

# MINUTES

Creswell Planning Commission  
Creswell Community Center—99 West 1<sup>st</sup> Avenue

April 19, 2007  
7:30 p.m.

PRESENT: Keith Morgan, David Christopher, David Grice, Wes Olson, Mike Ufford, Lloyd Safley, Blake Oelke, members; Megan Banks, staff; Mark Shrives, City Administrator; Carolyn Connelly, City Attorney; Roy Sprout, Public Works Director; Patti Hansen, Don Strunk, Lane County Public Works; Ron Rice, Geomax; Steve Cornacchia, attorney; Troy Stevens.

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

## Minutes of March 15, 2007

*Mr. Olson, seconded by Mr. Oelke, moved to approve the minutes of the March 15, 2007, meeting as submitted. The motion passed unanimously, 7:0.*

## Audience

Mr. Morgan called for comments from the audience on items not on the meeting agenda.

**Troy Stevens**, Vancouver, Washington, representing Adair Homes stated that he was attempting to purchase property at Creswell Marketplace and was somewhat frustrated by the process. He said Adair Homes wished to be a permanent fixture in Creswell and while he recognized that his difficulties with the seller were not the commission's concern, he hoped for assistance in expediting the review of electrical work for the pump station as he could not purchase the property until the pump station was operational. He explained the problem with the pump station and said that information had just been submitted to the City for review; it was that review he hoped could be on the agenda for the commission's next meeting.

Mr. Shrives noted that a condition of the Adair Homes application was for the pump station to be operational and City staff had had a number of discussions with representatives of Adair Homes. The request for variance for pump station operation had been received on April 16 and would need to undergo review by an electrical engineer on behalf of Public Works and by planning staff. He did not think that could be done in time for consideration at the next meeting.

Mr. Stevens said he would appreciate any assistance from the City as it did not appear the seller was fully aware of all of the detailed requirements.

Mr. Sprout said that the Department of Environmental Quality was now requiring permanent standby power for pump stations and the review would address that and other requirements.

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

Mr. Morgan polled commissioners for conflicts of interest or *ex parte* contacts. No members declared conflicts of interest or *ex parte* contacts regarding any of the items on the agenda.

## **Commissioner Comments**

Mr. Christopher expressed his appreciation that a public address system was in place and available for the public hearing.

### **I. OLD BUSINESS**

There was no old business.

### **II. NEW BUSINESS**

**Public Hearing on Case No. PUD-2006-01 and SUB-2006-05** (concurrent submittal and review), requests by Geomax Engineering, on behalf of Valley Development, LLC, for a 46-lot residential subdivision on 21.8 acres (assessor's map 19-03-13-00, tax lots 2500, 2504, 2506; and 19-03-13-24, tax lot 900). The site is located in the southeast section of Creswell, north of Cloverdale Road, east of Dale Kuni Road, and west of Lane County's transfer station. The applications was reviewed under the Creswell Development Code: Section 3—Procedures; Section 5—Residential; Section 10—Planned Unit Development subzone; Section 11—Floodplain subzone; Section 14—Development Standards; Section 17—Parking and Access; Section 19—Land Divisions, and any other applicable section of the Creswell Development code.

Ms. Banks described the proposed project and provided the staff report. She noted that the staff report addressed both applications, but there were separate findings for each application. She said that comments had been received from Creswell Public Works, the Fire Marshal, Lane County Land Management and Lane County Waste Management and those were incorporated in the combined staff report and reflected in the findings and conditions of approval as appropriate. She said that Patti Hansen, Lane County Waste Management, had provided written comments at the hearing for the record. She said that EGR & Associates had requested notification of any materials submitted related to the flood study.

Ms. Banks continued with a review of issues addressed in the staff report, including transportation, perimeter fencing, park, utilities, fire service, flood plain subzone, erosion control, phased development and covenants, conditions and restrictions (CC&R). Regarding transportation issues, she asked for clarification on whether the tapering width at the entrance from Dale Kuni Road onto Groshan Avenue was proposed within the 50-foot right-of-way. She said that two cul-de-sacs were proposed and clarified that code language limited cul-de-sacs no more than 400 feet long *or* serving more than 18 single family homes. The Chapman Court cul-de-sac was 510 feet long but would serve at most 11 homes if Phase 2

was developed. She said the applicant would be required to include a note on the cover page of the final plat stating that the Chapman Court cul-de-sac could serve no more than 18 homes.

Ms. Banks stated that perimeter fencing along the east portion of the property adjacent to the County landfill was the subject of discussions between the applicant and the County and it appeared that an agreement had been reached. She said Ms. Hansen would discuss that issue during the public hearing. Regarding parks, she noted that Tract 3, at the corner of Dale Kuni Road and Cloverdale, was to be dedicated to the City as a public park. The dedication needed to total 0.5 acre and not the 0.46 acre shown on the map. She said the City had agreed that the storm drainage system would be privately operated and maintained.

Ms. Banks related that Phase 2 of the development involved potential encroachment on Lane County's decommissioned landfill but Phase 1 could be developed without disruption to the landfill cell. She said the applicant and Lane County were required to resolve the dispute before submittal of a development application for Phase 2.

Mr. Shrives noted that the development represented Creswell's first private, gated community. He said while the cost of maintaining the streetlights was addressed, paying for energy to operate them had not been. He asked that CC&Rs (covenants, conditions and restrictions) include a requirement that the homeowner's association pay for operation of streetlights as a condition of approval.

Ms. Banks indicated that a condition of approval could be added for the subdivision that required the CC&Rs to specify that the homeowner's association would pay for operation and maintenance of street lights on private streets within the development.

Ms. Banks distributed revised findings for the PUD application that addressed Lot 44 adjacent to the County's currently operating solid waste transfer facility. She said the Code required integration of the development with surroundings or in the case of a departure from the surroundings, that the impacts were adequately reduced. She acknowledged that it was unusual to have a transfer station adjacent to a residential development and two conditions of approval were being added: one condition would require that a note be recorded with any deed on a lot adjacent to the Lane County transfer station acknowledging that an active solid waste transfer station was adjacent to the property and the other condition would require a permanent evergreen vegetative screen be planted along any lot adjacent to the transfer station prior to final plat approval; the screen must meet the requirements of the Creswell Development Code. She reviewed the other conditions of approval and informational items for the PUD application.

Ms. Banks reviewed the SUB application conditions of approval. She noted that a condition related to the cost of operating streetlights as requested by Mr. Shrives had been added as item 3.m.

Mr. Morgan opened the public hearing and called for testimony from the applicant.

**Ron Rice**, Geomax, 806 North 9th Street, Cottage Grove, representing the applicant used an aerial photograph to illustrate the subject property and location of development features. He reviewed various aspects of the development. He pointed out a surveyed line that indicated where the County landfill encroached on the property. He said that a boundary dispute was the reason for development of the property in two phases; Phase 2 would not proceed until the County and applicant had resolved the landfill issue. He identified the location of subsurface stormwater disposal and explained the treatment process.

He said there would be no concentration of stormwater and it would all be managed on the site. He expressed no concerns with the proposed conditions of approval and anticipated fencing around the landfill area to separate it from any construction activities and avoid disturbing the landfill.

Mr. Oelke asked for an overview of the on-site stormwater system. Mr. Rice replied that a pervious pavement system of pavers that resembled a cobblestone street would be used and beneath that surface were various gradations of soil, which acted as the treatment portion of the system. He said that petroleum products would wash into the area between the cobblestones, be trapped and destroyed by microbes. He said the system was an innovative approach in the Pacific Northwest and the site was well suited for it as the ground would take approximately 20 inches per hour of water and was relatively flat. He explained the construction process and indicated that no stormwater would be gathered on the site. He said the system qualified for environmental credits. He said the initial cost was greater than asphalt but the system paid for itself over the long run in terms of ease of maintenance.

Mr. Morgan asked about the system's track record. Mr. Rice replied that it had been used in Europe for over 20 years and had been used successfully at sites on the east and west coasts. Mr. Olson added that the turnaround at Emerald Valley was constructed of the pavers and they had been in place for 28 years.

In response to questions from Mr. Olson, Mr. Rice explained that the pavers needed to be periodically maintained and that would be done with a special vacuum sweeper that removed the accumulated silt to maintain porosity. He said that process would occur every 24 to 36 months. He said separation of pavers was maintained by spacing mechanisms that prevented them from coming into contact with each other.

Mr. Morgan determined there was no one else wishing to speak either in support or opposition. He called for neutral testimony.

**Patti Hansen**, Lane County Waste Management, reviewed for the record the written testimony she had provided in response to the application. She illustrated on a drawing of the site the location of the boundary dispute. She emphasized that all references in the proceedings and documents should be to the operating solid waste transfer station, instead of just transfer station. She said that much of the County-owned land was a closed landfill, including the area designated as Cinderella Park, and except for the transfer station was closed to the public. She described operation of the transfer station and its potential impact on adjacent homeowners. She asked that Lane County review the final stormwater drainage plans before final action by the City. She expressed concern about fencing the area involved in the property line dispute and proposed that Phase 2 of the project be fenced off from Phase 1 until the dispute was resolved.

Mr. Oelke asked if the County's main concern was that people would not realize the consequences of living adjacent to a landfill or transfer station when they moved in and blame Lane County for problems. Ms. Hansen said the County wanted people to be fully informed in advance of purchasing a home that the landfill was there and not open to the public, including Cinderella Park.

Ms. Banks stated that the City was requiring a notice to go on deeds for property adjacent to the solid waste transfer station.

Mr. Shrives said it appeared that all of the issues raised in Ms. Hansen's written testimony were addressed in the staff report and also by the applicant. He asked if Lane County was satisfied with the conditions being imposed.

**Don Strunk**, Lane County Public Works, indicated that based on discussions with Geomax, the County's concern with fencing on the disputed property line had been addressed.

Ms. Banks stated that language needed to be finalized for the findings and conditions of approval. She understood that the County and applicant had agreed to temporary fencing along the landfill cell and the City wanted a timeline for permanent fencing in order to meet code requirements.

**Steve Cornacchia**, attorney for the applicant, stated that the applicant would erect temporary construction fencing and that fencing would be maintained until such time as the boundary description was resolved between Lane County and the applicant, at which time permanent fencing around the perimeter of the development shall be completed.

Ms. Hansen said the County wanted the area blocked off to prevent staging in it during the construction phase.

Ms. Connelly was concerned that leaving the timing of permanent fencing indefinite until the boundary dispute was resolved would leave the City hanging if the property dispute went on for a very lengthy period of time.

Mr. Shrives suggested requiring permanent perimeter fencing as lots 34, 35 and 36 were developed, which meant building on the sites.

Mr. Rice suggested placing the fencing on the same timeline as the sidewalks and requiring completion within two years of the final plat and if the issue was still being adjudicated, the Phase 1 boundary would be used.

Mr. Shrives and Ms. Connelly agreed to Mr. Rice's suggestion.

Mr. Olson questioned a statement in Ms. Hansen's written testimony that the landfill had been uneventful in 15 years, when many people used the area for recreational purposes. Ms. Hansen replied that the term "uneventful" referred to the landfill itself. She described an event at another landfill site where a fire had been started and it took a long time to put it out because of the materials that were in the landfill, such as sawdust and tires. She said it was important to the County that the nature of the area be known.

Mr. Shrives asked if the County was satisfied with the agreement regarding fencing and the other conditions in the staff report and findings. Ms. Hansen said the County was satisfied.

Ms. Banks read the new condition: "The applicant will provide temporary construction fencing along the landfill cell as delineated on Sheet 1. That fencing will be maintained until such time as the boundary line dispute is resolved by Lane County and the applicant or prior to the issuance of an occupancy permit or within two years of the date of the final plat approval, whichever comes first. At that time, permanent fencing subject to the Creswell Development Code shall be installed."

Ms. Connelly asked that language be added specifying that the fencing would be installed either at the description boundary as agreed to by the County and the applicant or the boundary of Phase 1 if the boundary dispute remains unresolved.

Ms. Banks agreed and restated the condition as: "The applicant will provide temporary construction fencing along the landfill cell as delineated on Sheet 1. That fencing will be maintained until such time as the boundary line dispute is resolved by Lane County and the applicant or prior to the issuance of an occupancy permit or within two years of the date of the final plat approval, whichever comes first. At that time, permanent fencing subject to the Creswell Development Code shall be installed per the Phase 1 boundary if the dispute is not resolved or the boundary description if resolved."

Mr. Rice asked that the reference to occupancy permit be eliminated.

Ms. Banks and Ms. Connelly agreed to remove the reference.

Mr. Morgan closed the public hearing.

Mr. Ufford asked why Phase 2 of the development was being addressed when the hearing was supposed to be about Phase 1. Ms. Banks replied that the landfill cell fencing dealt with Phase 2, but the applicant had proposed fencing for both phases and the County had concerns that needed to be addressed.

Mr. Cornacchia explained that the code required a fence around the perimeter and the applicant had to provide the fence. He said the proposal had been for a fence around the entire site, but the County had concerns about impacting the cell. He said instead of forcing a fence around only Phase 1 that would have to be removed when Phase 2 was developed, the agreement was for a temporary fence to be constructed between the two phases to meet the needs of the County and the code.

Mr. Oelke asked if the City had any maintenance responsibilities when the streets and stormwater system were privately owned. Mr. Shrives replied that if the streets were not dedicated and a homeowner's association and CC&Rs were in place, the City had no obligation for maintenance or CC&R enforcement. He said there was no City oversight of the stormwater system.

Mr. Oelke asked if there would be any examination of the stormwater system in the future to determine if it was operating appropriately. Ms. Connelly replied that the City at this point could impose conditions and require that CC&Rs met code requirements and that was the extent of the City's enforcement activity. Mr. Shrives emphasized that it was a private development and the CC&Rs and homeowner's association were responsible for enforcement and essentially assumed the role of the City for that development.

In response to a question from Mr. Sprout, Mr. Rice said that at the point when drainage from any property became a problem the City had the authority to address the issue in some manner, such as forcing the homeowner's association to remedy the problem. Mr. Cornacchia added the association would have the responsibility for maintaining the roads under the CC&Rs and each individual homeowner had an enforceable right to receive those benefits from the homeowner's association and could bring civil action to enforce the CC&Rs.

Mr. Grice asked if the developer would be responsible for those items that would be duties of the homeowner's association until a certain percentage of homes were built, at which time the association would assume the responsibilities. Mr. Cornacchia said that was correct and the percentage was set forth in the CC&Rs.

Mr. Safley asked if the deeds to all of the lots would have a reference to the location of the landfill. Ms. Banks replied that only deeds for the lots adjacent to the landfill were proposed to have that reference.

Mr. Morgan asked why a reference would not be included on all deeds. Mr. Rice said that current real estate transaction requirements included an information sheet that specifically addressed the proximity of the closed landfill and existing transfer station; the buyer would sign that sheet to indicate they had been notified of that fact. He felt that was a more effective way of informing buyers than a reference on a deed.

Ms. Banks recommended that the reference on page 11 of the CC&Rs to City officials be generic by title instead of using specific names.

Ms. Connelly said that SUB condition of approval 1.h could be expanded to require the CC&Rs to ensure that local streets within the development are maintained to City standards.

Ms. Banks read the revised SUB condition of approval 1.h: "The storm drainage and street system shall be privately operated and maintained and shall be shown so on construction plans and CC&Rs. The CC&Rs shall also state that local streets within the development are maintained to City standards."

Ms. Connelly asked for clarification on where the requirement that the homeowner's association pay for operation and maintenance of street lighting was reflected. Ms. Banks said a new condition would be added to the SUB as condition 2.k and read: "The CC&Rs shall specify that the homeowner's association pays for operation and maintenance of the private streets within the development, as well as payment of initial and ongoing costs of streetlights within the development."

*Mr. Oelke, seconded by Mr. Morgan, moved that the Creswell Planning Commission approve with amended conditions The Reserve at Emerald Valley Phase 1 preliminary subdivision plat (SUB-2006-05) based on the information in the staff report and the findings of fact stated in the report. The motion passed unanimously, 7:0.*

*Mr. Morgan, seconded by Mr. Safley, moved that the Creswell Planning Commission approve The Reserve Planned Unit Development Phase 1 (PUD-2006-02), a concurrent request with preliminary subdivision plat (SUB-2005-05), based on the information in the staff report and the findings of fact and amended conditions. The motion passed unanimously, 7:0.*

### **III. OTHER**

#### **Comprehensive Plan Update Phase 1 Work Program Draft**

Ms. Banks announced that the Citizen Involvement Committee would meet on April 25 to discuss some of the small group work to be done. She said a public workshop would be held from 5:30 p.m. to 8:30 p.m. on May 14 and urged all of the commissioners to attend.

#### **Interchange Area Management Plan Public Open House Debrief**

Ms. Banks reported that about 20 people attended the April 19 open house, which provided an overview of the project to date.

### **Special City Council Meeting Regarding the Fairways LUBA Remand**

Ms. Banks stated that the special City Council meeting would be held on April 23. She said that commissioners were welcome to attend but would have no role at the meeting. She said that only those with standing in the issue would be allowed to speak.

Ms. Banks said that copies of the new development code would be available at the commission's next meeting.

#### **IV. ADJOURNMENT**

Mr. Morgan adjourned the meeting at 9:50 p.m.

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