

**NEHALEM PLANNING COMMISSION  
PLANNING MINUTES  
REGULAR MEETING  
MAY 23, 2019**

Chair Coopersmith called the Planning Commission Meeting to order at 6:00 p.m.

**PLANNING COMMISSION  
MEMBERS PRESENT:**

John Coopersmith, Chair  
Janet Lease, Vice-Chair  
Lance Stockton, Commissioner  
Mary Jo Anderson, Commissioner  
Julie Chick, Commissioner

**STAFF PRESENT:**

Dale Shafer, City Manager  
Melissa Thompson-Kiefer, Asst. City Mgr. /Recorder  
David Mattison, Planning Consultant

**VISITORS:**

Sarah Smyth McInstosh  
Gary McIntosh  
Doug Firstbrook  
Barbara McLaughlin  
Mark McLaughlin  
Lane deMoll  
Karin Walczak  
Peter Walczak  
Kate Romanov  
Jack Bloom  
Gail Downie  
David Wiegand, North County Recreation District  
Jim Fanjoy, Britell Architecture

Chair Coopersmith led those present in the Pledge of Allegiance.

**MINUTES**

The Commission reviewed the minutes of the April 18, 2019 Planning Commission meeting. Vice-Chair Lease **MOVED** to approve the minutes from the April 18, 2019 meeting as presented. Commissioner Stockton **SECONDED** the motion. **MOTION APPROVED 4-0 (Yes: Lease, Stockton, Anderson and Chick; No: None).**

## **OLD BUSINESS**

### **DEPARTMENT OF LAND CONSERVATION & DEVELOPMENT (DLCD) ADDRESSING CLIMATE CHANGE IN PLAN**

City Manager Shafer reported that she will be meeting with Christine Shirley and Lisa Phipps of DLCDC to discuss wording to address climate change in the Comprehensive Plan. A draft should be available for the next Planning Commission meeting.

### **DRAFT COMPREHENSIVE PLAN REVIEW – GOAL 10: HOUSING**

The Commission reviewed a draft of Comprehensive Plan for Goal 10: Housing. There was a question from the public regarding the lack of a clear definition for Accessory Dwelling Units (ADUs) in the Zoning Ordinance. Chair Coopersmith responded that he would like to see the City adopt a policy regarding ADUs. City Manager Shafer said that a law passed stating that cities with populations under 2,000 are not required to allow ADUs within city limits, but if the County population is over 15,000, ADUs must be allowed in the Urban Growth Boundary. She said that the City was in the process of developing standards for ADUs and should have them at next month's Planning Commission meeting. City Manager Shafer said that someone who lives in the UGB was interested in building an ADU and the City wanted to have standards in place. She answered additional clarifying questions. Planning Consultant David Mattison answered a clarifying question regarding zoning.

There was a question from the public asking what metric was used to determine "smaller single-family housing" as a housing type with low inventory. There was an additional question from the public requesting the definition of the "other mechanisms" referred to in Policy 2. Mr. Mattison shared that some of the wording was taken from recommendations in the Housing Needs Analysis. Chair Coopersmith asked if City Manager Shafer could contact Planning Consultant John Morgan for clarification. City Manager Shafer suggested that the public email their questions to her and she would contact Mr. Morgan for answers. She added that she would ask Mr. Morgan to attend the next Planning Commission meeting.

There was a public comment about concern that the city would get locked into ADUs. There was public comment in support of ADUs as a solution to affordable housing, and the importance of having buildable land above the tsunami hazard area. There was public comment regarding ADUs as a housing solution for aging baby boomers. There was public comment that small ADUs were not an easy place to house a family. There was additional public comment regarding wheelchair accessibility and size of ADUs. There was public comment suggesting clarifying the language in Policy 7 about allowing ADUs in "certain residential zones." There was public comment suggesting that the Plan could refer to other agency's definitions of terms.

There was a Commissioner comment regarding the frustration of limitations created by State and County laws.

Chair Coopersmith noted that there would be a public hearing at a City Council meeting before ADU standards were adopted. City Manager Shafer explained that the draft of Goal 10 would be revised based on the new standards for ADUs.

## **NEW BUSINESS**

**PUBLIC HEARING: A Quasi-Judicial Land Use Hearing on an application from the North County Recreation District (NCRD) requesting a setback variance to reduce the required 15 foot setback to 5 feet, which would allow NCRD to construct a new lobby addition to the performing arts center that would include handicapped accessible toilets.**

At 6:30 p.m., Chair Coopersmith opened the public hearing.

### **DECLARATIONS OF CONFLICT OF INTEREST**

Chair Coopersmith declared a conflict of interest and recused himself because he serves on the Board for NCRD. Chair Coopersmith turned the meeting over to Vice-Chair Lease.

There was no ex-parte contact to declare and were no objections to the ability of a Commissioner to make a fair decision.

Vice-Chair Lease described the hearing process and performed the required statements for the hearing.

### **STAFF REPORT**

Vice-Chair Lease read aloud the Staff Report. Vice-Chair Lease noted that the Findings for Criteria B should include the sentence, "The criteria is met." The staff report concluded that the proposed variance meets the standards necessary for approval and should be approved. (A copy of the staff report is attached to and made a part of these minutes as Attachment A.)

### **APPLICANT PRESENTATION**

Jim Fanjoy, Architect, displayed a copy of the site plan from the application and provided a brief overview of plan. Mr. Fanjoy answered clarifying questions from the public.

### **TESTIMONY IN FAVOR**

Lane deMoll, Peter Walczak and Barbara McLaughlin testified in support of the application.

### **TESTIMONY OPPOSED**

None

### **APPLICANT REBUTTAL**

Mr. Fanjoy expressed thanks for support of the NCRD request.

**DELIBERATION & DECISION**

There being no further testimony, request for continuance or request to hold the record open, Vice-Chair Lease closed the record and public hearing at 6:49 p.m. The applicant waived the opportunity to submit final written argument after the close of the record.

Mr. Mattison noted that the motion should include the additional language in Criteria B that the criteria is met. There were no further comments or questions.

Commissioner Anderson **MOVED** that the Planning Commission approve the application of the North County Recreation District for a variance to corner lot setback requirements and adopt the findings of fact in the staff report as justification for the variance, with the addition to the findings for Criteria B that “the criteria is met.” Commissioner Stockton **SECONDED** the motion. **MOTION APPROVED 4-0 (Yes: Lease, Stockton, Anderson and Chick; No: None).**

**PUBLIC COMMENTS**

Peter Walczak asked if City Manager Shafer could provide him with any answers to questions from John Morgan. She confirmed she could forward answers via email.

**COMMISSION COMMENTS**

Commissioner Chick requested that City Manager Shafer provide the Commission with any questions that are submitted for John Morgan.

**ADJOURNMENT**

The next Planning Commission meeting was scheduled for June 27, 2019.

There being no further business, Vice-Chair Lease adjourned the meeting at 6:55 p.m.

**APPROVED:** \_\_\_\_\_  
John Coopersmith, Planning Commission Chair

**ATTEST:** \_\_\_\_\_  
Melissa Thompson-Kiefer, Assistant City Manager/Recorder

CITY OF NEHALEM PLANNING COMMISSION  
STAFF REPORT

VARIANCE CASE 19-01

APPLICANT: North County Recreation District  
 OWNER: North County Recreation District  
 LOCATION: 36155 9th Street; Nehalem, Oregon  
 ZONING: RM – Medium Density Residential  
 LAND USE: Performing Arts Center

INTRODUCTION

This is an application of the North County Recreation District (NCRD) to allow a variance to reduce the required corner lot side yard from 15 feet to 5 feet.

The purpose of the variance is to allow construction of a lobby/restroom addition to the existing building housing the Performing Arts Center. The proposed addition will have a 968 square foot footprint. It will house a new lobby and restrooms and will be fully compliant with the Americans with Disabilities Act allowing access to the building and restrooms by people with disabilities.

The applicant cites the variance as necessary to meet ADA requirements, to allow service to all citizens, and responding to the fact the primary structure was built in the early 1900's before zoning setback standards had been established. Also, the auditorium area faces west therefore all public access must come from the east side of the building, where the addition is proposed. There is no room for the proposed expansion without building into the setback area.

The applicant notes the proposed addition will still allow for approximately 25 feet of landscaped yard between the addition and the paved street.

CRITERIA

The criteria for a variance are found in the Nehalem Zoning Ordinance in Section 17.020. That section reads:

1. *No variance shall be granted by the Planning Commission unless it can be shown that ALL of the following conditions exist:*

- a. *Exceptional or extraordinary circumstances apply to the property and result from lot size and shape, topography or other circumstances over which the owners of the property have no control.*
- b. *The variance is necessary for the preservation of a property right of applicant substantially the same as owners of other property in the same zone or vicinity possess.*
- c. *The variance would not be materially detrimental to the purposes of the Ordinance, the Comprehensive Plan, or to property in the same zone or vicinity in which the property is located or otherwise conflict with the objectives of any City policy.*
- d. *The variance request is the minimum variance which would alleviate the hardship.*

#### FINDINGS OF FACT

Based on the available information, Staff makes the following findings of fact:

*CRITERIA a: Exceptional or extraordinary circumstances apply to the property and result from lot size and shape, topography or other circumstances over which the owners of the property have no control.*

FINDING: The existing building was built before setback requirements were established. The placement of the building and the configuration of its interior make the only practical place to build the addition is where it is proposed. Conforming to the 15 foot setback does not allow room to build a workable lobby and restroom area. Providing access for those with disabilities to the lobby and to restrooms, in compliance with the Americans with Disabilities act, is not possible without granting the variance. The criterion is met.

*CRITERIA b: The variance is necessary for the preservation of a property right of applicant substantially the same as owners of other property in the same zone or vicinity possess.*

FINDING: The setback variance is necessary to allow for compliance with the Americans with Disabilities Act, as is applicable to all other properties in the zone or vicinity. The existing building, being sited before setback standards were established, is hampered by those standards making expansions of any kind difficult.

*CRITERIA c: The variance would not be materially detrimental to the purposes of the Ordinance, the Comprehensive Plan, or to property in the same zone or vicinity in which the property is located or otherwise conflict with the objectives of any City policy.*

FINDING: The variance is not materially detrimental to the purposes of this Ordinance, the Comprehensive Plan, or other properties. It provides for a needed, and legally required, expansion without violating the clear vision area at the street intersection. It still leaves a substantial landscaped area between the new expansion and the paved street. The criterion is met.

*CRITERIA d: The variance request is the minimum variance which would alleviate the hardship.*

FINDING: The proposed lobby is designed to allow for free passage and movement of those with wheelchairs and other mobility limitations to the waiting area within the lobby, the ticket counter, the drinking fountain, and the restrooms. Reduction of this space would limit that functionality. The criterion is met.

### CONCLUSION

The proposed variance meets the standards necessary for approval and should be approved.

### RECOMMENDATION:

It is recommended the Planning Commission APPROVE the application and adopt the findings of fact found within the staff report.

*Suggested Motion: I move the Planning Commission approve the application of the North County Recreation District for a variance to corner lot setback requirements and adopt the findings of fact in the staff report as justification for the variance.*