



Planning Commission Meeting Minutes – January 3rd, 2018; 6:30 p.m.

Molalla City Hall – 117 N. Molalla Ave, Molalla OR 97038

Attachments

Exhibits A (Appeal Letter)

Exhibit B (T. Beau Ellis memo)

Commission Attendance:

- Dan Burck - Commissioner
- Rae Lynn Botsford, Chair
- Omar Reynaga – Commissioner
- Debbie Lumb – Commissioner
- Jennifer Statter- Commissioner
- Doug Eaglebear – Commissioner
- Hardeep Singh Brar - Commissioner

Staff in attendance:

- Aldo Rodriguez – Planner
- Dan Huff – City Manager

Audience members

- Jim Taylor, PO BOX
- Timothy Beu Ellis, 17355 SW Boones Ferry Rd, Lake Oswego, OR.
- Dale Nukem 1441 W. Main St., Molalla, OR.

Commission Chair Rae Lynn Botsford convenes the planning commission meeting.

Flag Salute

Call to order

Roll Call, staff introductions

- PC Chair Rae-Lynn Botsford opened the meeting for general comment limited to three (3) minutes, speakers need to state name, and address or organization represented, and speak on items not identified on the agenda
 - Dale Nukem, 1441 W. Main St.
 - Dale speaks on the 1441 W. Main St. residential property that has been up for sale for the last couple of months. Dale mentions that he is getting reports from

his prospective buyers that the City development requirements are too steep. Dale continues to mention he has three different properties that have also encountered steep verbal development requirements that had made selling his property's difficult.

- PC Reynaga asks Mr. Nukem if has contacted City Officials about these issues.
 - Mr. Nukem responds, no.
- PC Reynaga encourages Mr. Nukem to contact City officials regarding this matter.
- Dan Huff comments that he agrees with PC Reynaga Mr. Nukem should contact the City in order to discuss fees and development procedures.
- Mr Nukem agrees to stay after the meeting to speak with officials for some clarity.

Minutes: October 4, 2017

- PC Botsford confirmed all members received and reviewed minutes. Chairman Botsforda called for any amendments, seeing none he called for a motion. PC Reynaga made a motion to accept the minutes from October 4th, 2017, PC Burck seconded. Motion carried (7-0), all ayes.

Public Hearing: P27-2017 Central Commercial Retail Building

- PC Botsford introduces the protocol for the public hearing, and proceeds to open the public hearing for P27-2017 Central Commercial Retail Building.
- Community Planner – Aldo Rodriguez presents staff report for P27-2017 Central Commercial Building.
- CP Aldo Rodriguez mentioned based on the submitted material certain conditions will be required to ensure the application is compliance with the Development Code.
 - Landscaping percentage shall be updated/shown on site plan.
 - The entire parcel shall be paved.
 - Clear pedestrian access shall be created.
- Applicant Eric Helfy reviews application for Planning Commission.
- PC Botsford opens the hearing to Public Comment
 - None
- PC Botsford asks Commissioners if they have any questions for Staff or the Applicant.
 - None
- PC Botsford closes P27-2017. Commission can now deliberate on decision.
 - PC Dan Burck motions to approves P27-2017 Central Commercial Retail Building
 - PC Debbie Lumb seconds the motion.
 - Motion carried (6-1), PC Hardeep Singh Brar nay.

Public Hearing: Appeal on Administrative Decision - P62-2017 31816 S. Ona Way

- PC Botsofrd introduces the protocol for the public hearing of an appeal, and proceeds to open the public hearing for P62-2017.
 - PC Botsford asks if anyone request party status.

- Attorney Timothy Beau Ellis – representing appellant Jim Taylor request party status.
- City Manager – Dan Huff reviews the appellants appeal letter (Exhibit A) and the memo submitted by the Attorney Beau Ellis (Exhibit B)
 - Dan Huff states the City is not prepared to exam the memo by Beau Ellis. The City is not prepared to respond if the Planning Commission asks questions regarding what the nexus is, since the City has not done the analysis. Dan Huff states the Planning Commission has three options: Affirm the condition, adjust the condition, or accept the appellants appeal.
 - Dan Huff states the question comes down to, does the City have the authority to require street improvements a development.
 - Dan Huff mentions that Clackamas County has not contacted us this week for a final inspection for the building.
- PC Botsford addresses the Appellant
- Appellant Jim Taylor
 - Jim Taylor reviews the fire incident that burnt down a section of his building on January 29, 2016.
 - Jim Taylors mentions that the rebuild of the building is on the same foundation. He Continues to mention that:
 - Signing of Waiver of Remonstrance is not in his best interest.
 - This is a Type I planning review and it does have any impact on the City systems.
 - He has complied with all the other conditions that the City has put on this review.
 - Putting in the required stripped parking and bike racks.
 - Jim Taylors ask the Planning Commission to remove the conditions #2, which requires to sign a Waiver of Remonstrance.
- Attorney Beau Ellis
 - Reviews his memo (Exhibit B) sent to the Planning Commission
 - Proceeds address the constitutional case studies included in memo that are being applied to this case.
 - Beau Ellis claims it is unconstitutional that the City require the appellant sign the Waiver of Remonstrance. Beau Ellis proceeds to point out:
 - The appellant has met every other requirement asked from the City.
 - Signing the Waiver of Remonstrance is not proportional to the application and rebuild.
 - In the development code there are only two instances that require sign of Waiver of Remonstrance. A development of condominiums, six or more. Or when addressing a non-conforming use, which this is not.
 - Beau Ellis asks the Planning Commission to remove Public Works conditions #2.
- PC Slatter asks to staff why the signing of the Waiver of Remonstrance was added to the conditions.
 - Dan Huff responds that road improvements are a requirement for new developments, so that is why the condition is included.
- PC Botsford opens the meeting to public comment:

- None
- PC Botsford closes hearing for P62-2017. Commission can now deliberate on decision.
 - PC Reynaga states that from what we have been represented, that none of them are Supreme Court judges, so we do not know constitutional law. So it does not benefit us to use any those examples, since we don't follow the fact patter that attorneys use. We use the development code and the advice of the City officials. If the code states that, then we should proceed with the condition #2.
 - PC Botsford states the streets needs to be constructed and we need to follow what the code states. In addition, PC Botsfords states that she will not be able to decide tonight.
 - PC Burck would like to look if this condition meets the requirement in our code.
 - PC Statter would like to get more information on the legal nexus of imposing this requirement.
 - PC Botsford motions to postpone the decision to January 17, 2017 to wait for response from the City attorney and any other relevant information.
 - PC Lumb seconds the motion.
 - All ayes (7-0)
 - PC Botsford welcomes a full Planning Commission.

Adjournment

Rae-Lynn Botsford

Commission Chair

Aldo Rodriguez