

DEPARTMENT OF COMMUNITY SERVICES
LAND USE PLANNING DIVISION
MULTNOMAH COUNTY PLANNING COMMISSION

MINUTES OF July, 6 2020

I. Call to Order: Chair John Ingle calls the virtual Zoom meeting to order at 6:38 p.m. on Monday, July 6, 2020.

II. Roll Call: Present – John Ingle, Alicia Denney, Kari Egger, Chris Foster, Stephanie Nystrom, Victoria Purvine, Susan Silodor, and Tim Wood.
Absent - Bill Kabeiseman

III. Approval of Minutes: June 1, 2020 minutes move to approve by Commissioner Purvine; seconded by Commissioner Egger.

IV. Opportunity to Comment on Non-Agenda Items:
None

V. Hearing – Exception to statewide planning Goal 3 (Agricultural Lands), and a Quasi-Judicial Comprehensive Plan Amendment, to authorize a zone change from Exclusive Farm Use (EFU) to Rural Residential (RR) on a 0.93 acre property at 2326 SE Troutdale Road. (T4-2019-12624)

Chair Ingle states this is a quasi-judicial public hearing, because the Type 4 application at issue requires an amendment to the Multnomah County Comprehensive Plan that affects a specific property and not a planning policy of general applicability.

Chair Ingle reads into the record the Legislative Hearing Process for the Planning Commission for a public hearing, and the process to present public testimony.

Chair Ingle directs the Commissioners to disclose actual or potential financial or other interests which would lead to a member's partiality. Commissioners Chris Foster and Stephanie Nystrom and Chair Ingle disclose that they had each served on the Multnomah County Comprehensive Plan Community Advisory Committee in different capacities, and that the applicant, Colleen Cahill, appeared before that committee on several occasions, discussing the subject property, prior to submitting this zone change application. None of the Commissioners feel that their service on this Committee impacts their ability to remain impartial. No members of the Multnomah County Planning Commission wish to challenge any member of the Planning Commission on these grounds. There are no other procedural challenges.

Kevin Cook, Multnomah County Senior Planner, presents the staff report. Cook submits a point of clarification on the staff report. Rich Faith is erroneously listed as the applicant; this should be corrected to list Colleen Cahill as both owner and applicant.

Cook introduces the application for a single lot zone change. The property is a 0.93 acre property located on the east side of SE Troutdale Road, south of Troutdale city limit. It is developed with a schoolhouse building placed there in the 1920's, and preceded by an older school. The proposal is for zone change from EFU to RR. The EFU zone surrounds the property on three sides; the RR zone is located adjacent to the property to the west. The property owner, Colleen Cahill, purchased the property in the 1990's after

the schoolhouse had been converted to use as a dwelling. The property owner is seeking this zone change in order to establish the dwelling and possible related uses, such as home occupation. Cook points out that the application for change in zoning does not contain development proposals or other permit reviews.

Cook states that the process for this zone change from EFU to RR requires the approval of a goal exception. Statewide Planning Goal 3 provides the foundation for protection and preservation of Oregon farmland. Generally, once land is identified as farmland and zoned EFU, justification must be provided in order to remove land from that EFU zone. That justification occurs under the goal exception process. In this case, the goal exception is to allow the 0.93 acre subject property to be removed from EFU and placed in the RR zone. The RR zone allows a single family dwelling (SFD), one per lot.

Cook explains that State law provides three different avenues for obtaining an exception from goal 3; the applicant has provided justification under two of those avenues. The justifications for the exception are provided in Section 3 of the staff report. The first justification is categorized as a physically developed exception; that is, the property's development pattern lends itself to zoning that is more consistent with something other than EFU. The other justification is referred to as an irrevocably committed exception; that is, when existing adjacent uses and other relevant factors make uses allowed by the applicable goal impractical. Findings in support of the goal exception include the presence of existing development, including the schoolhouse, related parking area, sanitation system and sidewalk. These things are coupled with the lack of agriculture and forestry of a small 0.93 acre property. The subject property shares a similar development pattern with the contiguous RR zone properties to the west, but is dissimilar to the surrounding farmland. Another justification is the existing landscape features of significant trees and shrubs that effectively impede practical resource use of the exception area in conjunction with the neighboring resource uses, because they create a barrier separating much of the smaller exception area from the neighboring farms.

Cook indicates that sections 4.0-4.6 of the staff report address the quasi-judicial plan revision standards. A quasi-judicial plan revision requires that the proposal will: a) not destabilize the land use pattern in the vicinity; b) not conflict with existing or planned uses on adjacent lands; and c) that necessary public services are or will be available to serve allowed uses. The staff has agreed with the applicant and found in the affirmative of all three.

Sections 4.7-4.11 of the staff report contain findings addressing the county zone change requirements, including that the zone change is in the public interest. The staff has agreed with the applicant that the dwelling use of the structure facilitates its maintenance as a historic building. The Troutdale Historical Society is also supportive of the zone change.

Section 5 of the staff report includes analysis of the relevant Comprehensive Plan Policies related to the EFU and RR zones, as well as historic resources. In short, Cook states the Comprehensive Plan findings provide support for the rezone from EFU to RR because the subject property is more similar to the RR zone in terms of size, uses, and development pattern than that of typical EFU zone properties. Further, staff agrees with the applicant that the residential use of the property is compatible with the goal of preservation of historic resources. Multnomah County has recognized the site in the county Historic Resources Survey since 1988.

Cook mentions that the applicant has submitted eight letters in support of the application. Then concludes his report by stating staff recommends approval of the proposed amendment to the Comprehensive Plan and zoning map, to change the zone from EFU to RR and to approve the associated Goal 3 exception.

Rich Faith, authorized representative of the owner/applicant, states that Oregon has set a very high bar that must be cleared in order to remove a property from EFU zoning because it is a resource protection zone. The application must satisfy an assortment of State and County approval criteria. Those criteria are embedded in the Oregon revised statutes, the Oregon administrative rules, and the County Land Use codes. The criteria entail a Goal 3 exception for amending the County Comprehensive Plan and criteria to amend the County zoning map. Faith conveys that it is a daunting task to meet all of those criteria. Faith's primary takeaway from the staff report, is that this application meets every criterion for approval.

Faith discusses the history of the property, and states that there is no record of the site having been utilized as agricultural land. Faith states that the rezone application meets all of the applicable approval criteria; the property has been fully developed for well over a century; no agricultural land will be lost by granting this rezone; the rezone request has unanimous community support; and granting the rezone makes possible continued preservation of the former Cedar School building. Mr. Faith urges the Planning Committee to act favorably on the Staff recommendation, and forward a recommendation of approval to the Board of County Commissioners.

The property owner, Colleen Cahill, briefly discusses some of the efforts that have gone into repairing the property over the past 20 years.

Chair Ingle opens the proceedings to Public Testimony.

David Ripma, 4220 S Troutdale Rd Troutdale, OR 97060, is a neighbor of the applicant, a member of the Troutdale City Council, and a past member of the Troutdale Historical Society. Ripma states that it would be a shame not to keep the subject property in restored condition and use it the way the applicant is planning to do. Ripma endorses the zone change, while also acknowledging the rarity of this type of change. He states this is an exceptional case of a small parcel of EFU land that is unsuitable for farming, and if it remains EFU, will prevent good community use.

Chair Ingle concludes Public Testimony and opens the hearing to questions from the Planning Commission relating to the applicable approval criteria for staff, the applicant, or anyone who provided testimony.

Commissioner Foster inquires if, as a matter of procedure, the DLCD had been notified regarding the application for zone change and given an opportunity to comment. Kevin Cook confirms that through the established Multnomah County process, the DLCD was notified of the application in October 2020 and received the update of the staff report. The DLCD did not offer comment.

Commissioner Denney indicates that she is unable to see the property on the digital map uploaded to the Planning Commission website. Commissioner Purvine and the applicant provide verbal clarification of the location of the property, to Commissioner Denney's satisfaction.

Chair Ingle inquires whether the recording of covenant, noted on page 34 of the staff report, runs with the land, and is similar to a deed restriction. Katherine Thomas, Multnomah County Attorney's Office, states that typically a covenant like this would run with the land, but she is unable to find this in the record. Kevin Cook confirms that it is not in the record. He describes the template typically used for proposed development or new land use, which acknowledges farm uses adjacent to the property. The template stipulates that through the action of new development or land use, the owner does not object to those adjacent farm uses. Katherine Thomas further states that per staff notes, the recording of covenant will be sought once the rezone has been approved and land use permits are being sought for the structure. Kevin

Cook confirms this is the typical process. Katherine Thomas concludes that the recording of covenant will not be imposed as part of this approval, but will be part of a future application.

Chair Ingle inquires about the Recommended Comprehensive Plan Amendment in the staff report, which states “Staff recommends amending the Comprehensive Plan’s Administration Section to reflect any order adopted by the Board of County Commissioners to amend the Comprehensive Plan to change the zone of the subject property.” Chair Ingle asks for clarification of this section; specifically whether it refers to a chronological history of changes over time to the Comprehensive Plan. Kevin Cook confirms this is correct.

Commissioner Egger states that the Conservation Service does show that the property is high value agricultural land and soils. The Commissioner asks for clarification on the expressed opinion that the land is not considered valuable because there is a school sitting on it for use. Commissioner Egger clarifies that the decision is based on a structure, not a dwelling, and that the soil is defined as high value, even though there is not a lot of it because of the structure of the school. Kevin Cook points to the criteria used to qualify land for EFU; one of the fundamentals being the soil type (potential for productivity). This is factored, among others, including the small parcel size. The existing development is not currently recognized as a dwelling; but is being used as a dwelling.

Chair Ingle invites the applicant to make a final statement. The applicant declines to add anything further.

Chair Ingle inquires if any attendees wish to request a continuance or to leave the record open. No requests are made.

Chair Ingle closes the record to all parties other than the applicant. Chair Ingle addresses the applicant’s final argument. The applicant waives the waiting period for final written argument.

Chair Ingle closes the record and begins final deliberation. Commissioner Foster makes a motion to approve. Commissioner Purvine seconds the motion. Both Commissioners confirm the recommendation, read by Chair Ingle, to adopt the Staff Report as the findings of fact, as well as to recommend approval of the application.

There is a vote on the motion to adopt the staff report and recommend approval; the application is approved unanimously.

VIII. Director’s Comments: Deputy Planning Director Adam Barber, indicates that Carol Johnson, Planning Director, is unable to attend the meeting. He does not have any comments on her behalf.

Meeting adjourned at 7:38 p.m. on July 6, 2020.

The next Planning Commission meeting is tentatively scheduled for September 14, 2020.

Recording Secretary,

Heidi Konopnicki