

City of St. Helens Planning Commission

Approved Minutes

April 10, 2018

Members Present: Chair Russell Hubbard
Vice Chair Dan Cary
Commissioner Greg Cohen
Commissioner Kathryn Lawrence
Commissioner Sheila Semling
Commissioner Julie Stenberg
Commissioner Audrey Webster

Members Absent: None

Staff Present: City Planner Jacob Graichen
Associate Planner Jennifer Dimsho
Councilor Liaison Ginny Carlson

Others:

Patrick Birkle	Rich & Ellen Bailey
Theresa Powell	Ken Hranicky
Michael Duncan	Larry Scott
Daniel Kozpke	Donald Maywald
James Kessi	Vicky Njust
Kolton DeFord	Chandra McNeely

- 1) **Call to Order and Flag Salute - 7 p.m.**
- 2) **Consent Agenda: Approval of Minutes**
 - 2.A Draft Minutes Dated March 13, 2018

Motion: Upon Commissioner Cohen's motion and Commissioner Webster's second, the Planning Commission approved Draft Minutes Dated March 13, 2018. Vice Chair Cary did not vote due to his absence from that meeting. [Ayes: Commissioner Cohen, Commissioner Lawrence, Commissioner Semling, Commissioner Stenberg, Commissioner Webster; Nays: None]

- 3) **Topics from the Floor: Limited to 5 minutes per topic (not on public hearing agenda)**

There were no topics from the floor.

- 4) **Public Hearings (times reflect earliest start time)**
 - 4.A 7:00 - Subdivision & Sensitive Lands Permit at 34759 Sykes Road & Surrounding Undeveloped Property - Kessi Engineering & Consulting

Chair Hubbard opened the Public Hearing at 7:02 p.m, There were no ex-parte contacts, conflicts of interests, or bias in this matter. City Planner Jacob Graichen entered the staff report dated March 29, 2018 into the record.

Graichen introduced the Commission to the proposal, as presented in the staff report. He described the two additions that were not included in the original packet. The first is a preliminary hydraulic and drainage report provided by the applicant. The second is a memo with additional recommended conditions that address the Fire Marshal's concerns. Graichen reminded the Commission that they recommended approval of the Planned Development Overlay Zone related to this proposal during the last meeting. He said the City Council officially approved the Planned Development Overlay Zone at their meeting last week. Tonight, the Commission will decide whether or not to approve the Subdivision request.

Graichen wanted to first give context to the City's wetland rules. In the early 1990s, the City had not yet adopted local wetland rules. In late 2003, the City adopted rules that categorized locally significant wetlands and established upland protection zones from delineated wetlands. Graichen compared this subdivision proposal to the adjacent Brookfield subdivision which was before the City's local wetland rules were adopted.

Graichen described that only half of a segment of the Westboro Way right-of-way is on the subject property. This right-of-way is recommended to be partially developed with the subdivision approval. A private street off of Sykes Road will serve five lots and a private access drive off of the cul-de-sac will serve lots six through nine. The remaining lots will be served by the cul-de-sac directly and the extension of Westboro Way.

Graichen described how the applicant would like to utilize 50 percent of the wetland protection zone as part of the adjacent lots, and the remaining 50 percent as a wetland tract. This is what triggers the need to establish a Development Agreement, which is the second public hearing tonight. Graichen noted there is a proposed trail that goes through the wetland protection zone for the residents.

Graichen went through the proposed conditions, as presented in the staff report. Vice Chair Cary clarified the number of phases requested. Graichen said there are only two phases proposed. Commissioner Cohen asked who will enforce the no parking rules on the private drives. Graichen said it will be up to the Homeowners' Association (HOA) or the Fire Marshal to enforce no parking on private driveways (Secretary Note: After speaking with the Fire Marshal after this meeting, he commented that the Fire District wants to avoid being an enforcement agency). Commissioner Cohen asked if there would be something in the HOA rules that requires funding in perpetuity to ensure they can do what they are required to do. He is concerned about HOA's ability to do things if they have no money. Chair Hubbard suggested that the applicant address this. Commissioner Semling asked how the rules of the HOA are set. Graichen said in this case, we have a Development Agreement, which is the second hearing tonight.

Graichen said the private roads will require a maintenance agreement for ongoing maintenance costs. He said this is very common. Commissioner Cohen asked what street standards they have to meet. Graichen said they have to meet the City Engineer's standards. Graichen said generally, this requires that they are paved and can withstand fire apparatus.

Vice Chair Cary asked if the homes on private roads have the private road name as part of their address. Graichen said this is something to be confirmed with Columbia 911 Communications District.

Commissioner Webster asked if a fire turn-around would be required on the private access. Graichen said when a private street is 150 feet in length, it is a requirement. However, the applicant's proposal is to connect the two private driveways with a 20 foot emergency access with removable bollards or cable between lots four and six. Graichen said the Fire Marshal preferred a gate and was still concerned about a lack of turn around. Commissioner Webster asked if it would be paved. Graichen said fire code allows gravel, but our code would require that it be paved. Graichen said the Fire Marshal also noted if the houses on lots four or six are over 30 feet in height, the emergency access will have to be widened 26 feet. Alternative methods could be utilized for the issues discussed, such as fire sprinkling. Graichen said the conditions are written to allow the flexibility to allow the Fire Marshal to make the final decision about whether or not this emergency access will suffice.

Commissioner Webster verified the minimum lot size. Graichen explained that the applicant is choosing to maintain lot sizes over 6,000 square feet, but it is not a requirement of the Planned Development provisions.

Commissioner Cohen asked about fire hydrants. Graichen said they will submit the locations of fire hydrants as part of their utility plan, which will be subject to Fire Marshal and City approval. Regarding the cul-de-sac, Graichen said that the space in between the sidewalk shown on the cul-de-sac was not the 96 feet in diameter that the Fire Marshal would require. However, the City is comfortable with the applicant using rolled curbs to satisfy the minimum diameter in this case, so long as the sidewalks are designed to withstand vehicular weights. Graichen said the cul-de-sac will also need to be signed for no parking.

Graichen said that the Hydraulic Analysis and Drainage Report appears to meet our requirements according to the City Engineer. Graichen said a more detailed look at the stormwater will occur after preliminary plat approval. Vice Chair Cary said he was pleased that the stormwater outfalls are located in the wetland buffer, not in the wetland.

Vice Chair Cary asked how including a wetland buffer within each lot would comply with the intent of a wetland buffer. Graichen said the Commission can help by requiring a condition with the Development Agreement to install a uniform fence and a gate (for each lot) along the boundary of the 50 foot buffer. He said the gate could help facilitate the sense of maintenance and ownership of the wetland buffer.

Commissioner Cohen asked how there will be separation between one half of the buffer that is owned by the adjacent property owner and the remaining half of the buffer that is for the enjoyment of the rest of the subdivision. Commissioner Stenberg said the property owners will be subject to the Covenants, Conditions, and Restrictions (CCRs) which will specify what is publicly owned and privately owned. Graichen confirmed this subject will be discussed more during the next hearing for the Development Agreement.

In Favor

Kessi, James. Applicant. Kessi is a licensed Civil Engineer representing the owner of the property, Rich Bailey Construction, as part of the firm Kessi Engineering & Consulting. He said

the concept of the overall development was to create lots that were fairly consistent with the surrounding area. The underlying zoning is R7, so they maintained an average lot size around 7,000 square feet. He said the lot is very sloped and difficult to develop because of the wetlands to the south and the BPA easement to the north. Kessi described the various points of access to the subdivision. He wanted to point out that Tract B is noted as open space, but they recently discovered that the adjacent property owner would like to acquire the small tract to improve access to their property. He described the pedestrian trail within the wetland tract that would connect Sykes Road to the cul-de-sac for the public and residents to use. The two private streets, Bailey Court and Greenway Court, were intended to be less than 150 feet to avoid the need for a fire turnaround. However, he noted they would have a minimum 20-foot paved emergency access between the two private streets. Kessi explained a similar emergency access was provided with the Emerald Meadows subdivision. For the Emerald Meadows subdivision, it was also decided that fire sprinkling could be considered at the time of building permit issuance. Kessi asked if condition 3.a. could be amended to add "or to owner" to allow some of the open space to be conveyed to the adjacent property owner who is interested in the space for improved access.

Kessi said that the seven lots that back up to the wetlands will not have a big lawn, but not everyone wants to have to mow a big lawn. Kessi said they would encourage property owners to plant native species and maintain the buffer in a way that is conducive to wildlife. He said the CCRs and the HOA will require that the buffer zone complies with a management plan, which will not allow buildings in the wetland buffer. The management plan will also dictate the types of plants that can be planted to enhance the area. Commissioner Lawrence asked how the property owner would know what plants are appropriate. Kessi said the wetland biologist will come up with a management plan that includes a planting plan that will be executed prior to the recording of the final plat. There will also be a list of approved plantings provided to property owners.

Kessi said the HOA can be required to maintain the 25 foot portion of the buffer that is included on the adjacent land owner's property, or they can keep it the responsibility of the HOA. Kessi explained that the CCRs and HOA documents are required closing documents, so all property owners will be notified. Kessi said HOAs that fail do not start taking dues immediately. The chances of the HOA being successful are higher if they collect initial fees at closing. This helps ensure that it will be funded in perpetuity. Kessi said homeowners will start self-policing if they know the HOA does not allow certain things. The HOA will have a board and officers at start up. He also noted that the HOA will include language that allows the City to be able to step in if there are any issues of public health and safety that the HOA is failing to accomplish.

Kessi explained each of the private roads will have a maintenance agreement that shares the burden among the benefitting property owners. He also said a budget for what it will take to maintain each shared asset will be created. Kessi said each private street will have an address for emergency services. Kessi said they will work with the Fire Marshal to meet standards for the private drives and the emergency access connection. Vice Chair Cary asked what the gate would look like. Kessi said that has not been determined yet. There will not be any proposed buildings taller than 30 feet in height, so a wider emergency access easement will not be needed.

Kessi submitted a full Preliminary Hydraulic Analysis & Drainage Report into the record. He explained that the Commission received a summary of the larger document. Kessi said after full development, there will be a less than or equal to amount of water that leaves the site. They will

not be impacting downstream conditions. Vice Chair Cary asked where the stormwater will be conveyed. Kessi said the City prefers to utilize the wetland buffer as much as possible. Instead of one large outfall, they are discharging at three or four different points. He explained that the primary discharge point for the cul-de-sac will be a catch basin that runs along the side of lot ten into the buffer. At the outfall point, they will create a diversion berm that will spread the runoff until the water trickles its way to the wetland at a slow rate. He said there are diversion berms located on the outer edges of the buffer of lots eight and nine, and six and seven, and along lot three. Lastly, some water will be collected along Sykes Road and will be directed into the existing stormwater system to the east. Kessi said they have done more stormwater analysis than they would normally at this point in a subdivision, but because of all of the neighbor concerns, they wanted to make sure it was feasible, complimentary to the site, treats the water, and will not impact the downstream conditions. Vice Chair Cary asked if directing the stormwater to the wetland will affect the property owners. Kessi said there are three pipes that go under Mountain View Drive. Their stormwater projections and surveying shows that the water will not top over the storm water system, pre or post-development. They also reached out to Public Works to see if there had been issues with water topping over the pipes. They said only once during an ice storm.

Kessi asked the Commission if the outer 25-foot wetland buffer zone should be maintained by the adjacent property owner or the HOA. He also asked the Commission where the gate should go. Commissioner Cohen said he feels the entire buffer should be accessible to all with an access easement. The Commission seemed to agree.

Vice Chair Cary clarified the location of the stormwater spreaders. Kessi said they should not be located within the wetland, only within the buffer.

Kessi also noted when properties are more difficult to develop, the base price of the land is higher, which translates to a higher housing cost. They are trying to keep the lots as affordable as they can, while complying with the standards. A 10,000 square foot lot is not as affordable. Bailey is trying to appeal to a wider range of homebuyers.

Bailey, Rich. Property Owner. Bailey said each lot will be uniquely developed because of the varying lot shapes. He wanted to create a good-looking neighborhood. Bailey said he is relying heavily on Kessi and Graichen for all the wetland protection requirements. He said it has been a difficult property to develop. Developing the property will bring in taxes and System Development Charges for the City.

Maywald, Donald. 59401 Yarmer Lane. Maywald owns the property north of the development. They bought six years ago. He thought the vacant land would not be developed soon because of the recession. He is excited to see that Rich Bailey is the one who will be developing the property because of his reputation and quality of the homes. It might be sooner than they were hoping, but he feels it will be a great addition to the neighborhood.

In Opposition

Scott, Larry. 59309 Mountain View Drive. Scott has been maintaining the drains under Mountain View Drive. He said it is a minimal drain currently. He said one year there was a lot of rain and snow that filled the drain. The water ran to Sykes Road. Someone put a ditch in that helped, but they have not seen a big storm to see it tested. His suggestion is to re-evaluate the drainage. He does not want the water table to raise because it will cause his home to flood. He

does not understand what the maintenance of a wetlands will be. What will be the flow pattern? Will it change? Where will the drainage from the gutters on all of the homes go? How much can the wetlands take? The culvert that he maintains is the only one that takes water. The culvert further north is too high. He said if the flow does not increase with development, he is fine with it. Commissioner Stenberg asked if Scott notified the City that he is maintaining the culvert besides during this hearing and the previous hearing. Scott said no.

Njust, Vicky. 34854 Westboro Way. She is disheartened by the plans. Njust said what is in the wetland is very special. There is a lot of wildlife that utilize the wetlands, and she is concerned that the City is letting the developer carve it up, chain link fence it, and put in culverts. Njust thinks reducing lot sizes and setbacks is short-sided. She has seen other subdivisions where they have pretty much moved the wetlands. She has also seen poorly done wetlands where they are gated and wildlife do not enter because access is diminished. She does not understand the diversion berms that are proposed. She does not want the property owners to have a gate to get to the wetland. Njust is not sure why the City is not considering livability and the future. Why are we only focused on increasing density of housing?

Kozpke, Daniel. 34815 Westboro Way. He said he lives at the top of the development. He does not feel there is room for more than six or seven houses. He feels like this will destroy the whole neighborhood. He said there are a lot of children on the streets on the nearby streets. He is concerned about speed limits and increased traffic. Kozpke said there are many other locations to build housing. Putting 18 homes between power lines and a wetland seems crazy. The wetland is beautiful. He wants the Commission to consider the neighbors who already live there.

Pinto, Jon. 34837 Westboro Way. Pinto is asking the Commission to remember what St. Helens means to you. To him, it is property rights and common sense. He feels the developer can make money and the neighborhood does not have to be destroyed. He has been in his neighborhood for 12 years. Half of the forest was destroyed. He encouraged the Commission to walk around the site before making a decision. He said there is lots of wildlife in the wetland.

Pinto, Susan. 34837 Westboro Way. Pinto grew up in North Portland. She loves the space in St. Helens, the large lots, and open space. She is very concerned about the density of the housing proposed next to her property. She does not feel it will fit into the character of the neighborhood. She is concerned about all of the traffic and speeding traffic going through her neighborhood. It will not be as child-friendly. She asked how big the houses will be. She is concerned about the water runoff affecting her neighbors. She lives on a hill, so it does not impact her directly. She does not expect every home to have as much space as her, but she is concerned that this development is too similar to City-living.

Kozpke, Daniel. 34815 Westboro Way. Kozpke wanted to mention he was in a car wreck at the curve on Sykes Road, so it might be dangerous to add more access off Sykes Road.

Rebuttal

Bailey, Rich. Property Owner. Bailey said this is his first attempt at developing a subdivision. He said he is a local man and was raised here. He is not a rich man. He graduated from St. Helens High School. He does not understand where the idea that he is just out to make money is coming from. His lots are as big, if not even bigger, as the neighbors' lots. Bailey is upset that people think he is a dishonest person. He does not feel people should bash him as a person.

Kessi, James. Applicant. Kessi said someone mentioned property rights. This is a good example of an applicant who is using the adopted rules of the City to develop their private property. Kessi explained that the wetland boundary was delineated by a wetland biologist and confirmed by the state according to their regulations. Not one tree will be removed and not one pipe or ditch will be installed in the wetland. It will remain identical. There is an extra 50 foot buffer to develop a transition from the development to the wetland. Kessi said they will not be changing the flow channels or installing drainage **within** the wetland. Any drainage work will be within the buffer and will transition from the development to the wetland gradually. Kessi also said the runoff from the roofs will have a place to go; it will not be directed toward neighboring properties.

Commissioner Semling asked about the fencing proposed. She said the deer jump her four foot fence. Wildlife will make it past a fence, so she sees no problem with a fence as long as it is not too high. Kessi suggested that the fence be maintained by the HOA as a common fence, rather than privately owned to ensure longevity. Commissioner Lawrence likes this idea. Graichen clarified that the fence condition he recommends pertains to the Development Agreement, not the subdivision approval.

End of Oral Testimony

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

Close of Public Hearing & Record

The applicant waived the opportunity to submit final written argument after the close of the record.

Deliberations

Graichen said there are two additional conditions included in the memo provided today. He said another one was suggested by the applicant was a modification to 3.a. to include private property as applicable for conveyance. However, Graichen said it is his preference to deal with the request as a lot line adjustment and to leave the condition as is. This is the cleanest way to avoid any issue with the property being sold separately as a buildable lot. The applicant also suggested an access easement over the outer 25 feet of the wetland buffer.

Vice Chair Cary asked if this subdivision was too small to generate a traffic impact analysis. Graichen said yes; the subdivision is under 250 average daily trips (ADT).

Vice Chair Cary noted that the delineated wetland buffer has concurrence by the Department of State Lands, so it is not just the consultants' idea of where the wetland is located. He was very pleased that no part of the wetland is being impacted and that it has a substantial buffer. He applauds the applicant for their work.

Motion: Upon Vice Chair Cary's motion and Commissioner Cohen's second, the Planning Commission unanimously approved the Subdivision with the addition of the two conditions in the memo provided. [AYES: Vice Chair Cary, Commissioner Cohen, Commissioner Lawrence, Commissioner Semling, Commissioner Stenberg, Commissioner Webster; Nays: None]

Motion: Upon Commissioner Cohen's motion and Vice Chair Cary's second, the Planning Commission unanimously approved the Chair to sign the Findings and Conclusions once prepared. [AYES: Vice Chair Cary, Commissioner Cohen, Commissioner Lawrence, Commissioner Semling, Commissioner Stenberg, Commissioner Webster; Nays: None]

4.B 7:30 p.m. - Development Agreement at 34759 Sykes Road & Surrounding Undeveloped Property - Kessi Engineering & Consulting

Chair Hubbard opened the Public Hearing at 9:49 p.m., There were no ex-parte contacts, conflicts of interests, or bias in this matter. City Planner Jacob Graichen entered the staff report dated March 29, 2018 into the record.

Graichen introduced the proposal to the Commission and recommended conditions of approval, as presented in the staff report. This is a recommendation for approval by City Council. Ultimately, this Development Agreement will get recorded with the lots. Graichen said that since the proposal is to split the wetland protection zone half into a tract and half as part of the adjacent lots, the Development Agreement is required.

Graichen explained that the one recommended condition, in addition to those presented in the staff report, is to require installation of a fence with gates (one for each lot) along the outer boundary of the 50 foot protection zone. This would prevent inconsistency of each property owner.

In Favor

Kessi, James. Applicant. Kessi is a licensed Civil Engineer representing the owner of the property, Rich Bailey Construction, as part of the firm Kessi Engineering & Consulting. He is open to doing the fence either way. If the concern is trying to make sure that the 50 foot buffer has common maintenance and responsibility, then not having a gate is not a big deal. If the idea is to have the property owner maintain the abutting property, then putting a gate in is important. A split rail fence may be an option, so you can still see through it. Kessi suggested that the management of the buffer would be a function of the HOA, subject to the recommendation of the wetlands biologist and with City approval. Commissioner Lawrence would like it to be built of lasting materials. Vice Chair Cary noted that the maintenance of the fence will be addressed and included in the HOA management. Kessi confirmed that the HOA would include a requirement for permanent maintenance. Graichen noted that setting the fence back from the 25 foot buffer may interfere with the storm water detention facilities. Kessi said that is a good point; there will need to be gaps in the fence for the public access and any storm detention facilities. Vice Chair Cary asked if the starter plants will be monitored for their survival beyond two years. He said the state uses five years. Kessi said they could extend the monitoring beyond two years. Kessi said they also typically overplant to compensate for any loss. Chair Hubbard clarified the building footprint identified on the plans. He noted that some of the footprints are very close to the proposed fence. Commissioner Lawrence suggested putting a barrier on the edge of the buffer, but not something that blocks the view. Kessi agreed. Kessi described an example of an HOA with a wetland/trail that has been going 12 years strong.

In Opposition

No one spoke in opposition.

End of Oral Testimony

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

Close of Public Hearing & Record

The applicant waived the opportunity to submit final written argument after the close of the record.

Deliberations

Commissioner Cohen likes the recommendation by the applicant to allow the experts to work with the City on the proper fencing and where it will go, rather than the Commission figuring it out. Chair Hubbard suggested not putting in a fence, but installing posts to delineate where the property line/buffer is. He said some people may not want to block their view, but there has to be some boundary for where you are restricted on what you can do. Vice Chair Cary thinks it should be demarcated before anyone buys a lot. He said the fence should provide the minimum visual impact but the maximum protection for the buffer. That way, dogs can be kept within the yard, but the view is still maintained. He said if it is called a wetland buffer, it should remain demarcated as such. This also makes it easier for the public to use and the HOA maintain the buffer, even if the adjacent property owner technically owns a small strip of it. It would be too difficult to ensure each property owner maintains the buffer they own equally. Commissioner Stenberg and Commissioner Webster agree.

Motion: Upon Vice Chair Cary's motion and Commissioner Cohen's second, the Planning Commission unanimously recommended approval of the Development Agreement as written with an added condition for the developer to install a fence that provides maximum protection for the wetland buffer, minimal visual impact to the residents, and has gates for access. [AYES: Vice Chair Cary, Commissioner Cohen, Commissioner Lawrence, Commissioner Semling, Commissioner Stenberg, Commissioner Webster; Nays: None]

- 5) **Acceptance Agenda: Planning Administrator Site Design Review**
5.A Site Design Review (Major) at 2575 Sykes Road - Walk-up eating/drinking establishment in an existing building

Motion: Upon Commissioner Cohen's motion and Commissioner Webster's second, the Planning Commission unanimously approved the Site Design Review (Major) at 2575 Sykes Road - Walk-up eating/drinking establishment in an existing building. [AYES: Commissioner Webster, Commissioner Cohen, Commissioner Lawrence, Commissioner Stenberg, Commissioner Semling, Vice Chair Cary; Nays: None]

- 6) **Planning Director Decisions**
a. Sign Permit at 58144 Old Portland Road, Building B - New wall sign
b. Subdivision (Time Extension) at N. 15th Street - Hanna Place Subdivision
c. Lot Line Adjustment at 59920 & 59928 Windy Ridge Drive - Peggy & David Hoxsey
d. Home Occupation (Type I) at 59897 Ethan Lane - Home office for plumbing business
e. Sign Permit (Banner) at 2100 Block of Columbia Blvd. - St. Helens Youth Football
f. Home Occupation (Type I) at 475 S. 16th Street - Storage of art and home good for sales online and off site

- g. Sign Permit (Banner) at 2100 Block of Columbia Blvd. - Race Against Child Abuse
- h. Sign Permit at 1771 Columbia Blvd. - New wall sign
- i. Home Occupation (Type I) at 365 N. 6th Street - Home-based architectural drafting business

There were no comments.

7) **Planning Department Activity Report**
7.A March 27, 2018 Department Report

There were no comments.

8) **For Your Information Items**

Vice Chair Cary asked about a steep driveway allowed in the Elk Ridge Estates subdivision. Graichen said he did not remember any steep driveways getting approved.

9) **Next Regular Meeting - May 8, 2018**

10) **Adjournment**

There being no further business before the Planning Commission, the meeting was adjourned at 10:24 p.m.

Respectfully submitted,

Jennifer Dimsho
Associate Planner