

## MINUTES

I. CALL TO ORDER: Chair Arthur Babitz called the meeting to order at 5:32 p.m.

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

ABSENT: Planner Jennifer Kaden

STAFF: Planning Director Dustin Nilsen, Senior Planner Kevin Liburdy, Temporary Planning Assistant Judy Christensen

II. PLANNING DIRECTOR'S UPDATE: Planning Director Dustin Nilsen announced that this evening's meeting will be the last Planning Commission Meeting for 2019. The next meeting will be the City Council's goal setting meeting scheduled for Saturday, January 11, 2020. The Downtown Parking meeting will occur the following week.

Chair Arthur Babitz announced Commissioner Bill Irving has a field trip planned for the Commission and will provide details towards the end of the meeting.

III. PUBLIC HEARING:

**A. FILE NO. 2019-16 – “The Creek” Planned Unit Development – *continuation of hearing from December 2, 2019***

**PROPOSAL:** A Conditional Use Permit for a Planned Unit Development including a 39-lot subdivision for 30 townhouses and nine single-family dwellings. The proposal includes designation of approximately 40% of the site as common open space, impacts to wetlands, construction of private streets, public and private utilities, and associated site improvements including retaining walls. The subdivision is proposed to be constructed in two phases.

**APPLICANT:** Mark VanderZanden

Babitz re-opened File 2019-16 as a continuation from December 2, 2019. The Applicant Mark VanderZanden has applied for a Conditional Use Permit for a 39-unit development comprised of 30 townhomes and 9 single-family dwellings.

Babitz read the procedural script and asked the Commissioners to disclose any ex parte contact, bias or conflict of interest. Commissioner Megan Ramey disclosed she walks Indian Creek Trail frequently and learned the site is disconnected from other residential areas. Babitz disclosed he saw a post on Hood River's chat stating a City Council Meeting was being held this evening. He replied that this evening's meeting is the Planning Commission, not City Council. Babitz asked that his response be noted for the record. Babitz asked if anyone would like to question any Commissioner on any disclosure, bias, ex parte contact, or conflict of interest. There were none. Babitz asked if any Commissioner wanted to make a motion to disqualify any other Commissioner. There were none.

STAFF REPORT: Senior Planner Kevin Liburdy announced the Commission has an addendum before them from the Staff Report dated December 11, 2019. The document includes a series of 16 questions or challenges captured from the last meeting, revised materials from the Applicant, narrative from December 9<sup>th</sup> and new plan sheets. He added that Nilsen has put together a slide show covering the 16 issues/challenges for discussion.

Babitz asked Staff to explain the PUD process for the Commission. Nilsen said the municipal code includes provisions for Plan Unit Developments (PUD) which is an entitlement process that allows flexibility to zoning codes and uses. The plan before the Commission locks in some standards, memorializes departures from the standard code and is approved at the board's discretion. The process requires a fair amount of interpretation from the board to ensure underlying zoning and standards are maintained. Commissioner Bill Irving pointed out the PUD has a purpose section which he read for the board.

Nilsen walked the Commission through the 16 issues and conditions:

1. The Applicant shall establish a HOA/Owners' Association to maintain common open space, landscape easements, tracts, riparian corridors, and areas adjacent to the corridor between private lots and the creek. Commissioner Mark Frost asked if this condition applies to riparian corridor behind the nine lots that cannot be developed. Nilsen said it does. VanderZanden confirmed this condition is consistent with his approach.
2. Construction of temporary or permanent structures shall be prohibited in the common open space. Permitted uses shall be limited to landscape maintenance, the HOA-maintained split-rail fence, stormwater management structures and park district facilities. VanderZanden said this is consistent with his plans.
3. Confirmation on how homeowners with common open space easements and/or landscaping will be notified of their obligations and property restrictions. Nilsen said Condition 17 provides a global statement that addresses this.
4. Confirmation that public access will be provided across streets in the PUD, and over the stormwater outfall line, ensuring access to Indian Creek Trail. Nilsen replied streets within the development are private but shall provide public access to the trail. This is Condition 20 from the November 25<sup>th</sup>, 2019 Staff Report.
5. Confirmation on the details of the existing easement for Indian Creek Trail, including whether the easement was granted in perpetuity and who is responsible for maintenance. Nilsen said Easement 2014-03028 speaks to the dedication of the easement to the City's Parks and Recreation Department and their responsibility to maintain it.
6. Confirmation that the PUD will allow for public access to Indian Creek Trail. VanderZanden said his goal is to protect the homes and homeowners. He would not want to see automobiles going through the development to dropped individuals off at the trail. He is open to a gate for pedestrians and bikes. Babitz asked Staff to note this item for further discussion.
7. Sheet A111 was revised by the Applicant on Dec 6, 2019 and states that a minimum 5-foot rear yard setback will be provided from the edge of the 10-foot Indian Creek Trail easement. Babitz asked Nilsen if this is a condition vs. a rule. Nilsen said it is a recommended condition and consistent with the drawings the Applicant provided. Irving asked about property lines for Lots 31 and 39 which staff noted for further discussion.
8. The Developer shall install a HOA to maintain a split-rail fence at the southern border of the development to identify the preserved area along Indian Creek Trail as depicted in A116. Nilsen said the purpose of the split-rail fence is to separate private land from public in a manner that

blends with the natural environment. Babitz asked if there was anything to prevent an owner from putting his/her own fence behind the split-rail fence. Nilsen replied no. VanderZanden said he was hoping not to have any fences as they are difficult to manage but mentioned that he did consider a vegetative hedge.

9. Details, location and design restrictions for any fencing to be constructed by the Developer or Homeowners, including confirmation that fencing will be constructed in a manner consistent with the design (s) throughout the site, especially between the Indian Creek Trail and the private lots. Nilsen said A116 calls for 6-foot-high wood fence that would separate the retaining walls from the street.
10. Confirmation the Homeowners Association will be responsible for maintenance of any fencing and common area landscaping. Nilsen said the amendment to A116 states the HOA shall maintain all PUD fences.
11. Confirmation of the phase lines on the preliminary plat, improvements to be completed in each phase prior to platting and demonstration that minimum density requirements will be met. Based on revised narrative, all townhouses, landscaping, and infrastructure shall be completed and platted prior to the development of the single-family Lots 31-39. Nilsen said Staff is concerned that if the homes are developed first and the townhomes do not get developed, the development may not meet density requirements for the C-2 zone. While this is in the narrative, Nilsen thinks it should be made a condition. VanderZanden said his intention is to start on the foundation for the townhomes and then plat everything as once, so the single-family homes would have a legal lot at that point. Liburdy added the developer wants to install utilities, private streets and initiate construction of the foundation for the 30 townhomes. Any common space improvements would be completed and then platted. The foundation would be constructed around the plats for the single-family homes. VanderZanden said he does not want to wait several years to develop the single-family homes. He would like to plat everything at once and then begin building. Nilsen said he must see at least 11 townhomes built first to ensure the density requirement is met.
12. Confirmation of uses to be permissible on all lots, including accessory uses (e.g. accessory dwelling units subject to HRMC 17.23, home occupations subject to HRMC 17.04.100, vacation home rentals subject to HRMC 17.04.115, etc.).
13. Confirmation that R-3 uses and development standards will be applied to split-zoned lots. The Applicant would like have units within R-3 and split-zones follow R-3 regulations and units within C-2 permit vacation rentals and home occupations per the underlying zone regulations.
14. Confirmation that architectural design details will remain binding for the proposed attached- and detached single-family homes, including the consistency of home designs.
15. Townhome elevations shall follow the heights proposed on A301 and single-family home heights in the C-2 zone shall not exceed (28-35 feet). The Applicant said the height of the single-family homes will not exceed 28-feet to protect views.
16. Geotech's confirmation of the feasibility of developing Lot 39 in a manner that addresses existing drainageway constraints. The Applicant said he would like to develop Lot 39 subject to Geotech approval.

PUBLIC TESTIMONY: Babitz opened public testimony.

Liburdy said the Applicant would like to maintain flexibility with respect to gating the development. After some discussion, VanderZanden agreed to gate the development in a manner that allows pedestrian and bike access to Indian Creek Trail and provides a path over the sewer easement. Liburdy said the Staff Report calls for a minimum 6-foot path between Lots 33 and 34. Babitz asked how the

public will know they can access the trail through the PUD. VanderZanden said he will include way signage.

Liburdy said Lots 33-35 have a 3-foot setback between the trail and common space. Babitz asked if the setback behind some of the house provides enough privacy for Homeowners and people walking the trail. VanderZanden said he considered a secondary set back that could possibly go back another 5 feet. He added that there is a 5 to 6 percent grade in this area that will also ensure privacy. VanderZanden agreed to the additional 5-foot setback.

Liburdy said the Applicant was not originally interested in fences but Staff has recommended a split-rail fence to separate private space from common space as Lots 32-39 have nothing that distinguishes the two. He pointed out that homeowners will own land all the way to the creek, but they will not be able to alter or use the land along the trail. Nilsen added that a condition could be included the PUD, so not this restriction would be enforceable.

Irving asked if there will be fences between the townhomes. VanderZanden said he plans to put 6-foot fences around the townhomes to define backyards (Lots 1-12 and 19-30).

Irving asked where the three different elevations in the design would be located. Nilsen referenced A301. VanderZanden said Lots 13-18 would be Type B, 1-6 and 24-30 Type C and the remainder Type A.

Ramey asked whether the HOA is responsible for sidewalks and streets. Liburdy said the development would have private streets which are typically maintained by property owners. Ramey also asked for clarification on the definition of a "structure" as the plan states there are to be no structure in common space. VanderZanden said the common space is mostly wetlands or riparian corridor and cannot be developed.

Liburdy asked the Applicant for clarification on platted vs. constructed with respect to phasing. VanderZanden said his intent is to build the development's infrastructure first.

Nilsen said the last condition is a Geotech study for Lot 39. Liburdy said it should also be noted that an easement for drainage will need to be added if Lot 39 is developed. VanderZanden agreed to both conditions.

Babitz asked VanderZanden if he had any further testimony. He did not. Babitz asked if there was any public testimony or objections. There were none.

REBUTTAL: None.

STAFF RECAP: Nilsen had no further comments.

Commissioner Sue Powers asked how Lots 38 and 39 are zoned. Liburdy said they are split-zoned and subject to R-3 regulations.

Ramey asked about the development's connectivity with neighboring areas. Liburdy said connectivity with other properties was not a consideration due to wetlands, riparian corridors and the trail.

Babitz closed the hearing at 7:49 p.m. A brief recess was called at 7:50 p.m.; session resumed at 7:55 p.m.

DELIBERATIONS: Ramey said she would like to see renewable energy structures and gardens allow in the common areas. The Commission did not agree with this proposal as most of the land is wetland, riparian corridors and trail.

Powers thinks the private property incumbered with an open easement behind the single-family homes is going to prove problematic and thinks there should be adequate language addressing the fact that it cannot be altered by the homeowners. The Commission saw no need for changes.

Babitz said he is not concerned about the ADUs that may be built on the single-family lots, but he thinks the single-family homes should not be allowed to be short-term rentals. Nilsen pointed out that owners are permitted to live in their ADUs and make their home a STR for 90 days assuming the home is their primary resident. The other Commission members did not agree with Babitz, so he withdrew his proposal.

Babitz proposed that the Applicant include way finding signage to the trail. The Commission agreed.

Ramey proposed traffic calming and a 6-foot wide gate for bike and pedestrian designed to ADA standards. The Commission agreed to the inclusion of a 6-foot wide gate for bike and pedestrian access to the trail and agreed to request traffic calming, acceptable to the City Engineer and Fire Marshall.

The Commission asked Staff to draft language that requires a drainage easement on Lot 39 and that future homeowners are made explicitly aware their obligations and property restrictions.

Irving proposed a condition for the split-rail fence. The Commission agreed.

Babitz asked Staff to recap the agreed upon conditions and amendments for the group:

- Condition 17 is to be modified to state the Applicant shall establish a HOA to maintain common open space, landscaping and easements.
- Graphical representation of terms, conditions, restrictions, setbacks, wetlands, riparian, boundaries, easements, etc. shall be identified on the subdivision plat.
- Condition 20 shall be modified to ensure that public access is maintained across PUD streets to the trail and way finding signage is installed to ensure the public is aware of this access.
- The details of easement #2014 meet Staff's standards. Nilsen indicated the details looked good barring legal review.
- Confirmation that a gate with a 6-foot opening and ADA compliant shall be installed to allow pedestrians and bikes to the trail.
- The addition of a 5-foot minimum setback at the edge of the 10-foot easement be depicted on the plat.
- The Developer shall install a HOA to maintain the split-rail fence.
- Condition amended to identify southern border of area identified on Applicant's preserved and enhanced natural area.
- Detailed location of fencing the HOA will be responsible for maintaining.
- Phase lines will be platted.
- R-3 regulations be maintained in split-zone areas and C-2 zoned areas follow the zones underlining uses specifically with respect to short-term rental regulation.

- Architectural design details remain binding for the proposed attached and detached single-family homes including the consistency in the design for all homes in the PUD (the call out of design Types A-C).
- The height of single-family homes will not exceed C-2 zone requirements. Applicant agreed to height of 28-feet.
- Evidence from geotechnical engineer of the feasibility to develop Lot 39 and address existing drainage constraints. Staff to prepare buildability safeguards.

MOTION: Irving motioned to approve File 2019-16 with the amendments from deliberations and to have the Chair sign-off on Staff’s final report. Price seconded the motion. Motion passed unanimously.

Irving requested that the Commission to do a field trip on January 7<sup>th</sup> to see an existing 2500 sq. ft. lot with a duplex looks like. On 2<sup>nd</sup> Street in the Heights. The Commission requested that Staff arrange the trip when appropriate.

**B. FILE NO.: 2018-05 and 2018-06 – Amendments to the Hood River Municipal Code - continuation of hearing from November 4, 2019**

**PROPOSAL:** Amendments to Titles 16 and 17 of the Hood River Municipal Code. No code amendments will be presented on December 16, 2019; staff will request that the Planning Commission continues the hearing to a future date.

**APPLICANT:** City of Hood River

MOTION: Motion to continue 2018-05 and 2018-06 to the year 2020. No objections.

V. ADJOURN

Babitz adjourned the hearing at 9:23 p.m.



10/28/2021

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Arthur Babitz, Chair (acting Chair Mark Frost)

Date



11/22/2021

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Dustin Nilsen, Planning Director

Date (Approved)