

**CITY OF CORVALLIS  
PLANNING COMMISSION DRAFT MINUTES  
October 19, 2016**

**Present**

Jasmin Woodside, Chair  
 Carl Price, Vice Chair  
 Frank Hann, Council Liaison  
 Jim Boeder  
 Susan Morr e  
 Paul Woods  
 Tom Jensen

**Staff**

Jason Yaich, Senior Planner  
 Aaron Harris, Associate Planner  
 David Coulombe, Deputy City Attorney  
 Claire Pate, Recorder

**Absent**

Rob Welsh  
 Jim Ridlington

**Visitors**

**SUMMARY OF DISCUSSION**

	Agenda Item	Recommendations
	Call to Order	7pm
I.	Community Comments	None
II.	Deliberations – Elle’s Addition Subdivision (SUB16-00002)	Approved by 3-2 Vote
III.	Continued Review of LDC	
IV.	September 21, 2016 - Minutes Review	Approved as drafted
V.	Adjournment	9:15pm
	Next Meeting	November 2, 2016 @ 7pm

Attachments to the October 19, 2016 minutes:

- A. Applicant’s Final Written Arguments for Elle’s Addition.

**I. COMMUNITY COMMENTS: none**

**II. DELIBERATIONS – ELLE’S ADDITION SUBDIVISION (SUB16-00002)**

Chair Woodside opened deliberations on SUB16-00002.

**Declarations:** No new declarations.

**Staff Summary:**

Harris stated that the public hearing for the application had been closed on October 5, 2016, and the record was held open. No additional comments were received as of 5pm, October 12, 2016. The applicant has submitted additional testimony dated October 17, 2016, extra copies of which are made available at the back of the room (**Attachment A**). Staff will answer any additional questions that commissioners might have.

**Questions of Staff/Deliberations:**

Price referred to the applicant’s additional written testimony and the suggestion for adding a condition of approval related to installing chases for future rooftop solar systems. He asked if it was appropriate to include conditions of approval for a waiver or reduction to code standards. Coulombe said that if commissioners find that a waiver criterion is unsatisfied but would be satisfied with a proposed condition it could be included.

Morré asked if other applications in the past had asked for a waiver from the solar access standards. Yaich stated that the Sylvia subdivision application had included a waiver request, which was granted. Cole’s Crossing subdivision also was granted a solar access waiver. Coulombe noted that these were waivers in the context of a planned development so compensating benefits were a part of those considerations. To his knowledge, this is the first solar access standards variance request for this type of review.

Jensen asked what the development’s net area and range of units allowed were, and staff stated that it was 1.20 acres, with a minimum of 14 units and a maximum of 30 units.

Morré said she was concerned about applicant’s statement that the reason for the request was to accommodate a plan that would max out the total buildable area, and that there were alternative designs that might not require the waiver. This fact, and the fact that this would set a precedent, gave her pause especially with the focus that the City has on reducing energy consumption as a balance to density. Building every site out to its maximum potential to achieve goals of density and profit should not come at the expense of other important parts of the code that are looking to a future of what we want Corvallis to be.

Jensen said he did not see that the applicant had attempted to come up with a development plan that might have between 14 and 24 units which might meet solar access standards. Woods said that the applicant had discussed other options during the hearing, one of which was to have three larger lots with larger homes, instead of the six small lots on the west side. The applicant indicated that having the smaller lots would provide a type of house that the market wants, i.e. smaller starter homes that are affordable. The problem is that with the street’s north-south orientation, the houses cast a shadow on each other. The written testimony just received also refers to another designer who had had a plan to keep it as one parcel and construct townhomes or apartments on the west side which would then not be subject to solar access standards.

In response to comments from Morré referring to Land Development Code (LDC) Section 4.2.20, Woodside clarified that Section 4.6.40 was the appropriate citation in this case. Morré went on to say it was her opinion that none of the conditions in Section 4.6.40 necessarily applied. Woods

referred to Section 4.6.40.c and suggested that because Coho Street was required to go “to and through” on a north/south orientation to allow for additional development to the north, and because ODOT does not want additional access points along SW 3<sup>rd</sup> Street, this section seemed to apply. Morr  again stated that the applicant was requesting the waiver because they were maximizing the potential buildout on the lot. She believed that Section 4.6.40.c would only apply if there were no other design options.

Price opined that even if the developer reduced the number of lots on the west side of Coho from six to three, they would then be able to build houses of a size that might preclude solar access in any case. In response to a question from Morr , Harris stated that if the waiver is not granted, the developer has stated that they would pull the subdivision application and go straight to building permit for the lot. He agreed with Price that the applicant could meet the subdivision solar access standard by creating three large lots, but that at time of building permit they would no longer have to meet the standard.

Jensen asked what obligation he has to grant a waiver if he has not seen a plan come forward with a minimum number of lots which may very well meet the solar standard, and whether an applicant’s bottom line in terms of meeting numbers should be of concern to commissioners.

Hann addressed a concern about setting precedence, and shared his opinion that each case stands alone and does not really set a precedent for other cases. Coulombe said that precedent is a legal term that refers to a body’s decision and their requirement to follow it. Courts follow the precedent of other courts. The Planning Commission might informally develop its own body of law with respect to how it views cases, but it is not really precedent. The precedent that the Planning Commission would follow would be set by City Council, in terms of their interpretation of code provisions, etc.

Coulombe went on to address the preference for higher density versus moderate or lower density, and how the code weighs in on it. The criterion under question is not asking commissioners to do any balancing or to seek compensating benefits, as would be applied with a Planned Development application. Commissioners simply need to determine whether the applicant’s request for the waiver or reduction in solar access standards meets one of the criterion in Section 4.6.40. Any reference by the applicant to previous cases in which a waiver to solar access standards had been granted is simply part of their attempt to make a persuasive argument for commissioners to approve the application, and those other cases should not be viewed as setting a precedent for this case.

Price said that after reading through the code and the staff report, his opinion is that the City’s Transportation Plan and ODOT requirements for SW 3<sup>rd</sup> Street limit options and therefore the application meets the criterion set out in Section 4.6.40.c. He does not believe that commissioners should look at the “what ifs” but should instead view this proposal and determine whether it meets the code criteria.

Morr  reasserted her belief that it was not mandatory for the applicant to have the waiver in order to develop the site, and she did not believe that it was necessary for the commissioners to help them maximize their profit by granting unnecessary waivers.

Woods believed that there was adequate reasoning in the application and staff report to grant a waiver in accordance with Section 4.6.40.c. The code recognizes that energy from the sun is an important asset. However, the Commission is given authority to waive parts of the code when it can be determined that it would be a better outcome. From a broader energy perspective, a recent

study showed traffic patterns in and out of Corvallis with 18,000 people driving into the city each day for work. Part of the problem is the housing shortage in town, especially for first-time buyer entry-level homes. If more lots and homes like those proposed in the application were made available, there would be less driving required. It is important to consider the whole system in terms of energy benefit, though solar access is an important factor. The facts that the street and access configuration limit options for the developer and that this type of housing is needed lead him towards granting the waiver. The fact that they have indicated a willingness to build chases so that solar energy can be harvested off the roof is also commendable.

**MOTION:** Price **moved** to approve the proposed solar access waiver request (SUB16-00002) for Elle's Addition Subdivision, as described in Attachment A of the October 5, 2016 Staff Report. The motion is based upon the staff recommendation to the Planning Commission, and on the Planning Commission's deliberations, as reflected in the October 5 and October 19, 2016, Planning Commission minutes. The motion was **seconded** by Woods.

Morré said she wanted to respond to Woods' comments. She agreed it was important to look at the big picture but she felt that the reasons for living elsewhere are multi-faceted and not just because what is being built now is either higher-end housing or student housing. It is a complicated issue. The commissioners do not have the authority to control who is building what on individual lots. However, she finds applications like this disturbing in that it is working against some of what the community has said is important for community form and character. She believes there are other ways to meet affordable housing needs on other parcels around town. She cannot support projects coming forward seeking maximum profits and asking for a waiver.

Boeder asked staff what the process and the outcome would be if the applicant withdrew the application and proposed to build six townhomes instead. Yaich said that there were infinite scenarios for development on the property, but the general options are to go through a land use process to subdivide, which is what they are trying to do; otherwise they would go through a straight building permit process. In either case, the street connection would be required to run north/south which physically divides the property. At that point they could build any of the building types listed for the RS-12 zone within the prescribed density range, including town homes on a single lot. The applicant has chosen to go through the subdivision process in order to provide single-family dwelling lots which provide some variety of housing units.

Hann added that staff has presented a report for Commission consideration, with a recommendation based on their interpretation of the Land Development Code and its applicable provisions. It is fine to disagree with them, based on one's own interpretation. However, profit is so subjective and it is hard to project on a specific site what development costs will be and whether there will be a lot of profit or just a little profit. It is really not a part of commissioners' consideration, and should not be part of the discussion.

Woods said he liked having the variety of housing types. A waiver could be accompanied with a statement that the Commission values the existing solar standards, along with valuing a diversity of housing, including economic diversity. Without the ability to have some subjectivity to interpret the solar access standards within the bigger picture, there is the possibility that it will backfire and will give us housing types that are not as optimal for meeting our other community goals.

Price agreed with staff's points that both the City and ODOT transportation system requirements make the waiver a necessary request for this proposal. He does not believe that they can impose a condition of approval for installing the chases, though he hopes they will install them in the units.

He also likes the diversity of housing types which help to meet some of the City's other goals. He believes they have satisfied the criterion in Section 4.6.40.c and he supports staff's findings.

Jensen stated that he reread Section 4.6.40.c, and it is his understanding that if the applicant chose to simply put in townhomes they would not be required to meet solar access if they were not subdividing. It would be up to the developer to make that decision. However, he does not believe it is the required location of the streets that is leading to the waiver request, but rather the desire for densification.

Woods said he would prefer not to vilify densification, in that the code also speaks to the importance of compact urban form. Meeting all the passive solar standards is well and good, but if it is at the expense of not providing enough single family dwellings within a compact form the result will be urban sprawl. There will be even more energy expended because of the sprawl.

Woodside asked commissioners to continue the discussion if they had any points that had not been brought out, but to limit repetitive points.

Morré said she was looking at the original plat of three narrow lots, each with an access off SW 3<sup>rd</sup> Street. She agreed that limiting access points to one and extending Coho Street to serve the site made sense, but she felt there could be alternatives to routing the street, perhaps by curving it, which might provide more solar access. Harris said that there might be other orientations, but Public Works staff has said that this is the most logical and were not enthusiastic about curving the roadway.

Price added that if ODOT was not requiring the removal of curb cuts and the developer was able to build east/west oriented streets through the property, it would have met all the standards and the developer would not have had to come before Planning Commission. Along with the Corvallis Transportation Plan requiring "to and through" and having Coho Street serve the property to the north as well, he believes these requirements limit development options and that the criterion in Section 4.6.40.c has been met.

Morré shared her last points. There were originally three single-family dwellings on three lots, and there will inevitably be increased density by redevelopment. Additionally, there are several other housing developments to the north that will be impacted if Public Works staff holds to a requirement that Coho Street be on a straight north/south orientation.

#### Vote on the Motion:

The motion to approve the solar access waiver request was **approved** 3-2, with Morré and Jensen voting in opposition.

Woodside said that any participant not satisfied with the decision made can appeal to City Council within twelve days of the date a written decision is signed.

Hann complimented the commissioners on having a good and thorough discussion of the issues.

#### **CONTINUED REVIEW OF LAND DEVELOPMENT CODE**

Woodside moderated a brief discussion about whether to review the definitions in Chapter 1.6 as one entity, or review the definitions as they showed up in the various chapters of the Code, since the definitions might be better understood when considered in context. It was agreed to discuss

upfront the definitions that had already been specifically identified by commissioners for additional discussion, and to add any words needing definition that are not defined to the “unresolved planning issues” list.

Coulombe issued explanatory as well as cautionary statements about definitions. If one is attempting to interpret language, it is plain language in context with its apparent purpose. It is difficult to do that in the abstract looking at just a definition statement, and he thought it appropriate to review language and definitions within their contextual location or locations. Words that are not specifically defined in the Code have common meaning or meanings, as defined in the dictionary. He cautioned against deciding all words have to be defined within the Code, which unwittingly might give a word a narrower construct than is appropriate for uses in other parts of the Code. One should decide whether it is a “term of art” needing specific definition or whether a common dictionary meaning can be used.

Boeder, on the other hand, suggested that sometimes it is preferable to have a narrow definition that can be applied as a legislative tool to sway development a certain way. This then leaves little to interpretation.

Woodside asked Yaich to review the definitions that have been specifically identified by commissioners for review, and to go over which items have been added to the “unresolved planning issues” list. The following summarizes the discussion:

Words not defined in the Land Development Code and added to the “Unresolved Planning Issues” list for consideration:

- a. Sites
- b. View shed (defined in Comprehensive Plan (CP))
- c. Contains – (which has different uses throughout the code)
- d. Compatible (defined in CP)
- e. Neighborhood compatibility
- f. Comprehensive neighborhood (defined in CP)
- g. Mitigation
- h. May (referred to in Section 1.6.g)
- i. Climate Action Plan definitions (i.e. sustainable; sustainability; ecosystem; carbon footprint; net zero; transportation demand management)
- j. Setback (defined in the CP)
- k. Tract (*As noted in discussion below.*) \
- l. Tiny houses (*As noted in discussion below.*) \

List of terms/definitions identified for additional discussion

Discussion ensued on the various terms/definitions brought up by commissioners. The list of items and highlights of discussion points are as outlined below:

- a. Accessory Uses, Accessory Structures, and Accessory Dwelling Units – these are defined separately. Accessory structures are regulated by the development standards in Chapter 4.3, whereas Accessory Dwelling Units are covered under Chapter 4.9.
- b. Lots and Parcels – These are defined, with part of the definition coming out of Oregon Revised Statute (ORS) regulations related to land divisions. A lot, by definition, is a unit of land that is established through a subdivision plat. A parcel is a unit of land established

through a partition plat. Partitions are three or fewer units of land, and subdivisions are four or more units of land. Also reference Section 1.6.20.g which refers to interchangeability of the terms at times.

- c. Land, parcel of – this has a separate definition and is an established unit of land, and includes “lots of record.”
- d. Tract – It is defined in the Code as part of the subdivision process. It generally refers to open space, protected natural features or drainage areas that are held in common by homeowners’ associations. In response to questions raised by Boeder, it was agreed that there might be a need for more clarity in the definition since the State would consider a tract a lot or parcel in contradiction to the definition.
- e. Housing types and Building types – Building types are used most often when looking at the residential zones. Each zone provides a list of allowable building types, such as single-family detached, single-family attached, duplex or triplex etc. Housing types gets into the housing variety standards under Chapter 4.9. For subdivisions that exceed certain acreages there are standards relating to providing a variety of housing types. There was a discussion about the definition for Building Types in Chapter 1.6 and the meaning of Section c under that definition which spells out terms that are not considered building types for purposes of the Code but fall under housing types.

In response to a question from Morr  related to “tiny houses,” Yaich said there was no restriction in the LDC specific to them. The housing variety standards actually encourage smaller square footage single-family homes. The only restriction related to the square footages would be in the manufactured dwelling standards. There was consensus that Tiny Houses should be added to the “Unresolved Planning Issues” list since it was one of the recommendations of the Housing Development Task Force that would be coming to Planning Commission at some point in the future.

- f. Setback – Woods said that the definition in Chapter 1.6 seems straight forward, but LUBA’s interpretation with the Coronado case did not seem to jibe with this. There was a discussion about that case, and Coulombe said it had more to do with the ambiguity of Condition 12 as opposed to any issue with the setback definition. There was additional discussion about the Coronado case and how the process and condition could have been crafted better.

In response to a question from Morr , Coulombe said that some conditions can specify that criteria are required to be met through a deed restriction. However, there is no authority to require that all conditions be placed on the deed. There would be a lot of resistance to this. There is statutory language now that land use restrictions need to be checked by the buyer through the titling process.

Woodside suggested they stop the discussion at this juncture, and start the next Land Development Code training session with a discussion of density, and then Chapter 2.0.50 relating to Quasi-Judicial Hearings.

### **III. SEPTEMBER 21, 2016 - MINUTES REVIEW:**

The September 21, 2016, minutes were unanimously approved as drafted.

**IV. OLD BUSINESS**

Price said he had attended the City Council public hearing related to the OSU Comprehensive Plan amendments and a couple of people were very complimentary about the Planning Commission's work on this task.

**V. NEW BUSINESS**

Yaich announced that a new code compliance officer had been hired, and his name was Todd Easton.

Price gave a short report on the Housing and Community Development Advisory Board's last meeting, with Community Development Block Grant awards given out in the amount of \$500,000. Their recommendation goes to the City Council for approval.

**VI. ADJOURNMENT**

The meeting was adjourned at 9:15pm.

# WILLAMETTE VALLEY PLANNING LLC

October 17, 2016

Corvallis Planning Commission  
c/o Aaron Harris  
501 SW Madison Avenue  
Corvallis, Oregon 97333

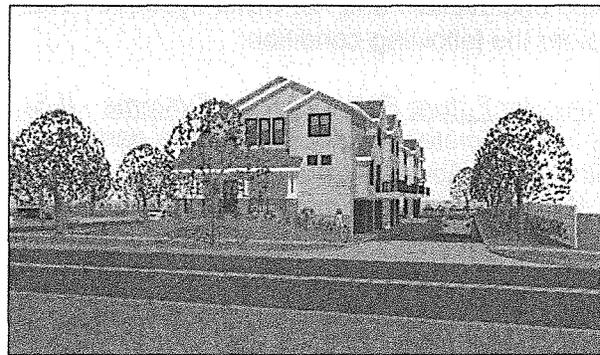
**RE: Applicant's Additional Written Testimony Regarding Solar Access Waiver  
Elle's Addition Subdivision (SUB16-00002)**

Dear Planning Commission Members:

During the public hearing, Commissioner's expressed concern about the appearance of the townhomes and single family units that might ultimately be constructed within the subdivision. The townhome design is based on another project currently under construction at the corner of SW 3<sup>rd</sup> Street and Goodnight Avenue, known at the Goodnight Townhomes. The images below provide a front, side and rear elevation of these units.

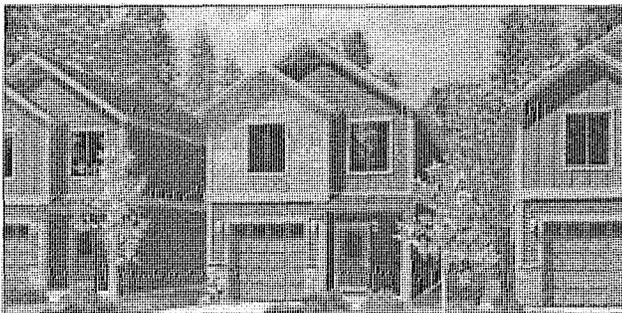


**Townhome - Front Elevation**



**Townhome - Side and Rear Elevation**

The single family dwellings will be modest 2 and 3 bedroom homes with a single car garage that would allow an additional car to park in the driveway. We are proposing to combine the driveways to accommodate the necessary street trees and on-street parking. The image below provides a front elevation of these units.



**Single Family Homes - Front Elevation**

The Commission asked if other site plan layouts were considered that might better address the solar access requirements. Prior to my involvement, another planning consultant developed several other plans that maximized the density, however both options had townhomes running in a north/south orientation. The only difference is that one of the plans included townhomes west of Coho Street. Under that design a subdivision wasn't required and was also not subject to the solar access requirements. The developer still has the option to construct 6 townhomes west of Coho Street on one parcel, thereby avoiding any solar access requirements for the entire project. Please recognize that land zoned RS-12 (Medium High Density Residential) typically isn't subdivided into small single-family lots, but developed as apartments or townhomes on a single parcel.

As I've mentioned before, the developers have a desire to construct modest entry level housing in South Corvallis. To achieve this in an affordable manner, they need to create small lots. If they are unable to develop these, then they will likely withdraw their subdivision application and construct 6 townhomes instead.

If you look closely at the Solar Access Protection Plan you will see that both apartment buildings comply with the solar access provisions. The 6 townhomes along SW 3<sup>rd</sup> Street are non-compliant as are 5 of the 6 single-family homes. Therefore the majority of the units (13 out of 24) will be solar compliant. However, since the solar access criteria only addresses lot compliance and not unit compliance, staff must calculate compliance of each lot and not each unit.

To mitigate the reduction in solar compliant lots, the applicant is willing to install a 12-inch diameter chase between the garage and attic of all townhomes and single-family homes to allow for future rooftop photovoltaic and hot water systems. We would recommend the Planning Commission consider the following condition:

*Chase for Future Rooftop Solar Systems - If SUB16-00002 is approved, the developer shall install a 12-inch diameter chase between the garage and attic of all townhomes and single-family homes within Elle's Addition Subdivision. Materials and installation methods for chases shall be included in plans submitted for building permits.*

We'd like to note that the code allows for both a solar access reduction and a waiver. We requested a waiver, but since one of the lots is compliant, it is actually a reduction to the standards instead of a waiver for all lots.

The City recently hired EcoNorthwest to prepare a Housing Needs Analysis and Economic Opportunities Analysis. This is similar to the analysis they did in 1998 for the City's Buildable Lands Inventory. On page 5-10 of the June 2016 Draft Report under "Conclusions about Housing Need" they conclude that "Corvallis needs additional smaller units and more diverse housing types. Demographic trends suggest that there will be an increase in demand for more affordable housing, such as smaller houses and lots sizes for single-family housing".

In closing, we hope the Planning Commission recognizes the importance of providing modest entry level housing in South Corvallis and that the addition of interior chases for rooftop solar systems mitigates the loss of passive solar options for the non-compliant structures.

We appreciate your thoughtful consideration on this matter.

Sincerely,

*David Dodson*

David j. Dodson, AICP