

City of St. Helens

CITY COUNCIL

Public Hearing Minutes

June 21, 2017

Members Present: Rick Scholl, Mayor
Doug Morten, Council President
Keith Locke, Councilor
Susan Conn, Councilor
Ginny Carlson, Councilor

Staff Present: John Walsh, City Administrator
Matt Brown, Finance Director
Kathy Payne, City Recorder
Margaret Jeffries, Library Director
Jacob Graichen, City Planner

Others:

John Chambers	Mark Birkland	Tracy Birkland	Matt Wright
Ingrid Chambers	Heather Chambers	Ilene Smith	Kurtis Smith
Shauna Harrison	Sam Hall	Melissa Hall	Allen McMillan
Cindy Phillips	Kris Phillips	Jeremy Wheeler	Jacob Jones
Amanda Callow	Deborah Gober	Gabriel Woodruff	Paul Worman
Kathleen McGuire	William Stroup	Daniel Goodnight	Adam Kinsman
Katrina Kinsman	Joe Pletsch	Suzi Stutzman-C.	Nancy Hanson
Nick Hanson	Daniel West	Mary West	Tony West
Marilyn West	Annie Buell	Dick Buell	Joe Stroup
Kathy Innocenti	Kevin Marcon	Whitney Hickman	Scott Hickman
Dan Redding	Barb Redding	Carmin Dunn	Jeffrey Fischer
Angela Fischer	James Kessi	Kolton Deford	Andrew Stamp
Todd Mobley	Wayne Weigandt	Jeff Pricher	Sheri Cash



Public Hearing

Applicant: Appellant is Johnny Chambers. Original applicant is Wayne Weigandt.

Owner: Wayne Weigandt

Request: Appeal of an Approval of an Approximate 77 Lot Subdivision

Location: 35090 Pittsburg Road

At 6:00 p.m., Mayor Scholl opened the public hearing.

Ex-Parte Contact/Conflict of Interest – None.

Staff Report

City Planner Jacob Graichen presented his staff report dated June 13, 2017.

The Council needs to consider the merits of the appeal and determine if they want to uphold the original decision, modify it (e.g. by amending the original conditions), or deny it based on the project not meeting the applicable approval standards.

Graichen reviewed the Code references explaining the reasoning for street locations. City Code

does not allow the streets to come out on Pittsburg Road or N. Vernonia Road due to spacing.

Testimony from the Appellant

♦ John Chambers. He reviewed a PowerPoint presentation. A copy is included in the archive meeting packet. Emerald Meadows as planned:

- Does not conform to existing community.
- Puts 77 homes worth of traffic into existing neighborhood.
- Puts children in harm's way.
- Is not properly preparing for a potential public health hazard, in the event septic systems are damaged on Hillcrest Road properties.
- Does not meet the parking needs of the proposed development.
- Many exceptions being made in order to allow the developer to shoe horn 77 houses into a small space.
- Puts people in danger due to limited emergency services access.
- Does not fulfill the City's mission statement.
- Higher density than surrounding properties.
- According to the Traffic Impact Study done by Lancaster Engineering, December 9, 2016, after buildout in future-year scenarios, traffic volumes on Helens Way would be slightly more than 1,000 vehicles per day. He questions if these roads can handle that traffic.
- Lancaster Engineering does not recommend a stub to Hillcrest Road, "too narrow and not constructed to handle increased traffic loads..."
- The Columbia County Environmental Services Specialist expressed concerns that septic systems may be damaged by Emerald Meadows development. Recommends the developer install sewer pipe between the subdivision and Hillcrest Road properties for connection in the event of damage.
- Hillcrest Road is substantially uphill of Emerald Meadows and "it" rolls downhill.
- Not all lots appear to meet the minimum lot depth of 85 feet.
- Lot 62 is less than 5,000 square feet.
- 35090 Pittsburg Road does not meet the 20 foot setback requirement (only 12 feet).
- Emerald Loop East/Fairfield Avenue 82 degrees (standard no less than 60 degrees.)
- Public Works indicates water pressure will be an issue with 77 new homes.
- Thru-lots are being planned that do not meet Code requirements.
- Access roads for lots 33-37, 29-32, and 21-22 should be named and signed no parking.
- Lot on hammerhead frontage is too small.
- Fairfield Avenue is too narrow requiring a "No Parking Zone" starting from Lot 53/6 east.
- No parking on streets creates a livability issue for residents.
- Emergency services access dependent on "no parking" compliance has the potential to cost lives.

Chambers asked the Fire Marshall to talk about Fire Code concerns.

Fire Marshall Jeff Pricher reviewed their concerns:

- Parking in the former plan. However, the revised plan mitigates some of those concerns.
- Private access drives to service some of the homes pose a challenge in the event of a fire.
- The Fire District worked with the developer to create a plan that would minimize impact.
- Fire Code requires homes have a sprinkler if more than 30 homes are serviced by one road.

Mayor Scholl asked if that would change if a road came through N. Vernonia Road. Pricher said yes, if that were a possibility. Emergency access cannot be considered additional access for residents. Pittsburg Road poses significant challenges. They will not use the emergency access

unless they absolutely had to because it's on a blind corner.

Chambers suggests:

- Extending the road to Pittsburg Road or N. Vernonia Road.
 - Reduces neighborhood traffic issues.
 - Increases public safety.
 - Better emergency services access.
- One row of bigger lots.
 - Leaves room for full width street.
 - Leaves room for 15 foot easement.
 - Eliminates street parking issue.
 - Reduces Fire Code violations.
 - Reduces traffic impact.
 - Improved quality of life for all.
- He asked the Council to remember the mission statement.

Testimony from the Original Applicant

♦James Kessi, Kessi Engineering and Consulting, representing Wayne Weigandt. The Planning Commission recommended the subdivision be approved with a few changes; therefore, they propose the following changes:

- The cul-de-sac turnaround has been turned into a hammerhead. It will be signed "No Parking."
- A future road connection to Hillcrest Road between lots 38 and 39 has been added.
- Fire lane access has been provided from Pittsburg Road to Emerald Loop.
- Lot #29 can be amended, if so needed.

Kessi reviewed concerns that were addressed by the appellant and how they are meeting Code:

- Private access driveways have been designed to meet City standards.
- Streets have been designed to meet City standards.
 - Every house will have four parking spaces, two in the garage and two in the driveway.
 - Street parking will be available, except for at the end of Fairfield Court.
- The 5,000 sq. ft. lots will allow for affordable housing.
- The septic systems in lots 45-62 adjacent to the Hillcrest Subdivision are out of their control. They have provided a five foot access easement in case of failure. It is the burden of the property owner and not the subdivision.
 - He would recommend the sewer mainline be put through the front of the lots so both sides of the street could access it.
 - Have agreed to not grade more than 30 inches of depth.
- Directed by the City engineer to not make any road connections to Pittsburg Road and N. Vernonia Road.
- Water will be connected to the higher pressure system in the reservoir on Pittsburg Road. It should not affect surrounding area water pressure.

Mayor Scholl asked how hard it would be to come off of N. Vernonia Road at Fairfield Court. Kessi said they could physically do that but it wouldn't meet intersection spacing at Jakobi Street. He would prefer that their Traffic Engineer address that.

Graichen added that the 40 foot right-of-way standard is okay for portions of development that will have 200 average daily trips or less. If you punch it through, it opens it up to more traffic and that 40 foot no longer stands. It would have to be increased to the standard 50 feet.

◆Todd Mobley, Traffic Engineer with Lancaster Engineering. That access scenario is not one they analyzed because it does not meet City Code. It would not be an ideal condition.

City Councilor Carlson has noticed in other areas that entrances have a wider access with greater setbacks. Does that help with visibility? Mobley confirmed that it does help with visibility and the ability to turn from a major street to a minor street. Parking is sometimes restricted. However, that's a different issue than the street alignment.

Mobley reviewed his responses to the appellants concerns:

- The streets in the neighborhood to the south are designed to City standards. They are stubbed into this property and designed to carry additional traffic. He understands their concerns that traffic will be added.
- They calculated trip generation by using industry standards.
- The design of the street has parking on both sides. Vehicles tend to go slower when the road narrows and there are cars parked on both sides.

Pricher talked about Camden, Catarin, and Fairfield being wider streets. Beginning at lot 52 the road narrows allowing parking on one side. Did the formula take that into account? Mobley said it's more of a philosophy than a formula. The proposed design provides for less travel of the narrow section of the road.

◆Andrew Stamp, Land Use Attorney. He reviewed a PowerPoint presentation. A copy is included in the archive meeting packet.

- Accommodate the City's new standards without losing housing density.
- Better lot configuration/no variances required.
- Meet market demand for housing at the median \$250,000 price point.
- Maintain compatibility with adjacent development patterns.
- Meet lot depth requirements.
- Meet front yard setbacks.
- Lots 31 and 32 are proposed through lots.
 - Allowed due to site orientation and need for separation from arterial.
 - Planting buffer required.
 - Two front yard setbacks.
- Lots 34 and 35 streets are not through lots.
 - Streets are not parallel.
- Reviewed street alignment, connection, and intersections.
 - The proposal meets Code standards.
- Reviewed Fire Code standards. The proposal meets standards.
- Police have authority to enforce parking violations. Signs will be posted.
- It is illegal for septic effluent to leave your property.
- The developer is not causing the need for a septic easement. That is a potential need for the adjacent property owner's septic failure. They are under no requirement to give the easement but doing it as a courtesy.
- Oregon State Land Use Board of Appeals (LUBA) makes it very clear that a mission statement cannot be the basis for denial or approval of a land use decision.
- Conformity with the existing community is not an approval standard for this subdivision.
- The roads are equipped to handle the projected traffic load.
- All lots are a minimum of 5,000 sq. ft.

Council President Morten pointed out that lot 61 with the utility easement lines up to Jakobi Street. Was that studied for connection? Mobley said they did not, based on direction from the City. Morten suggested that egress be designated as a right turn only.

Testimony in Favor of the Subdivision

No testimony in favor of the subdivision.

Testimony – Neutral

◆William J. Stroup. He handed out a copy of his testimony. A copy is included in the archive meeting packet. His biggest concern is pedestrian safety. Safe crossings need to be added on the northwest side of Campbell Park between Allendale Drive and Goodman Lane. Development has increased and traffic warning devices have not increased.

Testimony in Opposition of the Subdivision

◆Shauna Harrison. She is opposed for a variety of reasons.

- In the last 12 months:
 - 5,000 sq. ft. lots sold for \$224,000; which is approximately \$1,134/month.
 - 7,000 sq. ft. lots sold for \$265,000; which is approximately \$1,322/month.
- If septic fails, it would be replaced with the like because there's no sewer within 300 feet.
- There's an online petition to sign in opposition of the subdivision.
- Adding this capacity to a dead-end street is a major concern.
- Access is a primary concern.
- More work needs to be done with the feasibility of this project.
- Many neighbors have voiced that they were not notified.
- Frantz Street and Edies Way will be severely impacted. There is a massive collection of water in that area.

◆Kathy Innocenti. She has lived in her house on Pittsburg Road for 23 years. They have watched over the years when it was annexed into the City, zoned R7, and now zoned R5. She has spoken before the Planning Commission and City Council voicing her opposition to the development of this property in the past. Comprehensive Plan Goal No. 14, "Provide for an orderly and efficient transition from rural to urban use." They are going from 66,000 sq. ft. of her property, 22,000 sq. ft. properties on Hillcrest, and 5,000 sq. ft. proposed lots. There is no transition between rural and urban. She is concerned about an egress onto Pittsburg Road. It is a very dangerous corner. The stub street ending at her property is not a solution. They don't plan on selling in the near future.

◆Scott Hickman. He lives on Hillcrest Road. Mission statements hold us accountable and should be taken into account. Does the runoff water go to the Wastewater Treatment Plant (WWTP)? He suggested using that five foot easement for a drainage easement into the main line.

Council confirmed that runoff water goes into stormwater drains and not the WWTP. Hickman is concerned about runoff during heavy rains.

◆Adam Kinsman. He has lived on Helens Way since 2003. They are a family with four children. He has four to five cars and parking is an issue. The new area is only going to increase the parking issue. It's going to make it even harder to see children.

◆Carmin Dunn. She lives on Oakwood Drive and has not received notification of the subdivision. The duplex section of Oakwood Drive is lined with cars. Kids are darting in and out of the cars. Adding 77 homes will increase traffic, kids, parking, etc. N. Vernonia Road does not have sidewalks to access the park. It's not safe. Consider the families that are already here. What is considered affordable housing?

♦Heather Chambers. She is the current associated student body president of St. Helens High School. She lives on Hillcrest Road. People drive fast on Pittsburg Road and N. Vernonia Road. We are talking about family communities potentially being hit.

♦Paul Worman. He has lived on Oakwood Drive for 13 years. He realizes the need for more housing. The issue is the number of houses and the problems that it will create. One of the problems is emergency access. This will bring in many new cars and less parking. He is glad to hear the water will be on a different system. The sewer capacity is a concern. His primary concern is the number of kids and safety. He suggests lowering the number of houses.

♦Daniel West. He lives on Helens Way.

- Extracting the density has not been fully addressed. All the traffic will come out Helens Way and dump into one artery. It's way too much traffic.
- People who live in \$200,000 homes will not improve their yards.
- The Hillcrest Road houses on septic will flow down to the new homes giving them a taste.
- The Fire Marshall will only use the emergency accesses only during a nuclear holocaust. They are not feasible.
- No one received the new plan. This is the first they are seeing it.
- Only one outlet onto N. Vernonia Road is not enough.
- He has a booster pump to increase water pressure in his home.
- What if a contractor damages septic during construction? Who is responsible to pay for it? If it can't be repaired, are you going to force them to annex into the City and connect to an unplanned sewer line.
- Adding this many kids to one school is not a good idea.

♦Mark Birkland. He lives on Blackoak Drive. The lawyer said they have met all the criteria to the best of their ability. The traffic engineer didn't seem to say the same. If the developer is really trying to offer affordable housing for the community, offer it a lower price.

♦Melissa Hall. She lives on Helens Way. This would just add more traffic and kids walking to catch their bus.

♦Marilyn West. She heard this was already approved. Is that correct?

Graichen confirmed that the Planning Commission approved it. That approval was appealed and is now before the Council for approval or denial.

West asked if the neighborhood could ban together and sue the developer if this is approved? Councilor Conn asked what grounds that would fall under. West responded that no one here wants this to happen. They're not going to be happy if Council approves this. The Council needs to consider future elections. Graichen explained that this could ultimately go to the US Supreme Court, if so inclined. The next reviewing body is the Oregon Land Use Board of Appeals.

West brings that up because Mr. Weigandt was asked to remove diseased trees on his property 18 months ago but he did not do that. Last week, he removed trees. It appears that he has insight that this project is a done deal. It's unethical. The attorney insulted our community.

♦Daniel Goodnight. He lives on Novella. He came to the Council for something else and didn't know anything about this. His daughter lives in a HOA in South Carolina. They are not allowed to park in the street. If they do, they are fined by the HOA.

♦Sheri Cash. She lives on Helens Way. They have a serious issue with water coming off the hill.

They were told a french drain was built there when they purchased their property. They later discovered it was never done. They built one but still continuously have problems with excess water. She heard the board approved leaving this area as open space. Now it's approved to build? What happened? People race N. Vernonia Road. It's not safe. She's going to miss the deer the most.

◆Tracy Birkland. She lives on Blackoak Drive. She moved here a couple years ago from Aloha to get away from traffic and have room for kids to play. She doesn't have a problem with them putting in houses like hers. She has a problem with putting in 77 in this small of space. There is a lot of people, kids, and traffic. Kids will get hurt. This is not responsible.

◆Amanda Callow. She lives on Oakwood Drive in one of the small properties that people probably didn't want in 2001, for the same reason. Her family is from the Hillsboro area. Their family of five was barely able to afford the house they're in. The house is only 1,300 sq. ft., so use their garage as living space too. They're not likely to be able to use it as additional parking. Property values are going to go down. Who is going to pay to extend the sewer as a result of this. People are going to be parking along the road. If this goes through, is a blinking red light on Pittsburg Road an option? She asked for traffic adjustments to be considered.

Councilor Locke asked Weigandt how many lots were added when he went from 7,000 sq. ft. to 5,000 sq. ft. lots? Weigandt said it added 14 lots.

◆Shauna Harrison. She lives in the area and is not concerned about the change in zone. She is concerned about the water, water pressure, lack of safety, lack of infrastructure, and access. There is no green space or play area.

◆David Johnson. He lives on Darcy Street. He just purchased his home two months ago. It was a significant investment. The value of his property will be reduced when these properties are developed. He is also concerned about parking enforcement. How many hours will be required to conduct property enforcement. The comment made by the attorney regarding utilizing parking enforcement and police officers is not appropriate.

Rebuttal by the Appellant

◆John Chambers.

- He too has to park cars in his driveway back to back, and has to have a family member move theirs for him to get out.
- Mayor Scholl spoke about a chosen way of life. The neighbors chose a way of life and this subdivision will change that, which is beyond their control.
- The septic systems have been there since the 1960's and 70's with no issues. If this subdivision damages those fields, there will be some kind of liability. If the City approves it, he assumes the City will be held liable as well.
- *Made a comment about parking on both sides of street, but was inaudible because not speaking in the mic.*

Rebuttal by the Original Applicant

◆Andrew Stamp. He responded to concerns addressed:

- Ms. Harrison compared the cost of 5,000 sq. ft. and 7,000 sq. ft. lots, which included new and used lots. Their counts were conducted using new subdivisions. They came up with \$250,000 and \$300,000, respectively. He appreciates the data she provided.
- Regarding notice, it's a three hundred foot notice area from the subject property. If you're

302 feet away, you're not going to get notice.

- Regarding stormwater, the surface water running off the empty property will be remedied with rain catches, gutters, stormwater detention facility, etc. Neighbors should see a significant improvement.
- Regarding this land remaining open space, that is inconsistent with the records he has seen. This land has always been zoned for development since it was annexed. You can't tell people they can't build on their land without paying for it.
- Someone mentioned having a transition from rural to urban. That goal applies at the time land is brought into the Urban Growth Boundary (UGB). The goals no longer apply. Only the Code applies now.
- Some called "B.S." on the fact that mission statements aren't relevant. Stamp is only telling people what the law is. He didn't invent the law. He recommends removing the mission statement from the Code.
- Wastewater vs. stormwater runoff. Raindrains used to run into the sewer drains. Now they are separated.
- The City Engineer would not likely allow a development to occur without adequate sewer capacity.
- Regarding the five foot easement, someone asked where the other ten feet will come from. That will come from the property owner with the septic system. "It" runs downhill and is not allowed to leave their property. If they find sewage on the subject property, that is a public hazard and trespassing. The City is satisfied with the five foot easement.
- Regarding multiple cars and fast traffic, LUBA has said repeatedly said you can't assume people will break the law. A traffic enforcement problem is not a development problem. LUBA does not allow you to deny land development on the grounds of people violating the law. City code requires two off-street parking spaces. They are providing four. They are going to have CC&R's that prohibit boats and RVs from being left in the front yard.
- He heard a lot of concerns about no stop signs on Hillcrest. That's an engineering issue and not relevant to the development. Council President Morten pointed out that it's County property.
- Regarding too much density, that was decided three or four months ago. This is only in regards to subdivision criteria.
- Regarding the number of children added to the school, school capacity is not an approval standard for this subdivision. It's not relevant.
- Subdivision approvals or land use approvals are not decided on the basis of whether or not we like something, a popularity contest, how many people clap, or concerns about elections or lawsuits. In Oregon, approval is based on approval standards adopted in the Code. Planning staff has reviewed those standards and says they are met. That type of talk is inappropriate in a quasijudicial hearing. You have to stay focused on the criteria. You could take this to LUBA but they will only look at the approval criteria.
- Regarding no green space, there is no open space requirement in the Code.
- Regarding property values be lowered, that is not relevant according to LUBA.
- Regarding the statement that it was inappropriate of him to say the Police will enforce the laws, it's not an approval standard. He used to be a Police Officer and issued parking tickets. Talk to the Police Chief about increasing enforcement.
- They have met all the approval criteria. None of the testimony addressed any of the approval standards, except for the appellant.

◆ James Kessi.

- Stormwater. The water will be collected, treated, detained, and released. A stormwater tract is proposed west of lot 64. In addition to collecting street water and roof water, he suspects they will be providing a collection system along the southern boundary to improve drainage. The City Engineer will be approving all the plans submitted.

- Trees. The City requires trees be planted with the house construction.
- Water pressure. The entire subdivision will be connecting to the high pressure water system off Pittsburg Road. It is a different water system than the surrounding subdivisions.
- Sewer capacity. The City has indicated that there is adequate capacity.
- Existing septic fields. Based on the sanitarians recommendation, they will not be grading any closer than 30 inches to the property line.

♦Todd Mobley. He didn't hear any testimony that would change their findings. There was a lot of testimony about additional homes and the ability of the streets to handle them. They meet the City standard.

Councilor Locke asked why the road narrows between lots 53-60. Kessi said that was done due to lack of depth. It still allows for two-way traffic but parking only on one side of the street.

Questions and comments from the audience that was inaudible.

Pricher asked if any homes over 30 feet tall will be built where the road narrows? Kessi said they won't be any taller than 35 feet.

Stamp pointed out the section in the Code that references skinny streets. Basically, you can only allow skinny streets where there are fewer than 20 driveways and he counted 18.

There were no requests to leave the record open or continue the public hearing.

Close Public Hearing and Record – 9:38 p.m.

Deliberations will be held during the regular session following this hearing.



Respectfully submitted by Lisa Scholl, Deputy City Recorder.

ATTEST:

Kathy Payne
Kathy Payne, City Recorder

Rick Scholl
Rick Scholl, Mayor