



PLANNING COMMISSION MEETING MINUTES

7:30 PM February 27, 2020
City Hall Annex

1. CALL TO ORDER

Planning Commissioners introduced themselves to Nikki Turner, new commissioner

2. ROLL CALL

Present: Tim Faber, Blair Scott, Nikki Turner, Diane Veltkamp, Gerald Veltkamp, Bryan Korhuis and Lynn Templeton.

Absent with notice: None

Staff Present: Gudde, Planning Director and Timmer, City Planner, Martin City Admin.

3. APPROVAL OF MINUTES

A. January 23, 2020

Templeton motioned to approve the January 23, 2020, Planning Commission Minutes as submitted. Seconded by G. Veltkamp and the motion passed 6-0.

4. DECLARATION OF CONFLICT

None of the Commissioners reported a conflict of interest or ex parte conflict.

D. Veltkamp reported that she spoke with N. Turner last week regarding being on the planning commission and how a meeting runs but not specifically about this project.

5. PUBLIC HEARING

A. PRD Amendment #19-01, RB Development / Heritage Park, 801 Aaron Drive

D. Veltkamp opened the public hearing. She explained that the proposal came before the PC earlier, but the City Council remanded the proposal back to the PC. Staff had proposed to the Council that there may be concessions the applicant would propose that would address the concerns that the PC had raised.

Gudde addressed the public and Planning Commission regarding the process of reviewing a PRD amendment. It needs to follow the PRD code, not necessarily the original development agreement. Noted that infill development and a variety of housing types, and senior housing are not just permitted by the City's Comprehensive Plan and code but are encouraged. Gudde stated that staff believed the project warranted approval.

Scott Goodall, Impact Design, representing the developer Hollander Investments. Scott submitted a written proposal outlining his presentation. The presentation detailed the background, compared the project to adjacent developments, and explained how the project meets the various code items (PRD purpose – LMC 19.29.010), (PRD minimum standards – LMC 19.29.060), and criteria for approval (LMC 19.29.110).

Questions from the Commissioners:

T. Faber – where might this garden be? Are there plans specifically for it? Goodall shows a location in the courtyard where this would be located.

D. Veltkamp – questions the number of allowed units remaining in this PRD. Looked back at the original PRD, it was divided into 5 distinct areas. They were specified for a particular number of units. Bender Plaza removed 40 units. The PRD code (LMC 19.29.120(c)) specifically states that the final development plan may not be amended to transfer units of density from one area to another. Therefore, there are only 2 units left in this PRD. How do we deal with that in light of this proposal?

D Veltkamp: Why is the stairway is proposed to be open? Scott Goodall responds that it is an architectural design feature. It could be covered.

D Veltkamp: How large is the elevator? How many wheelchairs can it fit?

Mark Hollander, 359 E Wiser Lake Road: Addresses the previous questions from the Commissioners: He believes in this project and thinks it addresses a need. Whatever happens tonight, he will continue to search for a way forward. The elevator is what would be required by code. The stairway design is intentional.

Speaking in Favor:

Jerry Blankers - one of the original RB Development owners. He explained the process of how the original application went forward. That it was intended as a development where residents could age in place. This one was amended and changed several times because it has developed over a long period of time. Thinks this is a great addition to the development.

Lynn VanderVelden – is in favor of the project, the location, geography, proximity to transit, parks. Thinks this is a good thing for the community and the neighborhood.

Speaking in Opposition

Ron Hendricks, neighbor: Architecture is imposing, too close to the street and the scale is large. Why don't they fit units within the existing courtyard? This project is about making money. Parking – there are already a lot of cars in that area, many parked on the street and in the Bender Fields parking lot. This will exacerbate the parking problem already there. The people speaking in opposition are seniors.

Linda Maarhuis: representing the Community Garden across the street. They are concerned with parking in that area. The people gardening there often park on the street. Aesthetically, the building is too big.

Kathy Knutson: Lives in the PRD and works at the CHCC. Parking is a problem already. Safety is a concern, there are many elderly folks in the area, and this is a busy intersection. The Park gets very busy during certain times of the year and so many people use Aaron Drive. Additional vehicles and traffic resulting from the project is a concern.

D. Veltkamp: Have you heard a need of a spouse or family members living there?
Kathy doesn't see that as a need.

Annette Postma, townhome across from Lynden Manor. Concern about safety of the kids getting on the bus in the area. She doesn't think the new building is adding to the aesthetics of the area.

Judy Gray, registered nurse and worked at the CHCC is a senior. She doesn't think a spouse would rent a unit next to the CHCC to be near there. Concerned about future car prowls.

Ellen Campbell, unit 103. Doesn't think it looks nice, it doesn't fit within the neighborhood. Wondering what an affordable unit would cost. Parking is an issue there.

Nancy Roak, neighbor. Agrees with what was stated by the others.

Karen Hendricks, neighbor. They should stay within the code limits. Not permitted reduced setbacks, etc. The City shouldn't make exceptions for this development.

Proponent has a chance to respond to the concerns.

Mark Hollander. What is the need? This is a slam dunk location for senior housing. One concern stated was the return on investment. Of course, he is not interested taking a loss on this project. He is willing to take this risk, though, in providing this product to the community. Street parking - that is a community issue. If the public doesn't want parking on Aaron Drive or overnight in Bender Fields that needs to be addressed with the City and is not relevant to this proposal. The project meets and exceeds parking code. The Community Garden concern is not relevant to the project at hand as it is a use that Sonlight Church has chosen to implement but necessarily the highest and best use for that area. He understands that this project impacts the existing tenants. That is a market risk that he is willing to take and will work to mitigate the impact to the existing tenants. The density is reasonable for a multifamily project.

B. Scott – what is affordable? Can the applicant define it? It is frequently being stated as a reason to approve this project.

Mark Hollander – it is relative. This project is not proposing subsidizing rent. He, as a developer is not getting subsidies for the construction of this project. The market ultimately determines the cost. The way they are doing this is by size of units and building efficiency. He also believes it is a question of supply. There is a housing shortage and projects like this help alleviate that demand. He believes these units will be 20-30% cheaper than a comparable unit in Bellingham. It is expensive to build this type of building. Again, this is a risk that he is willing to take.

D. Veltkamp – height is 40 ft with an extension. The building will block sunlight, block views for the existing tenants.

Mark Hollander states he understands that it will impact existing tenants, specifically 4 units, but as the landlord it is up to him to deal with those individual impacts. Also, while it will impact 4 existing tenants, the project adds 41 new units that are south facing, have a great view and will be in a new building. It is a net benefit.

T. Faber – Asked for clarification on setbacks shown on the plan.

S. Goodall clarifies those and responds broadly to earlier stated concerns. The project is proposing to increase safety in this area with a new crosswalk on Aaron Drive.

Ron Hendricks, neighbor who previously spoke in opposition: Requests and is given the opportunity to respond to Mark Hollander's rebuttal of the statements of opposition.

D. Veltkamp – Ask the applicant if he has done any studies to see that seniors actually want this type of product?

Mark Hollander says that this is a product that he believes is needed and that it is up to him as the property owner to take that risk.

Templeton motioned to close the public hearing. Seconded by G. Veltkamp and the motion passed 6-0.

Planning Commission Discussion:

With the public hearing closed, discussion moved to the Planning Commission, to consider the criteria as specified. The commission discussed the architecture of the building, the policies and statements of the City's Comprehensive Plan, the location of the proposal, the visual impact to the neighborhood, and the direct impact to the current tenants. In general, they thought that this was a better proposal than what came to them in December, but still have concerns about the project. The criteria of modifying the minimum design standards of a PRD and the criteria for approval were discussed by all of the Commissioners. **Much of this discussion was difficult to portray via written notes. An audio recording of this meeting is available on the City website.**

The Commission discussed the considerations of departing from the minimum standards (LMC 19.29.060 (J)). Some felt that the building met condition (1) in that it created more appealing architecture than the current condition but not all agreed. Most Commissioners asserted that it did not preserve critical areas because there are no critical areas on the proposed site. The majority of the of the commission found that the request satisfies at least 2 of these considerations (as are listed below):

(3) The modification of minimum standards is necessary to permit reasonable development as a result of the unique characteristics of the property or the proposed uses; and

(4) The modification of a building height (subject to 19.29.0606(2)) or building setbacks where reasonable necessary due to arrangement of buildings and open spaces are they relate to various uses within or adjacent to the planned development; provided that any such modification shall be consistent with subsection (a) herein;

Additionally, the Commission discussed the criteria for amending a PRD (LMC 19.29.110). Again, the Commission discussed these elements and a majority agreed that it meets 2 of the 7 criteria in this section.

(2) Achieving the allowable density for the subject property; and

(3) Providing housing types that effectively serve the affordable housing needs of the community.

Furthermore, the Commission had significant concerns about whether this proposal is even permitted because of the prohibition in code of transferring density unit from one area of a PRD to another per LMC 19.29.120.

M. Martin proposed that the City should seek legal advice on this point and, due to extended process that has already occurred, that the Commission should consider and make a decision on the project knowing that legal clarification can come before it goes to Council. Any decision would assume the transfer was permitted. A transfer that is not permitted, would, of course, significantly alter the proposal by not allowing the proposed number of units.

Prior to making a motion, the Commissioners stated how they anticipated they would be voting regarding this proposal.

Faber motioned to recommend approval of PRD Amendment #19-01, RB Development / Heritage Park, as revised and presented according to the staff memo to Council dated December 2, 2019, and relevant findings, conditions and recommendations of the Technical Review Committee Report dated September 17, 2019, and further subject to the following condition:

- **The question regarding permitting the transfer of density units within a PRD area must be reviewed by City Legal Counsel. LMC 19.29.120 ©.**

Seconded by Korthuis, and the motion carries 4-2.

The Commission noted the following Findings of Fact to support their decision:

- The Lynden Planning Commission has reviewed the staff conditions as well as the revised request for the proposed PRD Amendment as required under LMC 19.29.060(J) where code requires that the project meet one or more of the five criteria listed there. And found that a majority of Planning Commissioners agreed the request satisfies the criteria listed below:

19.29.060 (J)(3): The modification of minimum standards is necessary to permit reasonable development as a result of unique characteristics of the property or the proposed uses; and

19.29.060 (J)(4): The modification of building height (subject to 19.29.060(2)) or building setbacks where reasonably necessary due to arrangement of buildings and open spaces as they relate to various uses within or adjacent to the planned development; provided that any such modification shall be consistent with subsection (A) herein;

- The Lynden Planning Commission has also reviewed the staff conditions and the design criteria under LMC 19.29.110 where code requires that the project meet two or more of the seven criteria. A majority of the Planning Commissioners found that if the proposed transfer of unused units from other areas of the PRD to the subject property is found to be legally permissible, the request satisfies the criteria as described below:

19.29.110(A)(2): Achieving the allowable density for the subject property; and

19.29.110(A)(3): Providing housing types that effectively serve the affordable housing needs of the community.

6. COMMISSIONERS CORNER

The next Planning Commission is scheduled for March 12, 2020.

7. ADJOURNMENT

Motion to adjourn by Korthuis / Second by Templeton. Meeting adjourned at 10:35 pm.