

Minutes of the
CANNON BEACH PLANNING COMMISSION

Thursday, October 29, 2009
Council Chambers

Present: Chair Ron Logan; Commissioners John Holden, Brandon Ogilvie, Malcolm Reed, Les Wierson and Herb Florer

Excused: Commissioner Larry Peters

Staff: Public Works Director Mark See and Administrative Assistant Brandy Brien

CALL TO ORDER AND APPROVAL OF AGENDA

Chair Logan called the meeting to order at 7:00 p.m.

Motion: Wierson moved to approve the agenda; Holden seconded the motion.

Vote: Holden, Ogilvie, Reed, Wierson, Peters, Florer and Chair Logan voted AYE; the vote was 7/0 in favor and the motion passed unanimously.

(1) Consideration of the Minutes of the Planning Commission Meeting of October 5, 2009.

Motion: Ogilvie moved to approve the minutes of the Planning Commission meeting of October 5, 2009 as presented; Wierson seconded the motion.

Vote: Holden, Ogilvie, Reed, Wierson, Florer and Chair Logan voted AYE; the vote was 6/0 in favor and the motion passed unanimously.

(2) Public Hearing and Consideration of a Request for a Street Vacation on a Portion of 7th East of Laurel Street.

No one objected to the jurisdiction of the Planning Commission to hear this matter at this time. No Commissioner stated a conflict of interest or bias. As ex parte contacts, Commissioners indicated they had visited the site.

See summarized his staff report and noted that this issue dates back to 1999, if approved this vacation will make permanent the decision made by Council to grant a right-of-way permit on August 3, 1999. The likelihood that the City will improve 7th Street is considerable low and the right-of-way is unusually wide, 50 feet, which would still leave a large portion of right-of-way for the City to improve at a later date. See also noted that staff has concluded that the relevant criteria has been met and the recommendation is to approve the request.

In response to a question from Holden, See stated that there would be advantages to the City, for example, the vegetation will no longer need to be maintained by the City, the applicant would be required to incur those costs for maintenance. The City as a rule does not favor vacating its right-of-way, however, in this case, does recommend approval given the right-of-way extends 50 feet and it will likely never be improved and the area consists of a stream corridor and wetlands. Additionally, requiring the applicants to relocate their structure would create an unnecessary hardship. Also in response to Holden, See stated that the City does not hear many requests for a street vacation.

In response to Commission discussion and a question from Logan, See stated that the question of drainage had not been addressed at this point in the process and confirmed that the legal description was not included in the staff report; however will be in the final findings.

There was no additional correspondence.

Chair Logan opened the public hearing and stated persons who testify shall first receive recognition from the chair, state their full name and address, and if appearing in a representative capacity identify whom they represent.

Chair Logan called for presentation by the proponents.

Dale Barrett, HLB Otak, 4253-A Hwy 101 North, Seaside, OR 97138, representing applicants John and Lisa Fraser, directed the Commissioners to the survey and enlarged photo of the notification area. He reviewed that the dwelling encroaches approximately 14 feet into the 7th Street right-of-way and has created a hardship for the Fraser's for a number of years. Barrett reviewed the overall area to be vacated and noted that the drainage could be moved to an alternate location, but the process would be difficult and lengthy and requires approval of the Oregon Department of State Lands.

In response to the Commissioner discussion regarding the legal description, Barrett noted that the legal is incorporated in consent affidavits. He also noted that the Fraser's have done a lot of work in on their own initiative to seek this request.

In response to a question from Wierson, Barrett explained the process in which to follow, per the Oregon Revised Statutes 271.080, to notify property owners within the notification area.

Wierson stated that he is concerned that he might create a precedent and asked if the City had the right to veto if approved. Barrett and See responded that this is a unique situation and that a portion of the applicants home is not on their property which makes it difficult to obtain legal documents such as title insurance.

In response to a question from Wierson, Barrett confirmed that the neighbor to the north, the Soupleys support this request as it will resolve their property line issues.

See also noted that, as indicated in your packets, the affidavits are available for review upon request, staff opted not to include them in the packets to reduce excessive photocopying. Brien has the record file if the Commission wishes to review the affidavits.

Chair Logan called for additional testimony from proponents. There was none.

Chair Logan called for testimony from opponents. There was no testimony.

Chair Logan called for rebuttal or staff response. There was none.

There was no other public testimony and Chair Logan closed the public hearing.

Motion: Wierson moved to recommend the approval of the application to vacate a portion of 7th Street East of Laurel Street to the City Council; Reed seconded the motion.

Holden asked that the Commission consider implementing the metes and bounds in their recommendation to the Council, Commissioners agreed.

Wierson and Reed agreed to amend the motion.

Motion: Wierson moved to recommend approval of the application to vacate a portion of 7th Street East of Laurel Street, as described in the legal description of the area to be vacated, to the City Council; Reed seconded the motion.

The legal description for the John and Lisa Fraser Street Vacation are described as follows. All that portion of Seventh Street in the Plat of Seal Rock Beach, Cannon Beach, Oregon, more particularly described as follows: Beginning at the Southwest corner of Lot 13, Block 19, Seal Rock Beach as recorded in Book 00, Page 77, Clatsop County Town Plat Records; Thence along the South h e of said Lot 13, North 90°00'00" East 100.00 feet to the

Southeast corner of said Lot 13;
Thence South 00°00'00" East 15.00 feet to a point;
Thence North 90°00'00" West 30.00 feet to a point;
Thence North 83°28'49" West 70.46 feet to a point;
Thence North 00°00'00" East 7.00 feet to the True Point of Beginning;
Situating in the Northeast Quarter of Section 19, Township 5 North, Range 10 West, W.M.,
County of Clatsop, State of Oregon.

Vote: Holden, Ogilvie, Reed, Wierson, Florer and Chair Logan voted AYE; the vote was 6/0 in favor and the motion passed unanimously.

(3) Ongoing Planning Items.

There was no discussion.

(4) Good of the Order.

There was none.

ADJOURNMENT

The meeting adjourned at 7:19 p.m.

Administrative Assistant Brandy Brien