



**MEETING MINUTES
PLANNING COMMISSION
TUESDAY, September 14, 2021
7:00 P.M.**

I. Call to Order

Those members present: William Snavelly, Steve Dana, Jason Bracken, Richard Keebler, Carla Blackmar, and Corey Watt

Those members excused: Shana Rosenberg

Staff members present: Sam Perry, Zachary Moore, Chris Conard, and Eunike Miller

Staff members excused: None

II. Approval of Agenda

Mr. Watt entertained a motion to approve the agenda as presented. Mr. Snavelly suggested to add an old business item to the agenda, the case known as **PC-2019-08, Conditional Use, Southpointe Parkway and US 27, to allow for the commercial development of property including a gas station and drive up window, Scott Webb, Architect/Agent**. Mr. Bracken made a motion to approve the agenda with the added old business item. Mr. Dana seconded the motion. All were in favor.

Mr. Watt informed the Commission about Ms. Rosenberg reaching out to him for not being able to attend tonight's meeting.

III. Approval of Minutes of August 10, 2021

Mr. Dana made a motion to approve the minutes as written. Mr. Snavelly seconded the motion. All were in favor.

IV. Public Comments Related to Items Not on the Agenda

There were no comments from the public.

V. Reports from Commissions, Boards, Committees & Staff

Ms. Blackmar reported that OPTAB did not have a meeting last month.

Mr. Bracken had nothing new to report.

Mr. Snavelly did not have anything new to report.

Mr. Dana reported that at the CIC meeting, Mr. Copenbaker mentioned that the city should receive about \$ 2 million from the American Rescue Plan. The projects that may receive some of this funds are the following: **(1)** Broadband Development, **(2)** Utility Upgrades in sewer, water, and softening, **(3)** Social Services Support and Development.

Mr. Watt reported that at the HAPC meeting a request for extension for 101 W Church Street project was not granted.

Mr. Perry stated that the Comprehensive Plan Steering Committee will have their 3rd meeting tomorrow. In October, the Public Input Palooza, in-person and virtually, will take place. It will most likely be on the 3rd week of October. The intended date to complete the project is mid to late 2022.

Mr. Moore had nothing new to report.

VI. Climate Action Steering Committee – Presentation – David Prytherch, Mark Boardman

Mr. Prytherch and Mr. Boardman gave a thorough presentation on the subject of climate. They described the concerns, the goals, and what role the Planning Commission would play in this.

Questions and comments from the Commission

Ms. Blackmar suggested to do a workshop that is focused on integration. For example, in a staff report incorporate some kind of analysis about how to trade off density, lot coverage, water management. Ms. Blackmar added that a long term goal could be how to become a low carbon destination for climate refugees. Ms. Blackmar proposed a workshop for the Planning Commission to talk about what to take meaningful action on and how to make it a routine part of the Commission's process.

Mr. Bracken added that while it is true that the Planning Commission makes decisions on other people's plans, does this need to be changed to create some legislative recommendations to Council to make sure these decisions will be implemented. Mr. Bracken agreed with the proposal of a workshop.

Mr. Boardman added they would be happy to give guidelines, suggestions to the Commission.

Mr. Prytherch said that the way business is done need to change, for example how to support this goal with the codes.

Mr. Snavelly thanked Mr. Prytherch and Mr. Boardman for their work. Mr. Snavelly would welcome suggestions from the CASC. Mr. Snavelly added that it would be very beneficial to see what other communities have already done and what we can implement from them.

Mr. Dana added it would be very beneficial if these climate affecting options would be implemented in the codes, therefore it would help or guide those who make the decisions as the project comes along. And the results can be measured by these codes.

Mr. Keebler said this is a multi-step process. (1) The goals have to be written in the Comprehensive Plan (2) then make the code revisions. Mr. Keebler added that finding a balance while implementing these goals is very important because property owners still have their rights.

Mr. Watt agrees with Mr. Keebler on finding the balance point. Mr. Watt mentioned affordable housing as an example for this. Mr. Watt emphasized it is very important that the different areas would collaborate in this effort.

Mr. Prytherch explained that the CASC was created to help coordinate between boards and commissions since they all have a representative in the CASC. For example, it might be a trade-off between affordable housing and renewable energy and it needs to be balanced or reconciled somehow.

Ms. Blackmar acknowledged that there will be major trade-offs involved in this process, and affordable housing is a good example. Ms. Blackmar added that it is a bold step to take since the ability to do it is heavily contingent upon the financial structures, monetary systems, judges etc.

VII. New Business

PC-2021-22, 117 Bishop Street, LOT SPLIT, Pt. of Lot #502 totaling 0.0956 acres, Scott Webb, Applicant/Agent

Mr. Snavelly made a motion to enter into public hearing. Mr. Dana seconded the motion. All were in favor.

Mr. Perry started his presentation by referring to an earlier request from this year that was denied administratively. The letter is enclosed in the packet.

Mr. Perry displayed the location of the site, the corner of Bishop Street and Withrow Street. Mr. Perry explained that the Planning Commission typically reviews Planned Developments, major subdivisions, and the minor subdivision cases are handled administratively. Mr. Perry added that this case had already been denied once, so rather than denying it again, Mr. Perry and the Chair, Mr. Watt decided to put it on the agenda for discussion. Mr. Perry stated that the request is to divide the existing property to create another buildable lot. There is no other information on what the plan will be.

Mr. Perry further explained that the earlier decision was based on a connection to the subdivision code that was outside of the decision standards. After looking into this case again, it stood out if only the decision standards were looked at within the minor subdivision criteria, there is no reference to the zoning code.

Mr. Perry then displayed the decision standards and pointed out to Code 1101.6 (B) to explain why this case was brought to the Planning Commission. Mr. Perry next went through the decision standards:

1. The proposed minor resubdivision, lot split or consolidation is located along an existing public street and involves no opening, widening or extension of any street or road, and in the case of residential lots, does not involve the creation of any easement for access. Mr. Perry added that this could be a topic for conversation because of the parking lot that crosses over the property line.
2. The proposed minor resubdivision, lot split or consolidation meets the dimensional requirements of the underlying district or a minimum of 3,000 square feet. Mr. Perry highlighted that the new lot would meet this requirement.
3. The physical characteristics of the property are suitable for building sites. Mr. Perry noted that they do not have the answer for this because there are no plans for the new lot yet.
4. There is no division or allocation of land for parks and open spaces as required by these regulations. Mr. Perry said there is not.
5. New lots to be created which are five acres or larger. Mr. Perry stated this is not applicable.
6. The sale or exchange of parcels between adjoining lot owners where there is no additional building sites. Mr. Perry pointed out that this is not the situation either.
7. No more than two (2) new lots shall be created. Mr. Perry noted this is consistent.

Mr. Perry displayed the survey that showed the boundary. In the center of the lot, there is the added parking area, and that was the reason for the denial of this case earlier. Mr. Perry reasoned on it that had the case been approved it would have been made an existing non-conformity with zoning more non-conforming by reducing the parking area.

The next slide showed the proposed line by the applicant.

Mr. Perry further explained that although the split complies with the decision criteria of 1101.6, any zoning variance requests could be found to be self-created. Mr. Perry added that there is a need to update the code to connect to the zoning code more formally.

Questions and comments from the Commission

Mr. Keebler wanted to know which parcel will conform less to the Zoning Code by the partial removal of the parking lot. Mr. Perry answered it would be the original, primary parcel. Mr. Keebler also inquired if the new lot would meet the lot coverage requirements or exceed it. Mr. Perry did not have an exact answer to the question. Mr. Keebler then asked how many parking places are required for a 2-family residence in that zoning district. Mr. Perry answered, four (4) required. Mr. Keebler then wanted to know where these four parking places would go. Mr. Perry pointed out that it seems there is no room for it now.

Mr. Dana wanted some further explanation on what Mr. Perry meant by “Staff’s assessment of this case is that the City has limited ability to request additional information or to not approve the lot split because of the provisions of the lot split decision standards.”

Mr. Watt summarized the case: the decision standards do not address this but by doing so, it makes it non-compliant elsewhere. The two areas in the code do not come together.

Mr. Conard stated that the parking issue is relevant because it does have a potential impact on related easements and other things. Mr. Conard added it seems there are some evidence for not having enough room for four parking spaces as required by code. If this lot was to be split, there would not have enough space for four on the primary lot. Mr. Conard said there are some factual information that would be necessary to make the informed decision.

Mr. Perry mentioned that he proposed a plan to the previous applicant: if the site was cleared by demolishing the building there would not be an issue.

Mr. Webb started his presentation. Mr. Webb stated that they believe the decision standards are met. Mr. Webb reasoned they believe this is a buildable lot because the City created and made it to a buildable lot.

Mr. Webb then discussed the decision standards:

1. The new lot has a front along a public street, requires no extension or easements.
2. The proposed resubdivision meets the dimensional requirements of the district. It is a buildable R3 lot in its current state. Mr. Webb mentioned they believe that splitting the lot to build a 3rd unit there is the least intense and the least destructive.
3. Mr. Webb restated that they believe the lot is buildable.
4. Only one new lot is being created by the split.

Mr. Webb pointed out there is nothing in the decision standards about the effect of the zoning code, of parking, and of adjacent lots.

Mr. Snively made the comment that driving by the property he did not see any open parking spots on the adjacent streets. Mr. Snively had a question whether it is possible to create enough parking spaces for the lot with the already existing house. Mr. Snively stated that the problem is that the lot split will go across the already existing parking lot. Mr. Webb, being hesitant to answer, expressed that he does not believe it is part of the decision standards and the division of the lot should not be made contingent upon the other lot’s parking.

Mr. Conard mentioned there is language within the code that specifically talks about easement for access, ingress and egress, which is a derivative in a residential lot for parking. Mr. Conard added that it is up to the Commission how this will be applied.

Mr. Webb in his reply to Mr. Conard’s comment stated that easement is a very specific word, and an easement is not required according to the decision standards.

Mr. Perry commented that we do not have minor subdivisions of developed lots very often. The argument that this lot split should be allowed, raises the question: should this then be extended to any developed lot making it possible to go through the middle of the building? It is irrational.

Mr. Watt invited the public to comment on this agenda item.

Mr. David Prytherch, 6195 Contreras Road

Mr. Prytherch wanted to know if climate was a factor how it would affect the decision of the Commission.

Mr. Snavelly made a motion to close public hearing. Mr. Dana seconded the motion. All were in favor.

The Commission's Discussion

Mr. Keebler agreed with Mr. Snavelly. Mr. Keebler voiced that he had no intention to vote with a "yes" for a lot split that creates more non-conformity. Mr. Keebler added that in his opinion the primary lot will not be conforming after the split.

Mr. Bracken wanted to know if this was not in violation of the decision standards would it still be in violation generally because it subsequently creates a violation of conformity, and would they have legal standing on this alone, outside of the decision standards. For example, if the last sentence was to be removed from decision standards #1, would there be legal grounds to not approve it because the action creates a violation of conformity.

Mr. Snavelly brought up decision standards #3 highlighting the word "sites". Since it is used in plural, according to Mr. Snavelly both lots need to be considered. If both lots were considered, the split would mean that the physical character of the property is not suitable for the building site of the present house. Mr. Snavelly wanted to know if this is a reasonable interpretation of decision standards #3.

Mr. Conard stated that he is present at this meeting to make sure that the process does not go afoul of the law. The Planning Commission, as the quasi-judicial body, interprets the code as related to the application that has been submitted. Mr. Conard added that the interpretations are reasonable. Mr. Conard further explained that Mr. Webb's comments about the interpretation of the general application of the law and that the benefit goes to the property owner are equally true.

Mr. Bracken agrees with the previous comments supporting the thoughts to solve the parking issue.

Ms. Blackmar made a comment that maybe, as part of a policy context down the road, loosen the parking requirements in the area. She added that the students perhaps, as a way to reduce greenhouse gas issues, should not find it so easy to bring their vehicles to Oxford, as a future policy concern.

Mr. Watt made the point that the Commission makes the decision with the comments of other bodies, such as fire, police, therefore they do not have the luxury with liability to look at something in a vacuum, absent from these bodies. Mr. Watt restated that a clear plan is needed in order for the Commission to make a decision that does not create or does not intentionally allow the creation of a non-compliance site.

Mr. Dana restated his earlier sentence from Mr. Perry's Memorandum, calling it very powerful, and it is need to be taken into consideration: "Staff's assessment of this case is that the City has limited ability to request additional information or to not approve the lot split because of the provisions of the lot split decision standards."

Mr. Snavelly said that Mr. Dana is right, however the Commission does have the ability to ask for more information.

Mr. Snavelly made a motion to table the decision with the request for more information on potential conformity and compliance with the lot that has the existing building. Mr. Bracken seconded the motion. All were in favor.

This case will appear as an old business item on the next agenda.

PC-2021-24, 219 W Walnut Street, LOT CONSOLIDATION, Pt. of lot #202, 0.125 acres, Jim Clawson, Applicant, Scott Webb, Architect/Agent

Mr. Snavelly made a motion to enter into public hearing. Mr. Dana seconded the motion. All were in favor.

Mr. Perry started his presentation by giving some details about the location. These are two alley parcels because they do not have any street frontage. The owner's desire is to consolidate these two parcels.

Mr. Perry displayed the Location Map, then the Setbacks Based on Existing Lot Lines map, and explained that there are buildings being built on alley parcels because of changes that have been made to the Code. Mr. Perry pointed out there was an amendment made to the Code in 2017, and the principal entrance, the door no longer have to face the street. Mr. Perry also explained that it is an "interior lot" and not a corner lot, and with the setbacks there is not much buildable area left.

Mr. Perry showed the completed consolidation by the surveyor. On the following slide, Mr. Perry further explained how this consolidation would create a corner lot. The front yard setbacks would apply to the two intersecting alleys, as it has been done in the past years, and no rear yard setback. Mr. Perry pointed out that there is an existing encroaching building on the side, and according to the Code this building is an accessory building to the main one, so it requires a 10-foot setback.

The next slide showed an option if all four parcels were consolidated, but this is not the proposal.

Mr. Perry started to discuss the decision standards next.

1. The proposed minor resubdivision, lot split or consolidation is located along an existing public street and involves no opening, widening or extension of any street or road, and in the case of residential lots, does not involve the creation of any easement for access. Mr. Perry added, the lot is not located along an existing public road.
2. The proposed minor resubdivision, lot split or consolidation meets the dimensional requirements of the underlying district or a minimum of 3,000 square feet if the underlying district does not have minimum lot size requirements. Mr. Perry highlighted that the lot would exceed the minimum requirement.
3. The physical characteristics of the property are suitable for building sites.
4. There is no division or allocation of land for parks and open spaces as required by these regulations. Mr. Perry said this is not applicable.
5. New lots to be created which are five acres or larger. Mr. Perry stated this is not applicable.
6. The sale or exchange of parcels between adjoining lot owners where there is no additional building sites. Mr. Perry pointed out that this is not the situation either.
7. No more than two (2) new lots shall be created. Mr. Perry noted this is not applicable either.

Mr. Perry shared his concerns that none of the alleys abut a public street. Mr. Perry also pointed out that there was a similar case in March 2021, 216 W Church Street.

Questions from the Commission

Mr. Bracken inquired about the square footage of the buildable area. Mr. Moore answered, it is about 1800 square feet.

Mr. Snavelly wanted to know if the lots were not owned by the same person would it be possible to sell the lot with the already existing house. Mr. Perry stated that the City does not get involved in a land sale, but it would essentially create an encroachment on someone else's property, and he also used the Sigma-Chi building as an example of this. Mr. Snavelly then inquired if there was an encroachment easement. Mr. Perry was not able to provide an exact answer.

Mr. Keebler wanted some clarification on how the house was built on the lot line. Mr. Snavelly provided the answer that originally there were narrow lots and if someone owned all of them or a number of them, he just decided where he wanted to build, but never went through the actual consolidation process.

Mr. Perry added an important point to the discussion. Mr. Perry explained that staff has been experiencing some concerns from departments, such as safety access for emergency vehicles, utility connectivity, general public infrastructure accessibility. Mr. Perry pointed out that this case was not reviewed by Fire and Police, the concerns are there. Mr. Perry recalled one example given by the fire chief on a new building on E Collins St. The fire chief said that the fire truck is not able to access the building from E Collins St because of the topography.

Mr. Dana wanted some clarification whether this lot consolidation has safety implications. Mr. Perry answered that on alleys yes; it appears so.

Mr. Snavelly inquired about the number of dwelling units in the mile square; he thought it was two on the same lot. Mr. Perry said an accessory dwelling unit is possible only in the R3MS zoning district, and this lot is not in that zoning district.

Mr. Keebler wanted clarification on Mr. Webb being the agent for this case. Mr. Perry stated that the office received the Letter of Agency later today, before the Planning Commission meeting.

Mr. Webb started his presentation by reasoning on that 3310 square foot is a buildable lot by the Zoning Code. Mr. Webb then talked about how the code allows building in the alley with all due respect to the Fire Chief's comments.

Mr. Webb mentioned that encroachments happen a lot and there are lands being sold with such conditions. Mr. Webb does not think this is an issue.

Mr. Webb then commented on decision standards #6 stating that they are not creating another building site, rather adding to an existing parcel to make it more buildable.

Questions from the Commission

Mr. Watt wanted clarifications on decision standards #6. Mr. Webb said they are adding a minor piece, a sliver and not creating another building side, and that is allowed by the code.

There was no comment from the public on this agenda item.

Mr. Dana made a motion to close public hearing. Mr. Snavelly seconded it. All were in favor.

The Commission's discussion

Mr. Dana referred to a part in Code 1101.6 (B) "The Planning Commission, by majority vote, shall grant a minor resubdivision, lot split or consolidation if they find all of the conditions of subsection (A) above have been substantially met and provided", and wanted to know whether this was the case.

Mr. Snavely thought that Mr. Webb's point is valid and they are making it more compliant than less compliant. According to Mr. Snavely, there is not much to be done with the smaller lot right now. Mr. Snavely added that if decision standard #1, a lot being located along an existing public street, stands and valid then it would never be a possibility to consolidate any lot in any alley.

Mr. Bracken stated that if decision standard #1 was applied every time then it would remove the Commission's ability to do that. Mr. Bracken added that this was left up to the Commission decision as written in the code, so the Commission would use it as necessary. Mr. Bracken used his example for this, he is in favor of the lot consolidation but if this would cause safety issues that is a concern.

The Commission agreed on getting input from the Fire and Police Chiefs.

Mr. Dana made a motion to table the decision. Mr. Bracken seconded the motion. All were in favor.

This case will appear as an old business item on the next agenda.

VIII. Old Business

PC-2019-08, CONDITIONAL USE, Southpointe Parkway and US 27, to allow for the commercial development of property including a gas station and drive up window, **Scott Webb, Applicant/Agent**

Mr. Perry explained that this case came up a couple days ago because of an administrative process that followed the last Planning Commission review of the gas station. Mr. Perry displayed a slide that was provided by Mr. Webb after a meeting had taken place between Mr. Perry and Mr. Webb's client. Mr. Perry recalled that the amendment to change some of the design was denied by the Commission. In the action letter, it was stated that the colors need to match on the roof lines, the canopy, the building, and the sign. Mr. Perry further explained that the owner of the gas station is limited by Shell and their brand requirement for a very light colored canopy. When this case was reviewed, there was no knowledge about this requirement. Mr. Perry continued that this caused to refer back to the original plan approval, which required the consistency of the colors of the roof line on all the three structures. This allowed the applicant to choose the brick color. Mr. Perry stated that Mr. Webb would like to affirm this or to go back to what his client's prefer, darker color on the building.

Mr. Webb pointed out that the one of the conditions of approval for the original 2019 plan was that the buildings conform substantially to the renderings as presented. Mr. Webb continued that another proposal was presented to the Commission, changing the window shades from green to black, and the black trim with the darker bricks. Mr. Webb added that when this proposal was presented along with the earlier one, the interpretation was that the Commission did not have a problem with the owner choosing the color for the building. Mr. Webb then continued with the changes on the gas canopy. The approved plan was to show only the logo on the canopy. Mr. Webb added that his client presented this to Shell the company asked to use their canopy, which has bright colors and the logo stood above the canopy. This was denied by the Commission. Mr. Webb explained what he took away from that meeting was to go back to what was approved and to match to the profile, he thought. Mr. Webb asked clarification on this subject.

Mr. Watt commented that based on the action letter signed by him, the permissibility was on the color of the brick and not on the roof line or on the canopy.

Mr. Snavely needed clarification which design the client wanted. Mr. Webb answered that his client wants the black shades and trim on the building and the bright canopy (yellow and red). Mr. Webb went on to explain that he thought the color scheme of the building was approved, the color scheme for the canopy denied, and he did not see that a hybrid design was being created.

Mr. Snavely was in favor of the hybrid design rather than the one with the darker scheme.

Mr. Keebler acknowledged that the hybrid design was approved by the Commission, both on the canopy and on the building.

Ms. Blackmar added the she had no problem with either designs.

Mr. Bracken believed that the Commission should not make decisions on subjective color standards. However, there are existing rules that need to be adhered to, and this agenda item has been discussed and the answers have been provided.

Mr. Webb apologized for the misinterpretation.

IX. Administrative Decisions

PC-2021-23, 1701 Lake Forest Drive, LOT SPLIT, Pt. of lot #3716, 11.663 and 17.870 acres, 4 Leaf Development, Applicant

Mr. Perry explained that it was consistent with everything that has been approved, and it did not have to be authorized by staff because it was over 5 acres, but it was approved anyway.

X. Adjournment

Mr. Snavelly made the motion to adjourn the meeting. Mr. Dana seconded the motion. All were in favor. The meeting adjourned at 8:52 p.m.