

CITY OF COBURG CITY COUNCIL
PO BOX 8316 Coburg, OR 97408

AMENDMENT TO STAFF REPORT
Subdivision
SUB-01-20

Amended Date: August 19, 2020

I. The staff report published on August 13, 2020 addressed nine appeal issues raised by appellants. It has been staff's approach to draft a staff report that addresses each appeal issue raised. Staff considered each issue that was boxed between two blue lines and centered to be an appeal issue. Upon further review, staff noticed some appeal issues had not been addressed. A simple oversight that staff would now like to correct. As such, this brief amended staff report addresses the remaining appeal issues. By staff's count, the appeal statement submitted on July 27, 2020 contained 14 appeal issues. Staff provided a response to nine of those 14 in their initial staff report. The remaining five issues will be addressed here.

II. STAFF REVIEW OF APPEAL ISSUES RAISED BY APPEALENTS

Code text is shown in ***bold italics***.

Appeal Statement #10: "The subdivision does not comply with several zoning code provisions including street standards and required public improvements."

Per Article XII.C.2.c.(1):

"The proposed tentative subdivision plan complies with the applicable zoning code provisions and all other applicable ordinances and regulations, including but not limited to lot standards, street standards (ARTICLE VIII.E), required public improvements (ARTICLE VIII.F) and any special development standards."

Appeal Argument: Information demonstrating why the subdivision does not comply with this approval criterion is discussed in other sections of this statement including those related to Article III.E and Article III.F and summarized in [Refer to Attachment A in initial staff report- Exhibit G – Code Analysis Summary.]

The code section above refers to a subdivision needing to comply with "applicable ordinances". Please also refer to a discussion of Comprehensive Plan policies at the end of this written statement.

Staff Response to Appeal Argument: This appellants argument here is the first approval criterion for a subdivision. This argument was most likely made for decision

makers to quickly and concisely see which code requirements the proposal met and did not meet. Staff have nothing to add here.

Appeal Statement #11: “The subdivision does not contribute to the orderly development of the City’s transportation network and places an unsafe burden on narrow, substandard streets south of the subdivision.”

Per Article XII.C.2.c(5):

“Proposal contributes to the orderly development of the City’s area transportation network of roads, bikeways, and pedestrian facilities, and allows for continuation and expansion of existing public access easements within or adjacent to the subdivision.”

Appeal Argument: The subdivision does not contribute to the orderly development of the City’s transportation system. The subdivision relies exclusively upon the new development being accessed from N Skinner and Coleman Streets. These two streets are substandard and do not have the minimum pavement width to safely accommodate additional traffic. The streets are narrow in places with widths as low as 12 feet and being shared by motor vehicles, bicyclists, and pedestrians. In addition, Condition #4 requires the applicant to increase the pavement width to 16 feet and prohibit any parking on the pavement. Condition #5 increases the parking restriction to a minimum of 20 feet in width, essentially removing parking from both sides of the streets.

According to the traffic study conducted for the applicant, 32% of the traffic from the subdivision will travel on East Locust to and from Willamette Street. Almost half of this section of East Locust has only 12 feet of pavement width.

The subdivision street layout does not provide for public street improvement to allow for the extension of E Van Duyn Street and Macy Street. The subdivision includes a new local street about 140 feet north and parallel to the existing section of E Van Duyn Street contrary to the need for orderly development. The use of Tract D for long-term open space prevents Macy Street from ever being extended. Tract D should have been dedicated as public ROW and improved as a street in alignment with Macy Street and of sufficient width to accommodate a bike/pedestrian connection to the school.

Staff Response to Appeal Argument: The applicant’s TIA concluded “Skinner Street and Coleman Street, while narrower than City street standards, can operate safely and efficiently with the additional traffic added from the development.” Staff only have the applicant’s TIA for the basis of this response and the TIA has been reviewed by the City Engineer and found to be satisfactory. While condition #4 and #5 may end up being modified, the appellants are correct in that a paving width of 20-feet will not allow for parking of vehicles on pavement, but parking of vehicles will still be allowed along the sides of streets, just not on pavement itself. Also, in recent

discussions between staff and the applicant, there exists a possibility that Macy Street may be able to extend to the subdivision boundary where Tract D is currently shown. The applicant has indicated they are not opposed to this, but City Council will have to authorize the change to the plat map, as a condition of approval.

Appeal Statement #12: “The subdivision adversely affects development of adjoining land, creates public safety concerns, hampers public acquisition of open space for recreation needs, and hinders safe bicycle and pedestrian access to nearby commercial uses, the school and the Norma Pfeiffer Park.”

Per Article XII.C.2.c(7):

“If the proposal involves the creation of a public street, all of the following criteria also apply:

(aa) The proposal will not impede the future use of the remainder of the property under the same ownership or adversely affect the development of the remainder of any adjoining land or access thereto.

(bb) The proposed partition [subdivision] will:

- 1. Not result in significant risk of fire, flood, geological hazards, or other public health and safety concerns;***
- 2. Provide adequate transportation systems, water supply, sewage disposal, drainage, and other public utilities;***
- 3. Not hamper the adequate provision of publicly owned open space for recreation needs.***
- 4. The proposed partition [subdivision] provides direct bicycle and pedestrian access to nearby and adjacent residential areas, transit stops, neighborhood activity centers, commercial areas, and employment and industrial areas, and provides safe, convenient and direct transit circulation, provided the City makes findings to demonstrate consistency with constitutional requirements. “Nearby” means uses within ¼ mile that can reasonably be expected to be used by pedestrians, and uses within 2 miles that can be reasonably expected to be used by bicyclists.”***

Appeal Argument: The subdivision adversely affects the access and future development of underdeveloped large lots immediately to the south of the subdivision. However, if E Van Duyn were extended east to Coleman St, it would eliminate the adverse effect.

The subdivision creates a significant safety concern for residents living south of the new development on narrow streets not designed or improved for the additional traffic. These streets include N Skinner, E Locust and Coleman.

The subdivision does not provide direct bicycle or pedestrian access to nearby commercial areas, or the school, and adversely impacts bike and pedestrian safety along Norma Pfeiffer Park. However, if Macy St. were extended to the west edge of the subdivision, that would allow the City the option to complete a much more direct pedestrian access flowing west to the school and commercial areas.

The Planning Commission's Final Order did not include findings addressing subsection (bb) above. City staff advised the Planning Commission that the provision was not applicable because it referred to a proposed "partition". We believe reference to "partition" is based on a minor editing mistake or scrivener's error. Subsection (bb) is under the main heading "Subdivisions (non-phased)". Furthermore, the sentence preceding sections (aa) and (bb) states the criteria are applicable "if the proposal involves creation of a public street," which this proposal does, and most of the content of (bb) wouldn't make sense for most partitions, but does make sense for a subdivision. It would be disingenuous to ignore subsection (bb) when it is clearly an applicable approval criterion for a subdivision.

Staff Response to Appeal Argument: The criteria above are triggered once a new street is created as a result of the subdivision. Staff have reviewed the Planning Commission's finding for this section do agree with the appellants that the finding is not entirely clear. Appellants state the Planning Commission's Final Order did not include findings addressing subsection (bb).

The findings approved by Planning Commission for subsection (bb) are "The applicant agrees with and addresses approval criteria and agrees to City infrastructure standards. These criteria are met." The finding is presented at the very end of subsection (bb) which leads staff to believe it addresses everything in subsection (bb). The adequacy of the finding for subsection (bb) is up for discussion.

The creation of a street is what triggers the above-mentioned criteria. The proposed subdivision does involve the creation of new streets in the extensions of N Skinner, N Emerald, Sarah, Macy, and Coleman, all of which located within the subdivision.

Now, by looking at Planning Commission's finding, staff do not see how the finding addresses all the items in subsection (bb). The finding is not supported by any discussion of how Planning Commission or planning staff arrived at the conclusion. Staff believe City Council has a chance to address this finding by adopting their own findings for Article XII.C.2.c.1-7.

Appellants also bring up a "scrivener's error" in relation to code language that includes the word "partition" under the approval criteria for a subdivision. Staff agree with the appellants that this is a simple copy and paste error and should be corrected. Staff agree with the appellants that these criteria should not be discounted because it says "partition" rather than "subdivision." Staff do not find the scrivener's error as a reason for denial. Accordingly, as discussed above, City Council now has the opportunity to make findings that address the approval criteria.

Staff present a draft of those findings now (below). If City Council approves the application, the City would likely request the applicant ask for an extension to the 120-day rule to write findings of fact supporting the decision. Staff would likely return to Council and place the prepared findings in front of Council for adoption in support of approval.

Approval Criteria.

(1) General Approval Criteria. The City may approve, approve with conditions or deny a tentative subdivision plan based on the following approval criteria:

(1) The proposed tentative subdivision plan complies with the applicable zoning code provisions and all other applicable ordinances and regulations, including but not limited to lot standards, street standards (ARTICLE VIII.E), required public improvements (ARTICLE VIII.F) and any special development standards.

Recommended FINDING for approval: There is a general recognition in the Coburg Comprehensive Plan, that there will be inevitable conflicts between various planning goals and regulations. The Plan states in relevant part “the City recognizes there are apparent conflicts and inconsistencies between and among some goals, objectives, and policies. When making decisions based on the Plan, not all of the goals, objectives, and policies can be met to the same degree in every instance. Use of the Plan requires a ‘balancing’ of its various components on a case-by-case basis, as well as a selection of those goals, objectives, and policies most pertinent to the issue at hand.” The proposed Coburg Creek Subdivision meets every applicable ordinance and regulation including lot standards, street standards, required public improvements, and any special development standards. Criterion met.

(2) The proposed subdivision will not cause any existing improvements on existing or proposed lots to be inconsistent with applicable standards in this code. ARTICLE XII 143 Coburg Development Code.

Recommended FINDING for approval: The proposed subdivision does not create any circumstances where any existing improvements on existing or proposed lots will be inconsistent with applicable standards in this code. Criterion met.

(3) Subdivisions abutting streets under control of an agency that is not the City shall comply with access management guidelines of the agency having jurisdiction over the street.

Recommended FINDING for approval: There are no abutting streets under the control of an agency other than the City, therefore this section does not apply. The City has appropriately reviewed the proposal, which takes access from City owned streets and the applicant has provided the necessary information to the City with respect to access management. The applicant’s TIA has been reviewed by the City Engineer and found to be satisfactory, subject to Conditions of Approval #2 and #3, which are included in the record as Attachment C to the staff

report and contain the comments of the City Engineer on the applicant's TIA. Criterion met.

(4) Development within the tentative subdivision plan can be adequately served by City infrastructure.

Recommended FINDING for approval: The subject property is within the city limits. The subject property has the ability to connect to and receive city services. The applicant has submitted evidence sufficient to show the lots can adequately be served by City infrastructure. Details and specific engineering drawings of public infrastructure will be reviewed during the public improvement review process (PEPI). Criterion met.

(5) Proposal contributes to the orderly development of the City's area transportation network of roads, bikeways, and pedestrian facilities, and allows for continuation and expansion of existing public access easements within or adjacent to the subdivision.

Recommended FINDING for approval: The proposed streets in the subdivision are laid out in the same grid fashion as shown in the Transportation Plan. Considering the site's topographic constraint in its long, narrow shape, existing streets are connected to when available and stub streets are provided for future extensions, to the extent that is practical. The City's typical street section will be used in the design of the proposed streets and was developed to incorporate motor vehicles, bicycles and pedestrians. Criterion met.

(6) All applicable engineering design standards for streets, utilities, surface water management, and easements have been satisfied.

Recommended FINDING for approval: All applicable engineering design standards for streets, utilities, surface water management, and easements, up to this point in the design have been reviewed by the City and approved. Any future design will also be reviewed and approved by the City as part of the PEPI process. Criterion met.

(7) If the proposal involves the creation of a public street, all of the following criteria also apply:

(aa) The proposal will not impede the future use of the remainder of the property under the same ownership or adversely affect the development of the remainder or any adjoining land or access thereto.

Recommended FINDING for approval: Three street stubs with utilities have been proposed to connect to the undeveloped portion of the property to the north which is under the same ownership. The adjacent property to the south, east and west are fully developed. The property owner is also seeking a partition of the land north of the subject property. Development on this land is not expected anytime soon as it is outside of the Urban Growth Boundary. The proposed

subdivision will not change how this land can be used in the future. The applicant maintains access points to this property at three points, using street stubs. Criterion met.

(bb) The proposed partition will:

- 1. Not result in significant risk of fire, flood, geological hazards, or other public health and safety concerns;*

Recommended FINDING for approval: The proposed subdivision will provide two access points for emergency vehicles. Fire hydrants will be placed on site per the direction of the City Fire Marshal and new buildings will be constructed per the latest building codes. The property is not located in the flood zone and will be designed to prevent local flooding so therefore no flooding issues should be created. There are no significant geological features on the subject site which would cause any geological hazards. The subdivision along with the future buildings will be constructed pursuant to the latest building and development codes which are in place to specifically address public health and safety concerns. Criterion met.

- 2. Provide adequate transportation systems, water supply, sewage disposal, drainage, and other public utilities;*

Recommended FINDING for approval: The site is adjacent to public streets, water supply, sewage disposal, drainage system and other public utilities and the proposed subdivision will connect to them. The project transportation system connects to the only existing adjacent streets available. The current access points of Skinner Street and Coleman Street and their respective configuration have been reviewed by the City Engineer, Public Works Director, Fire Department and a traffic engineer. The access points have been determined to be satisfactory in providing proper ingress and egress to the site. Both streets will be designed and improved to the satisfaction of the City to ensure compliance. Criterion met.

- 3. Not hamper the adequate provision of publicly owned open space for recreation needs.*

Recommended FINDING for approval: As discussed in the staff report and found by City Council, the applicant has met the obligation with respect to parks and open space by electing to pay into a land acquisition fund a sum of money equal to one percent of the gross sale price of each lot. City Council finds the proposal will not hamper the adequate provision of publicly owned open space for recreation needs, because the applicant is paying a fee to acquire publicly owned open space for recreation needs. Criterion met.

4. *The proposed partition provides direct bicycle and pedestrian access to nearby and adjacent residential areas, transit stops, neighborhood activity centers, commercial areas, and employment and industrial areas, and provides safe, convenient and direct transit circulation, provided the City makes findings to demonstrate consistency with constitutional requirements. "Nearby" means uses within 1/4 mile that can reasonably be expected to be used by pedestrians and uses within 2 miles that can be reasonably expected to be used by bicyclists.*

Recommended FINDING for approval: The subject site is land locked to existing bicycle and pedestrian access on the on the north, east and west sides, but provides for future connections to the north and west when future off site access is developed. The two southern street access points will be designed to include bicycle and pedestrian access to the satisfaction of the city engineer including safety considerations, of which drawings will be reviewed as part of the PEPI process. Both access points lead to adjacent residential areas, transit stops on Willamette St. and Pearl St., neighborhood activity centers, such as parks, commercial areas on Willamette St. and Pearl St., and employment and industrial areas to the east, and provides safe, convenient and direct transit circulation. Both of these access points are the most direct routes from the proposed subdivision to these activities. Criterion met.

Appeal Statement #13: "The City did not provide proper legal notice per ORS 197.195(3) and Coburg Zoning Ordinance No. A-200-1, Article X.C."

Article X.C. Type III Procedures

Appeal Argument: At the Planning Commission level, appellants raised concerns regarding inadequate notice, confusion due to the applicant's submittal of a revised subdivision plan after the initial public notice was mailed, and insufficient time to provide public testimony.

The Planning Commission received a request by the appellants to continue the June 17 Planning Commission public hearing. The request was denied. The Planning Commission closed the public hearing except for rebuttal testimony addressing one area of concern.

Please refer to Attachment A (in the initial staff report) Exhibit F – Facts Regarding Public Notice Procedures.

Staff Response to Appeal Argument: Staff do not dispute previous noticing could have been handled better. Staff will not go into depth on the noticing errors raised by the appellants. Staff did review the noticing errors as presented in Exhibit F and made attempts to correct those errors when the City send out notice of the appeal to

City Council on August 4, 2020. Corrections made to the notice that went out on August 4, included listing which uses could be authorized based on the zoning of the subject property, allowance of 16-days for written testimony, and a written description of the location of the proposed subdivision. It is not clear to staff how any particular individual or property owner has been specifically aggrieved due to lack of notice. While deficiencies in noticing may have occurred, staff believe notice was sufficient to make persons aware of the subject application. Staff do not see lack of noticing or error in noticing as a particular reason for denial. Additionally, any noticing errors that may have occurred have been corrected with the notice for City Council appeal.

Appeal Statement #14: “The subdivision does not comply with the Coburg Comprehensive Plan including the need to provide for parks, a safe transportation system, and the preservation of existing neighborhoods, especially those with historic features.”

Appeal Argument: Staff will correctly inform you that the Comprehensive Plan does not contain approval criteria, and thus cannot be used as the basis for “findings of fact.” Nonetheless it is of utmost relevance in providing context for making decisions regarding the development code approval criteria and should not be brushed off as irrelevant.

Key Plan policies applicable to the subdivision are listed below in ***bold italics*** followed by brief findings demonstrating the subdivision does not comply.

Developers of new subdivision shall be required to provide for the recreational needs of their residents as defined in the Subdivision Ordinance. (Goal 8: Recreational Needs, Policy 7)

According to the adopted City of Coburg Parks and Open Space Master Plan¹:

With a projected population of 3,327 by the year 2025, the analysis determined that the City would need an additional six acres of neighborhood park land, one acre of mini park land, and 26.6 acres of community park land. That translates into approximately two additional neighborhood parks, two to three additional mini parks, and a single community park.

The area north of the subdivision includes areas identified as desirable for a proposed new community park and a northside neighborhood park. Refer to Attachment A (in initial staff report) Exhibit D – Coburg Proposed Parks and Open Spaces. The 10-acre subdivision is large enough to be the location for a mini park similar to the Jacob Spores Park.

¹ Adopted by Ordinance A-194.

The subdivision contains 4 Tracts set aside as non-buildable areas. Unfortunately, the two largest tracts (Tract C and Tract B) are needed for stormwater drainage and Tract D is needed as part of the extension of Macy Street. Tract A may be available for park and recreation use but due to the size and location has limited public visibility and options for park amenities. The Final Order does not provide sufficient findings demonstrating that the subdivision will provide for the recreational needs of new residents.

The City shall ensure that new housing is compatible with the small town, historic character of the community. (Goal 10: Housing, Policy 18)

The City shall promote livability and community in existing and future neighborhoods. (Goal 10: Housing, Policy 19)

The City shall encourage the preservation of existing housing, particularly housing with historic value and features. (Goal 10: Housing, Policy 23)

The three Plan policies above all address the desire to preserve the viability of existing neighborhoods, especially those with historic values. Significant portions of the proposed subdivision are immediately adjacent to areas with significant historic resources. Refer to Attachment A (in initial staff report) Exhibit E – Coburg Zoning Overlay Districts. Proposed new development needs to be sensitive to the surrounding neighborhoods with efforts made to retain their livability or at least mitigate any potential adverse impacts.

Of utmost concern is the potential traffic impacts and uncertainty regarding future street paving improvements to N Skinner Street and N Coleman Street and the extent existing on-street parking will be prohibited. Further, traffic on N Skinner will funnel to E Locust, past Coburg's "Central Park," Norma Pfeiffer Park, with its heavy pedestrian traffic creating an unsafe conditions for pedestrians. It is imperative that the City Council consider how to safeguard the quality of existing housing, preserve historic resources, and promote pedestrian safety.

Develop a street network system that evenly distributes traffic throughout the community, lessening traffic impacts on residential streets, and identifying a system of arterials for moving people, goods, and services safely and efficiently... (Goal 12: Transportation, Policy 1)

Take a long-range view in approving street patterns for new development...Protect the function of existing and planned transportation systems...When making a land use decision, the City shall consider the impact on the existing and planned transportation facilities. (Goal 12: Transportation, Policy 2)

Establish a safe bicycle and pedestrian system that provides for connections and minimizes conflict to and from the local school and other

significant activity areas...Align and interconnect new streets to reduce travel distance, promote the use of alternative modes, efficiently provide utilities and emergency services, and evenly disperse traffic. (Goal 12: Transportation, Policy 5)

Provide a transportation system that is safe, convenient, accessible, environmentally responsible, efficient, responsive to community needs, and considerate of neighborhood impacts, particularly in the National Historic District. (Goal 12: Transportation, Policy 46)

The four Plan policies above all address the need for a transportation system that recognizes all modes of travel and considers the impacts on existing and future neighborhoods.

According to the Coburg Transportation System Plan (TSP), local streets in Coburg are generally 16 to 20 feet wide with gravel or grass shoulders and no sidewalks. The adopted TSP establishes local street standards. Refer to Attachment A (in initial staff report) Exhibit B – TSP Local Street Standards.

The Final Order approving the subdivision states there is sufficient public right-of-way (ROW) on N Skinner Street with Condition #4 requiring the applicant to increase the pavement width to 16 feet and establish pavement parking restrictions. However, the TSP classifies N Skinner as a Local Street which requires a minimum 45-foot public ROW. The portion of N Skinner abutting the subdivision only has a 30-foot public ROW.

The TSP classifies N Coleman north of Mill Street as Local Street and a “bike boulevard”. Although it contains a 50-foot ROW, Condition #4 will not result in a pavement width in compliance with city standards nor adequate for encouraging bikes to share the road with motor vehicles.

In north Coburg, the TSP contemplated a traditional street system with public streets being extended in both east-west and north-south directions concurrent with growth. The subdivision hinders east-west street connections and is not consistent with the TSP. Refer to Attachment A (in initial staff report) Exhibit B – TSP Street Classifications and Future Street Plan.

The City shall promote land use and development patterns that sustain and improve quality of life, are compatible with mass transit, maintain the community’s identity, protect significant natural and historic resources, and meet the needs of existing and future residents for housing, employment, and parks and open spaces. (Goal 14: Urbanization, Land use and Development Patterns, Policy 39)

The Plan designates the subject property for residential development. The City Council has discretion on whether the subdivision appropriately balances competing city policies and addresses code standards. If the City Council believes conditions can be imposed

that will allow the subdivision to comply with the approval criteria, the conditions must be clear and objective.

Staff Response to Appeal Argument: due to time constraints with submitting additional information and evidence in a timely manner, staff do not directly address applicable policies of the Comprehensive Plan. Staff focus on the approval criteria for a subdivision. While important, the Comprehensive Plan does not contain approval criteria for a subdivision.

--END OF STAFF RESPONSES TO APPEAL ISSUES--