

City of Selah
Planning Commission Minutes
of
March 20 2012

Selah Council Chambers
115 W. Naches Ave.
Selah, Washington 98942

A. Call to Order

The meeting was called to order by Chairman Roberts at 6:10 p.m.

B. Roll Call:

Members Present: Commissioners Roberts, Smith, Torkelson, Pendleton and Quinnell.
Staff Present: Dennis Davison, Community Planner; Diana Turner, Secretary
Guests: Carl Lester, Valerie Hull, Sarah Michael, Kelli White, Kyle Helms, Chad Quigley, Bill Harris, Bill Hordan, Ryan Moultray, Mike & Myria Foisy

C. Agenda Change Vote for Vice Chairman and YCOG Representative.

D. Communications

1. Oral -None.

2. Written - None

E. Approval of Minutes

Chairman Roberts called for a motion on the minutes of the Planning Commission meeting of February 21, 2012.

Commissioner Smith moved to approve the minutes, Commissioner Torkelson seconded. Minutes were approved with voice vote 5/0.

F. Public Hearing

1. Old Business None

2. New Business

a. **HARRIS SUBDIVISION VARIANCE (FILE 915.80.12-01) AND SHORT PLAT (FILE 913.80.12-01)**

Chairman Roberts opened the public hearing and asked staff to present their report.

Mr. Davison explained the process for the variance and short plat. If the variance is not approved the short plat is moot. He then presented the staff report.

FILE NO: 915.80.12-01 - Subdivision Variance Application/ 913.80.12-01 - Short Plat Application

PROPONENT: Bill Harris

LOCATION: 280 Driscoll Road----The site is located south and east of the Brader Hill Reservoir (Parcel Number: 181302-22407).

REQUEST: ❶ Approval of a subdivision variance authorizing a two(2) acre parcel to be created without public street frontage as required by Selah Municipal Code 10.510.041[e](3).
 ❷ Short plat one parcel (2.5 acres) in area into two (2) separate lots (one 2 acres in area)(one ½ acre in area in the One Family Residential (R-1) zoning district.

Selah Municipal Code, Chapter 10.30.030 requires that the Planning Commission review all variance application for compliance with the subdivision ordinance, consider public input and recommend approval or denial. The Commission shall forward its recommendation to the City Council for final disposition.

The planning commission may authorize such variance from the terms of this title as will not be contrary to the public interest and the comprehensive plan where literal enforcement of the provisions of this title would result in undue hardship.

A variance shall not be granted unless the planning commission makes findings that the applicant has expressly demonstrated all of the following:

- (a) That special circumstances applicable to the subject property, including size, shape, topography, location or surroundings, do exist; and,
- (b) That because of such special circumstances, strict application of this title would deprive the subject property of rights and privileges enjoyed by other properties in the vicinity under identical zoning district classification; and,
- (c) That the granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zoning district classification in which the property is situated; and,
- (d) That the special circumstances do not result from the actions of the applicant; and,
- (e) That the variance is the minimum variance that will make possible the reasonable use of the land, building or structure; and,
- (f) That the granting of a variance will be in harmony with the general purpose and intent of this title, the specific zoning district and the comprehensive plan; and,
- (g) That the administrative adjustment or administrative modification provisions of this chapter were either not applicable or were insufficient to provide the relief sought from the standards of this title.

(2) The planning commission may approve or deny variance applications and may impose conditions of approval.

Selah Municipal Code, Chapter 10.50.016 provides that the Planning Commission shall review the proposal for compliance with the subdivision ordinance, consider public input and recommend approval,

approval with conditions or denial. The Commission shall forward its recommendation to the City Supervisor for final disposition.

LAND USE AND ZONING: The existing parcel contains a single family residence.

SURROUNDING LAND USE:

- North: Single Family Residences and the City's Brader Hill Reservoir
- South: Vacant hillside
- East: Residences
- West: A residence and vacant hillside

SURROUNDING ZONING: The subject property and surrounding properties are all zoned One-Family Residential (R-1).

2005 CITY OF SELAH URBAN GROWTH AREA COMPREHENSIVE PLAN- The 'future land use map' contained in the 2005 City of Selah Urban Growth Area Comprehensive Plan designates all surrounding "Low Density Residential" providing for a maximum density of five (5) dwelling units per acre.

ENVIRONMENTAL REVIEW: The City of Selah, as the lead agency for this proposal under the State Environmental Policy Act (SEPA) determined that this proposal is categorically exempt from SEPA per WAC 197-11-800(6)(a).

UTILITIES: The existing parcel is served with an existing well and septic tank. Basic public utilities are available to serve the proposed new parcel. An 8" sewer and water line abuts the proposed new parcel to the North.

TRANSPORTATION: Heritage Hills Drive Designated "local access" with two travel lanes (34 foot pavement width), 50 foot right-of-way width with curb/gutter, and sidewalk on one side.

OTHER FINDINGS:

- (1) One single family residence occupies the existing lot.
- (2) As proposed the existing lot will have access to Heritage Hills Drive via an existing access easement while the proposed new parcel directly abuts Heritage Hills Drive.
- (3) Division of the property into two separate lots could contribute an additional ten (10) vehicle trips per day onto Heritage Hills Drive.

CONCLUSION: The site is designated for Low Density Residential development, the site is zoned One-Family Residential (R-1), the proposed new parcel would be served by municipal services, all street infrastructure improvements have been previously completed and this site is an appropriate location for infill development.

RECOMMENDATION: APPROVAL of the short plat application subject to the following:

1. Final lot dimensions, lot area, and improvements indicated on the proposed short plat map must substantially conform to the short plat recommended by the Planning Commission.
2. The following notes must be placed on the short plat map:

The owner(s) shown hereon, or any grantees or assignees in interest, hereby covenant and agree to retain all surface water generated within the short plat on-site.

Access to the proposed new parcel shall be limited to Heritage Hills Drive where the lot abuts said street.

3. The short plat is to be recorded within five (5) years of the City's approval or such approval expires.
4. The proposed new parcel shall be connected to municipal sewer and water systems

Mr. Davison stated again if the variance is not approved the short plat is moot. Mr. Davison handed out letters from the neighbors for the record as exhibit 1 – 3 and a map showing the Harris property

1. Letter from Chad and Jennifer Quigley dated March 19, 2012
2. Letter from Carl & Teresa Lester dated March 19, 2012
3. Letter from Sean & Sarah Michael dated March 12, 2012

Commissioner Quinnell stated that he lived within 600 feet of the proposal for the record.

Commissioner Torkelson also stated that he lived in the subdivision (Heritage Hills) but not within the 600 feet

Chairman Roberts asked Mr. Davison if either of the gentlemen needed to reclude themselves?

Mr. Davison stated not unless they have a financial interest in the project. He stated that he did not think there was an appearance of fairness issue just because they live within the area.

Commissioner Quinnell stated that he did not have any financial gain in the project.

Commissioner Torkelson also stated that he did not have any financial gain in the project.

Chairman Roberts opened the comment period of the public hearing and called for comments in favor of the proposal.

Bill Harris asked if the order could be reversed so he could address concerns.

Bill Hordan stated he was working with Mr. Harris on the application and agreed with Mr. Harris after reading the letters that the City received. They could maybe work through the neighbors concerns.

Chairman Roberts agreed with them and called for comments against the proposal.

Carl Lester stated they were opposed to the proposal and thanked the Commission for the notice that was sent out to the neighbors. His main concern when you talk about a waiver or variance you are talking about circumventing the law or City code that exist. Laws are put in place to protect people's rights and under extenuating circumstances that the law may be altered. He did not see anything in the proposal that sent out that this was a hardship. I would hope the City Officials would abide by the code. If this proposal is allowed to go through he is concerned about what type of house would be built. The homes in his subdivision are required to comply with a restrictive covenant agreement that regulates the size, shape and landscaping. If the lot were created it would not have to comply with the covenants and the people in his subdivision (Heritage Hills) would be concerned about their property values.

Sara Michael she lives next to the proposal and is opposed to the proposal because of the law. The laws are in place to protect property. They bought the property with the understanding that no one would build on the property next to them. There is no hardship in regards to the variance just a bending of the rules. There would be no street frontage on the second lot even though they have an easement. What happens if the utility easement is no longer valid.

There was a question asked in regards to where the easement was located.

Mr. Davison stated the City has provided an access easement was next to the water tower. That easement has been recorded so it will not go away.

Chad Quigley stated he grew up in the City and understands Mr. Harris request but he feels there is not a hardship for the applicant just a benefit. When he built his home he benefited from two views (north and south) and his house was built to use both views. He knew that the lot to the south of him would not be built on due to codes. He feels the CC&R for his subdivision should be taken into account for this property if it is approved.

Ryan Moultray stated his concerns in regards to the CC&R's for his subdivision. He would like to have a look at the plans for the structure.

Valerie Hull stated she does not live in the neighborhood but her concern is regard to the bending of the code where there is no hardship.

Myria Foisy stated she is for or against the proposal but she has the same concerns about the property values. She did not get notice of this meeting but heard about it from a friend and is concerned about changing the laws. She hoped that with her speaking up at this meeting that she would receive notice of the next meeting.

Chairman Roberts called for comments for the proposal.

Bill Harris stated he is also concerned about property values. He was born and raised in Selah and plans to remain. Variances are applied for and granted by the Council all the time there are always a set of rules and they can not be all encompassing or take care of future needs. The easements for his property are fully paved and the gravel area is on the City property. The house that will be built is for a family member and there will small financial gain. They are planning to build a one level house with an offshoot over the garage. The house plans they are looking at now is 2,490 feet. It will not be detrimental to the neighborhood. He asked if the Commission had any questions of him.

Commissioner Smith asked how far back the proposed house would sit on the site?

Mr. Harris stated similar to the other houses in the neighborhood.

Chairman Roberts asked if he had investigated the covenants of the subdivision next door?

Mr. Harris stated that he had not but Mr. Hordan had shown him some just before the meeting. The square footage will not be a problem and landscaping will be similar to the properties up there. The question is there are hardship and the answer is no. This is a chance for his daughter and son-in-law to build a house with the rates they can afford.

Mr. Lester asked if the new lot would be hooked to City water and sewer?

Mr. Davison stated yes the new lot would have to hook to City water and sewer. If they are too far down the hill they would have to install a pump for the sewer.

Mr. Lester stated that if the house would be governed by the covenants of his subdivision that would alleviate his concerns.

Mr. Harris stated that not knowing the covenants he did not want to commit to that.

Discussion ensued.

Chairman Roberts called for further testimony.

Bill Hordan stated he was the consultant for Mr. Harris. He understands what the neighbors are saying but the really hard part is the CC&R's are 17 pages long and he just picked up a copy at 5:20 today. We are trying to create a lot here and the criteria does not require what the home will look like. Mr. Harris wants to be a good neighbor and he lived in the house next to the lot being created. Lets get back on track as far as the variance. We are dealing with the standard shape and topography of the lots in the neighborhood. If they were like the lots in Heritage Hills this would be a full blown subdivision request instead of a variance. That lot will never be developed similar to Heritage Hills. The land is just too steep. He cannot get to the existing sewer line and has to have his own septic system. There is about a 30 foot drop from the existing paved road to his new house that is why an easement was granted to Mr. Harris through someone else's property. The hardship is the shape and topography of the slope from the paved street to his existing house. The steepness is uncharacteristic to the street and access for the lot.

Question was asked why the lot was created that way.

Mr. Hordan stated that the lot was created so he could sell his existing residence and he could build a new residence.

Commissioner Torkelson asked if he did a short plat the first time around to create the lot behind?

Mr. Harris stated that was a separate lot when he bought the land.

Mr. Hordan stated that he bought several lots.

Commissioner Torkelson stated he was trying to follow; you bought the lot in front and then the one in back.

Mr. Harris said that he bought both lots and built on the first one.

Commissioner Torkelson asked which one did he buy first?

Mr. Harris stated one just west of the short plat request.

Mr. Davison stated that there was a map of the area in exhibit 3 page 2 showing the before and after of the lots in question.

Commissioner Torkelson stated you bought one piece of property and built a house and you bought another piece of property which only has potential 60' frontage. You know you can only subdivide a piece of property with 60' of frontage in Selah, which is common knowledge. Building on the back lot and selling the first lot was it for that property with the steepness and grades for the topography. We are

sitting here today with a variance and short plat without a hardship. Some of your neighbors looked at the same thing and located their homes accordingly. In the city of Selah you should have a hardship for a variance and each lot should have 60' of frontage. He is concerned that if this is approved there may be others that may want to create lots without the 60' of frontage. He understands trying to help family and do the right thing but he is concerned that everyone has the same rights. Building the new residence you knew that there needed to be 60' of frontage for the lot.

Mr. Hordan stated that is not the case. The lot parcel # 22402 was landlocked to begin with and then they did the boundary line adjustment. Yes you are correct. When the boundary line adjustment was completed the lot that had access to Heritage Hills still does and the lot that he built his new house on was always landlocked now has an easement. Parcel #22402 never had access to the street.

Commissioner Torkelson stated in the chain of events when the second house was built it had 60' of frontage, which makes it a legal lot.

Mr. Hordan stated that is correct.

Commissioner Torkelson stated that no matter of how we got here as present the lot has 60' of frontage, which makes it a legal lot and the City granted an easement to provide for access.

Mr. Hordan stated that is correct and they are going through the short plat process and following procedure.

Commissioner Quinnell asked before he could build on the second lot he had to do a boundary line adjustment so that lot would become a legal lot in the City of Selah.

Mr. Hordan stated that is correct.

Commissioner Quinnell stated that he lived in the existing residence while building the new house and he had to go through the process of eliminating that property line and adjust the property line so that he could have frontage.

Mr. Hordan stated that is backwards. He lived in a residence and wanted to sell it. He did a boundary line adjustment to merge these two lots together so that he could have a new lot around his old house. As part of that process the City said the balance piece that is left over that is vacant needs to keep a minimum of 60' of frontage for the lots. He did not need the boundary line adjustment to build his new house just to sell his old one.

Commissioner Torkelson stated in order to obtain a building permit for the new lot the City would require 60' of frontage to make it a legal lot.

Mr. Hordan stated that if he had a lot that was served by and access easement that did not have 60' of right of way he is not sure they would deny him a permit. It's a legal lot and he could not imagine not being able to build on it.

Mr. Harris stated that the house that he sold did not abut a City street. It was a flag lot.

Mr. Hordan stated that they are unusual but they exist. The intent is if you do not have some special circumstances try to get your 60' there. The lot up there meeting the intent of the code but it does not meet the spirit of the code, because his access is somewhere else. The reason is the topography. The intent is there but he is not using the 60' of frontage because of the topography. It is too steep there.

There is a road in front of the area and has water and sewer stubbed out to the lot and they are looking to create a ½ acre lot that far exceeds any lot size for a lot in the R-1 zone.

Chairman Roberts called for more questions or comments.

Mr. Lester asked how many variances of this type the City has granted in the past 5 years.

Mr. Davison stated in the past 5 years there have not been any and in the 20 years he has been here there has only been one where the lot was served by an access easement.

Commissioner Torkelson asked if that was why the lot merger done like that with a flag lot.

Mr. Davison stated the merger was done in the County.

Commissioner Torkelson stated that his concern about setting a precedence.

Commissioner Quinnell asked if Mr. Harris had to create the 60' road frontage to build his new home?

Mr. Harris stated no.

Chairman Roberts called for further comments. Upon hearing none he called for the finding and decision.

Chairman Roberts read the findings and decision.

Members of the Commission present were Pendleton, Quinnell, Roberts, Smith, and Torkelson.

VARIANCE: # 915.80.12-01
ENVIRONMENTAL REVIEW: NA
PROPONENT: Bill Harris

Factors to Be Considered (Indicate N/A if not applicable) (Pursuant to S.M.C. Title 10, Chapter 10.50.041)

SPECIFIC FINDINGS APPLICABLE TO A VARIANCE

The proposed variance will or will not, as indicated below, meet the criteria contained in the City of Selah Municipal Code, Title 10, Chapter 10.50.041[e][3]:

CRITERIA	<u>YES</u>	<u>NO</u>	<u>N/A</u>
1. Special circumstances applicable to the subject property, including size, shape, topography, location or surroundings, do exist. (topography)		X	
2. Because of such special circumstances, strict application of this title would deprive the owner of rights and privileges enjoyed by other properties.		X	
3. The granting of the variance will be			

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|----|---|---|---|
| | detrimental to the public welfare or injurious to adjacent property. | X | |
| 4. | The special circumstances result from the actions of the applicant. | | X |
| 5. | The variance is the minimum variance necessary. | X | |
| 6. | The granting of the variance will be in harmony with the general purpose and intent of the zoning ordinance and comp. plan. | | X |

CONCLUSIONS

Based upon consideration of the above criteria applicable to a variance the proposal is inconsistent with the criteria, purpose and intent of the zoning ordinance.

DECISION

The Commission based on the criteria and conclusions finds that the variance is not in furtherance of the public health, safety or a contribution either to the general welfare of the people in the area or at large; therefore, the variance should be denied.

Motion to deny variance by Pendleton, seconded by Smith. VOTE: 5 to 0

A RECOMMENDATION OF DENIAL TERMINATES CONSIDERATION OF THE PROPOSED SHORT PLAT

Mr. Davison explained the process for the Council.

- G: General Business
1. Old Business - None
 2. New Business –
 - a. Appointment to C.O.G. and election of Vice Chairman

Chairman Roberts opened the nominations for Vice Chairman.

Commissioner Quinnell nominated Commissioner Torkelson and Commissioner Smith second.

Chairman Roberts called for a vote: 4/0.

Chairman Roberts opened the nominations for C.O.G. representative.

Commissioner Quinnell nominated Commissioner Smith and Commissioner Torkelson second.

Chairman Roberts called for a vote: 4/0

- H. Reports/Announcements
1. Chairman - None

2. Commissioners – None
3. Staff -- None

I. Adjournment

Chairman Roberts called for a motion to adjourn. Commissioner Torkelson moved to adjourn the meeting, Commissioner Smith seconded the motion. The meeting was adjourned the meeting at 7:44 pm.



Chairman