

**Rivergrove Planning Commission Minutes
June 5, 2017**

SWEARING-IN

Mayor Heather Kibbey swore-in Jennifer Crock and Jeff Williams to the Planning Commission. Commissioners Crock and Williams took their seat at the Commission table

CALL TO ORDER AND ROLL CALL The meeting was called to order at the River Grove Elementary School Library at 6:58 p.m.

Present: Commissioners Andrew Dausman (chair), Jeff Williams, Jonathan Sweet, and Jennifer Crock. Vice Chair Casey Cameron was not present. Leanne Moll declared a quorum. Planner Carole Connell and Mayor Kibbey were also present.

CLASS BY CITY PLANNER, CAROLE CONNELL

City Planner Carole Connell presented a class entitled “Making Planning Decisions with Integrity”

CONSENT AGENDA

1. Minutes from the May 1 and May 8, 2017 Meetings

Motion: Commissioner Dausman **moved** to approve the Minutes from the two May meetings as amended below. **Seconded** by Commissioner Sweet. **Passed 2-0**. Two abstentions.

Amendments to the May 1 Minutes:

Page 1, “Consent Agenda” to read “....approve the April 3, 2017....”

Page 1, “New Business: 1. Discussion of Rivergrove Land Use Ordinances” to read “.... This use of constrained natural language is to reduce ambiguity – it makes it clearer.”

The next paragraph to read “.... the EPA considers the pollution in the river”

Amendments to the May 8 Minutes:

Page 2, “In favor” to read “.... to find a resolution.”

Page 2, “Opposed” to read “.... to work with him on the error”

OLD BUSINESS

1. Proposed Amendments to the Comprehensive Plan

Mayor Kibbey explained that the Planning Commission is in the middle of a public hearing addressing an annexation request and road right of way issues. It has been continued twice at Council’s request. The Council is asking that it be continued one more time. The City is in discussions concerning road jurisdiction. The Mayor also mentioned that this continuance would give the new Commissioners a chance to examine the amendments.

Motion: Commissioner Dausman **moved** to continue the Comprehensive Plan Amendments until October 2, 2017. Commissioner Crock **seconded**. **Motion passed 4-0** unanimously.

NEW BUSINESS

None.

PUBLIC COMMENT ON NON-AGENDA ITEMS

None.

CORRESPONDENCE & REPORTS

None.

COMMISSIONERS' REPORTS

Jonathan Sweet shared his idea to enrich the community and mitigate lost trees by sharing saplings to encourage neighbors to plant trees.

Commissioner Dausman noted that he is thinking about the future and what the Commissioners will do this year. The Commission has been in a reactive mode because of the bulk and difficulty of recent decisions. The Commission now has the opportunity to complete a few goals. Commissioner Dausman asked the Commissioners to read through the Comprehensive Plan and RLDO to think about an agenda of action. Citizen involvement is a possibility. Michael Salch suggested addressing accessory structures in the RLDO. Mr. Salch also asked the Planning Commission to consider ordinances that address the growing homeless population, particularly people sleeping in City parks or empty residences. Mayor Kibbey suggested that would be a Municipal Ordinance for City Council.

Chair Dausman noted that he expects that the other Commissioners are comfortable chairing meetings, running the agenda, and making motions.

ADJOURNMENT

Motion: A motion to adjourn was made by Commissioner Williams.

Seconded by: Commissioner Dausman.

Motion passed 4-0.

The meeting was adjourned at 8:34 p.m.

Respectfully submitted,

Leanne Moll, City Manager/ City Recorder

Supplemental Testimony

To: Rivergrove Planning Commission

From: Curt Taylor (Applicant)

Re: Application for Shed at 5036 Dogwood Drive and response to submitted testimony by the City Attorney (4/27/2017)

1) Introduction

This has been a long process made more difficult than it ever should be. Every time a proposed resolution has been made by the PC I have been estopped by the city placing additional requirements for either completeness or resolution of the application. Although it has been said before, I will say it again, as it is not mentioned in the City Attorney's supplemental staff report. The City of Rivergrove RLDO ordinance is clear and this is the reason I went forward with the shed installation to begin with.

Section 2.040. Exclusions From Development Permit Requirement.

An activity or development listed below is excluded from the requirement for a development permit:

(h) Installation or construction of an accessory structure **that** does not require a building permit (i.e. 108 square feet in size).

It should be noted that both Clackamas County and the State of Oregon also have similar language but limit the size of the structures to 200 sq. ft.

It has not been made clear to me, throughout this process, why I needed a development permit to begin with other than citing of Section 70-2001(IV.E) of the RLDO that prohibits any new structures and/or development in the WRQA. As no development permit is required in Section 2.040 why then is this considered development in Section 70-2001. The PC has tried to resolve this on multiple occasions, both during completeness and permit review, but has continued to be stymied by officers of the city and city staff that did not seem to agree with their ruling.

2) Completeness

The City Attorney indicates that completeness is not a pertinent issue and that the PC has found the application complete. The PC must evaluate the application with the material provided against the ordinances. I have two issues with this section of the testimony;

- a) When, exactly which date, did the PC deem the application complete. This is critical as by state law, if the PC does not rule on the application, after completeness is deemed, within 120 days the application is automatically considered approved. I was asked to waive this without being told that I have certain rights pertaining to this. At one time, during the completeness review the PC ruled that if a No Rise certificate was provided, there would be no further need for the application, considering Section 2.040.
- b) The evidence needed to satisfy the PC has continued to change throughout the process. It has not been made clear to me from the beginning when I was basically told not to worry about this by city officials and staff. Even when I provided engineering certification of No Rise the City Attorney is now stating that it is not enough. At one point city staff discounted the certificate as it did not address the what would happen if existing structures providing a conveyance shadow were not there.

3) WQRA, Floodplain and Floodway

- a) There is no disagreement on this, my property is most definitely in the Floodway, Floodplain, and WQRA. I do find it interesting that the city regularly dumps material used for mulch on the walking

paths in Heritage Park. Based on Section 70-2001 (IV.E.1) this is a prohibited use. This material has been used in both the WQRA, Floodway, and Floodplain. Additional in Section 70-2001 (V.E.2) this material is coming from an unknown source and in the past has contained decomposed animal carcasses and other unknown foreign material. Grading was also done, without a grading permit to mitigate storm drainage. It is unknown what the extent of the excavation was, so it is hard to tell how much material was removed and where the fill was put. This grading is also in the Floodway.

Although this is not germane to the issue of the shed application, it does make it hard to understand how the city feels they are somehow above their own ordinances, but want to make an example of my shed. We also know, for fact, that in the last 12 months I have seen sheds, docks, decks, and other structures put in place without going through the process that I have been subjected to.

4) Standards of Development

a) WQRA

This shed did not require a building permit or a grading permit. There was no excavation needed, other than raking yard debris to level the area. A small amount of $\frac{3}{4}$ minus drain rock was used at the contact points of the shed to ground to provide a stable footing for shims to be placed to level the shed.

The shed is constructed from a steel base, approximately 12 inches high. The walls are 2"x4" framing, with both a vapor wrap and T-11 exterior siding, fully finished, sealed and painted. I am not sure if this meets R105.2 or ASCE 24. I did pull an electrical permit, that was subsequently approved, for the shed from the county to provide service to the shed for lights and plugs. On a follow-up call with the county, a week ago, to see if I needed an additional permit they told me, via telephone that I did not.

All plants removed to provide a site for the shed, were preserved and given to neighbors to plant in their yards. The largest vegetation removed was a 15' Dogwood that was transplanted, successfully to Heritage Park. There were also 2 large Rhododendrons that have been preserved to be planted in new locations once this issue is settled.

There really was no practical alternative to the location of the shed. Someone, I am not sure who, suggested moving it to some other location on my property. This is impractical, if not impossible. I talked to Tuff Shed (where the shed components were built) and they said that sometimes they can move sheds, post assembly, by dragging with a truck. This is not feasible considering the location of the shed. When asked about disassembly and rebuilding the shed in a new location Tuff Shed told me that this is not an option as the sheds are not designed to be disassembled and too much damage would be incurred making the shed unsafe and unusable.

b) Flood Management Zone

There was no net fill involved in the excavation or placement of the shed. Based on the No Rise certificate provided there should be a 2-cubic yard cut made somewhere on the property to balance any effect caused by the shed. I am more than willing to do this and as of the April PC meeting agreed to do this.

The site elevation has not been confirmed and we have only assumed it to be at 125'. This is the flood elevation based on the FEMA maps (2008). I have done some additional analysis and feel that the actual elevation of the shed, at floor grade, is closer to 130', if not higher. This

measurement was established using a barometric digital altimeter, but is not certified. I have offered to city staff that I would provide a certified elevation certificate, but was told to wait on this. The offer still stands. The intent of this offer was to determine how far I would need to raise the shed to comply, if needed. I feel I can safely and practically raise the shed up to 24", if needed, but would want to know exactly what that height needs to be.

The shed is not considered a habitable structure. It has an insulated and finished interior and will be used only for storage of vintage quilts, materials, and expensive sewing equipment.

Anchoring solutions have been attached to this document. I will install these on approval of the application. They are designed for anchoring accessory structures and are commonly used. I would install 4 of these anchors that would provide a combined load capacity of 14000 pounds.

Venting will be provided by cutting 4 ea., 3"X12" vents in the steel base at both the front and back on the shed to provide drainage. There are already 2" vent holes in the steel base on 24" centers. If the shed is raised I would not need to provide these.

5) Variance

- a) I applied for a hardship relief based following Section 2.040 of the RLDO, but still applying for a permit based on my value system of doing the right thing. In the preceding and other responses, I have tried very hard to meet a necessary minimum to allow the proper installation of this shed. It has never been my intent to "get around" the requirements, but I have been told so many different things, seen city officials circumvent the PC, and been subject to misinformation (arbitrary petitions and speculation on how much damage my shed would do in a flood) I have only tried to cooperate and gain closure on this.

This process has cost me a considerable amount of time and money. It has also created a hardship for me in that I cannot understand why I am being singled out and subjected to so many obstacles when the city and others in the community don't feel it necessary to follow the same rules that I have made every attempt to comply with.

6) Summary

I find it interesting that the city has now required a memo from the City Attorney, this far into the process. In response, I too have sought and gained legal advice and will not cease in gaining a proper resolution, through the appeals process, if necessary. I have personally witnessed the city take things a step too far on other projects, during my brief tenure on the PC as a commissioner. These actions were very like what I am facing. The result was that a development application was terminated and the prospective buyers pulled out of their purchase, causing a significant loss to the owner/developer on the project. There are also ethical considerations as at one point I was told by the Mayor that there was a way to that my wife could keep her storage shed. See the attached email. In April, I thought we had reached a consensus resolution but the city took it upon themselves to further circumvent this. The communications have been bad with sometimes staff reports and testimony being delivered to me only hours before a PC meeting. Email is often used instead of direct communication or the use of written memos. I do commend the PC for their understanding, resolve, and patience on this issue and ask that considering everything that has transpired that they approve this application or resolve this issue in some other way.