



CITY OF HOOD RIVER

PLANNING DEPARTMENT

211 2nd Street, Hood River, OR 97031 Phone: 541-387-5210

**City Planning Commission
Monday, May 3, 2021
5:30 p.m.**

The City of Hood River is taking steps to limit exposure and spread of COVID-19 (novel coronavirus). In support of state and federal guidelines for social distancing, the City of Hood River will hold this meeting by using Zoom Conferencing. Should you wish to provide testimony at the public hearing, staff has provided the conference video and call line below. **We recommend that parties interested in participating in this manner contact City staff at least two hours prior to the meeting start time with their name, address, and how we can identify you in Zoom during the meeting (user ID or phone number).**

If you plan to testify, please contact Dustin Nilsen (d.nilsen@cityofhoodriver.gov) at least two hours prior to the meeting.

To Participate in or observe the public hearing, please use the following video link:

<https://us02web.zoom.us/j/87364209251?pwd=SU5aM3E2bCtyOXVpZmZpVVpBcUw1QT09>

**Or Telephone: (346) 248-7799 or (669) 900-6833
Webinar ID: 873 6420 9251
Passcode: 039290**

Members of the Planning Commission and City staff will participate remotely, they will not be on site at City Hall during the meeting. The audio recording of the meeting will be posted shortly after the meeting on the City's website. Please check the City's website for the most current status of planned public meetings. <https://cityofhoodriver.gov/administration/meetings/>

CITY OF HOOD RIVER PLANNING COMMISSION AGENDA

I. Call to Order

II. Planning Director's Update

III. Public Hearing

File No. 2020-35 INT

Proposal: Appeal of the Planning Director's decision to approve request to expand a legally established nonconforming structure through the addition of a (7' by 15') 108 square foot northern facing deck.

Location: 1011 Lincoln Street; Legal Description: 3N 10E 25CC Tax Lot 3103. The property is zoned Urban Standard Residential (R-2).

Property Owner: Susan Donnan

Applicant: Susan Donnan /Happy Healthy Homes

Appellant: Tina Lassen

IV. Minutes: Approval of Draft Minutes from February 16, 2021, March 15, 2020 & April 5, 2021

V. Adjourn

File No.: _____
Fee: \$ 250 9.132.151
Date Rec'd: 3/31/21

CITY OF HOOD RIVER APPEAL APPLICATION

(1/2 of appeal fee to be refunded if appellant prevails on appeal)

Submit the completed application form with three (3) complete paper copies including full- and reduced sized plans, one electronic copy (original .pdf) and appropriate fees to the City of Hood River Planning Department, 211 2nd St., Hood River, OR 97031. Additional paper copies may be required as determined by staff. If you have any questions, please contact the Planning Department at (541) 387-5210.

APPLICANT / APPELLANT:

Name: Tina Lassen

Address: 1009 Lincoln St
(physical) Hood River OR 97031

(mailing) same

(email) tina@tinalassen.com

Telephone: 541.490.2243 Cell Phone: same

Signature: Tina Lassen Date: _____

FILE BEING APPEALED: File Name Dennan 1011 Lincoln File #: 2020-35 INT

DATE OF NOTICE OF DECISION: March 19

DATE OF APPEAL: March 31
(must be within 12 days from the date of the Notice of Decision)

ACTION SUBJECT TO APPEAL: Notice of Decision re: Addition to non-conforming structure

BASIS FOR THIS APPEAL: On a separate sheet of paper, list in detail the specific grounds why the decision should be reversed or modified based on the applicable criteria or procedural error. The grounds shall be raised with sufficient specificity so as to afford the reviewing body an adequate opportunity to respond to each issue. Attached

APPLICANT QUALIFIES AS A PARTY BECAUSE: Neighboring Homeowner impacted by addition

March 31, 2021

Submitted by Tina Lassen, 1009 Lincoln Street, Hood River

With this document and accompanying fee, I am appealing the Notice of Decision for File 2020-35 INT, the Donnan renovation at 1011 Lincoln Street. I am the homeowner of 1009 Lincoln, the other half of the townhouse property in question.

Grounds of the appeal:

- The current decision is based largely on 17.05, Non-Conforming Uses and Structures, because 1011 Lincoln exceeds lot coverage standards. The code clearly states that the purpose of Chapter 17.05 is to “permit nonconformities to continue, but not to encourage their perpetuation.” Allowing the addition of a large elevated structure on a property that exceeds lot coverage standards is indeed encouraging its perpetuation.

- 17.05.030 states that a nonconforming structure may continue so long as “The structure is not enlarged, moved or altered in a way that increases its nonconformity.” This expansion further increases its non-conformity, adding considerable mass and visual intrusion to the front of the structure.

- 17.05.040 addresses exceptions for residential structures, but fails to take into account the effect on townhouses. The current decision would allow a deck THREE FEET from the adjacent homeowner’s deck. This creates a variety of safety and security issues.

- 17.05.040 also contradicts code language in 17.03.020 that governs setback requirements. Side yard setback requirements state that “No structure shall be placed closer than five (5) feet from the side property line.”

- The original non-conformity was created by a building and driveway that exceeded lot coverage. An elevated deck and the accompanying posts and footings create a new and different non-conforming use.

- According to 17.05.020, a non-conforming use cannot increase a nuisance. This addition is very much a nuisance, creating an unnecessary intrusion on the neighbors’ peace and privacy in an already dense neighborhood. Multiple neighbors submitted letters of opposition to this expansion.

- This decision relies heavily on vague, poorly written and contradictory code language in 17.05.040. What is the intent of this exception? Perhaps it could be useful for unusual situations regarding homeowner safety (for example, allowing a non-conforming railing for someone with health issues). But it is subordinate to 17.05, which states its purpose is “not to encourage” non-conformities. Allowing a homeowner to expand an existing 110-square-foot deck to a larger, 218-square-foot deck is encouraging (and one could argue, rewarding) a non-conforming structure.

- The original notice given to neighbors was insufficient. The project plan provided was blurry, difficult to read and incomplete. For example, the document provided gave no indication of the substantial footings and approximately 10-foot-high posts that would be part of this project. These posts are especially pertinent to me, since they could possibly interfere with the easement that my home has on the Donnan driveway, allowing access to my side garage door.

Thank you for your time and attention to this matter.



Tina Lassen



CITY OF HOOD RIVER

PLANNING DEPARTMENT

211 2nd Street, Hood River, OR 97031 Phone: 541-387-5210

STAFF REPORT & FINDINGS OF FACT NON-CONFORMING STRUCTURE INTERPRETATION

March 19, 2021

Application submitted: November 11, 2020
Application deemed complete: Dec, 11 2020
120-day deadline: April 10th, 2021

To: Joseph Rastovich, Happy Healthy Home LLC
Susan Donnan
From: Dustin Nilsen, Planning Director
RE: File No. 2020-35 –INT NCU Donnan Renovation 1011 Lincoln Street

I. BACKGROUND INFORMATION:

- A. **REQUEST:** Proposed modification of nonconforming structure. Applicant proposes a 15' 3" by 7' 1" (~108 square feet) elevated deck on the northern elevation of existing townhome. The current townhome development exceeds permitted lot coverage. (See Attachment "A.1", Preliminary Site Plan.)
- B. **APPLICANT:** Joseph Rastovich, Happy Healthy Home LLC
- C. **PROPERTY OWNER:** Susan Donnan
- D. **PROPERTY LOCATION:** 1011 Lincoln Street Legal Description: 3N10E25CC Tax Lot 3103. (See Attachment "B", Location Map.)
- E. **ZONING AND LAND USE:** Urban Standard Density Residential Zone (R-2).
- F. **PROPERTY SIZE:** Approximately 2,600 square feet.
- F. **SURROUNDING ZONING & LAND USES:**
North: R-2 zone, residential dwellings
South: R-2 zone, residential dwelling
East: R-2 zone, residential
West: R-2 zone, residential
- H. **APPLICABLE HOOD RIVER MUNICIPAL CODE (HRMC) CRITERIA:**
1. 17.09.040 - Administrative Actions
2. 17.03.020 - Urban Standard Density Residential Zone (R-2) Zone
3. 17.04 - Supplementary Provisions
4. 17.05 – Non-Conforming Uses and Structures
- J. **NEIGHBORING PROPERTY OWNER COMMENTS:** Property owners within 250 feet of the subject parcel were notified of this request on December 28, 2020. The following comments were submitted prior to decision and issuance of the staff report:

1. Tina Lassen, 1009 Lincoln Street
2. David Simon, PO BOX 855
3. Janelle Koester, PO BOX 1175
4. Thomas Post, PO BOX 1133

K. HISTORY:

1. Application Submitted November 11th, 2020
2. Application deemed incomplete December 11th, 2020
3. Notice of Application Submitted to Neighboring Property Owners within 250 ft. on December 28, 2020

L. ATTACHMENTS:

- Attachment "A.1" - Preliminary Plans and Application
- Attachment "B" - Location Map
- Attachment "C" - Comments received in response to the Notice of Application
- Attachment "D" – March 19, 2021, Notice of Decision

II. FINDINGS OF FACT:

1. HRMC 17.03.020 – URBAN HIGH STANDARD RESIDENTIAL ZONE (R-2)

A. Permitted Uses:

1. Detached single-family dwellings for residential and accessory structures
2. Duplexes for residential use
3. Manufactured homes for residential use
4. Mobile home parks subject to 17.12
5. Residential care facilities
6. Group residential, if less than fifteen (15) persons
7. Transportation facilities pursuant to 17.20.050(A)
8. Public parks, playgrounds, and related facilities in an approved subdivision, subject to site plan review
9. Accessory uses permitted when accessory to residential use:
 - a. Accessory dwelling units subject to HRMC 17.23
 - b. Bed and breakfast facilities subject to HRMC 17.04.110
 - c. Family day care subject to HRMC 17.04.100
 - d. Home Occupations in accordance with HRMC 17.04.100
 - e. Hosted Homeshares and vacation home rentals subject to HRMC 17.04.115
10. Townhouse projects for residential use including:
 - a. Two (2) townhouses subject to HRMC 17.19
 - b. four (4) or more townhouses subject to HRMC 17.16 and HRMC 17.19

FINDINGS: The subject parcel is currently developed with two attached dwellings configured as a townhome with associated driveways. The units were developed in 1980 prior to the establishment of 17.19, townhouse regulations, and under the R-2 designation. No change of the townhouse use is requested as part of the application. The request is a for a modification to the western structure at address 1011 Lincoln and does not propose a change to the existing use as townhouse.

C. Site Development Requirements Except for townhouse projects which are subject to HRMC 17.19, the minimum site development requirements are as follows:

1. The minimum lot or parcel size shall be 5,000 square feet.
2. Minimum requirement for building sites: Per detached single dwelling unit or duplex, a minimum of 5,000 square feet.
3. A minimum frontage of fifty (50) feet on a dedicated public street.
4. A minimum frontage of thirty (30) feet on a dedicated public cul-de-sac.
5. Lot Coverage: Subject to HRMC 17.04.120

FINDINGS: The subject parcel is approximately 2,600 square feet in area and was lawfully created in 1997 by partition 9706 (Planning Case Number 96-41). No request to modify the lot configuration or division of land is proposed. The site development standard in HRMC 17.03.020. requires 5,000 square feet of property for the first duplex, which can be divided under provisions listed in 17.19 and Title 16. As such, the site development standards would allow the townhouse unit use and existing use remains compliant with the size area requirements required for the dwelling.

The subject property includes 25 feet of frontage on Lincoln Street, ½ of the original lot frontage of 50 feet. The proposal is consistent with the minimum frontage standard for townhouses. The subject property does not include frontage on a cul-de-sac, thus HRMC 17.03.020.C(4) is not applicable.

The site was lawfully constructed in 1980 prior to the Lot Coverage Standard (Established in 2006 and listed under Item 5. The lot coverage standards and nonconforming status is discussed below in HRMC 17.04.120 and 17.05.

D. Setback Requirements: The minimum setback requirements shall be as follows:

1. No structure shall be placed closer than ten (10) feet from the public right-of-way line of a public dedicated street.
2. Garages that directly face adjacent streets shall be at least twenty (20) feet from the nearest public right-of-way lines of the public dedicated streets. Garages so constructed to not face an adjacent street may be ten (10) feet from the nearest right-of-way line of the dedicated public street. Detached garages so constructed to not face an adjacent public dedicated alley may be five (5) feet from the right-of-way line.
3. Side yard/rear yard.
 - a. No structure shall be placed closer than five (5) feet from the side property line.
 - b. Structures greater than twenty-eight (28) feet in height shall be eight (8) feet from the side property line.
 - c. No structure shall be placed closer than five (5) feet from the rear property line.
 - d. Projections may not encroach more than three (3) inches for each foot of required yard setback width.
 - e. Structures greater than 28 feet in height shall be ten (10) feet from the rear property line.

FINDINGS: HRMC 17.03.030.D includes standards for setbacks, the lines “beyond which a structure may not be built.” (HRMC 17.01.060). The Site Plan (Attachment A) depicts the proximity of the proposed buildings in relation to property lines. The proposal indicates a 24-foot setback, a 33-foot rear setback, and a six-foot setback from the west, with an existing two-foot exterior stair encroachment. All proposed aspects of the deck expansion are in compliance

with the setback requirements and no modification to the structure is requested to vary from the existing setback regulations.

- E. Maximum building height:** Thirty-five (35) feet for all uses except residential development; twenty-eight (28) feet for all residential development.

FINDINGS: The maximum height allowed for the townhouse is 28 feet as measured from existing grade. Pursuant to HRMC 17.01.060, building height is measured either from the highest existing grade adjacent to a building when the existing grade change is less than 10 feet, or at a point 10 feet above the lowest existing grade when the existing grade change is greater than 10 feet – whichever yields the greater building height. Based on the proposed elevations, the existing structure is approximately 25' in height as measured from grade and the proposed deck is 12' in height as measured from grade. Both less than the 28' height requirement. No modification to the overall height of the structure is proposed and the request complies with the R-2 height standard.

F. Parking Regulations:

1. All individual dwelling units, duplexes, and triplexes shall be provided with two (2) parking spaces for each unit on the building site, one (1) of which may be within the required front yard setback area.

FINDINGS: Townhouses shall provide two spaces per dwelling unit. Pursuant to HMRC 17.01.060, Definitions, parking spaces must be at least nine (9) feet wide and eighteen (18) feet long.

The proposed development maintains a single-car garage (1 space) that is accessed from Lincoln with one additional tandem space located on the paved driveway within the required front yard setback, for a combined total of two spaces. No change to the existing parking is proposed and the proposal complies with the required two space standard.

2. CHAPTER 17.04 – SUPPLEMENTARY PROVISIONS

17.04.020 Access. Every lot or parcel shall have access on a street other than an alley, for at least twenty (20) feet of width.

FINDING: As described above, the subject property has a 25-foot frontage and access on Lincoln Street, in excess of 20 feet of width, in conformance with this standard.

17.04.040 General Exceptions to Building Height Limitations. Vertical projections such as chimneys, spires, domes, towers, aerials, flagpoles, and similar objects not used for human occupancy are not subject to the building height limitations of this title.

FINDING: There are no changes to overall height of the structure and no exceptions required or evaluated.

17.04.120 Maximum Lot Coverage

A. Definitions:

1. Lot Coverage: The percentage determined by dividing (a) the area of a lot covered by the total (in square feet) of: (1) the footprint of the main building; and (2) the footprints of accessory buildings

(counting only buildings with footprints larger than one hundred fifty (150) square feet, or with two stories or more); and (3) parking pads and driveways; by (b) the gross area of the that lot.

2. Main Building Footprint Coverage: The percentage determined by dividing that area covered by a main building footprint by the gross area of the lot on which the main building is located. The main building footprint includes all parts of a main building that rest, directly or indirectly, on the ground, including, by way of illustration and not by limitation, bay-windows with floor area, chimneys, porches, decks supported by posts and with floor heights that are four (4) feet or higher above grade, cantilevered decks with horizontal projections that are four (4) feet or more, and covered breezeways connected to a main building.

B. Coverage: Maximum lot coverage applies to any residential dwelling lot in the “R” and “C-1” zones for all existing structures and new construction, except as provided below. Maximum lot coverage for residential dwellings is as shown in the table below.

1. When a detached garage is provided in the rear yard, the maximum lot coverage may be increased as shown in the table below.

2. When a porch is attached to the front elevation of the residential dwelling and has an area of at least sixty (60) square feet on the front of the building (exclusive of any wrap-around or side porch), the maximum coverage may be increased as in accordance with 17.04.

FINDING: Based on the information provided, the lot is 2,600 square feet in area and located within an R-2 zone that allows the building and parking area to cover 45% of the site, no additional garage or front porch coverage bonuses are applicable to the site. This regulation, if applied today would allow a maximum of 1170 square feet of the site to be covered by the main building footprint, driveway, and parking. As depicted in its site plan the site is covered with approximately 1,540 square feet of main building, driveway, and parking space, which does not conform to the underlying zoning designation. Constructed in 1980, the townhouses were established prior to maximum lot coverage standard adopted as Ordinance 1903 in 2006, and therefore are considered to be legally established, yet non-conforming to the lot coverage standard as addressed in 17.05 below. As proposed the deck expansion will occur exclusively over the existing driveway, which will not change the amount of lot coverage already calculated and lawfully established on site in compliance with the standard.

3. CHAPTER 17.05 – NON-CONFORMING USES & STRUCTURES

17.05.010 Purpose.

The purpose of this chapter is to permit nonconformities to continue, but not to encourage their perpetuation, and to ultimately bring all uses, buildings, and structures (except certain existing residential uses) into conformance with this ordinance and the Comprehensive Plan.

17.05.020 Nonconforming Use.

A use that was legally allowed when established, but which is no longer permitted in the zone, in which it is located, may continue so long as it complies with all the following requirements:

1. Expansion: A nonconforming use shall not be expanded or moved to occupy a different or greater area of land, building, or structures than the use occupied at the time it became nonconforming.

2. Discontinuance: If a nonconforming use is discontinued for any reason for more than twelve (12) consecutive months, any subsequent use shall conform to all of the regulations of the subject zone. For the purpose of this ordinance, rental payments, lease payments, or the payment of taxes shall not be alone or together sufficient to constitute continuance of the use.

3. Change of use: A nonconforming use change may be approved as an administrative action. A nonconforming use may change to another similar or less nonconforming use when the degree of nonconformity is not increased, no alterations are made to the structures, buildings, or parking areas which would increase the non-conformity, and the Planning Director affirmatively finds the following:

- a. Traffic: Traffic impacts generated by the use change are not increased.
- b. Nuisances: Noise, dust, and any other nuisance conditions are not increased.

FINDING: As described in section 17.03, the site is developed as a single family attached dwelling configured as a townhome with associated driveway. The proposed front deck expansion does not represent a change of use of the residential dwelling to a different use or the additional new uses, but rather a change to residential structure, and therefore above criteria are not applicable as the existing use remains compliant with the R-2 designation. The alteration proposed is to the structure itself and is covered under 17.05.030 and 17.05.040 below.

17.05.030 Nonconforming Structure

A. Continuation. A nonconforming structure that was allowed when established, but is no longer permitted in the subject zone because it does not conform to the existing height, setback, coverage, area, or other requirements, may continue so long as it complies with all of the following requirements:

1. The structure is not enlarged, moved, or altered in a way that increases its nonconformity; however, the structure may be altered to decrease in nonconformity.

2. If a nonconforming structure is damaged by any means, the structure may only be reconstructed or replaced to conform to its pre-damage nonconforming state. Otherwise, the structure shall be reconstructed in accordance with the provisions of this ordinance.

3. If a nonconforming structure is moved, it must conform to the standards of the zone to which it is moved.

FINDING: The structure is not being moved to another zone, nor is it considered to be damaged for the purpose of repair to its pre damage status, therefore section 2 and 3 are not applicable. However, section 1 does become applicable as the structure is proposed to be altered and increased in size through the addition of 108 square feet of raised decking. As proposed, the deck will meet the required height limits and underlying setback of to the front (Lincoln Street) 10', 5' to the side setback (west property line).

The current site exceeds the lot coverage requirements of 17.04.120. The following table provides a calculation overview of the site as it relates to the lot coverage standard, both before and after the deck expansion is contemplated. In summary, Hood River's Lot Coverage Standard, as outlined in 17.04.120 above, is calculated by adding the coverage of the main building footprint as well as parking pads and driveways. The code does not differentiate building coverage from parking and drive areas which are counted equally when evaluating the lot coverage standard. The standard

and implementation does not double count lot coverage in circumstances where a structure overhangs a calculated impervious surface such as a driveway or parking such as in this proposal. For this code analysis, the proposed deck expansion of 108 square feet is located over the existing driveway that is already counted against the maximum allowed lot coverage on the site, therefore the expansion over this area does not increase the coverage amounts or increase the non-conformity. This complies with the above standard, as the residential alteration and enlargement does not expand the nonconformity of the coverage requirements. Further 17.05.40 provides additional exceptions and allowances for alterations to existing residential structures and uses, with specific limits that are evaluated in the following section.

	Calculated Coverage Area Allowed	Calculated Coverage Area Proposed
Predevelopment Coverage	45% or 1,170 square feet	59% or 1,540 square feet
Post development Coverage	45% or 1,170 square feet	59% or 1,540 square feet
Lot Coverage Area Change		0 square feet coverage change

B. Maintenance and Repair. Ordinary maintenance and repair is permitted on any structure or portion of any nonconforming structure when:

1. The maintenance or repair conforms to the existing nonconforming structure.
2. The proposed maintenance or repair does not enlarge, move, or alter the structure in a way that increases its nonconformity.
3. The proposed maintenance or repair is not prohibited on the deed.

FINDING: The proposal is not considered maintenance or repair and therefore not exempt from regulation based the maintenance allowance.

17.05.40 Exceptions.

A. Any nonconforming structure being used for a residential use before the enactment of this ordinance may be:

1. Rebuilt if damaged or destroyed for any reason, provided the reconstructed building has the same or fewer number of residential units, and serves the same use as the original structure.
2. Continued for residential use whether or not the structure is continuously occupied, provided that the residential use is not changed to some other use.
3. Modified and or enlarged provided that:
 - a. The structure maintains the same or fewer number of residential units.
 - b. The setback requirements for residential dwellings are met. In cases where the structure does not meet the residential zoning setback standards, the modification or enlargement to the structure is allowed provided that any expansion does not further encroach upon the setback requirements.
 - c. The residential off-street parking requirement shall not be reduced.
 - d. The nonconforming structure is not located in an existing City right-of-way.
 - e. The modification or enlargement does not exceed the allowed maximum building height.

B. A nonconforming telecommunications tower that provides public emergency communications services may be moved to occupy a different area of land on the same parcel. This provision does not exempt the structure from compliance with other standards or procedures applicable to the use.

FINDING: Section A, parts 1 and 2, along with section B are not applicable to the request as the structure has been continuously used as a residence, is not a rebuild, nor a communication tower. However, Section 3 is applicable as the proposal expands the deck 108 square feet and represents a modification and/or enlargement of the existing residence and therefore request must be reviewed against the regulations of the code.

In response to Section 3 the project and residence may be modified and or enlarged provided that:
a. The structure maintains the same or fewer number of residential units.

Response and Finding: The current site consists of one townhouse dwelling and only one dwelling is proposed. Therefore, the standard is met as the proposal maintains the same number of units.

b. The setback requirements for residential dwellings are met. In cases where the structure does not meet the residential zoning setback standards, the modification or enlargement to the structure is allowed provided that any expansion does not further encroach upon the setback requirements.

Response and Finding: The current site meets the setback requirements and under the proposed configuration still meets the setback requirements of 10' from the street, 5' from the side yard, and 10' from the rear. Therefore, the standard is met and there is no impact to the conforming status.

c. The residential off-street parking requirement shall not be reduced.

Response and Finding: The current site has two off street parking spaces and the proposal will not reduce the number of off street parking spaces. Therefore, the standard is met and there is no impact to the conforming status for parking.

d. The nonconforming structure is not located in an existing City right-of-way.

Response and Finding: The current site is approximately 32 feet from the Lincoln Street Right of way, and as proposed, the structure will remain 24 feet from the right of way. Therefore, the standard is met and there is no impact to the Lincoln Street Right of Way.

e. The modification or enlargement does not exceed the allowed maximum building height.

Response and Finding: As depicted in sheet S1.0 of the Happy Healthy Homes building plan set for 1011 Lincoln Street, the current structure is shown at approximately 25' feet from grade. From the same sheet and plan set, the proposed deck is approximately 12 feet from grade resulting in no increase to overall building nor construction over the maximum allowed building height of 28'.

III. **CONCLUSION and DECISION:**

Based on the findings included above, staff concludes that the proposed expansion meets the criteria from 17.05 allowing alterations of non-conforming sites and structures. The application is hereby approved pending any appeal by parties with standing outlined in the Notice of Decision attached as Attachment D.



Dustin Nilsen

Date 3/19/2021

March 31, 2021

Submitted by Tina Lassen, 1009 Lincoln Street, Hood River

With this document and accompanying fee, I am appealing the Notice of Decision for File 2020-35 INT, the Donnan renovation at 1011 Lincoln Street. I am the homeowner of 1009 Lincoln, the other half of the townhouse property in question.

Grounds of the appeal:

- The current decision is based largely on 17.05, Non-Conforming Uses and Structures, because 1011 Lincoln exceeds lot coverage standards. The code clearly states that the purpose of Chapter 17.05 is to “permit nonconformities to continue, but not to encourage their perpetuation.” Allowing the addition of a large elevated structure on a property that exceeds lot coverage standards is indeed encouraging its perpetuation.
- 17.05.030 states that a nonconforming structure may continue so long as “The structure is not enlarged, moved or altered in a way that increases its nonconformity.” This expansion further increases its non-conformity, adding considerable mass and visual intrusion to the front of the structure.
- 17.05.040 addresses exceptions for residential structures, but fails to take into account the effect on townhouses. The current decision would allow a deck THREE FEET from the adjacent homeowner’s deck. This creates a variety of safety and security issues.
- 17.05.040 also contradicts code language in 17.03.020 that governs setback requirements. Side yard setback requirements state that “No structure shall be placed closer than five (5) feet from the side property line.”
- The original non-conformity was created by a building and driveway that exceeded lot coverage. An elevated deck and the accompanying posts and footings create a new and different non-conforming use.
- According to 17.05.020, a non-conforming use cannot increase a nuisance. This addition is very much a nuisance, creating an unnecessary intrusion on the neighbors’ peace and privacy in an already dense neighborhood. Multiple neighbors submitted letters of opposition to this expansion.
- This decision relies heavily on vague, poorly written and contradictory code language in 17.05.040. What is the intent of this exception? Perhaps it could be useful for unusual situations regarding homeowner safety (for example, allowing a non-conforming railing for someone with health issues). But it is subordinate to 17.05, which states its purpose is “not to encourage” non-conformities. Allowing a homeowner to expand an existing 110-square-foot deck to a larger, 218-square-foot deck is encouraging (and one could argue, rewarding) a non-conforming structure.
- The original notice given to neighbors was insufficient. The project plan provided was blurry, difficult to read and incomplete. For example, the document provided gave no indication of the substantial footings and approximately 10-foot-high posts that would be part of this project. These posts are especially pertinent to me, since they could possibly interfere with the easement that my home has on the Donnan driveway, allowing access to my side garage door.

Thank you for your time and attention to this matter.

Tina Lassen

TO: Dustin Nilsen, Planning Director

RE: File 2020-35 INT Donnan 1011 Lincoln Non-Conforming Use and Structure
Submitted: January 5, 2021

I am submitting comments to express my opposition to the application cited above, the addition of a 108-square-foot elevated deck to a non-conforming structure.

I am the owner of the other “half” of this structure, which was built in 1987 as a duplex and converted to a two-unit townhouse in 1996. The units are essentially two offset rectangles: My two-story unit extends farther north, Ms. Donnan’s one-story unit extends farther south. This affords us both some privacy on our front and back decks, since they are not side-by-side. Her proposed expansion negates the advantages of this design, and also poses some safety and security issues.

Most importantly, it does not meet the criteria for a granting a variance cited in Hood River municipal code. Because 1011 Lincoln is a non-conforming structure (exceeding lot coverage standards), section 17.18.030 specifies that a variance may only be granted if it meets ALL of the following criteria:

1. **There are unique or unusual circumstances which apply to the site which do not typically apply elsewhere.**
2. **The proposal’s benefits will be greater than any negative impacts on the development of the adjacent lawful uses; and will further the purpose and intent of this title and the Comprehensive Plan of the City.**
3. **The circumstances or conditions have not been willfully or purposely self-imposed.**
4. **The variance requested is the minimum variance which would alleviate the hardship.**

The applicant meets NONE of these criteria. There are no unusual circumstances nor hardships that necessitate this deck expansion. This is simply the desire of a homeowner with an existing 110-square-foot deck wanting an almost twice-as-large 218-square-foot deck.

Furthermore, 17.05.030 states that a non-conforming structure may continue as long as it "is not enlarged, moved, or altered in a way that increases its nonconformity." I suggest that this expansion does increase its nonconformity. The existing deck is atop the existing structure. The expanded deck would be elevated atop approximately 10-foot-high posts and extended toward Lincoln Street, adding considerable mass to the front of the building and substantial visual intrusion for the surrounding neighbors. It becomes a more flagrant non-conformity of what is already a non-conformity.

I see no justification for granting this variance. In fact, doing so would create a troubling precedent regarding other non-conforming structures in the city. I urge you to deny this application.

Thank you for your time.

Tina Lassen
1009 Lincoln St., Hood River
541/490-2263

To:

**Hood River Planning Commission – File 2020-35 INT
Hood River Building Department – Permit 413-20-000166-STR**

**Dustin Nilsen, Planning Director
City of Hood River
211 2nd Street
Hood River, OR 97031**

On March 19, 2021 a Staff Report & Findings of Fact approved a deck extension at 1011 Lincoln Street. The review was thorough and considered all applicable codes. An appeal was filed on March 31, 2021 by the adjacent owner of the townhouse property, Tina Lassen. We are submitting this response to both the Planning Commission and Building Department because there are also unresolved issues with the related structure remodel permit.

We understand that Tina Lassen is a member of the Planning Commission and as such, may have professional and personal relationships with members of both the Planning Commission and Building Department. We feel it is important to bring up these significant issues so that all decisions and remedies can be made with the full context and perspective of all parties.

We appreciate your attention on this.

Thank you.

**Susan Donnan
Milton Sigelmann, P.E.**

Page 2: Part 1 is our point-by-point a response to Ms. Lassen’s appeal, highlighted in yellow.

Page 6: Part 2 is a summary of significant, and in our opinion, disturbing code and law violations on Ms. Lassen’s part.

Page 9: This is our response to Ms. Lassen’s comments during the initial permit comment period in January.

Page 12: This is our response to David and Suny Simon’s comments during the initial comment period.

Page 16: This is our response to Janelle Koester’s comments during the initial comment period.

We did not receive the comments made by Thomas Post but would be happy to discuss any of his concerns that are different from the ones addressed in this document.

Part 1:

March 31, 2021

Submitted by Tina Lassen, 1009 Lincoln Street, Hood River. Response in yellow highlight.

With this document and accompanying fee, I am appealing the Notice of Decision for File 2020-35 INT, the Donnan renovation at 1011 Lincoln Street. I am the homeowner of 1009 Lincoln, the other half of the townhouse property in question.

Here is an architectural view of the remodel of 1011 with the proposed deck indicated by the red dashed line. Also an existing light blue metal screen is shown. Please note that the siding and garage door color on 1011 is different than that shown.



This view shows the scale of the project.



Grounds of the appeal:

- The current decision is based largely on 17.05, Non-Conforming Uses and Structures, because 1011 Lincoln exceeds lot coverage standards. The code clearly states that the purpose of Chapter 17.05 is to "permit nonconformities to continue, but not to encourage their perpetuation." Allowing the addition of a large elevated structure on a property that exceeds lot coverage standards is indeed encouraging its perpetuation.

We disagree. The property at 1011 Lincoln Street exceeds existing lot coverage standards that were not in place when it was built. There is absolutely no "encouragement of their perpetuation". The driveway is paved. The proposed deck extension does not add any more lot coverage. Thus, it is clear from the code that the deck does not affect the non-conformance as was determined by the Planning Director in the Staff Report & Findings of Fact.

- 17.05.030 states that a nonconforming structure may continue so long as "The structure is not enlarged, moved or altered in a way that increases its nonconformity." This expansion further increases its non-conformity, adding considerable mass and visual intrusion to the front of the structure.

We disagree. Because the deck extension will be over the existing driveway which is paved, the amount of lot coverage is not increased. Also, the deck extension is within the scale of the building. People who have seen the plans very much like the look. As can be seen in the architectural views, "considerable mass and visual intrusion" is not added to the front of the structure. "Considerable mass and visual intrusion" is more like the nine feet of living space and four feet of deck that Ms. Lassen added to the front of her townhouse in a remodel 12 years ago. Our deck extension is considerably less intrusive as can be seen in the architectural views.

- 17.05.040 addresses exceptions for residential structures, but fails to take into account the effect on townhouses. The current decision would allow a deck THREE FEET from the adjacent homeowner's deck. This creates a variety of safety and security issues.

The deck extension three feet from Ms. Lassen's deck was designed to meet fire codes. We also chose to offset it back from the front of her deck by 2 feet for visual reasons and to allow for easier screening between the two decks. Ms. Lassen already has a metal barrier that could easily be extended. There is no safety or security issue any different from what exists now. We also had the option of extending the deck without a three feet offset and adding a wall to the ground to meet fire code. We chose a three foot offset design with consideration to Ms. Lassen's use of her property.

Ms. Lassen suggests that adjacent decks on townhomes is somehow an unusual situation. She emphasizes "three feet" which happens to be per code. Numerous examples of both old and new similar structures can be found within a few blocks of our residences.



View of houses on Wasco, just a few blocks away.



View of new construction on Oak Street.

•17.05.040 also contradicts code language in 17.03.020 that governs setback requirements. Side yard setback requirements state that "No structure shall be placed closer than five (5) feet from the side property line."

This is a townhouse. The part of the code cited is not applicable. When Ms. Lassen extended her deck 12 years ago, she did so right on the property line. In some cases, she actually crossed the property line. Apparently, she feels others should have different rules applied to their projects than she uses.

•The original non-conformity was created by a building and driveway that exceeded lot coverage. An elevated deck and the accompanying posts and footings create a new and different non-conforming use.

We disagree. The non-conformance is not altered per previous discussion. There is nothing non-conforming about the posts and deck.

•According to 17.05.020, a non-conforming use cannot increase a nuisance. This addition is very much a nuisance, creating an unnecessary intrusion on the neighbors' peace and privacy in an already dense neighborhood. Multiple neighbors submitted letters of opposition to this expansion.

A nuisance is anything that results in an invasion of one's legal rights. It involves an unreasonable or unlawful use of property that results in material annoyance, inconvenience, discomfort, or injury to another person or to the public. The deck extension is a reasonable and lawful use of our property. There is nothing inherent in the proposed deck which should cause any annoyance, inconvenience, discomfort, or injury. Just because Ms. Lassen would rather there not be a deck extension on 1011 is not a sufficient reason to deny an approval. "Peace" is independent of the extension of the deck. It comes from neighbors respecting each other and acting to minimize disruptions such as noise. We have always done that and will continue to do so. "Privacy" is easily accomplished by screening. Ms. Lassen fails to mention that she has a window that overlooks our deck which is in violation of her approved building drawings and fire codes. She has thus far refused to remove this window which we can easily access. Her concern for security and privacy seem to be exhibited only when convenient for her point of view.

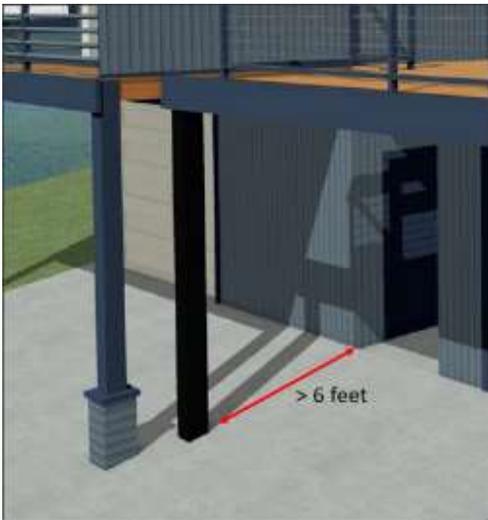
As far as other neighbors who have opposed the deck extension, we recognize the right for anyone to comment and follow the approval and appeal process. And we also recognize that Ms. Lassen is within her rights to recruit neighbors to her cause. But we feel it is important to note that of the three neighbors besides Ms. Lassen who opposed the extension, one lives four houses to the east, one lives four houses to the west, and the one who lives across Lincoln St. is mostly concerned about property values which we have addressed in a separate response. None of the neighbors opposing the extension other than Ms. Lassen spoke with us or our contractor about the project. It also should be noted that the adjacent owner to the west at 1015 Lincoln did not oppose the expansion.

•This decision relies heavily on vague, poorly written and contradictory code language in 17.05.040. What is the intent of this exception? Perhaps it could be useful for unusual situations regarding homeowner safety (for example, allowing a non-conforming railing for someone with health issues). But it is subordinate to 17.05, which states its purpose is "not to encourage" non-conformities. Allowing a homeowner to expand an existing 110-square-foot deck to a larger, 218-square-foot deck is encouraging (and one could argue, rewarding) a non-conforming structure.

We disagree. The non-conformance existed legally and the deck extension does not alter it as discussed previously.

•The original notice given to neighbors was insufficient. The project plan provided was blurry, difficult to read and incomplete. For example, the document provided gave no indication of the substantial footings and approximately 10-foot-high posts that would be part of this project. These posts are especially pertinent to me, since they could possibly interfere with the easement that my home has on the Donnan driveway, allowing access to my side garage door.

We believe a clear copy of the project is available. The examples given are totally immaterial. Ms. Lassen fails to mention that her deck is supported by a similarly sized post. Our post will be close to hers and completely on our property, which she cannot honestly claim the same. The distance from our post to the corner of her house will be greater than 6 feet. There is absolutely no interference with her easement. Ms. Lassen also fails to mention that she also has a footing that supports her post, and that in her case both the post and the footing extend beyond the property line which is unlawful without permission which she does not have. We will address this in Part 2.



Thank you for your time and attention to this matter.

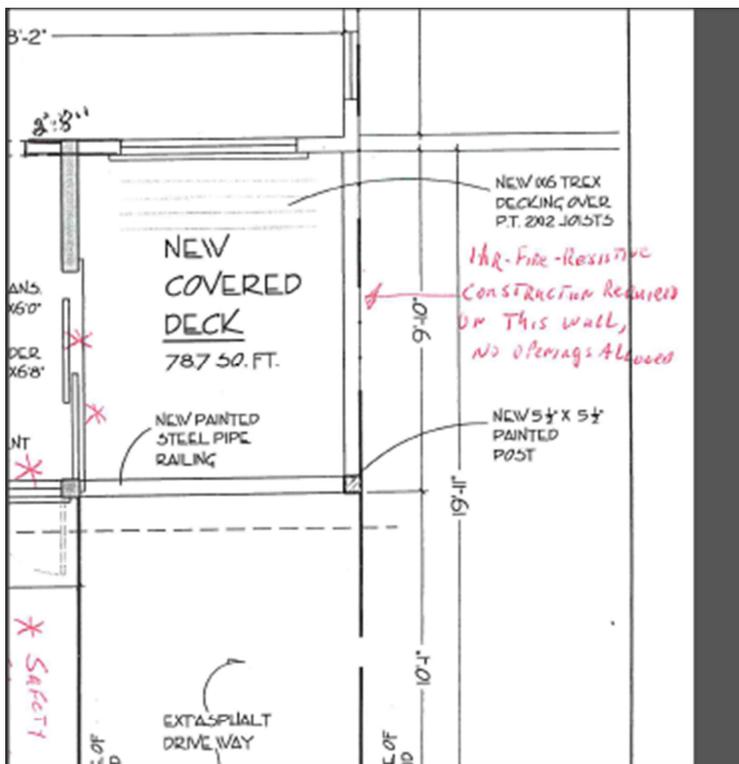
Tina Lassen

Summary of Part 1:

Based on the original approval and consideration of the appeal and response, we respectfully request that you deny the appeal and approve our deck extension. Thank you.

Part 2:

Issue 1: We have an existing permit for the remodel of 1011 Lincoln St. that involves kitchen, back deck, exterior stairs, and other upgrades. As part of the review process, the Building Department identified that two common windows between 1011 and Ms. Lassen's half of the townhouse at 1009 did not meet fire code because they need to have a 2 hour fire rating. In June 2021, the Building Department spoke with Ms. Lassen and we were sent an email detailing that the windows would need to be removed and repaired so that the required fire separation was established. As such, we removed the window that overlooks Ms. Lassen's back yard and replaced it with a wall that meets the code requirements. But Ms. Lassen has refused to comply with code. She has made statements such as "The window has been there for 20 years and it's been fine". What makes this particularly egregious is that when we started investigating the permits for her remodel 12 years ago, we found several significant issues. Her plans were reviewed and approved by the City of Hood River Building Department on January 18, 2008. But it was approved with a number of notes including:



1009 Lincoln St. Approved Plans, page A-3

The note reads: "1 hr fire-resistive construction on this wall, no openings allowed". We are not sure why it was not a 2 hour rating, perhaps that was the code at the time. But what is clear is that the window which Ms. Lassen refuses to remove was never permitted and in fact, was explicitly disallowed.

Issue 2: When Ms. Lassen remodeled 12 years ago, she replaced the fixed window that did not meet fire code with an opening window which opens out onto our adjacent property. This further degraded the fire rating. She chose to ignore clear deed restrictions which state that no change can be made to the common wall without mutual approval, which she did not get from us. Ms. Lassen has been quick to remind us of the clause in the deed but in multiple cases is unwilling to follow it herself.

Issue 3: Because of the window issue we became concerned that Ms. Lassen's addition was not in compliance with code in other ways. This affects us because, as a townhouse, the structural integrity of 1009 can significantly affect our own structural integrity. We know that an engineering analysis was done which looks to be correct. But in looking at the permit, we saw that there is no record of it ever being signed by the Building Official which is required

by code and is stated in bold lettering at the bottom of the permit. We believe that she does not have a valid final permit and her remodel never passed final inspection which is why the window was not removed at the time per code.

12 NOTICE Separate permits are required for Electrical, Plumbing, Mechanical, Fire Safety, and Right-of-Way.

This permit becomes null and void if work or construction authorized is not commenced within 180 days, or if construction or work is suspended or abandoned for a period of 180 days at any time after work is commenced.

I agree to comply with all ordinances concerning the construction or repair of sidewalks adjacent to the building site. I hereby certify that I have read and examined this application and know the same to be true and correct. All provisions of laws and ordinances governing this type of work will be complied with whether specified herein or not. The granting of a permit does not presume to give authority to violate or cancel the provisions of any other state or local law regulating construction or the performance of construction.

SIGNATURE OF CONTRACTOR OR AUTHORIZED AGENT (DATE) 1-9-08

SIGNATURE OF OWNER (IF OWNER BUILDER) (DATE) 1/9/08

PERMIT RECEIVED BY (DATE)

Occupancy Classification	Type of Const.	Use Zone
Size of Bldg. (Total Sq. Ft.)	No. of Stories	Fire Signaled <input type="checkbox"/> Yes Required <input type="checkbox"/> No
No. of Dwelling Units	No. of Bedrooms	

SPECIAL CONDITIONS: AS PER UBC REQUIREMENTS: THIS BUILDING PERMIT IS ISSUED SUBJECT TO APPLICANT'S COMPLIANCE WITH THE REQUIREMENTS OF THE OREGON STATE SPECIALTY CODE & FIRE LIFE SAFETY REQUIREMENTS.

APPROVED BY BUILDING OFFICIAL (DATE)

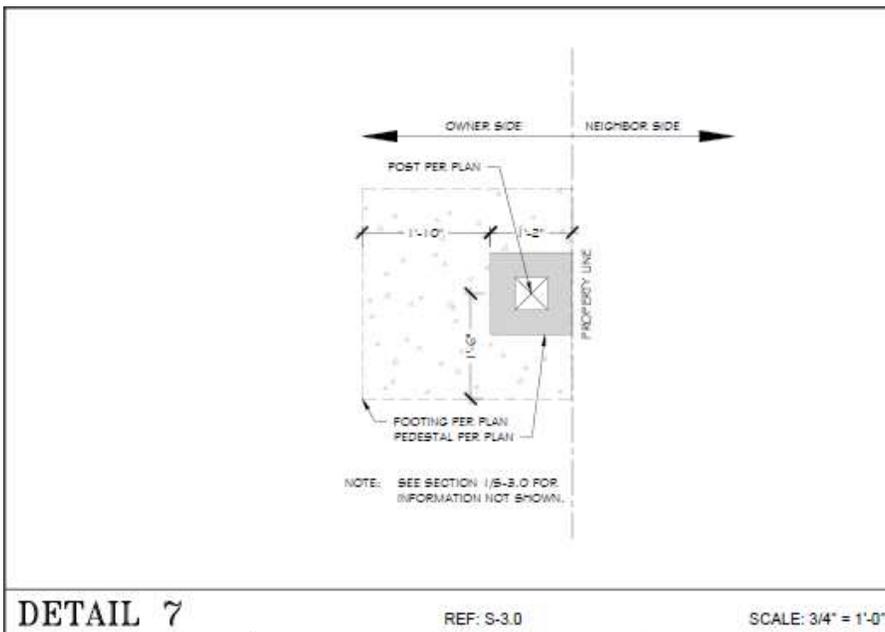
Not approved for issuance until signed by Building Official

Part 1 - Office Copy - White Part 2 - Applicant - Canary Part 3 - Assessor - Pink

PLAN REVIEW STRUC.	\$ 319.96
PLAN REVIEW F&L SAFETY	
PLANNING DEPT.	30
ENGINEERING DEPT.	30
FIRE DEPT.	30
SUBTOTAL FEE	409.96
DATE PAID	1/9/08
RECEIPT NO.	14468
PERMIT	41235
STATE SURCHARGE	59.07
SEWER CONN.	
WATER CONN.	
TRANSPORTATION	
MECHANICAL	
RIGHT-OF-WAY	
RECORDING	
OTHER Storm	216.00
OTHER	
SUBTOTAL FEE	577.93
DATE PAID	1/30/08
RECEIPT NO.	44510
GRAND TOTAL	\$ 987.28

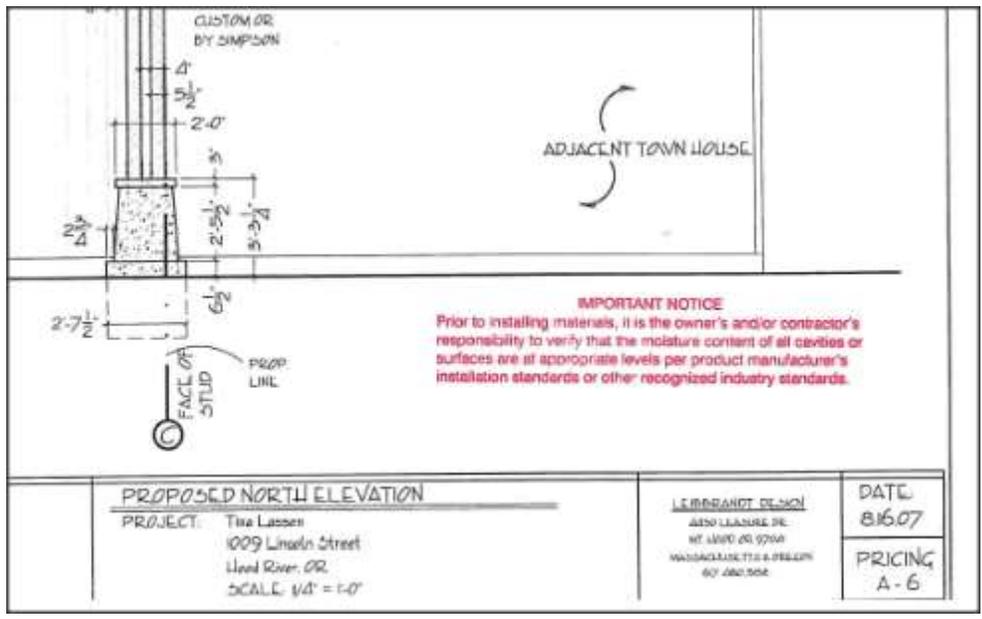
1009 Lincoln Building Permit 08-003

Issue 4: Ms. Lassen references in her appeal a "substantial footing". Below is the approved design of the footing for supporting our deck on the east side (adjacent to 1009). What should be noted is that it is of a similar size to Ms. Lassen's footing but ours is entirely on our side of the property line. We realize there may be some disruption right at the line but there will be absolutely no disruption to parking or other uses because Ms. Lassen's post is located to her side and provides an additional buffer.

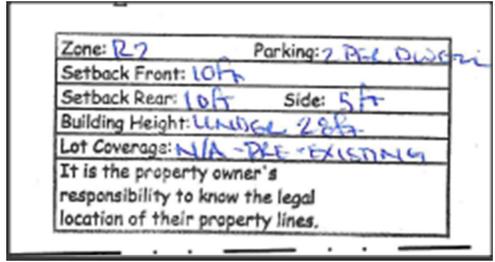


1010 Lincoln St. Approved Plans, page S-3.0

We would like to point out that by design, Ms. Lassen’s footing crosses our property line which is unlawful without permission. The footing and property line are clearly shown on her plans. Further, the bottom wrapping on her post extends 5” into our parking area. On the same drawing is the note: “It is the property owner’s responsibility to know the legal location of their property lines.”



1009 Lincoln St. Approved Plans, page A-7



1009 Lincoln St. Approved Plans, page A-2

Summary of Part 2:

It is not in any way a comfortable thing to have to address these issues publically especially with a neighbor. But Ms. Lassen has been unwilling to discuss any of them in good faith. Ms. Lassen doesn’t seem to think that the codes and laws apply to her. It is possible that she was unaware at the time of all these issues. That is disturbing in itself. As a member of the Planning Commission, one would think she would understand and follow the rules. But without a doubt she has known about every one of these issues for over a year and has chosen to ignore and obfuscate resolution. So we are once again asking the City of Hood River to enforce the following items:

Issue 1: Direct Ms. Lassen to remove the window overlooking our deck and replace it with a fire rated wall immediately.

Issue 3. Conduct all inspections so that the building permit for 1009 Lincoln Street issued in 2008 is finalized and per code.

To:

Hood River Planning Commission – File 2020-35 INT

Hood River Building Department – Permit 413-20-000166-STR

On January 5, 2021 the adjacent owner of the townhouse property, Tina Lassen, submitted comments in opposition to the addition of a deck in front of our half of the townhouse structure. Our response is highlighted in yellow.

TO: Dustin Nilsen, Planning Director

RE: File 2020-35 INT Donnan 1011 Lincoln Non-Conforming Use and Structure

Submitted: January 5, 2021

I am submitting comments to express my opposition to the application cited above, the addition of a 108-square-foot elevated deck to a non-conforming structure.

I am the owner of the other “half” of this structure, which was built in 1987 as a duplex and converted to a two-unit townhouse in 1996. The units are essentially two offset rectangles: My two-story unit extends farther north, Ms. Donnan’s one-story unit extends farther south. This affords us both some privacy on our front and back decks, since they are not side-by-side. Her proposed expansion negates the advantages of this design, and also poses some safety and security issues.

Most importantly, it does not meet the criteria for a granting a variance cited in Hood River municipal code. Because 1011 Lincoln is a non-conforming structure (exceeding lot coverage standards), section 17.18.030 specifies that a variance may only be granted if it meets ALL of the following criteria:

- 1. There are unique or unusual circumstances which apply to the site which do not typically apply elsewhere.**
- 2. The proposal’s benefits will be greater than any negative impacts on the development of the adjacent lawful uses; and will further the purpose and intent of this title and the Comprehensive Plan of the City.**
- 3. The circumstances or conditions have not been willfully or purposely self-imposed.**
- 4. The variance requested is the minimum variance which would alleviate the hardship.**

The applicant meets NONE of these criteria. There are no unusual circumstances nor hardships that necessitate this deck expansion. This is simply the desire of a homeowner with an existing 110-square-foot deck wanting an almost twice-as-large 218-square-foot deck.

Ms. Lassen cites code and criteria for a variance. As a member of the Planning Commission, she is well aware that no variance was required or requested. None of the previous points are relevant to this situation.

Furthermore, 17.05.030 states that a non-conforming structure may continue as long as it “is not enlarged, moved, or altered in a way that increases its nonconformity.” I suggest that this expansion does increase its nonconformity. The existing deck is atop the existing structure. The expanded deck would be elevated atop approximately 10-foot-high posts and extended toward Lincoln Street, adding considerable mass to the front of the building and substantial visual intrusion for the surrounding neighbors. It becomes a more flagrant non-conformity of what is already a non-conformity.

This statement is misleading in several ways.

First, the property at 1011 Lincoln Street exceeds existing lot coverage standards that were not in place when it was built. The non-conformance is for lot coverage to existing standards. By code, the deck extension does not add to the non-conformance. Thus, there is no added non-conformity.

Second, Ms. Lassen mentions 10-foot-high posts which are very similar in size to the posts supporting her deck and living space.

Third, it is hard by any measure to state that the proposed deck extension shown adds “considerable mass to the front of the building and substantial visual intrusion for the surrounding neighbors”. Ms. Lassen fails to mention that her remodel twelve years ago added nine feet of living space and four feet of deck to the front. Her concern for the “visual intrusion” for her neighbors seems to be very selective. If anything, our deck extension provides balance to the front of the structure.

This view shows the scale of the project



I see no justification for granting this variance. In fact, doing so would create a troubling precedent regarding other non-conforming structures in the city. I urge you to deny this application.

Again, no variance is required or requested. The non-conformance is not increased per code. There is no precedent set.

Thank you for your time.

Tina Lassen
1009 Lincoln St., Hood River
541/490-2263

On January 12, 2021 David and Suny Simon submitted comments in opposition to the addition of a deck in front of our half of the townhouse structure at 1009 / 1011 Lincoln Street. Our response is highlighted in yellow.

**DAVID & SUNY SIMON
1012 LINCOLN STREET
P. O. B 855
HOOD RIVER, OR 97031
(541) 490-2395**

January 12, 2021

Dustin Nilsen
Planning Director
City of Hood River
211 2nd Street
Hood River, OR 97031

via email: d.nilsen@cityofhoodriver.gov

RE: 2020-35 INT
Donnan 1011 Lincoln Non-Conforming Use and Structure Determination

Dear Mr. Nilsen:

Thank you for your December 28, 2020 notice regarding the above-referenced application. We reside directly across the street from the subject property. After thoughtful consideration of the applicant's proposal, we object to the proposal and urge the City not to approve the proposal. Our objection is based upon the matters described below.

Our primary concern is that allowing the proposed deck expansion will reduce the value of the neighboring home at 1009 Lincoln Street (the "**1009 Property**") which directly adjoins the subject property. We believe this will be the case since the proposed deck expansion would allow occupants of the subject property to look directly into the 1009 Property's currently private living area. (See illustration below). This impact on their privacy will adversely affect the 1009 Property's livability, as its occupants will likely need to use window treatments to limit light and views from their southwest windows or limit their use of the front of their home in order to preserve their privacy. With these limitations, a sale of the 1009 Property will likely result in a lower sale comparable than it would if sold absent the proposed deck's construction. This in turn will likely impact our property value as well as that of our neighbors.

The Simons state that their primary concern is a reduction of property values due to the proposed remodel. While this is not a criteria in any of the applicable codes in this case, it is hard to imagine that the numerous upgrades done in this remodel could do anything but increase the property values of both the adjacent owner of 1009 and other nearby neighbors. Below are pictures of the building before, currently, and a rendering with the proposed deck extension.



The Simons are also concerned with Ms. Lassen's privacy and the effect that our deck will have on her property value. She already has a partial screen on her deck which can easily be expanded. It is not difficult to implement reasonable privacy methods as is done commonly between neighbors in cities. The premise that an easily remedied privacy issue will decrease property values especially considering the entirety of the remodel, is not compelling.

It should also be noted that Ms. Lassen has a window that overlooks our existing deck. This window was explicitly disallowed in her approved building drawings from her remodel twelve years ago. The building department has recently identified this window again as not meeting fire code and needs to be removed. Furthermore, when Ms. Lassen remodeled her townhouse, she replaced the existing window with one that opens onto our deck, which is clearly a violation of her deed. Ms. Lassen has thus far refused to remove this window. So it seems a little disingenuous to claim concern for privacy when she has a window overlooking our existing deck, which is illegal, and which she refuses to remove.

HRMC 17.05.020.3 does not allow an administrative action to approve a change of a nonconforming use if the Planning Director finds that the change will increase a nuisance. If one considers the proposed deck enlargement's privacy impacts on the 1009 Property to be a nuisance, the proposal should thus be denied.

A nuisance is anything that results in an invasion of one's legal rights. It involves an unreasonable or unlawful use of property that results in material annoyance, inconvenience, discomfort, or injury to another person or to the public. The deck extension is a reasonable and lawful use of our property. There is nothing inherent in the proposed deck which should cause any annoyance, inconvenience, discomfort, or injury.

Of further concern, the proposed deck expansion would, in our opinion, degrade the aesthetics and curb appeal of the combined 1009 Property and the subject property by adding an inappropriate amount of mass to the front of these properties and degrading the current structures' articulation and well-balanced planes. The combination of these factors would adversely impact the neighborhood as it would be out of character with neighboring homes which do have thoughtfully balanced articulation and massing.

While the "curb appeal" is not a valid criteria for disallowing the deck extension, we disagree with this assessment. The 1009 property has a large living space heavily weighted to the east side which was added on twelve years ago along with other major structural changes. It is difficult to understand how our deck extension adds "an inappropriate amount of mass to the front" when the much more substantial addition of nine feet of living space and four feet of deck done by the owner of 1009 doesn't seem to be of concern. The extension of our deck actually adds balance to the appearance. The picture below show clearly that the proposed extension will be to scale for the property and improve the aesthetics.

This view shows the scale of the project.



While expanding the subject property's deck may benefit its occupants, we believe these benefits are less than the greater negative impacts such an expansion would have upon the neighbors and the neighborhood.

Respectfully,

David & Suny Simon



On January 8, 2021 Janelle Koester submitted comments in opposition to the addition of a deck in front of our half of the townhouse structure at 1009 / 1011 Lincoln Street. Our response is highlighted in yellow.

January 8, 2021

TO: Dustin Nilsen, Planning Director
RE: File 2020-35 INT Donnan 1011 Lincoln Non-Conforming Use & Structure
Submitted 1/7/21

To Whom it May Concern:

I'm submitting comments to state my opposition to the proposed 7x15' deck on the North side of the Donnan residence.

I am not against variances as a rule and believe there are certain instances where granting a variance is sensible. However, I do not believe this situation warrants a variance for several reasons.

No variance was required or requested.

Safety: In times of COVID and the lockdown of restaurants and even rules on outdoor density, it would seem negligent of the city to allow this deck extension on the upwind unit. The condos were obviously designed to give each unit some privacy and I think that privacy should be respected.

Concern for Covid is not a criteria for disallowing the deck extension.

As far as privacy, there already is a partial screen on the deck which can easily be expanded. It is not difficult to implement reasonable privacy methods as is done commonly between neighbors in cities.

Lot Coverage: The 1011 Lincoln deck addition would exceed current lot coverage rules. If we allow this, it sets a precedent saying that lot coverage does not matter.

This is not accurate. The property at 1011 Lincoln Street exceeds existing lot coverage standards that were not in place when it was built. The non-conformance is for lot coverage to existing standards. By code, the deck extension does not add to the non-conformance. Thus, there is no added non-conformity.

Scale: In my opinion, the new, huge homes being built in this quaint neighborhood are saddening. Current zoning already allows for homes that are largely out of scale with existing structures in this historic neighborhood. I cannot support the approval of this

variance because of the proposed size.

The townhouse at 1009 was altered twelve years ago by a major remodel including adding 9 feet of living space and 4 feet of deck and to the front (north) and . That remodel added much more structure to which Ms. Koester doesn't seem to object. The proposed size of this deck extension is well within the scale of the structure and is totally independent of the issues of huge homes being built in the neighborhood.

This view shows the scale of the project.



Thank you for your consideration,
Janelle Koester

January 8, 2021

TO: Dustin Nilsen, Planning Director
RE: File 2020-35 INT Donnan 1011 Lincoln Non-Conforming Use & Structure
Submitted 1/7/21

To Whom it May Concern:

I'm submitting comments to state my opposition to the proposed 7x15' deck on the North side of the Donnan residence.

I am not against variances as a rule and believe there are certain instances where granting a variance is sensible. However, I do not believe this situation warrants a variance for several reasons.

Safety: In times of COVID and the lockdown of restaurants and even rules on outdoor density, it would seem negligent of the city to allow this deck extension on the upwind unit. The condos were obviously designed to give each unit some privacy and I think that privacy should be respected.

Lot Coverage: The 1011 Lincoln deck addition would exceed current lot coverage rules. If we allow this, it sets a precedent saying that lot coverage does not matter.

Scale: In my opinion, the new, huge homes being built in this quaint neighborhood are saddening. Current zoning already allows for homes that are largely out of scale with existing structures in this historic neighborhood. I cannot support the approval of this variance because of the proposed size.

Thank you for your consideration,
Janelle Koester

DAVID & SUNY SIMON
1012 LINCOLN STREET
P.O.B 855
HOOD RIVER, OR 97031
(541) 490-2395

January 12, 2021

Dustin Nilsen
Planning Director
City of Hood River
211 2nd Street
Hood River, OR 97031

via email: d.nilsen@cityofhoodriver.gov

RE: 2020-35 INT
Donnan 1011 Lincoln Non-Conforming Use and Structure Determination

Dear Mr. Nilsen:

Thank you for your December 28, 2020 notice regarding the above-referenced application. We reside directly across the street from the subject property. After thoughtful consideration of the applicant's proposal, we object to the proposal and urge the City not to approve the proposal. Our objection is based upon the matters described below.

Our primary concern is that allowing the proposed deck expansion will reduce the value of the neighboring home at 1009 Lincoln Street (the "**1009 Property**") which directly adjoins the subject property. We believe this will be the case since the proposed deck expansion would allow occupants of the subject property to look directly into the 1009 Property's currently private living area. (See illustration below). This impact on their privacy will adversely affect the 1009 Property's livability, as its occupants will likely need to use window treatments to limit light and views from their southwest windows or limit their use of the front of their home in order to preserve their privacy. With these limitations, a sale of the 1009 Property will likely result in a lower sale comparable than it would if sold absent the proposed deck's construction. This in turn will likely impact our property value as well as that of our neighbors.

HRMC 17.05.020.3 does not allow an administrative action to approve a change of a nonconforming use if the Planning Director finds that the change will increase a nuisance. If one considers the proposed deck enlargement's privacy impacts on the 1009 Property to be a nuisance, the proposal should thus be denied.

2020-35 INT Donnan 1011 Lincoln

January 12, 2021

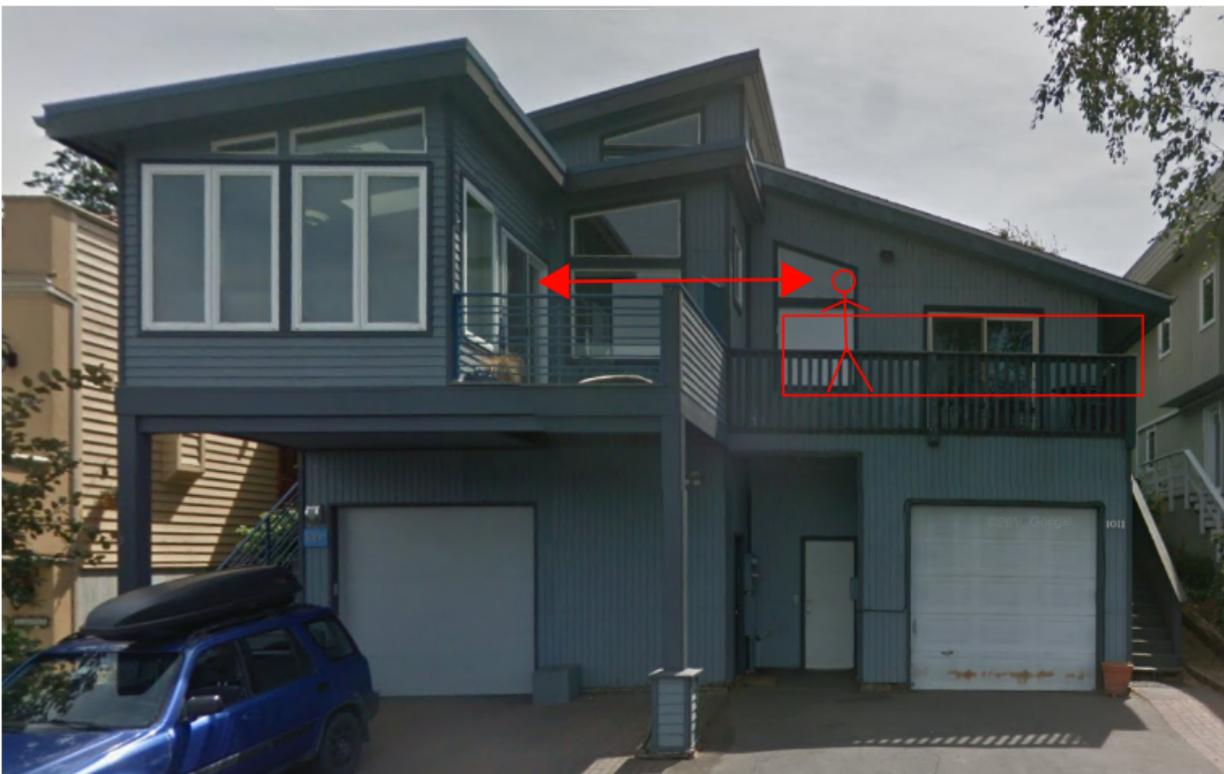
Page 2 of 2

Of further concern, the proposed deck expansion would, in our opinion, degrade the aesthetics and curb appeal of the combined 1009 Property and the subject property by adding an inappropriate amount of mass to the front of these properties and degrading the current structures' articulation and well-balanced planes. The combination of these factors would adversely impact the neighborhood as it would be out of character with neighboring homes which do have thoughtfully balanced articulation and massing.

While expanding the subject property's deck may benefit its occupants, we believe these benefits are less than the greater negative impacts such an expansion would have upon the neighbors and the neighborhood.

Respectfully,

David & Suny Simon



From: [Janelle Koester](#)
To: [Dustin Nilsen](#)
Subject: 020-35 INT Donnan 1011 Lincoln Non-Conforming Use and Structure Determination
Date: Monday, April 26, 2021 9:02:29 AM

I'm writing to voice my opinion on the appeal of:

FILE NO. : 2020-35 INT Donnan 1011 Lincoln Non-Conforming Use and Structure Determination

When I moved to Hood River in 1994, part of the reason I chose this town and this neighborhood was its quaint appeal and friendly feeling. Although setbacks have increased slightly since 1994, large homes that maximize size continue to be built. Now Donnan is requesting an even larger addition to their home which already GREATLY exceeds current standards. Huge homes and ever-growing structures in this neighborhood that don't conform to guidelines, only make the neighborhood a less pleasant place to be. One could argue that it lessens the value of my home in this neighborhood.

I have to ask the Planning Commission, WHY do we have these rules and standards if we don't come close to enforcing them? And why do we allow structures already exceeding the guidelines to further encroach on coverage?

Thank you for your consideration of these comments,
Janelle Koester

janelledesigns.com, CEO, MBA, MCP
consultant, owner
541.380.2844

MINUTES

I. CALL TO ORDER: Chair Mark Frost called the meeting to order at 5:31 p.m.

PRESENT: Commissioners Mark Frost (chair), Sue Powers, Erika Price (by phone), Bill Irving, Amy Schlappi, Megan Ramey

ABSENT: Tina Lassen

STAFF: Planning Director Dustin Nilsen, Senior Planner Kevin Liburdy, Associate Planner Jennifer Kaden

II. PLANNING DIRECTOR'S UPDATE:

We will discuss a TSP amendment in March (March 1 & 15) and we will have some quasi-judicial applications in April.

III. PUBLIC HEARING:

FILE NO. 2020-37

PROPOSAL: Middle Housing Code Updates

APPLICANT: City of Hood River

STAFF REPORT:

Chair Frost asked for suggestions for sequencing the discussion of highlights and changes in the draft code document. Commissioner Irving suggested discussing it section by section.

Director Nilsen shared the draft code document and started discussion with a couple definitions. He highlighted definitions for building height,

Chair Frost asked a question about building height and whether both the height and the methodology should mirror the rest of the city. Irving expressed interest in revising the building height definition ASAP separately and implementing it city-wide. Nilsen explained that the Council workplan includes auditing the zoning code but not looking at building height definition on its own. Commissioners asked about pros & cons of changing it for Missing Middle Housing ahead of looking at it city-wide. Irving suggested avoiding having the same definition in more than one section of the code. Option – A. keep same as rest of city; or Option B. allow 28' height but use new methodology to calculate the height (add back "Section K" diagram). Powers, Schlappi, Price said Option B; Ramey said keep it less confusing – Option A. Irving expressed interest in discussing the issue separately because there's more to it. Frost expressed concern that they wouldn't be able to update the building height definition soon. Consensus: leave methodology as is; but advocate for revisiting it sooner rather than later.

(~6:05) Commissioners discussed the cottage cluster definition. Irving said he thought it was eliminated. Nilsen explained the provisions differentiate cottage development from multi-family – when

there are four or more units in a development. Irving asked questions about unit sizes and floor area ratio and noted that 2 story cottages are encouraged by current language. Commissioner Powers recalled earlier versions for cottage clusters that was dismissed in previous conversations. Nilsen suggested that the cottage cluster is most applicable in the R-1 zone. Irving suggested defining “cottage” with a size limit. Frost likes limiting size and one or 1.5 stories, such as City of Portland. Frost and Irving suggested size limit of 1,000 square feet. Ramey asked why 1,000 vs 900 s.f. Powers agreed a cap of 1,000 sf. Consensus: cottage floor area not more than 1,000 s.f.

Irving asked a question in the Floor Area definition about “occupiable” and “regardless of finish.” Nilsen explained the definition comes from the building code and that an unfinished basement would count. Irving asked if “occupiable” could be defined. Nilsen said any space taller than 6’8” is considered occupiable. Irving wants to avoid including space that will never be used – e.g. area in crawl space on a sloped lot that is more than 6’8” tall. Nilsen agreed to clarify (conditioned/climate controlled).

Nilsen summarized a new definition of landscape that is included. And definition of middle housing. Revise to include “cottage” in middle housing list.

Nilsen described updates to the CC&Rs section. Irving asked to change common ownership agreement to common maintenance agreement. Commissioners agreed. Schlappi asked if the definition should reference total floor area vs total square foot area. Nilsen explained the distinction.

Nilsen said he updated a comparison chart/matrix. Irving asked about size limit per unit vs. average size. Nilsen said part of the matrix articulates maximum number of units per building site.

Four Dwelling Unit configuration – Ramey had a question about Thrive’s recommendation. Nilsen said draft includes 4-unit structures.

Parking – Nilsen added language about rounding. Ramey asked if any portions of downtown would benefit from middle housing code. Nilsen said there is some C-1 downtown. Ramey asked about exempting parking downtown. Nilsen said the downtown district is eligible for fee in lieu. Ramey said paying \$3,000 for a parking space makes a development unaffordable. Powers said the fee in lieu reduction was significant (\$20k to \$3k). Consensus: don’t exempt downtown.

Irving asked about 50% parking in front yard. Nilsen added language for conversions of existing structures. Option A – allow none in front setback Option B – allow 50% or one parking in front. Powers: 50% ok in front; Price agreed; Schlappi concerned w/20’ driveway in front; Ramey asked re: parallel parking in front. Nilsen clarified driveway access can be in front, but parking space itself in back. Frost is torn but because you have more units, prefers to encourage parking in back. Ramey asked about streets without sidewalk – allowing 2 parallel spots. Such as A Street, B Street. Nilsen said those streets are intended to have sidewalks eventually; parallel parking is not permitted in street sections. Irving suggested perpendicular parking in front setback. Options: A) one space; B) 50%; C) None. Ramey wants parking grouped near street; doesn’t support having parking in both front & back – worst case. Irving: 50% but limit curb cut (e.g. head-in parking). Powers ok w/50% in front with limitations on curb cut; Price & Irving agreed. Irving alternative – 50% or max 2 spaces. Powers advocated flexibility. Frost asked if other provisions affect location of structure in relation to street. Nilsen said this provision is intended to push units closer to the street. Allowing one space in the front is no different from current development standards. Irving recommended either A) 14’ driveway width + max one space in front setback; B) no parking in front setback. Irving = A; Price – tie the number allowed in front to

frontage or lot size. New Irving Proposal: 50% in front setback but not exceed 36% of frontage. Ramey – let developer figure it out, more flexibility, especially on streets without sidewalks. Powers – leaning toward parking in back. If allow some in front, we won't get more open space. Frost leans toward engaging the street with structures – keep as is (no parking in front).

A= Irving, Price, Ramey

B = Frost, Powers, Schlappi

Express split PC views on allowing parking in front vs. prescribing all in back.

What's left: FAR; conversion of an existing SFD. PC ok to continue to 8:00

(~7:34) Floor Area Ratio – Nilsen shared a screen with information from the Portland Infill Project. Hood River current dwelling size affected by lot coverage, setbacks, height. Irving asked how do we incentivize different sizes in multiple units; and how does our approach it? Nilsen said if you build more units, you get smaller units. It allows mixing and matching unit sizes to fit site. Portland dials back the FAR for a single-family and allow more FAR when more units. We haven't said we'll dial back FAR for current allowed uses (SFDs, etc). All of Hood River existing FAR equivalents are greater than Portland.

Public Comment –

Nancy Roach: appreciate the work tonight and thoughtful consideration. You have feedback from local developers. Keep in mind they need to make a profit. There are developers who will push every item to max it out. Parking is no win – everyone will complain.

PC Discussion resumed:

Nilsen shared a spreadsheet estimating Hood River existing FAR. Nilsen estimates using FAR will take down the building size. Right direction for compatibility (reduced scale); marketability – takes out a big bite. Powers asked what drove the Portland projection. Nilsen: a desire to reduce sizes of SFD and incentivize more dwelling units. Nilsen – we aren't scaling back what is permissible now. Powers – if we used FAR, we might have more probability of more units? Nilsen – only if you disincentivize a SFD. Ramey – what's wrong with that? Nilsen – it's a policy choice.

Irving wants to incentivize more smaller units. Wants to add back cottage in the matrix. Nilsen walked through sections of the matrix to describe current proposal vs. current code.

Irving – 1) do we allow a mix of big and small and 2) how do we deal with scenario of falling short by 500 s.f.

Nilsen – if do a mix of sizes, depends on site size.

Irving – what about a 7,000 s.f. site in R-1; 500 s.f. short of ability to do 3 units? Nilsen – Council ok w/2 units in R-1 (similar to current SFD + ADU). Allowing a 3rd unit would be a bigger jump.

(~8:03 p.m.) Frost summarized the proposed code is similar to using FAR. Nilsen said we have a little more sidebars to use size of lot or site as a driver or sidebars. And we aren't discounting existing SFD standards. Frost's concern about the chart – when add more dwellings it gets more dense; and that landscaping is basically what's left in setbacks.

Nilsen said the alternate % on landscaping is to consider whether you want more landscaping that essentially the setback areas. Irving – comfortable with proposed alternate % for landscaping, some additional green space in R-1 & R-2; Other commissioners agreed.

Consensus re: graduated number of units by site size is ok.

Irving – is plan to try to test fit this? Nilsen – plan is to get a recommendation to Council. Frost would like to see what some of these look like on a 5,000 s.f. lot.

Irving – what is timeframe for next steps? Nilsen – will craft this into a recommendation for Council for the March 8 meeting. Could we have another hearing on the final draft? Nilsen – Council will have the hearing, not PC. Irving – would be nice to test the waters in the development community before giving it to Council.

Nilsen – agree with benefit of test fitting but at some point we have to go with a recommendation. We’ve responded to many of the comments received. Can’t ask for too many test fits.

Irving wants some specific economics to go with a recommendation to Council. Frost worries about the economics and whether we’ll have any level of affordability. Nilsen – anything will sell; it’s only more affordable by way of size; it’s a market-driven product.

Nilsen will share the recommendation with the PC as advisory.

MOTION: Commissioner Irving moved to recommend File No. 2020-37 Missing Middle code set as amended during deliberations to Council. Ramey seconded the motion. Motion passed unanimously.

V. APPROVAL OF MINUTES

Commissioner Ramey moved to approve the minutes from February 1, 2021 as presented. Powers seconded. There was no further discussion. Motion passed unanimously.

V. ADJOURN

Frost adjourned the meeting at 8:27 p.m.

Mark Frost, Chair

Date

Dustin Nilsen, Planning Director

Date (Approved)

MINUTES

I. CALL TO ORDER: Chair Mark Frost called the meeting to order at 5:30

PRESENT: Commissioners Mark Frost (Chair), Bill Irving, Sue Powers, Tina Lassen, Megan Ramey, Amy Schlappi, Erika Price

ABSENT:

STAFF: Senior Planner Kevin Liburdy, Associate Planner Jennifer Kaden, John Bosket of DKS Associates

II. PLANNING DIRECTOR'S UPDATE: None.

III. PUBLIC HEARING:

File No. 2020-25 - Transportation System Plan Amendment - Continuation

Consider draft amendments to the City's Transportation System Plan.

Planning Commission Chair Mark Frost read the procedural script and asked the Commissioners to disclose any bias or conflicts in this matter. There were none. Frost asked for challenges from the audience; there were none.

STAFF REPORT: Kevin Liburdy, Senior Planner, provided a power point presentation on the matter including background and scope on the amendments, an overview of proposed amendments, a summary of projects proposed given current revenue estimates, a proposed list of projects if additional revenue is identified, and a brief overview of comments received via community survey and additional written comments.

John Bosket, DKS Associates, explained differences between the projects listed in the "Preferred Plan," Chapter 3 of the Transportation System Plan (TSP), and the projects listed in the "Financially Constrained Plan," Chapter 4. The financially constrained list includes the capital projects that can be funded with anticipated revenue through the year 2040. Projects that are not in the financially constrained plan still can be constructed if funding becomes available.

COMMISSIONER QUESTIONS:

Commissioner Irving asked about funding sources in addition to transportation SDCs. Liburdy said ODOT STIP funds are another source, as well as urban renewal funds. Those three are primary funding sources currently.

Commissioner Powers asked about accuracy of project cost estimates and how they were developed. Liburdy said the 2011 TSP cost estimates were starting point for projects adjusted by an annual index. In some cases there are known cost estimates for specific projects such as the Cascade/Rand signal, and Engineering department feedback were used to update cost estimates. Bosket added that there is stronger confidence in estimates for straight-forward projects than projects that involve steep topography or other complicated elements.

Irving asked about proportionate share districts. Liburdy confirmed there are two existing proportionate share districts, including for the Cascade/Rand signalization project, but they provide limited funding.

Liburdy presented a map of proposed projects assuming current revenue estimates (“without additional funding”) including interim improvements at I-84 Exit 62; right-of-way or easement acquisition for a section of a Henderson Creek trail; pedestrian crossings at Rocky Rd. & May St., and at 2nd & State; a roundabout at Mt. Adams & Cascade; sidewalk on one side of Rand Rd; and bike improvements on 17th, 18th & May in vicinity of Hood River Middle School.

Powers asked for clarification regarding “interim” for Exit 62 improvements. Liburdy responded the scope is narrower than a replacement of the interchange but the improvements would allow sufficient capacity of the interchange through 2040. Lassen asked about funds for this project; Liburdy responded funding is expected from ODOT for this project.

Irving asked about the new minor arterial, Westside Drive. Liburdy said it is recommended to be included on an expanded list of projects if additional revenue can be generated.

Commissioner Lassen asked for clarification about projects BL6b & BR6. Liburdy explained BL6b is a section of painted bike lane on May St. between 12th and 17th, and BR 6 is a bike route on 17th & 18th Streets that might include way finding signage and other minor improvements.

Commissioner Ramey asked for if project MV1/2 at Exit 62 includes vehicular improvements only; Liburdy responded that the project addresses vehicles, not bike/ped improvements, but a separate project for the Historic Columbia River Highway State Trail connection will revisit this.

Ramey asked how recommendations from other projects would be meshed with these projects. Liburdy responded that if recommendations of other projects such as the Historic Columbia River Highway State Trail corridor, Heights Streetscape Plan project, and Safe Routes to Schools Plan identify additional recommended projects, additional TSP amendments may be needed. Ramey suggested bike/ped improvements at Exit 62 need to be addressed soon.

Ramey asked about cost estimate for roundabout at Cascade/Mt. Adams; Liburdy said it’s \$5.5 million. Ramey asked for additional information about CR19 at 2nd & State. Liburdy it’s a pedestrian crossing at E. 2nd & State Street that receives a lot of pedestrian use from the Indian Creek Trail. She also asked about MV23; Liburdy explained this is a signal at 2nd & Oak that is in planning stages.

Frost asked for more info about CR 15 & CR 19. Liburdy said these pedestrian crossing projects are primarily thermal plastic striping on pavement.

In response to a question from Lassen, Liburdy explained the rationale used to develop the list of projects by staff: funding, projects that have other funding sources (e.g. ODOT and urban renewal), safety concerns, survey responses, and routes near schools previously identified. Lassen asked about projects along 12th & 13th in the Heights. Liburdy said the Heights Streetscape Plan project will look at that area so it was not addressed in these amendments.

Commissioner Schlappi asked if flashing lights or similar improvements could be added to project CR15 at 13th & State. Liburdy said it could be added to the Planning Commission's recommendations to the City Council.

Liburdy then presented a map of potential projects for a financially constrained plan that would need to be funded with additional revenue. The map generally excludes projects associated with separate planning efforts including the Historic Columbia River Highway State Trail project, Heights Streetscape Plan project, and Safe Routes to Schools Plan project. The broader list of projects primarily addresses recommendations from the Westside Area Concept Plan Report with more bicycle, sidewalk and off-street trail improvements.

Lassen asked what changes to Henderson Creek trail in the broader project list; Liburdy responded the project includes paving a segment of trail in addition to right-of-way or easement acquisition.

Ramey suggested the alignment of BR3, a bike route on Montello, might need to be refined depending on upcoming projects.

PUBLIC TESTIMONY:

Chair Frost asked for public testimony.

Mary King – said she likes seeing the sidewalk along Rand Rd on the list of projects; she emphasized that the crossing at 13th Street at Sherman is especially problematic for cyclists; and asked commissioners to consider the written testimony she submitted for additional detail.

Liburdy noted that the 13th/Sherman intersection was outside the study area for the Westside Plan so it wasn't looked at in detail for these amendments. Commissioners agreed it's a problematic location and a design challenge.

There was no other testimony. Chair Frost closed the public hearing.

DISCUSSION/ADDITIONAL COMMISSIONER QUESTIONS:

Irving said he wanted to discuss allowing curb-tight sidewalks for new projects where they already exist. Liburdy said he shared Irving's concern with the Planning Director and City Engineer; PC can include it in a recommendation to the City Council.

Frost asked for a summary on funding needed for additional projects. Liburdy said the existing projected revenue is approximately \$15.7 million; the broader list of projects would require approximately \$18.6 million more. The gap could be filled with by increasing the transportation SDC for a single-family dwelling from \$2,059 current to approximately \$4,900. He does not have Council feedback on that idea.

Irving asked about a current project to examine & restructure SDCs. Liburdy explained the current effort is looking at water, sewer & stormwater SDCs; the project could be amended to add transportation SDCs. Powers asked about other funding options. Liburdy responded that options may include shortening the project list, and using other sources such as urban renewal, Local Improvement Districts, grants or sole source SDCs. Irving asked about tax increment financing. Liburdy said it's used in urban renewal districts and is a possible funding source.

DELIBERATION:

Commissioners discussed how to scope their recommendation. Ramey suggested they also acknowledge the community comments received that prioritized Indian Creek trail, 12th/13th Street corridor & Cascade & Rand intersection; included strong interest in bike/ped projects generally; as well as ADA mobility improvements; and the HRCH connection.

Powers agreed the community comments were helpful and noted the interest in bike/ped projects. She acknowledged that the city can't fund everything; said she thinks the SDC increase is reasonable compared to other cities; and wishes they could add the Ridgeline trail. She suggested including a statement about looking at improvements at 13th/Sherman.

Lassen also noted desire for bike/ped improvements in the comments received.

Schlappi noted that the bike/ped improvements were characterized as transportation mode, not just for recreation and asked how they can encourage additional funding for bike/ped projects. She also supports SDC increase. Liburdy noted that there may be grant opportunities for bike/ped projects for Safe Routes to Schools.

Irving also noted the significant comments re: bike/ped projects as well as critical areas such as Heights and HCHR that are addressed in other projects. He suggested reiterating the importance of those projects in the PC recommendation.

Frost suggested the PC use the expanded project list with additional funding as the starting point for the PC recommendation and discuss other wish list ideas. He noted that the SDC increase would disproportionately impact missing middle housing and Westside development.

Lassen agreed about the impact to missing middle housing and new development on west side. She suggested a bond or property tax might be worth discussing. She's concerned if improvements along 12th/13th aren't included now, they will get passed over. Liburdy reiterated that there might be a need to revisit the TSP if the projects identified in the Heights Streetscape project can't be funded with urban renewal funds.

Ramey suggested including a recommendation to Council to reform funding for bike/ped projects. There is existing friction with homeowners who have to pay for sidewalk improvements.

Liburdy asked the Planning Commission for a set of recommendations.

Irving summarized what he heard as support for the broader financially constrained project list to be funded by an increase in SDCs with a recommendation that the Council consider tiered SDCs by dwelling size to help address affordability, and to also examine other potential funding sources such as bonds. He added that the commission recognizes the need for additional projects in the Heights, along the Historic Highway corridor, and for Safe Routes to Schools.

Frost asked if they wanted to add anything related to the Henderson Creek trail. Irving asked if the Parks District (HRVPRD) will be helping with that project and Liburdy responded that the District is prioritizing land acquisition for parks. Lassen noted that the diagonal access created by the Henderson Creek trail will provide non-motorized transportation benefits, not just recreational benefits. Liburdy added that pedestrian & bike access is also a component under consideration for the affordable housing strategy project at 780 Rand Rd.

Schlappi asked if the PC wants to make add a recommendation to make the CR 15 crossing more robust and include a bicycle element; Lassen agreed. There was consensus that the crossing at 13th & State/13th & Sherman needs more engineering consideration.

Lassen asked if MV 11 (intersection improvement at Cascade & Mt. Adams) is premature without Westside Drive. Commission consensus was to leave it in. Staff and commissioners noted the importance of a roundabout in this location to improve the ability to exit town in the case of wildfire or other emergency. Ramey added that design of the intersection improvements need consider all travel modes, not just motor vehicles, and roundabouts work well for bikes.

Irving raised the issue of allowing curb-tight sidewalks in some cases. Liburdy said the cross section in the TSP includes language that allows the City Engineer to approve modifications to the standard. Written testimony supported planter strips and suggested that if the commission wants to recommend curb-tight sidewalks, it should provide criteria for when they should be considered. Price and Frost agreed it makes sense to continue curb-tight sidewalks on blocks where it's already constructed that way, to tie into existing curb-tight sidewalks, or under circumstances such as saving a mature tree. Consensus was that Irving would work with Liburdy to refine the recommendation provide criteria for applicability.

Ramey raised the issue of Advisory Shoulders and noted an exception in state law to the prohibition of vehicles in a bike lane (ORS 811.440(3)). The commission did not have consensus to require Advisory Shoulders on streets for bike routes.

Ramey asked about Neighborways and said using "bike route" as a blanket label misses the idea behind bike boulevards. Liburdy noted bike routes are depicted on lower volume streets and that the city does not use speed humps because of the conflict with snow plowing. Liburdy said the staff recommendation is to use the plain language of "bike routes" and allow for neighborhoods to advocate for Neighborways. Frost suggested a preference for consistent treatment of bike routes (e.g. green paint, intersection treatments, signage) and said he is less concerned with what they are labeled. After additional discussion, the consensus was to recommend improvements to bicycle and pedestrian facilities generally. Ramey offered ideas such as wayfinding signage and diverters at intersections. She explained the purpose of Neighborways is to prioritize the movement of rolling and walking over driving. Price, Frost & Lassen supported the idea of exploring the Neighborway concept; Schlappi said it was important to identify the routes and identify optional tools/improvements.

MOTION: Commissioner Powers made a motion, seconded by Lassen, to direct staff to draft a Planning Commission recommendation based on the deliberation discussion that includes support for the broad list of project to be funded by an increase in SDCs with a recommendation that the Council consider tiered SDCs by dwelling size to help address affordability, and to also examine other potential funding sources to help spread out costs; noting that the PC recognizes the need for additional projects beyond the scope of this amendment in the Heights, along the Historic Highway corridor, and for Safe Routes to Schools; and adding a recommendation to allow curb tight sidewalks under some circumstances. The motion passed unanimously with direction to staff to work with Chair Frost on the final wording of the recommendation and to work with Commissioner Irving about the curb-tight sidewalk recommendation.

IV. APPROVAL OF MINUTES

Commissioners approved the minutes for March 1, 2021 with one minor correction regarding attending commissioners. Commissioners postponed approval of the February 16, 2021 minutes until the next meeting.

MINUTES

I. CALL TO ORDER: Chair Mark Frost called the meeting to order at 5:30

PRESENT: Commissioners Mark Frost (Chair), Sue Powers, Tina Lassen, Megan Ramey, Amy Schlappi, Erika Price, Bill Irving

ABSENT:

STAFF: Planning Director Dustin Nilsen; Senior Planner Kevin Liburdy; Planner Jennifer Kaden

II. PUBLIC HEARING:

File No. 2020-31

Proposal: A Conditional Use to permit a Mixed-Use Development comprised of 30 residential dwellings and 1,300 square feet of commercial space.

Location: 1306 Taylor Avenue: Northwest intersection of Taylor Avenue and 13th Street; Legal Description: 3N 10E 35AD Tax Lot 2300. The property is zoned General Commercial Zone (C-2).

Applicant/Owner: Surround Architecture/Argonaut Investments

Planning Commission Chair Mark Frost read the procedural script and asked the Commissioners to disclose any bias or conflicts in this matter. Commissioner Erika Price had no disclosures.

Commissioner Ramey noted that the project owner was her realtor in a past transaction but not related to this project; she said she noticed a narrow sidewalk on Taylor St cluttered with mailboxes; two years ago she was part of a ODOT working group to identify undocumented crosswalks including one at Taylor & 13th.

Commissioner Powers noted that she made a site visit and drove east on Taylor. No conflicts. Commissioner Lassen noted she has a friend who lives on Taylor who drives a large vehicle. Commissioner Schlappi had no conflicts or bias. She walks by the intersection daily and notes that it's a difficult intersection for pedestrians. Commissioner Bill Irving recused himself noting that he's employed by the project owner. Chair Frost had no disclosures.

Chair Frost asked for challenges from the audience; there were none. There were no challenges from commissioners.

STAFF REPORT: Planning Director presented the staff report for the project which proposes 30 residential units and 1,300 s.f. of commercial space. He described the project and application materials as well as comments received from neighbors. He described the proposed parking as 20 on-site parking spaces and payment of a fee in-lieu for the remainder per the Heights Business District. He noted that the residential portion of the project is considered 'needed housing' per state law so only clear & objective standards can be evaluated.

One item of note in comments receive relate to creating a residential parking district and the request to require it as a condition of approval. Nilsen said the authority for creating a residential parking district lies with City Council so the applicant has no authority to create it, nor does the Planning Commission or planning department. He suggested considering a recommendation to Council for the request.

COMMISSIONER QUESTIONS:

Lassen asked about a requirement that the units are used for 'needed housing.' Nilsen clarified the state's definition of needed housing to include condominiums. He explained how the units might qualify for short-term rentals which cannot use the fee in-lieu for short-term rental parking.

Lassen asked if the city has the ability to deed restrict the units for permanent residents. Nilsen said no.

Ramey asked a process question as this project compares to the Cohousing project which was a permitted use vs. conditional use. Nilsen said evaluation is limited to clear & objective standards based on ORS 397.307 which says the city cannot deny a project based on subjective or discretionary standard.

APPLICANT PRESENTATION: Ben Stenn, 525 E. 3rd, introduced himself as a partner owner of the project and noted that the existing house has been housing restaurant employees. He understands the significant need for employee housing. This building provides a number of smaller units within walking distance of many places of employment.

Maui Meyer introduced himself as the other partner at Argonaut Investments. They have done a number of development projects with the eye toward housing to allow people who work in Hood River to live in Hood River.

Mark Vanderzanden, Surround Architecture, shared a PowerPoint presentation. He described the project as important for the community because there are not many locations as suitable for multi-family housing within walking distance of employment. The project is designed for residents of Hood River. Project goals include efficient floor plans, low energy costs. Vehicular access is on Taylor Avenue. The 30 apartments are a mix of 1 and 2-bedroom units. Improvements include curbs, sidewalks, crosswalk, underground utilities, landscaping, and street trees. He stated that the traffic analysis meets city requirements. He described the design of the building and floor plans. The landscaping includes 'green screen' planted walls to screen the parking level from 13th Street and Jackson Park.

Commissioner Powers asked the applicants about the traffic analysis and how the number of trips was determined. Vanderzanden said a standard engineering methodology is used based on the number of units. Powers asked about the number of bicycle parking spaces. Vanderzanden said 10 are on the ground level with another 10 on upper levels.

Commissioner Ramey asked what the rent range will be. Maui Meyer said they are targeting about \$1,000 for one-bedroom and up to \$1,800 for the two-bedroom units which he describes as 'at or below market.' Ramey asked about parking space allocation. Meyer said they are still working out the details but hope to include it in the rent with possible discounted rent for no parking. Ramey asked about balconies on the park side. Vanderzanden said they would be part of private units.

Ramey asked what the 2 intersection projects are the projects contributes trips to. Nilsen said the 2 proportionate share districts are 2nd & Oak and Cascade & Rand; the proportionate share is based on the number of trips through those intersections from the project.

Ramey asked about pedestrian crossing at Taylor & 13th. Vanderzanden said Taylor is better than 13th; improvements are governed by ODOT. The applicants will participate in a crosswalk improvement; also want to make sure any required improvements aren't re-done in near future.

Commissioner Lassen asked where the new crosswalks will be. Vanderzanden described a crosswalk across Taylor and new ADA sidewalk ramps. Lassen clarified there is no new crosswalk on 13th; Vanderzanden confirmed and said he understands it would be located south of Taylor. Lassen asked about traffic flow. Meyer said they pursued many options and still discussing with the Engineering Dept. to have a right-out or left-out only. Nilsen added that the staff report addresses the issue but there is no condition of approval related to it because the engineers are at-odds and will be resolved at permitting.

Commissioner Lassen asked how many units will be rentals vs. condominiums. Meyer said it is designed as an apartment building, rental units only. She asked whether some units will be reserved for employees of Celilo Restaurant. Meyer responded that they will do what they have ability to do to house their employees. Lassen asked about the intent relative to short-term rentals. Meyer responded that they will have a covenant to restrict STRs – their intent is to house local employees.

Chair Frost asked how many vehicles there are for the current 5-6 residents of the existing house. Stenn said he wasn't sure how many are there now; there have been as many as 5 in the past.

PUBLIC TESTIMONY:

(~6:37) Ellie Wheeler, 1406 Taylor Ave: She supports added housing but is concerned about congestion and traffic on the narrow street of Taylor. She noted 2 parks in the vicinity – Jackson Park & Friendship Park. There is no parking facility in the vicinity. She said there are existing parking issues in the neighborhood, whether or not they've been documented. She is concerned traffic will be exacerbated if restaurant uses are in the commercial spaces. She said most people have at least one vehicle and interest in an on-site spaces doesn't necessarily equate to whether they own vehicles. Most likely people will park on the street. She proposed the City establish a residential parking district and implement it with the development of this project as a pilot project without requiring a parking study and offered additional recommended details from 13th to 18th on Taylor Ave.

Chair Frost asked Wheeler to clarify whether some of the parking in the district would be available to the residents of 1306 Taylor. Wheeler said no, that property is zoned C-2 and not eligible.

Kirk Zack, 1506 Taylor Ave.: He agreed with Ellie Wheeler and said he was happy to hear there would not be STRs in the building. He's concerned about parking and safety and asked about the traffic study. He asked how construction parking would be handled.

REBUTTAL: Mark Vanderzanden addressed some of the issues raised in testimony. He said he'd refer Kirk Zack to the city to obtain a copy of the traffic study. Vanderzanden said the scope was defined by ODOT and the city. The idea of widening of Taylor Avenue might be possible and could potentially be reviewed further. Maui Meyer added that the references to restaurants are misleading and that the idea of installing a grease trap now during construction might allow for a coffee shop but that was probably the extent of what might be proposed. The goal is not to have another restaurant. With respect construction parking, Vanderzanden said they hope to have less impact in winter months and will likely need to shuttle construction workers to the site.

Vanderzanden said a parking district seems like a good idea but deferred to Meyer. Meyer added that the idea of a residential parking district is good but the timing might be better after the urban renewal project is done and that a parking plan for the Heights as a whole makes sense. He will not oppose it.

STAFF RECAP: Nilsen said he had nothing to add but is available for additional questions. The traffic analysis was a Traffic Impact Analysis by Ferguson & Associates and is available in the meeting packet.

Commissioner Lassen asked about the traffic study and the left or right turn issue – is that something the traffic engineers will resolve or should PC discuss it. Nilsen said it will be determined by the City Engineer and recommends a condition that alerts to possible revision to meet the requirement.

Ramey asked Nilsen about the TSP for 13th & Taylor cross sections. The Engineering dept didn't require improvements on 13th because there is no vehicular access. He said the 13th St cross-section will be looked at in the Heights Streetscape project.

DELIBERATION: Frost noted the draft conditions of approval and asked commissioners to recap issues they want to discuss or conditions of approval. Ramey said she'd like to discuss the 13th & Taylor intersection improvement.

Ramey said she's frustrated about the lack of transportation improvements and agrees the applicant shouldn't invest in improvements that are temporary or short-lived but she thinks the applicant has a responsibility to be a partner in the design of improvements. The intersection is unsafe. Frost concurred.

Nilsen said the timing is interesting with respect to the Heights Streetscape project which will take a closer look at the intersections in the corridor.

(~7:11) Lassen also agreed the applicant should contribute. The urban renewal project will take years to make improvements. She wondered if there was some improvement that could help in the meantime like a flashing light. Ramey suggested a "beg button" to trigger the flashing beacon.

Lassen asked if they can guarantee the in-lieu fees can be used for mitigation in this area. Nilsen said crosswalk improvements is a stretch; it should be used for parking management. Nilsen said they are restricted funds for parking management. Lassen asked if the funds are dedicated to districts. Nilsen said no, there is one line item for all in-lieu fees.

Frost asked for discussion about a residential parking district recommendation. Ramey asked some clarification questions. Nilsen said there is no other adopted residential parking district and the details would be worked out in the formation with the City Council. Ramey said she favors a residential parking district designed through an equity lens. Powers said she supports the idea and recognizes challenges in working out the details including potentially re-looking at it in 2 years. Commissioner Schlappi favors a residential parking district and starting it sooner rather than later and not necessarily restricted just to Taylor Avenue. Commissioner Price favors a residential parking district. Frost supports a residential parking district and added that given the narrow-ness of the street and noted that parking on 13th along the hill raises safety concerns. Lassen said any solution should be neighborhood wide, not just Taylor. She questioned the premise because the streets are public and she has concerns about limiting who can park. She also has concerns about cyclists based on the design of Taylor and suggested parking is allowed on one side of the street. Ramey echoed the idea of parking on one side of the street. Powers

added that if there is a recommendation that it include a request to establish it soon but be subject to review/revision based on the Heights Streetscape project. Frost echoed the idea of parking on one side of the street but also worried it might lead to faster vehicle speeds.

Frost asked for other issues. Commissioners generally complimented the overall design of the project. Powers asked for clarification of ODOT's jurisdiction on 13th. Nilsen said it is an ODOT facility and any improvements need ODOT support/approval. Ramey asked if they could entertain a \$5,000 contribution to pilot safety improvements on 13th. Lassen, Schlappi and Frost supported the idea.

(~7:42) Lassen said she's concerned about a parking district condition of approval that might slow down the project. Frost clarified the idea is only a recommendation to Council not a condition of approval.

MOTION:

Powers made a motion to approve File No. 2020-31 with the findings and conditions as drafted and add a recommendation to Council to look at establishing a residential parking district. Lassen seconded the motion. Motion passed 6-0.

III. APPROVAL OF MINUTES

Commissioners postponed consideration of the February 16, 2021 minutes.

Nilsen said there will most likely not be a planning commission meeting on April 19th.

IV. ADJOURN

Frost adjourned the meeting at 7:48 p.m.