

PRESENT: Commissioners Arthur Babitz (Acting Chair), Bill Irving, Sue Powers, Megan Ramey, Tim Counihan

ABSENT: Commissioners Mark Frost, Tina Lassen

STAFF: Planning Director Dustin Nilsen, Senior Planner Kevin Liburdy, Associate Planner Jennifer Kaden

## MINUTES

I. **Call to Order:** Chair Arthur Babitz called the meeting to order at 5:34pm. Chair Babitz mentioned a couple items by way of introduction of the meeting:

- Introductions of new Commissioners Time Counihan and Megan Ramey
- Brief overview of legislative versus quasi-judicial matters that come before the Planning Commission
- A reminder to speak directly into the microphone for recordings

II. **Planning Director's Update**

Planning Director Dustin Nilsen updated the commission on:

- Upcoming meeting agendas – no meeting scheduled for July 2<sup>nd</sup>

III. **Public Hearings**

A. **FILE NO. 2018-08 Gates Subdivision Replat and Variance**

**PROPOSAL:** Request to Replat and consolidate 6 Lots of Hood River Proper Addition into 5 lots and request a variance to allow for the creation of new lots under 7,000 square feet.

**APPLICANT:** James Klein

**OWNER:** Steve & Jodi Gates and Peter Rysavy

**LOCATION:** Generally located between 26 Prospect Avenue and 33 Montello Avenue. Legal Description: Lots 4-7, 15,16, and 17, Block 33 of Hood River Proper Addition, Located in the NE ¼ of Section 36, Township 3N, Range 10 East of the Willamette Meridian, City of Hood River, County of Hood River, Oregon (*See attached map*).

**ZONING:** The property is zoned Urban Low Density Residential (R-1).

Chair Babitz opened the public hearing and read the procedural script. He then asked the Commissioners for any bias, ex-parte contacts, or conflicts of interest. Commissioner Powers stated she had not conflicts of interest but had made a site visit to see the site slope and access. She stated no bias based on the visit. Commissioner Babitz noted he lives near the site but has not conflicts.

No Commissioners questioned bias or conflicts of other commissioners. Babitz asked if the audience or any Commissioner wished to challenge any other commissioners. There were no challenges.

**STAFF REPORT:** Planning Director Dustin Nilsen presented the staff report. Nilsen summarized the

history of the property, the current zoning requirements for minimum lot size, the proposed lot configuration, and the variance criteria. Nilsen recommended approval of the variance request.

**APPLICANT:** Babitz asked for a presentation by the applicant.

James Klein, Klein & Associates, representing the property owners, explained the reason for the variance request. Property owner Steve Gates provided additional information about the property characteristics.

Babitz asked whether the proposed lot configuration would create nonconformities for existing dwellings. Gates responded no.

Commissioner Megan Ramey asked about the impact of slopes on the cost of development. Gates responded that none of the lots are considered affordable or conducive for affordable development.

Commissioner Bill Irving asked about the size of lot 4 at 8,500 square feet. Gates confirmed the size and that the lot includes Peter Rysavy's home. Irving asked about reducing it to 7,500 square feet. Gates responded that Mr. Rysavy agreed to remove his deck to meet setbacks. Irving asked about leaving the lots at the existing 5,000 square feet or reconfiguring them to the minimum size of 7,000 square feet. Gates responded that irregular lot lines were considered. Klein added that the proposed configuration avoids isolated areas.

**TESTIMONY:** Babitz asked for audience testimony. There was none.

**RECAP:** Nilsen provided a recap of the proposal and recommended approval of the application with conditions as drafted in the staff report.

Gates asked a question about condition of approval #22 related to a street light stating that a street light already exists. Nilsen stated that if the existing street light meets standards it will satisfy the condition; if the light is nonconforming, it will need to be brought up to standard. Commissioners discussed modifying Condition #22 for clarification. The applicant agreed.

Irving asked staff whether there was a way to approve the proposal without the need for a variance. Nilsen suggested the planning commission could make a finding that the variance criteria are not applicable and that the proposal could be approved pursuant to the nonconforming provisions in HRMC 17.05. Babitz asked staff whether this was discussed with the city attorney. Nilsen responded yes and that it was a gray area. Irving stated his difficulty with agreeing the proposal meets the variance criteria.

Ramey asked if there were any lots where sidewalks or ADA ramps will be installed. Nilsen responded that the subject streets have limited improvements and it is unlikely they will be improved to full standard.

Babitz closed the public hearing and opened deliberation.

**DELIBERATION:** Irving stated he doesn't agree the property is unique or unusual and questioned the benefits with respect to the housing needs analysis. As the lots exist, they are not unbuildable so he sees the reason for the request as self-imposed. An 8,500 square foot lot is not the minimum needed to address a hardship.

Ramey echoed Irving's concerns but was also concerned that a denial would address his concerns.

Babitz said he wasn't sure how to get to a better result given the R-1 zoning standards. Ramey asked whether the existing lots are buildable but non-conforming. Babitz confirmed.

Babitz said if all of the lots were reconfigured to the 7,000 square foot minimum, the result is not closer to meeting the housing need. Babitz affirmed the property is unusual in his mind and that there are no negative impacts to granting the variance. The original platting and site slope is not willfully created. He could not identify a good reason not to approve the request.

Commissioner Sue Powers said topography is important in her analysis and the proposal will have less adverse impact than the status quo.

Counihan the city should revise the code if it wants to keep the old lot sizes.

Irving said all 4 criteria need to be met to approve a variance. The owners could establish 3 lots at a minimum of 7,000 square feet each.

Babitz said the zoning creates the minimum lot size; the Housing Needs Analysis promotes density; should connect to code.

Irving the property could be configured in a more conforming manner. Babitz disagreed it was required.

Babitz asked for a motion; Irving said he'd be more comfortable with the proposal if a variance wasn't required. There was further discussion about variances and precedents.

**MOTION:** Powers moved to approve the variance request with a modification to the wording in Condition #22 for the street light to be replaced "if required by the City Engineer." Counihan seconded the motion.

**DISCUSSION:** Counihan said that "as required by the City Engineer" doesn't specifically address shielding the light. Nilsen stated that if a light is required to be installed, it would be shielded. Babitz said engineering standards would determine whether a light is required. Counihan asked if an existing light can be easily retrofitted.

**MOTION:** Counihan moved to AMEND the motion to require shielding of the street light if it's determined to be needed. Powers seconded the amendment.

Irving said he was fine with the amendment.

The Commissioners voted on the amendment to the motion. Motion passed unanimously, 5 – 0.

The Commissioners voted on the original motion as amended. The motion passed on a vote of 4 – 1, with Irving opposed.

**RECESS** – The Commission took a 3 minute recess.

**B. FILE NO.: 2018-13 – Jovanovic PUD Modification and Variance**

**PROPOSAL:** Modification of an existing Planned Development, Kids Plaza PUD, to: 1) to change the approved use from dance studio (commercial) to multi-family residential for 36 residential apartments; 2) increase the building footprint from 8,000 square feet to approximately 8,472 square feet; 3) increase the building height from one story to three (3) stories with a maximum height of 35 feet; 4) add a driveway from Clearwater Lane; 5) add 25 parking spaces; 6) reduce the common open space by approximately 7,359 square feet; and 7) use Tax Lot 2007 (common open space) as a shared outdoor recreational area for apartment residents. In addition, the applicant requests a Variance to reduce the number of required on-site parking spaces from 54 to 41 spaces.

**APPLICANT:** Vladan Jovanovic

**OWNERS:** 230 Clearwater LLC own Tax Lot 2006; Tax Lot 2007 is owned by NSA Property Holdings, LLC, Lowell & Sons, LLC, Howard Family Limited Partnership I, Jean McGuire Coleman, and Warren Limited Partnership II.

**LOCATION:** 230 Clearwater Lane. Legal Description: 3N 10E 26CD Tax Lots 2006 and 2007

**ZONING:** The property is zoned General Commercial (C-2)

Chair Babitz provided the procedural script to audience members who arrived after he read them. He then asked the Commissioners for any bias, ex-parte contacts, or conflicts of interest. Commissioner Counihan disclosed that he had contracted with the applicants to design his personal home but did not believe he had a conflict or bias. Commissioner Powers disclosed she had visited the site and observed the topography and use of the existing parking lot and had no conflict. Commissioner Irving disclosed his visit to the site and that he had been inside the existing buildings in the past. He uses the parking lot weekly and has observed it is typically two-thirds full. Chair Babitz disclosed he had received a phone call related to the application but did not discuss it.

Chair Babitz asked the audience if there were questions of conflict or bias. Mark Hendrickson asked Commissioner Counihan about the extent of his relationship with the applicants. Commissioner Counihan responded that he had worked with the applicants on the design of his home for approximately 1 year in about 2010 and had a professional, collegial experience working with them. He noted he occasionally runs into them around town.

There were no further disclosures or questions of conflict or bias.

**STAFF REPORT:** Associate Planner Jennifer Kaden presented the staff report. Kaden summarized the history of the site, the proposed development, changes to the existing PUD, and highlighted the issues that warrant conditions of approval.

Babitz asked Commissioners for questions about the PUD modification of the proposal. Commissioner Irving asked whether the proposed reduction in greenspace would comply with the PUD requirements. Kaden explained the 30% open space requirement for PUDs and that the modification would provide approximately 30.6% common open space.

Irving asked about the pedestrian plan. Kaden explained that the original PUD was approved in 2004 and the Transportation System Plan (TSP), including a pedestrian system plan, was adopted in 2011. Staff recommends conditions of approval to comply with the TSP including a segment of the Westside Trail.

Babitz asked about concerns from the Fire Chief. Kaden noted two recommended conditions of approval

related to access grade and distance of the access drive from the building proposed by the Fire Chief.

Babitz asked about the proposed change of use. Kaden responded that the PUD specified uses for each parcel and the requested change of use is one of the reasons the application is considered a major modification to the PUD.

Commissioner Powers asked whether new sidewalks are needed. Kaden responded that some form of pedestrian access is needed. Powers asked whether Clearwater Lane is a private street. Kaden affirmed and explained that the road was developed through the PUD process to provide access to parcels lacking frontage on a public street. Powers asked about the ownership of the street. Kaden responded that the segment of Clearwater Lane between Cascade Avenue and the subject site is located within a tract owned by multiple parties. South Gorge PUD has an easement to access the tract.

Commissioner Ramey asked how long of a walk it is from the site to Safeway. Kaden was unsure and explained that the City Engineer recommended a pedestrian connection from the site to Cascade Avenue. The connection could be sidewalk or other means to delineate a pedestrian way. Kaden resumed the staff report and explained the request for a Variance for parking. She summarized the 4 Variance criteria and explained that the Planning Commission would need to make findings of consistency with each of the criteria.

Kaden recommended that the Commission consider whether the site makes sense for multi-family residential and if so, whether the proposal meets the Variance criteria in order to reduce the parking requirement. If the Commission agrees that the application meets the Variance criteria for parking, other issues related to the proposed development can be addressed through conditions of approval. If not, the proposal could potentially be scaled back to avoid the need for a Variance.

Ramey asked whether bicycle parking had been addressed. Kaden affirmed and explained that long-term bicycle parking would be provided in a storage room and short-term parking in a bicycle rack near the entrance.

Commissioner Coughlin asked Kaden to elaborate about why staff didn't affirm consistency with the variance criteria. Kaden explained: Criteria #1 - there are some unusual circumstances about the site – it's located within a PUD and it has some topographic constraints, but that it wasn't clear the circumstances create a hardship; Criteria #2 – if the development is under-parked it could have negative impacts on other properties that access Clearwater Lane; Criteria #3 – the applicant did not provide information to demonstrate that the circumstance leading to the variance request were not self-imposed; and Criteria #4 – because staff is unclear about what the hardship is, it is difficult to assess the minimum necessary to alleviate it. The applicant did make an effort to maximize the site area to add parking.

**APPLICANT:** Vladan (VJ) Jovanovic spoke as the applicant and developer. He expressed a need for housing for skilled workers and a need for attainable housing.

Chair Babitz asked if there were questions for the applicant. Coughlin asked if short-term rentals were permitted in the zone. Kaden affirmed. Coughlin asked whether the apartments would be for sale? Jovanovic said they would be long-term rentals.

Ramey asked about the walk score for the development. Jovanovic responded the walk score is 61 and Kaden noted that information is included in the applicants' materials. Nilsen added that the site is an 800

foot walk to Safeway. Jovanovic noted the site's proximity to Safeway and industrial employers. Ramey asked about bike parking. Jovanovic said there would be bike racks outside; room to store 36 bicycles inside.

Milos Jovanovic, the project designer, added that each unit would have room for storage in the building. Ramey asked about how residents would get bicycles inside. M. Jovanovic responded that the bike storage room is on the ground level of the building. Ramey asked whether residents would be able to store bikes in the apartments. VJ Jovanovic responded that it wouldn't be necessary due to size and access to the storage room.

Commissioner Powers asked the reason for the proposed number of units (36). VJ Jovanovic responded that they are targeting millennials, explained the mix of unit sizes (studios, 1 bedroom & 2 bedroom) would result in fewer cars and that millennials are less reliant on cars so less parking is necessary. M. Jovanovic added that they tried to maximize the use of space on the site, make use of the shared parking allocated to their lot, locate the building on the slope to minimize the slope of the parking area, and max the allowed height for the building.

Counihan asked whether the applicants considered alternative scenarios that would meet the parking requirement. VJ Jovanovic affirmed and said they tried to balance financial viability of the project with the need for more housing units. He said the project could be altered to add more parking and reduce the number of units.

Counihan asked the applicants to address the Variance criteria. M. Jovanovic responded - #1, they added the maximum number of parking spaces the site affords, the location is proximate to shopping, the design encourages bicycle use (bike storage room), the number of units makes sense financially, the Housing Needs Analysis identifies a need for housing and recommends re-evaluating the parking requirement, the proposal exceeds the State's recommendation of 1 parking space per unit for multi-family residential. #2 – The project will have no negative impact on adjacent uses because there is enough parking and the project will provide housing for nearby employers. #3 – the circumstances are not self-imposed because the design maximizes the use of space. #4 – The request is the minimum necessary because they've optimized the site design.

VJ Jovanovic added that he initiated the parking agreement with the other PUD owners and enforcing it is important. They can tow cars if necessary.

Counihan asked how they would regulate the number of cars. VJ Jovanovic responded the rental agreement would specify assigned parking spaces for each unit. Residents could store boats or extra vehicles elsewhere.

Ramey asked whether they put a value on the spaces and whether a renter could have a reduced rent if they forgo a parking space. Jovanovic responded affirmatively. Ramey asked whether the outdoor bicycle parking will be covered. M. Jovanovic said no.

Ramey asked what elementary school the site would feed. Kaden said she wasn't sure, possibly May Street.

Jovanovic said he objects to condition #3 regarding a parking plan for 220 Clearwater Lane because he already secured a parking allocation with the other PUD owners.

**TESTIMONY:**

Nate Stice, Regional Solutions, for Governor Brown – Supports the project. The number one goal in the region is attainable housing; the applicant has initiated the loan process for an attainable housing loan fund (60-120% AMI); no market rate multi-family housing has been built in decades.

No neutral testimony was provided.

Lorena Lowell, original developer of the Kids Plaza PUD stated that if the proposal is approved there could be 136 cars and 174 residents with one means of access (Clearwater Lane); she said a 2007 traffic study restricted the potential development of the site which was the reason for the approved building sizes; a traffic signal is needed; during snow storms the South Gorge PUD owners park in the Kids Plaza lot; Tracts A & B are in common ownership – Lowell is one of the owners and hasn't agreed to the project. Lowell asked for more time to submit written testimony.

Babitz clarified that Lowell asked for the record to be kept open. Nilsen acknowledged the request.

Judy Dutcher, 2550 Sierra Lane, raised concerns about density, parking, and open space. The site is steep and she questioned whether the open space area was appropriate for recreation. She asked the Planning Commission to hold firm on the 1.5 parking spaces per unit requirement. She raised concerns about reducing the common open space and noise. She agreed with the need for more housing but does not support maxing out this site.

Taylor Hendrickson, 2480 Sherman Avenue, said the developer has not met the burden of proof to warrant a variance; the project doesn't meet the Variance or PUD criteria; it's too much in too little space; the building height appears to exceed the allowed maximum. He raised concerns about the traffic analysis, tree removal, noise, the developer's description of premium apartments not affordable. He recommended the number of units be reduced, ensure the building height is met, and add usable open space.

Babitz suggested he put questions about the traffic study and building height in writing.

Mark Hendrickson, Sherman Avenue, said a variance can't be approved if the criteria aren't met; the request for a variance is self-imposed for financial purposes and that isn't a reason to approve it. He said a steep lot isn't a good location for a recreation area. The goal is good but it isn't the right plan.

Robert Wymore, 2580 Sherman Avenue, said he's not against housing but this project proposes too much for the site. He expressed concerns about open space, building height, parking, sufficient road access, sufficient fire access.

Jessica Gehrig-Apland, 275 Mt. Rainier Loop, asked the Planning Commission to stick to the 1.5 parking space per unit requirement regardless of unit size; expressed concerns about privacy and noise in the common open space, stormwater runoff, and tree removal. She asked how building height is measured.

Jodi Lapidus, 267 Mt. Rainier Loop, expressed concerns about the impacts to the neighborhood from the proposed development; insufficient access from Clearwater Lane; parking; reduction of common open space; and impacts to future trail connection.

Garrett Apland, 275 Mt. Rainier Loop, echoed concerns of others and emphasized his concern about the shared recreation area and potential impacts from smoking outdoors (fire) and cut-through traffic. He

supports housing if it meets the current code.

Victor Pavlenko, 2562 Sherman Avenue, said his intuition is that the developer is trying to fit too much in too small an area. He supports housing but is interested in more information about the grant funding and requested the record be left open.

Thomas Gallegos, 267 Mt. Rainier Loop, echoed concerns voiced by others, said the plans try to fit too much in too small an area, parking is a big concern, fire access is a concern, and questioned changing the building size from 1 story to 4 stories.

Tim Doty, owner of Hood River Hostel at 220 Clearwater Lane, echoed the request the record stay open. He shared a photo of parking on Clearwater Lane; said tenants of 210 Clearwater Lane use more than the allotted 12 spaces; said Tax Lot 2007 was required in the PUD for common open space for use of all PUD tenants; CrossFit clients use Clearwater Lane for running and work outs.

Karen Bureker, 2458 Sherman Avenue, asked whether the record would be open for everyone. Babitz responded affirmatively. Bureker agreed with other concerns raised; suggested the building would need visitor parking in addition to parking for tenants; tenants walking & biking isn't realistic year-round; suggested an updated traffic study be done; bike/ped safety on Cascade is a big concerns – lack of crosswalks; parking would create a hazard for fire access; Tax Lot 2007 is a hillside, not a recreation area; suggested a fence would help ensure residents stay out of private back yards.

Babitz asked if there were others who wished to testify.

Sasha Kirovski, a partner of VJ Jovanovic, asked to testify. He expressed appreciation for the concerns raised, particularly regarding parking. He said they spent a lot of time preparing the plans and designed it to meet the code, including building height. Apartments are permitted in the zone. He expressed willingness to discuss parking.

Babitz explained the request to keep the record open and the impact on the 120-day clock under state law for the city to issue a final decision.

Kaden said July 20, 2018 is the 120-day deadline. Nilsen suggested the applicant could waive the 120-day deadline. The Commission discussed possible dates for continuing the public hearing.

Irving asked for clarification about the use of common open space on Tax Lot 2007 and the pedestrian circulation and connectivity. Babitz asked for a written explanation of the outdoor recreation area.

Jovanovic indicated the PUD CC&Rs indicate the open space tract can be improved.

Ramey asked about the feasibility of the Westside trail connection due to the slope on Tax Lot 2007. Nilsen noted the condition of approval related to design and construction of the trail.

Irving made a MOTION to continue the public hearing on File No. 2018-13 to June 18<sup>th</sup>, 2018 no earlier than 5:30 p.m. and to keep the written record open until Wednesday, June 13<sup>th</sup> at 5:00 p.m. Powers seconded the motion. The Commission voted 5-0 to approve the motion.

Irving asked about the procedures in the event the applicant submits additional testimony. Nilsen

explained the public will have a chance to respond. Irving added that if the applicant submitted new evidence by June 6<sup>th</sup>, it could be posted to give the public time to respond before June 18<sup>th</sup>.

**IV. MINUTES**

Commissioner Powers made a MOTION to approve the minutes from March 19, 2018 and April 2, 2018. Irving seconded the motion. The motion was approved 3-0 with Ramey and Coughlin abstaining.

**V. OTHER BUSINESS**

Discussion of final order for File No. 2017-38 for Westcliff Lodge, and the expiration date for the phased development plan. The commission had no objections to the language drafted in the final order.

**VI. ADJOURN:** 9:24 p.m.

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Arthur Babtiz, Acting Chair

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Date

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Dustin Nilsen, Planning Director

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Date (Approved)