

CITY OF BANKS, OREGON
Planning Commission Meeting
May 28, 2013
Banks City Hall, Banks, OR

Chairperson Ray Deeth called the meeting to order at 7:35 PM. The proceedings were recorded in digital format.

A. ROLL CALL

Present were Chairperson Ray Deeth, Rodney Jacobs, Melissa Aurand, and Gene Stout. Michael Nelson and Lisa McAllister were absent.

Attending: Jolynn Becker, Interim City Manager, Scot Siegel, City Planner.

B. APPROVAL OF MINUTES: April 30, 2013

R. Jacobs moved to approve the minutes of April 30, 2013 as presented. G. Stout seconded the motion, which passed unanimously.

C. PUBLIC COMMENT:

Scott Wallace, 40975 Wilkesboro Rd, Banks, OR discussed questions and issues raised in the letter he submitted to the Commission about the County denying building permits on his family's property due to a County zoning designation that references City zoning within the urban growth boundary (UGB) expansion area. The property has been in the family since 1961. Mr. Wallace said area residents were not informed about the zoning changes which affected property values and prompted insurance concerns. In researching past files on zoning issues in 2006 and 2008 and zoning for the property changed from FD-5 to mixed use to industrial then back to mixed use and then finally industrial. Everything stated the zoning was a proposal until the properties were annexed into the city. The County could not give them building permit estimate so obviously the zone was being enforced; it was not a proposal.

Chair Deeth noted several public meetings were held during the urban growth boundary (UGB) expansion process and the property in the subject area was discussed at that time.

Sandy Shaw, property owner, 40975 Wilkesboro Rd, said she attended a meeting at Schlegel Hall and her parcel was indicated with hash marks and noted differently than the other areas. Her property was called garbage land because there was not enough land for a specific zoning or to do anything distinctive. They could not tell her what would be done with the parcel, but not enough acreage existed for them to classify it, so it was uncertain. The County said the manufactured home could be replaced/upgraded, which did not make sense.

Scot Siegel, City Planner, explained that the interim zoning, FD-10, was what the

County applied to lands outside the city limits but within the UGB. Essentially, the zoning deferred to what would be permitted by the City once the area is annexed. Currently, the City plan designates the area industrial, which does not permit new single-family homes. In unincorporated Washington County, development must follow County zoning rules, which refer to the future plan for Banks. He did not believe the FD-10 zone expired at any point.

Mr. Walls stated his neighbor was told at that Schlegel Hall meeting that although the zoning would change, what property owners were allowed to do on their land would not. They wanted to see what steps were available to have the option to build. Real estate advisors stated a cash offer would be needed to sell the property because people were not allowed to build on the land. Without a permanent structure, they would be stuck with the property.

Mr. Siegel suggested that the Commission, upon Council's direction, consider the issue when working to update the Code over the next six months. While no promises could be made about the zoning, he hoped the issue could be studied to try to find a sensible solution. Given the required public hearing process, the first hearing on the Code amendments would likely be in February.

Mr. Walls stated they did not necessarily have a timeline for their project, but wanted to see forward progress on the issue. He asked to be notified about future meetings involving the zoning issue. He noted meeting minutes stated that for this zoning plan, public notification was on the City website and in the newspaper. There was no personal notification to the residents.

Mr. Siegel stated cities typically notify property owners directly when zone changes could affect property values. Zoning codes could change without direct notification to property owners when changes do not fall under Measure 56. He would research whether the County notified property owners of the FD-10 zoning. He also offered to research the Code to see if there was a way to address their concerns. Another aspect involved the County's rezoning, which he would need to research further.

Mr. Walls stated he was not notified and the zoning did change the land's value; a manufactured home has a different value than a stick-built home, which was affected by the AR-5 to FD-10 zone change.

Chair Deeth appreciated the matter being brought forward as other property owners would likely have questions as well. Property owners would be notified when to attend the Planning Commission work session regarding the issue.

Jolynn Becker stated notifications were mailed directly to property owners within both the city and UGB limits during the UGB process. Several meetings and mailings occurred during that period of time, including the one at Schlegel Hall, which was one of the first, and the public meeting when the ordinance was established to extend the UGB. Mailings were done within those areas and to others who requested

information. The meetings were also noticed in the newspapers and posted throughout the city.

Mr. Walls reiterated his request to be added to the notification list.

- D. ADMINISTRATIVE SITE REVIEW – TEMPORARY CONSTRUCTION ACCESS AND REMOVAL OF PINE TREE FROM BANKS MIDDLE SCHOOL; REVIEW FOR CONSISTENCY WITH CUP-83-12, CONDITION 3.B (BANKS SCHOOL DISTRICT) Mr. Siegel presented the Staff report and applicant’s request to remove one pine tree in the way of the construction access, noting the request was also to clarify that all three oak trees along Highway 47 must be removed. The removal of the three trees would be mitigated by planting four oak replacement trees. Attachment B was the construction drawing in the packet; the applicant submitted a more detailed plan on the existing trees and locations at the meeting, which was distributed to the Commission. Siegel clarified the request was consistent with the intent of the permit: all three oak trees and the pine tree must be removed; this was not an amendment or change.

Bob Huston of Banks School District explained how removal of the third tree was necessary for construction circulation, adding they were talking with ODOT about the site access off Highway 47. Having the removal of only two trees in the prior approval of trees was a misunderstanding; all three trees must be removed to get the concrete tilt ups installed. The four new trees would be set back far enough to not interfere with the power lines. A fifth tree could be planted when restoring the service road back to sidewalk to make it uniform. Mr. Siegel stated it was Staff’s recommendation that the fifth tree be provided.

- R. Jacobs moved approval of the additional tree removal subject to Staff’s conditions of approval which consistent with the existing CUP-83-12 approval. M. Aurand seconded the motion, which passed unanimously.

- E. PUBLIC HEARING – QUASI-JUDICIAL REVIEW OF CONDITIONAL USE PERMIT – REQUEST TO AMEND CUP-62-06, CONDITION #10 (WEST OREGON WOOD PRODUCTS PELLET MILL) Chair Deeth opened the public hearing and read the conduct of hearing format into the record. Rodney Jacobs declared that he works for Stimson Lumber, a competitor of Banks Lumber which supplies sawdust to West Oregon Wood Products. He did not believe there was a conflict and that he could proceed without bias. No other Commissioners declared a conflict of interest, bias or ex parte contact.

Mr. Siegel reviewed the Staff report, noting the criteria were met and recommending approval with conditions as noted on page 4. He confirmed that the City was not obligated in any way with regard to the sewer line extension. He noted testimony from Marney Jett of Clean Water Services was included in packet. Testimony received today from John Schaffer, owner of the bus barn on Commerce St requesting certainty about a plan for the extension of the sewer in the next five years and supporting the extension of the time frame for the conditional use to five years was

distributed to the Commission.

G. Stout stated that he was pro-business and tried to remain objective, but businesses are required to comply with all rules and regulations. The Applicant did not properly fund the completion of project.

Mike Knoble of West Oregon Wood Products, PO Box 24, Columbia City, OR, 97018 described the economic hardships faced by the applicant in Banks and the efforts made to retain most of its employees and keep the company operating, though it was not yet profitable. Sewer was not in the original construction budget, but the Planning Commission supported the company by allowing the use of portable toilets for five years to bring the business to Banks. Given positive indicators of economic recovery, projections indicated the company would be profitable this year. He requested the Commission's support in granting the extension so the company could afford to bring sewer and restrooms into the plant. He agreed with the Staff report and had no objection to Staff's proposed two-year plan. He noted no agreements or commitments were made regarding the City putting in a sewer if zoning changes were made; it was only discussed.

He addressed several questions from G. Stout, stating the \$35,000 projected project cost included the complete construction of the sewer extension and the restrooms. When operating, 18 employees would work 24/7 with five people on site at a time. The two existing portable restrooms are serviced once a week. The lease with Banks Lumber allows West Oregon Wood employees to use a third portable bathroom at the sawmill, as well as a permanent bathroom located nearby. Architectural drawings exist for the restrooms, but not the sewer extension. Costs for the extension were estimated for the company, but he could not recall by whom. He reminded how bad the market was five or six years ago and reiterated that no plans exist for addressing the sewer issue because the company has been scrambling to survive for five years. He was optimistic about projections for a profitable year, and even better profits the next year, adding that opportunities for export markets were being considered. Once profitable, the company would pay for engineering regarding the installation of the sewer system. Mr. Knoble also clarified they had not yet researched having the sewer come under the railroad, but natural gas was brought under the railroad when the building was constructed.

Some Commissioners questioned the need for permanent restrooms if the portable restrooms were working, noting many industrial sites used such facilities. Mr. Siegel clarified that policy required that development connect to public sewer and did not differentiate between residential and industry development. No Code requirement existed regarding one system versus another. From an urban planning perspective, the Commission would not want to grant too many exceptions, which would result in properties not suitable for future users. Mr. Knoble assured the intent was to install restrooms regardless of policy or Code, so their employees would have a nice facility with running water, flushing toilets and heat. Mr. Siegel clarified the recommended process for reviewing the permit every two years would not modify the conditional

use permit, an update would be presented for the Commission's review.

G. Stout suggested a five-year extension with an annual update or review, noting concerns about unintended consequences resulting from having different Commissioners who do not know the history of the application. Additionally, two years was not long enough for the company to reach its intended financial goals. Mr. Knoble noted the company's owner had initially suggested having at least two years of operating profitably and two years from today would be tight. Mr. Knoble had no issue with coming before Commission each year.

Chair Deeth called for public testimony regarding the application. Seeing none, he closed the public hearing at 8:02 p.m.

R. Jacobs supported having an annual review to prevent the issue from being forgotten and to keep the Applicant accountable for progressing with the plans.

Given the Applicant's testimony, Mr. Siegel amended his recommendation as follows:

- Amend first sentence of Condition 1 to state, "Extend compliance period for ~~two~~ *five* years with annual review subject to approval by the Planning Commission."

R. Jacobs moved to extend the Conditional Use Permit 62-06 for five years with an annual review subject to Planning Commission approval. G. Stout seconded the motion, which passed unanimously.

Chair Deeth read the rules of appeal into the record—not stated.

F. BUILDING PERMIT REVIEWS – INFORMATION ONLY

- Banks High School improvements – Review of temporary classrooms, restroom building, fire alarm and HVAC, new grounds building (Banks School Bond Project)
- Banks Elementary School improvements – Review of emergency access drive (Banks School Bond Project)

Mr. Siegel updated on the school district improvements, including those that would now be made following the Commission's earlier approval. The City also received a plan for the emergency access road at the elementary school, which he briefly reviewed.

G. VERBAL STAFF REPORTS AND UPDATES

- Status of Ordinance 764 Washington County Review of UGB Amendment (Jolynn) Ms. Becker stated the Ordinance was approved by the Washington County Board of Commissioners last Tuesday and would become effective in one month. She noted the process involved with the ordinance, which would bring the golf course into the UGB as a recreation area, and discussed the benefits to the City.
- Residential Zoning Ordinance Amendments ZCA-81-12 (Jolynn) Mr. Siegel stated City Council approved the amendments on first reading. The second

reading would be held in June.
The Commission assigned G. Stout as the Planning Commission Liaison for the June City Council meeting.

H. OTHER BUSINESS

- Planning Commission Work Plan 2013-14 for review with City Council on June 25, 2013.

Mr. Siegel reviewed the items presented in the draft work plan, noting most of the Code updates involved housekeeping items, but some policy issues needed to be addressed, such as whether to allow residential uses in industrial zones, or what mix of uses were permissible. Other key items included Main Street Revitalization and Trails Planning, which he discussed briefly. He agreed with adding Ongoing/Continuing Education to the Commission's agenda; terms/mechanics were requested as a topic.

Following discussion, school district zoning was added to the work plan list to address the zoning differences and consider potential Comprehensive Plan Map amendments for the school properties. Annexation was also added to the work plan to address the island by Sunset Park and boundary cleanup for the school district and property owners on the west side of Main Street, as both pay city and county property taxes.

The Commission briefly discussed the agenda for the regular Commission meeting given the upcoming joint meeting with City Council. Mr. Siegel offered to present a list of potential continuing education topics for discussion. The Commission consented to begin the regular Commission meeting at 7:00 p.m.

- I. ADJOURNMENT: The Planning Commission meeting adjourned at 8:30 p.m.

Submitted by: 
Scot Siegel, City Planner