

**City of Rainier
Planning Meeting/Public Hearing
May 23, 2006
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The meeting was called to order at 6:30 PM.

All Present

Jan Moon, Chairman	Terry Bogardus, V. Chairman
Dave Langford	Phil Butcher
Carole Connell, AICP	Bobby Jo Brusco-Harding, Secretary

Flag Salute

Public Hearing: Request by TFT Custom Homes for approval of a two-year extension to the Rainier Riverfront Estates Phase 2 Preliminary Plan approval.

Moon opened the hearing and read the hearing's disclosure statement for both public hearings on the agenda. There were no conflicts of interest, personal biases or exparte contact declared.

Staff Report

Connell explained that Rainier Riverfront Phase 2 was approved by the City Council on February 22, 2005, Resolution 973 subject to Exhibit "A" Notice of Decision and Conditions of Approval. Connell explained that TFT Custom Homes was given a year to submit the final plat and that condition has not been met.

Connell stated that in the prior Code there were no provisions for extensions and that was amended about one year ago. Connell said the application is for a two-year extension, however the applicant feels a few months will be adequate for the 24-lot attached and detached single family housing development. Connell stated that notice was distributed to property owners within a 250' radius of the subdivision and there was not any comments received.

Connell explained that the City has revised the fee schedule for subdivisions because what happens with subdivisions is there is a lot of engineering review costs that the City bears on the storm water, sewer, water, streets, sewer etc. Connell stated the longer the project goes on the more the City spends so the Planning Commission and the City Council agreed that the applicant should be charged for any extra contracted expenses.

Connell stated that in this case, Phase 2, there have been many extra accrued costs, expenses and time spent on plans that the City wants to make sure that the provision is used this time if an extension is granted. Connell added there have been a lot of delays in completing the public improvement requirements with Phase 1 even though many of the homes have been sold and are inhabited. Connell said that all of the facilities should be accepted, certified and approved prior to the homes being occupied.

Connell stated it is recommended that this problem be avoided in Phase 2 by requiring the applicant to complete all the improvements prior to selling the homes. Connell

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explained that in approving the two year extension the following conditions should be implemented:

- a. The final plat shall be submitted to the City for review and approval by May 23, 2008.
- b. The developer shall reimburse the City for all contracted engineering costs associated with Rainier Riverfront Estates Phase 2 plan review.
- c. The following is a modification to prior Condition #3 Exhibit "A", Notice of Decision. No building permits shall be issued in Rainier Riverfront Estates Phase 2 until all required public improvements are **installed and certified** by the State Health Division, Design Engineer, DEQ, City of Rainier Public Works and the City Engineer.
- d. Exhibit "A" General Condition #11 of the January 31, 2005 Public Works Conditions of Approval is eliminated. This Condition relates to subdivision compliance agreement. The City will not accept a compliance agreement regarding Phase 2.

Applicant

Dan Miller, TFT Custom Homes LLC, 53990 West Lane Road, Scappoose, OR 97056 stated the issues in Phase 1 are between Dwayne Barnes, City of Rainier Director of Public Works and the TFT Engineer. Miller stated all the tests are done. Miller commented the reason for the extension for Phase 2 is that the sales for Phase 1 haven't been what they were hoping for so they (TFT) are holding off on Phase 2.

Discussion

Butcher asked if all the buildings in Phase 1 are under construction or opened. Miller said that out of 12, 8 are inhabited. Moon asked for proponents or opponents from the audience and there were none.

Butcher asked Miller if TFT had any problems with the findings and conditions in the May 16, 2006 Staff Report and Miller replied they did not have any problems. Langford asked if that included the improvements in Phase 1 also and Connell stated the City was not in a position to change anything in Phase 1 but is using that as an example of what the City does not want to do see what happened in Phase 1 happen in Phase 2.

Moon asked if the conditions in Phase 1 were the same as in Phase 2 plus additional conditions and Connell said that was correct.

Bogardus moved, Butcher 2nd, that based on the findings in the staff report dated May 16, 2006 the Planning Commission recommends approval of a two-year extension to the Rainier Riverfront Estates Phase 2 Preliminary Subdivision Plan. In addition to the provisions of the original approval (Resolution 973 and Exhibit "A" Conditions of

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Approval) the extension approval is subject to the following conditions of a, b, c and d. of the May 16, 2006 staff report.

The motion passed unanimously.

Public Hearing: Request by Robert Young for interpretation to discontinue a nonconforming use.

Staff Report

Connell explained that the request is for interpretation. Connell stated that the residence that is located at 404 West "B" Street is a vacant building that has been for sale that the applicant is asking the Planning Commission to interpret the six month limit on the building's vacancy to mean six months from a different starting point.

Connell stated that Robert Young, applicant, is the prospective buyer for the building and the structure has been historically used as a residence but recently has been vacant and since it's vacancy the LaSalle Bank is now the legal owner. Connell stated the building is in a commercial zone and the zone does not permit single family residences, however if the use was there as residential before the zone was established then it could continue to exist but is now called nonconforming use.

Connell said that zoning code section 6.6 Discontinuance of a Nonconforming Use states that if a nonconforming use is discontinued for more than six months the building or land occupied hereafter shall be occupied and used only for a use that conforms to the zone applied to the property. Connell stated the house has been vacant since August 22, 2005 which would be about nine months it has been discontinued and it is still vacant. Connell stated that at sometime during this period the bank repossess the house and more than six months has passed while they were trying to sell the house.

Connell explained the applicant is wanting to purchase house and is requesting the Planning Commission consider extending the period of discontinuance so that he can buy the house, move into it as a residence and continue the nonconforming status. Connell said during the period of repossession the house was in limbo and that waiving or varying from the standard us a reasonable solution. Connell stated the City has not had any similar requests that could provide guidance.

Connell said notices were sent out to property owners within 250' of 404 West "B" Street and the City did not receive any comments. Connell said there is not a strong market for new commercial uses in residential buildings in Rainier and nobody has asked if they could use this location for a commercial use.

Connell explained that the Planning Commission has two options:

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1. Determine that the six-month vacancy provision has passed and cannot be extended, thereby prohibiting residential use.
2. Determine that the circumstances warrant an extension of the six-month vacancy provision, thereby extending the nonconforming residential use indefinitely.

Applicant

Robert Young, 1300 Railroad Avenue, St. Helens, OR 97051 stated he would like to purchase the residence so he can move in and remodel it. Young said he is planning to stay there, not fix it up as a resell. Young said that under the current zoning the only other thing he could do is put a business in and live above the business in an apartment which is not what he is wanting to do.

Rich Larson, Windemere Real Estate, PO Box 128, Clatskanie, OR 97016, listing realtor agent for LaSalle Bank, stated that none of the properties on "B" Street in the area of 404 West "B" Street lend themselves to commercial use because they are all 50' x 100' in size and really have no or very limited commercial potential. Larson said six to eight months is normally about the time it takes to repossess property and the locations are generally empty during that time. Larson stated it is not hard to imagine a time when someone could be ill, want to sale, or pass away and the house could be easily empty for six months meaning the six month period is too short of a time frame. Larson suggested rezoning that area or changing the six month term.

Langford asked Young if his intentions were to operate a business in the home and Young replied that he would do that if he had to but would prefer to just reside in the home.

Connell said that nonconforming uses she has seen in other codes have a longer nonconforming use period, usually eighteen months. Connell said a home occupation was also a possibility at this location.

Larson said that lenders now look at something that is zoned commercial and if there is a pretty good window where they can maintain them as residences, they hesitate to finance.

Cheryl Frazier, West Columbia Realty LLC, 101 West 5th Street, Rainier, Oregon 97048, realtor for Young, reiterated with Larson and said that was what Young was dealing with from the lender.

Discussion

Moon and Langford agreed that since that area is currently homes, they can't see changing the face of that street in the near future.

Butcher moved, Langford 2nd, to approve the extension of the nonconforming residential use for eighteen months from the date of vacancy, August 22, 2005 to February 28, 2007, for the property located at 404 West "B" Street, Rainier, Oregon.

The motion passed unanimously.

Review of Highway 30 Enhancement Project

Chad Olsen, City Administrator, gave an update on the Highway 30 Enhancement Project by stating the project is primarily is 90% ODOT funded and 10% locally funded. Olsen stated originally the project was \$450,000.00 - \$500,000.00 and Redco agreed to put up a local match on it. Olsen stated after that we were able to go in and have that amended because there were some additional TEP funds available because it is a relatively difficult grant program. Olsen stated the currently the total project is about \$850,000.00, 10% from Redco and the balance through ODOT.

Olsen said the scope is curb, gutters, sidewalks, street trees, street lights, and pedestrian amenities for the area between East 2nd Street, north and side of the highway, to West 3rd Street. Olsen said on the north side of the street it will go across to the west side of Fox Creek. Olsen said the additional cost to underground the utilities is about \$240,000.00 and ultimately the City is not going to be able to do that. Olsen said that the overhead utilities will be consolidated on the south side of the highway which will clean up the view side of the highway. Olsen said steel poles with concrete anchors will be used and the advantage of that is to save money on street lights.

Olsen said currently the City is completing right-of-way acquisition and access permits. Moon asked about the front parking at Columbia River and Olsen said they would have a sidewalk across the front, access for loading and unloading and their parking will convert from diagonal parking in front of the business to diagonal parking on the street. Olsen said they currently have approximately fourteen spaces in front and that would convert over to seven parallel spaces with a loading area.

Olsen said the schedule is to be out to bid the end of August with a fall construction period and right-of-way certification the first part of June.

Moon expressed concern with the intersection at Highway 30 and West 6th Street due to heavy pedestrian and traffic flow. Olsen said the crosswalks have to be approved by ODOT. Olsen said the current mid block crossing on Highway 30 is going to move to the West 3rd Street intersection. Olsen said that eventually West 6th Street will eventually have a controlled intersection.

Review of CBD (Central Business District) Zone Boundary

Connell explained there has been interest in enlarging the currently CBD zone boundary on East "A" Street. Connell explained who the property owners were on the north and south side of "A" Street that are not currently in the CBD boundary. The Planning Commission agreed Butcher will check with Larson/Mason, Norris and Melin regarding their feelings on changing their properties to CBD zoning, Moon will talk with Holcomb and Brusco-Harding will talk with Kelly Barnes of H.O.P.E. prior to the next meeting regarding the same so the Planning Commission will know how to proceed with establishing new CBD boundaries. Butcher stated he felt Melin would be agreeable to the CBD zone. It was agreed the properties on the south side of East "A" Street east of East 5th Street would not be included in the proposed CBD boundary or any properties west of the current westerly CBD boundary.

Connell stated this project would be considered quasi-judicial

Minutes of March 16, 2006 Planning Meeting/Public Hearing

Langford moved, Butcher 2nd, to approve the minutes. The motion passed unanimously.

Other Discussion

The commission requested Brusco-Harding to research the criteria for applicants serving on the Planning Commission in regard to their residence address.

The Planning Commission tentatively scheduled the next meeting for Tuesday, June 27, 2006 at 6:00 PM, rather than 6:30 PM.

It was decided discussion of the nonconforming use six month time frame will be a topic of discussion at an upcoming meeting.

The meeting was adjourned at 8:00 PM.

Jan Moon, Chairman

Bobby Jo Brusco-Harding, Secretary