not met.

Chair Waffle asked if the Commissioners have any questions.

Commissioner Hartrampf asked what Ms. Svcarovich's goal is for the zoning of the property.

Ms. Svcarovich talked about collaborative positive outcomes. She discussed safety as a tremendous concern. She wants to make sure that the zoning that's implemented results in analysis that is consistent with the TSP. The TSP does not account for the amount of housing that is in this zone, that is now allowed for. She asked the Commission to make a determination that there needs to be an amendment to the Comprehensive Plan and there needs to be a proposed new zone that would allow for this type of density that was originally envisioned as part of the grand bargain. What was agreed to, and what those people understood, is not what's being proposed today.

Commissioner Cordell asked how many of the lots of residents on 336th keep livestock.

Ms. Svcarovich answered that she does not know, but that as a child she remembers a horse living on the property in question. There is livestock on 334th, within the 500ft.

Commissioner Cordell asked if she was aware of any livestock on 336th.

Ms. Svcarovich answered no, but it is an allowed use.

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

Mimi Doukas introduced herself. She is with AKS Engineering; presenting on behalf the applicant. She expressed empathy to everyone involved, and commented that Middle Housing has made the process more complicated for all; State Land Use law changes complicate how decisions are made. Middle Housing is not going to go away and choosing a new zone within the city of Cornelius would still need to comply with Middle Housing. The Climate Friendly Equitable Communities (CFEC) legislation, that has removed parking restrictions, is still under appeal, and that may change. The foundation of our land use system is still in place and the City's criteria is still in place. The criterion is specific and says the zone change needs to be consistent with the City's Comprehensive Plan. The Comprehensive Plan says that the land has a designation of very low density residential. That is implemented by the R10 zone and creates the potential for two residential lots. Because of Middle Housing, you can have more homes on the lot. Technically, there can be 16 or 17 homes. While that is numerically correct, physically the site doesn't accommodate that many units. It can, through Middle Housing, accommodate more than two homes. It is not mandatory; there is a minimum density of two lots. CFEC has pulled the parking restrictions away from local jurisdictions for now. She believes it would be market foolishness to not provide parking at all. She noted that all she is discussing, theoretical development, and it is not something the Commissioners need to consider. The criterion says it needs to be consistent with the Comprehensive Plan. R10 is consistent with a very low density residential that was planned for this area. It is consistent with the Comprehensive Plan, even with the complications of Middle Housing. The applicant agreed to a condition of approval to review the infrastructure impacts of Middle Housing, should a Middle Housing application be proposed. Staff has language for that condition, that Ms. Fryer will read. Spot zone is really contradictory uses in the middle of a consistent district. She provided an example. There is a spectrum of residential uses that are next to each other, all around town. That is the nature of residential development. There are some planning theories that a variety of homes interspersed with each other is desirable. It is not spot zoning. it is residential against residential. She understands concerns about what ultimate development will be, but that is not a criterion before

the Commissioners tonight. She believes, with the additional condition of approval that we've committed to, the Planning Commission can find that this meets the criteria. The applicants request that the Commission make a positive recommendation to City Council to approve the zone change.

Chair Waffle asked if any of the Commissioners have questions for the applicant.

Commissioner Hartrampf asked if CFEC, and the rules on parking restrictions, are overturned through the courts, and the City gets parking minimums back, would it be retroactive for applications such as this.

Director Fryer answered that State land use law states that anytime an application is submitted, it is subject to whatever rules are in place at that time. The inclusion of the parking minimums, if the legislature is overturned, may apply depending on where the applicant is in the land use and building process. She noted that the applicant can choose to include parking, but currently the City cannot require parking. It would not be retroactive. Regulations that are in place at the time that an applicant submits an application are the regulations that the application is reviewed against.

Chair Waffle asked staff to speak.

Director Fryer explained there was an error on page 4 of the staff report. The first sentence, under Criterion three, states the subject property directly abuts city of Cornelius low density residential R7 zoning to the west. She corrected that for the record. The proposed R10 zoning, as shown on the map on page five of the staff report, is surrounded by very low density residential comprehensive plan designation with the equivalent zoning of R10 and approximately 400 feet west of the site, the property is within the Cornelius City limits and is zoned R7. The property is not directly next door, but rather, it is 400 feet away to the west. She discussed the comments and letters received concerning the potential impacts to the neighborhood. Specifically, with regard to transportation, water, sewer, and storm. After communicating with the City Attorney, she wrote a condition of approval. The recommended condition of approval states, "if, in the future, a middle housing development is proposed on the property, an impact analysis shall be prepared to address the impacts of increased number of homes on the transportation, water, sewer, and storm water systems. Any mitigation, if required for additional impacts, shall be constructed prior to occupancy permits for any of the homes." That is saying right now there are a certain number of homes that can be built on the property that were planned for in our water, sewer, and storm infrastructure. That infrastructure looked all the area in general. Not all of the area is going to come into the City with additional development. As a development does those analyses, it may or may not require additional mitigation. The application would only be required to do it before occupancy. She noted for the record that the City received three written submittals for tonight's meeting. The three submittals include a letter from George Svicarovich dated August 27th, a letter dated August 28th, with 11th appendices (A through K) submitted by Kristen Svicarovich, and the email chain with Ms. Svicarovich regarding whether the Planning Commission would be accepting testimony at tonight's hearing. The final item she requested be submitted into the record, is the complete ODOT study, that she referenced when I spoke on the August 22nd hearing. The study that was attached to Ms. Svicarovich's testimony has writing on it and not all the pages. She wants the Commissioners to have the benefit of all the pages. She noted that she emailed the

document to interested parties as well as posted it to the website. She explained where documents can be found on the City website.

Chair Waffle asked if the Commissioners have any questions for staff.

Chair Waffle asked if it is the City's intention to apply the proposed R10 zoning to the other properties on 336th, to the east, and the adjacent street, upon annexation.

Director Fryer answered that is correct, and referenced the map on page five of the staff report. She described the map and the planned zoning for the surrounding area.

Commissioner Cordell asked if the City can set limits on the number of units for each zone.

Director Fryer answered yes for the number of units for each zone. However, it cannot be done on a particular application, it has to be for the whole zone. The City can't treat any one property any differently than another. In terms of limits, the City cannot set limits that are inconsistent with Middle Housing. She explained the inception of Middle Housing. She explained the unit sizes and numbers that are mathematically allowed per lot.

Chair Waffle closed the hearing at 7:36 pm.

Commissioner Cordell made a motion that the application for Dehen Homes OR336 LLC zone change (**ZC-01-23**) be recommended for approval to the City Council based on the facts, findings, and conclusions presented in the staff report and public testimony and evidence in this hearing and based on the findings presented by Barbara Fryer regarding Middle Housing impact analysis requirement. 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 Hartrampf seconded the motion. The Commissioners deliberated, discussing spot zoning, the comprehensive plan, low density, county properties, future annexations, county zoning, frontage improvements, and infrastructure impacts. Chair Waffle noted that the motion is to make a recommendation to the City Council for a zone change; there will be a hearing before the Mayor and City Council. The City Council has the final authority to make a decision. Motion passed 4-1.

Director Fryer announced the application would go before the City Council the first Monday in October, October 2nd, in the City Council Chambers at 7:00 pm. She explained the format and schedule of the City Council meetings.

E. **PRESENTATION** – None

F. **OLD BUSINESS** – None.

G. **ANNOUNCEMENTS**

Director Fryer announced the next Planning Commission meeting will be September 26th, 2023, for the new Cornelius Elementary School. In October, there will likely be one or two applications.

H. **ADJOURNMENT**

Vice Chair Hartrampf adjourned the meeting at 7:53 p.m.

Date Approved

Dave Waffle, Planning Commission Chair

DRAFT