

## Public Hearing for PLP 2007-3 (Crosswater Estates)

September 25, 2007

Molalla City Hall Courtroom 7:00 P.M.

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**STAFF ATTENDANCE:** Mr. Andrew Stamp (Hearings Officer), Mr. Shane Potter (Planning Director), Mr. Zach Pelz (Assistant Planner)

**ATTENDANCE:** Darlene Sutton, 13526 S. Lowe Road, Molalla, OR; Willy Fincher, P.O. Box 87, Molalla, OR; Jim and Nancy Miller, 133 NW Trinity Place, Portland, OR; Jane Filener, 31696 S. Ona Way, Molalla, OR; Bruce Filener, 31696 S. Ona Way, Molalla, OR.

**MINUTES:** The meeting was called to order at 7:05 p.m. MR. ANDREW STAMP asked if the applicant was present. MR. WILLY FINCHER responded that he was present. MR. STAMP outlined the purpose of the public hearing and then detailed the rules and regulations pertaining to meeting conduct.

PLANNING DIRECTOR POTTER presented an outline of the application as well as Staff's recommendations. PLP 2007 – 3 is for a 46 lot subdivision located in township 5, range 2 east, section 8C, on tax lots 1800 and 700. The lots are addressed 31696 Ona Way and 728 Highway 211 respectively.

PLANNING DIRECTOR POTTER stated that no serviceability concerns were raised during meetings with the Molalla Police Department. The Molalla Fire Department did however express interest in the exact location and placement of hydrants.

HEARINGS OFFICER STAMP stated that the Fire Marshall must submit to the record, a written document expressing concern with the placement of hydrants.

HEARINGS OFFICER STAMP stated that the Director of Public Works must also submit, in writing, a feasibility finding that states that \_\_\_\_\_ is "probable and likely" to occur.

PLANNING DIRECTOR POTTER discussed staff's recommendations to the applicant for park space as outlined in Molalla Municipal Code section 17.20.290(C). PLANNING DIRECTOR POTTER explained that a majority of the applicant's proposed park space currently lies in riparian areas (approximately 50,000 of the required 51,336 square feet of proposed park space for this subdivision are in riparian areas). In accordance with the MMC 17.20.290(B), "Wetlands and other required open areas shall not be used in the acreage calculations for [the provision of required park space]."

PLANNING DIRECTOR POTTER stated that to make up for this deficit, the City would be willing to accept the following park amenities; an 8 foot asphalt pedestrian and an 8 foot asphalt bicycle path on the north side of Bear Creek from Lowe Road to the north boundary of tax lot 1800, a 20 foot gravel horse path on the south side of Bear Creek, a pedestrian/bicycle bridge at a point near the trailhead, 4 parking spots, 2 basketball courts, 1 picnic table and a restroom.

HEARINGS OFFICER STAMP questioned Potter as to whether this trail system was part of a larger overall trail system.

POTTER replied that indeed this proposal was part of a larger trail system that would begin at the City's wastewater treatment plant and end in Ivor Davies Park.

HEARINGS OFFICER STAMP questioned whether the park was part of the City's Parks Master Plan.

PLANNING DIRECTOR POTTER replied that it was.

PLANNING DIRECTOR POTTER continued with Staff's findings by explaining a condition of approval for full street improvements (rather than half street improvements) on Leroy Avenue south of Highway 211 (W. Main Street). PLANNING DIRECTOR POTTER explained that this particular recommendation was put in place primarily to construct sidewalks on both sides of Leroy Avenue in order to minimize the number of pedestrian crossings (improve safety for children accessing Molalla Elementary) necessary at the intersection of Leroy Avenue and Highway 211 (W. Main Street).

PLANNING DIRECTOR POTTER next discussed Staff's recommendation to realign the proposed Lowe Road to connect with Molalla Forest Road.

HEARINGS OFFICER STAMP questioned if this would constitute an off-site improvement.

PLANNING DIRECTOR POTTER explained that the number of lots proposed for the subdivision warrants 2 entrances/exits onto and from the site. This recommendation would satisfy the requirement.

As PLANNING DIRECTOR POTTER continued to list Staff's recommendations, HEARINGS OFFICER STAMP asked if Staff's report addressed wetlands.

PLANNING DIRECTOR POTTER replied that sections 18.68 and 18.69 addressed stream and wetland issues.

HEARINGS OFFICER STAMP stated that rather than making the wetlands issue a condition of approval, it should be stated upfront as it is an existing code requirement.

MR. STAMP attempted to clarify that the creation of the park was dependent upon the removal of lots 41, 42, 43, 44 and asked PLANNING DIRECTOR POTTER to work on more specific language for this provision.

MR. STAMP asked where the concept for the pedestrian/bicycle/equestrian path came from.

PLANNING DIRECTOR POTTER explained that Staff developed the illustration on record after consultation with the Oregon Division of State Lands and the Oregon Department of Environmental Quality.

PLANNING DIRECTOR POTTER stated that the separation of the two proposed pathways was to maximize human safety while simultaneously providing the greatest amount of vegetated buffer between the paths and Bear Creek (to ensure minimal water quality degradation).

HEARINGS OFFICER STAMP asked if a new map, as stated in Staff's report, was equal to the creation of a new map.

PLANNING DIRECTOR POTTER explained that because of the large number of changes necessary, a new map would be required to adequately illustrate compliance.

PLANNING DIRECTOR POTTER explained Staff's condition of approval number 17, which states, "Lots 2 and 3 shall be merged into one large lot occupied by multi-family dwellings. Access to this newly created lot would come about from a driveway located on the north side of the proposed Ashton Drive." PLANNING DIRECTOR POTTER highlighted the safety benefits that would accrue from removing these two driveways (access to proposed lots 1 and 2) near the intersection of Leroy Avenue and Highway 211 (W. Main Street).

HEARINGS OFFICER STAMP believed it unnecessary for the applicant to deed the streets within the proposed subdivision to the City. MR. STAMP said that because the plat serves as the document of record, this condition of approval should be an up front requirement as it is currently a condition of Molalla's Municipal Code.

#### APPLICANT'S TESTIMONY

The applicant stated his name as RANDY GRIFFITH, 947 MEADOWLARK PLACE, MOLALLA, OR. MR. GRIFFITH asked the HEARINGS OFFICER to restate the allowable procedures for this phase of the hearing.

HEARINGS OFFICER STAMP explained that it would be in the best interest of the applicant to justify complaints with legal documentation or other legal bases.

MR. GRIFFITH stated that the entire subdivision was zoned multi-family residential and within the designation for the proposed 46 lots, all of which were proposed to be single-family lots. MR. GRIFFITH stated that he was unaware of Staff's recommendation to combine lots 1 and 2.

HEARINGS OFFICER STAMP asked MR. GRIFFITH what he had in mind for the character of the proposed subdivision.

MR. GRIFFITH explained that his intention is for an upscale neighborhood with houses priced in the \$350,000 to \$450,000 range.

In referring to the condition of approval that the applicant submit a parks master plan for the area, MR. GRIFFITH stated that the condition to take on the planning for property that was not owned by him, seemed somewhat unfair, especially not knowing whether or not the application would ultimately be approved. MR. GRIFFITH expressed his disfavor in, "spending money on other people's property."

HEARINGS OFFICER STAMP asked PLANNING DIRECTOR POTTER to explain the legal significance of the applicant preparing this document. HEARINGS OFFICER STAMP exclaimed, "What purpose does this document serve at this point?" HEARINGS OFFICER STAMP continued to express concern with the legality of this condition of approval.

MR. GRIFFITH commented that requiring parking, tennis courts, basketball courts, and a restroom for his 2.5 acre portion of this park was disproportionate with past contributions made to City parks by developers.

HEARINGS OFFICER STAMP asked PLANNING DIRECTOR POTTER about what the park standard requires.

PLANNING DIRECTOR POTTER stated that the current City of Molalla Ordinance requires 1 acre of park space for every 100 estimated residents created by the subdivision. Because it is estimated that each lot will create 2.8 individuals, PLANNING DIRECTOR POTTER explained that this subdivision is expected to produce 128.8 individuals and therefore will be required to provide 56,105.28 square feet of park space ( $128.8/100 = 1.288$ ,  $1.288 * 1 \text{ acre (43,560 square feet)} = 56,105.28 \text{ square feet}$ ).

MR. GRIFFITH again stated his dissatisfaction with being required to plan for an area larger than his contribution to this park.

HEARINGS OFFICER STAMP asked MR. GRIFFITH to estimate the amount these improvements will cost the developer.

MR. GRIFFITH stated he was certain these improvements would be quite costly, particularly the restroom.

HEARINGS OFFICER STAMP suggested that the City review previous development applications to get a better assessment of the amount of park space typically required of subdivisions. HEARINGS OFFICER STAMP agreed that this was an area of concern and that the City should work to develop a better basis for imposing the condition.

MR. GRIFFITH next mentioned Staff recommendations 25 and 27 which state, “the applicant shall provide staff with a cost analysis of the intersection improvements to be made,” and, “the applicant shall provide sidewalks on the following streets...” MR. GRIFFITH questioned the cost analysis of lights and signals at the intersection of Highway 211 (W. Main Street) and Leroy Avenue and doubted the need for a traffic signal at this intersection.

PLANNING DIRECTOR POTTER stated that because Highway 211 (W. Main Street) is a state owned roadway, the Oregon Department of Transportation (ODOT) is responsible for making that decision.

HEARINGS OFFICER STAMP stated that because of this fact, condition of approval number 25 does not need to be a condition of approval.

HEARINGS OFFICER STAMP requested a continuance of the hearing due to lack of understanding of conditions of approval by the applicant.

MR. GRIFFITH said that he had no further questions at this time.

HEARINGS OFFICER STAMP requested a feasibility analysis for storm drainage be put on record for the next hearing. HEARINGS OFFICER STAMP went on to say that the Land Use Board of Appeals (LUBA) case law states that conditions of approval must be probable and likely to occur.

HEARINGS OFFICER STAMP used this argument (probable and likely) to question the validity of full street improvements on Leroy Avenue.

PLANNING DIRECTOR POTTER explained that the condition was an attempt to mitigate concern over public safety.

HEARINGS OFFICER STAMP stated that full street improvements may violate *DOLAN v. TIGARD* and suggested other potential mitigation strategies; reimbursement from adjacent property owners, Capital Improvements Projects (CIP) reimbursement credits, and SDC credits. HEARINGS OFFICER STAMP also noted that the Fire Marshall must provide the location of fire hydrants for the public record.

#### TESTIMONY IN FAVOR OF THE APPLICATION

MR. BRUCE FILENER, 31696 SOUTH ONA WAY, MOLALLA, OR, addressed the HEARINGS OFFICER to affirm his presence at the wetland survey conducted in 2005 by Pacific Habitat Services. MR. FILENER also stated that he is the owner of the parcel adjacent the proposed park land. MR. FILENER attested to the fact that there were absolutely no wetlands present at this site.

#### TESTIMONY IN OPPOSITION TO THE APPLICATION

NANCY MILLER, 133 NW TRINITY PLACE, PORTLAND, OR is the owner of the parcel adjacent proposed lot 1 of the Crosswater Estates Subdivision. MS. MILLER stated that there is currently a single family residence on the site that is being rented. Because of the irregular shape of lot 1 (acute isosceles triangle) MS. MILLER wondered where on lot 1 a house would be placed.

MR. GRIFFITH stated that a house would more than likely be placed near the west edge of the lot.

MS. MILLER was also concerned with the effect this new construction would have on the drainage characteristics to and from her property. MS. MILLER stated that a recently constructed storage facility on the east side of her property drains a significant amount of water onto her property and has damaged one of the buildings on her site.

HEARINGS OFFICER STAMP explained that without an adequate stormwater drainage plan, that question could not be appropriately addressed at this time.

MS. MILLER asked whether or not manufactured homes would be allowed in the subdivision.

PLANNING DIRECTOR POTTER explained that under the current zoning of this area manufactured homes are allowed.

HEARINGS OFFICER STAMP stated that it was his understanding as described by the developer, that the character of this subdivision would be mainly high-end homes. HEARINGS OFFICER STAMP did however

state that this description by the developer was considered non-binding, and served only as background information for the hearing.

As there were no other questions, HEARINGS OFFICER STAMP set October 23, 2007, as the date for the continuance of this hearing. HEARINGS OFFICER STAMP asked the applicant to extend the 120 day requirement until the date of the next hearing. MR. GRIFFITH agreed to the extension.

The meeting was adjourned at 8:47 p.m.