

## MINUTES

Creswell Planning Commission  
Creswell Community Center – Creswell, Oregon

January 20, 2005  
7:30 p.m.

PRESENT: Keith Morgan, Chair, Jeri-anne Cohen; David Christopher, Lloyd Safley, Blake Oelke, Wes Olson, Dennis Grice, members.

STAFF/GUESTS: Megan Banks, Planner; Mark Shrives, City Administrator; Roy Sprout, Public Works Director; Mayor Ron Petitti; Charlcie Kaylor, Shawn Eaton, The Building Department.

Mr. Morgan called the meeting of the Creswell Planning Commission to order.

### **Minutes of November 18, 2004**

*Mr. Safley moved, seconded by Mr. Morgan, to approve the minutes of the November 18, 2004, meeting as submitted. The motion passed unanimously.*

### **Audience**

There were no comments from the audience.

### **Commissioner Comments**

There were no comments from the commissioners.

### **Poll Members for Conflicts of Interest**

Ms. Cohen disclosed that she had represented the applicant on a matter unrelated to the business before the commission under New Business. She declared that she did not feel that her ability to render an impartial decision was affected. There were no objections.

### **I. OLD BUSINESS**

There was no old business.

## II. NEW BUSINESS

**Case No. LOT-2004-03, a request by Baker and Associates Surveyors, on behalf of Keenen Loughary, for property line adjustment approval of two parcels. The site is zoned Downtown Commercial and is generally located in the central part of Creswell at the southwest corner of A Street and Second Avenue. (Assessor's Map 19-03-14-24, Tax Lots 10300 and 10400)**

Ms. Banks reviewed the staff report and findings of fact. She said that a property line adjustment was a Type I request, therefore not a land use decision and did not require a public hearing. She used a map to illustrate the subject property and affect of the requested adjustment of a property line between two parcels. She stated that the request satisfied the relevant criteria in the Creswell Development Code and recommended approval subject to the following conditions:

1. Provision of a final survey that showed the bearings for the three segments of the new property line.
2. Meet recording requirements within 30 days and provide a copy of recording document(s) to the city administrator.

Ms. Banks asked that the commission authorize the chair to sign the Findings of Fact if it was in agreement with the staff recommendation to approve the request.

*Mr. Christopher, seconded by Mr. Oelke, moved to accept the staff report regarding Case No. LOT-2004-03, adopt the findings of fact, and authorize the commission chair to sign the approval document. The motion passed unanimously, 7:0.*

## III. OTHER

Ms. Banks announced that outgoing commissioners Tim Demanett and Marjorie Pound were unable to attend the meeting; recognition of their contributions by the commission was deferred to the February meeting to accommodate their schedules.

### **Discussion on Residential Setbacks**

Mr. Shrives commented that the City had received a smart development grant to fund a review of the Creswell Development code and the City was also conducting a Measure 37 review to

determine whether modifications to the code were required. He stated that there were two additional pressing issues related to setbacks. He said that current setback requirements for single family residential structures were 20 feet in the front and 5 feet on the side and rear of the home; the exception was a corner lot, which had a 10-foot setback on the side facing the street. He related that one of the two issues related to setbacks was that new development had resulted in a number of fences that did not comply with the requirement that a 6-foot fence meet setback requirements.

According to Mr. Shrives, the fact that there was no permit requirement for fences meant that many owners were unaware of the restrictions and there was no opportunity for the City to initiate that conversation with them. He suggested that the ordinance should be changed or broadened to allow staff decision-making discretion.

Mr. Eaton remarked that corner lots were particularly troublesome for siting of fences and agreed that the lack of a permitting process contributed to the problem. He said the other pressing issue was the safety concerns related to awnings, patio covers, carports, storage sheds, and related structures encroaching into setbacks. He said that most of those structures had not been permitted and created problems such as water runoff and fire and emergency access to property.

Mr. Eaton and Mr. Shrives demonstrated setback issues with a series of slides taken of properties throughout the community that illustrated fences and structures that were in violation of the code. They requested direction from the commission on interpretation and application of code requirements, enforcement, and permit requirements.

Mr. Oelke asked if a structure was required to be a certain distance from a house. Mr. Eaton said that there was not requirement related to distance from the home; structures were required to be 5 feet from the property line to protect access for the fire department.

Ms. Kaylor noted that the requirement was in the State code and enforcement was delegated to cities. She said that while the code might not require permitting, local ordinances could. She used the example of a homeowner who had built a deck over his entire yard. She said that separation between structures was an important element of fire control; the farther away a structure the less likely it was that a fire would spread.

Mr. Grice said he understood that the front setback could contain sidewalks, parking strips, and utilities but was not certain of the reason for setbacks on the side and rear of a structure. Ms. Kaylor said that aesthetics were part of the reason. Mr. Eaton added that setbacks also prevented the spread of fire by separating structures.

Mr. Grice commented that old construction was grandfathered in and the code regulated only new construction. Mr. Eaton noted that it would be necessary to determine the point in time at

which enforcement for new construction would begin.

Mr. Shrives illustrated another problem related to fences that occurred when homes were on adjacent corner lots but faced different streets; the house facing the street had a 20-foot setback and the house on the adjacent lot with its side to the same street only had a 10-foot setback. He said the fence height and setback requirements on corner lots also related to preventing obstructed views for motorists. He said the matter should be discussed by the commission and the City Council.

Mr. Oelke pointed out that the builder constructed the home but not fences and owners lacked the necessary information about code requirements for setbacks. Mr. Shrives agreed and added that even businesses that erected fences did not always know the requirements or comply with them. He suggested that one way to provide that information was an information packet that could be given to homeowners when they came in to start their water service. He encouraged the commission to raise setback concerns with the City Council.

There was a general discussion of setback issues among commissioners and staff during which the following points were raised:

- there should not be so many restrictions that the City was perceived as unfriendly to development
- requiring fences and structures to come before the commission for a variance was an unreasonable demand on the commission's time and staffing resources
- currently enforcement is after the fact because there is no permit system
- establish a permit requirement for fences – would facilitate consultation with homeowners so they would understand setback and fence height requirements
- establish an appeal process for enforcement decisions
- develop objective standards
- restrictions on fence height and placement are also related to planning and aesthetic issues
- provide flexibility to grant permission on a case-by-case basis for unusual situations
- consider the issue of fences within setbacks and structures within setbacks separately or address them together
- the issue of setback requirements could be addressed as an informational item in the staff report when a subdivision comes before the commission
- determine whether the commission will allow structures or temporary storage within setbacks
- address whether the permitting process should determine what is allowable
- what staffing resources would be required for permitting, enforcing
- Code revisions may be required before a permitting process can be established
- consider the financial impact on homeowners

Mr. Shrives asked for comments and direction from the commission and suggested that the commission could formulate recommendations to the City Council following another discussion of the subject.

Mr. Olson said that the existing code should be enforced.

Mr. Oelke said that it was necessary to get owners into the City's permit system in order to enforce the code.

Ms. Banks suggested that a permitting process could be put in place without amending the code; homeowners could be educated about problems through the permitting process, and then recommendations could be made to the City Council regarding code revisions.

Mr. Oelke said that structures within setbacks were more of a code issue; it was important to educate the community.

Mr. Eaton noted that when the sprinkler system permit process was established word spread quickly and people became aware of the requirements.

Ms. Banks pointed out that a development permit was already in the code and fences could be itemized as a part of that process.

*Mr. Morgan moved, seconded by Mr. Christopher, to initiate a fence permitting process and schedule a special meeting of the commission to discuss the issue of structures within setbacks and review the code. The motion passed unanimously.*

### **Joint Planning Commission-City Council Work Session: Monday, January 24, 2005**

In response to a question from Ms. Banks, Mr. Shrives said that a joint work session with the City Council should be scheduled after the commission had held its discussion and that the issue of the Cuddeback property was on hold.

Ms. Banks said that a joint work session with the City Council would be scheduled later in February 2005.

### **Update: Parks and Open Space Master Plan**

Ms. Banks reported that the Parks and Open Space Committee had established park classifications and acreage per thousand residents standards for various park types. She said that accessibility was based on a walkable distance to a park and major roads such as Interstate 5 and

Highway 99 represented barriers to accessibility. She used a map to illustrate the walkable distances to a number of parks. She also identified those areas that were lacking in parks and where development of parks should be planned.

Mr. Oelke asked if the City could mandate development of a park. He noted that there were currently park requirements for developers. Ms. Banks replied that ideally the City could purchase park land. She said that the park requirements for developers of a single family development were not very stringent. She said that adopted of the park plan would result in park service development charges (SDC) that would fund future park development.

### **Update: Economic Opportunities Analysis**

Ms. Banks said that ECONorthwest had completed a preliminary economic opportunities analysis and there would be a public workshop sometime in March 2005.

Ms. Cohen, referring to the special and joint meetings that were being scheduled in addition to regular meetings of the commission, said that she might be unable to participate and would be willing to resign if the commission wished. It was the consensus of commissioners that she should remain on the commission.

### **NEXT MEETING/ADJOURNMENT**

Ms. Banks announced that the commission would hold its regular meeting at 6:30 p.m. on February 17, followed by a work session at 7:30 p.m.

Mr. Morgan adjourned the meeting at 9:15 p.m.

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