



**OFFICIAL MINUTES OF THE TUALATIN SPECIAL CITY COUNCIL MEETING  
FOR AUGUST 7, 2013**

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Present: Mayor Lou Ogden; Council President Monique Beikman; Councilor Wade Brooksby; Councilor Frank Bubenik; Councilor Joelle Davis; Councilor Nancy Grimes; Councilor Ed Truax

Staff Present: City Manager Sherilyn Lombos; City Attorney Sean Brady; Police Chief Kent Barker; Assistant City Manager Alice Rouyer; Community Services Director Paul Hennon; Deputy City Manager Sara Singer; Planning Manager Aquilla Hurd-Ravich; Deputy City Recorder Nicole Morris; Information Services Manager Lance Harris; Engineering Manager Kaaren Hofmann; Engineer Associate Tony Doran; Public Works Director Jerry Postema

**A. CALL TO ORDER**

Pledge of Allegiance

Mayor Ogden called the meeting to order at 5:31 p.m.

**B. PUBLIC HEARINGS – *Quasi-Judicial***

1. CONTINUANCE- Consideration of a Central Urban Renewal District **Master Plan** for the Nyberg Rivers Shopping Center Development located at 7455-7925 SW Nyberg Street (Tax Map 2S124A 2700--2S124A 1601, 1602, 1900, 2502, 2506, 2507, 2700/ 2S124B 2000, 2001, 2100) in the Central Commercial (CC), Commercial Office (CO) and High-Density Residential (RH) Planning Districts and Central Urban Renewal Blocks 1-5 (MP 13-01).

Mayor Ogden reopened the Master Plan Hearing.

Assistant City Manager Alice Rouyer and Planning Manager Aquilla Hurd-Ravich recapped the need for a master plan and presented the amended analysis and findings. Central Urban Renewal District (CURD) goals 1, 5, and 11 were identified as still needing Council discussion and the proposed conditions of approval were reviewed.

Applicant Fred Bruning, CEO of CenterCal Properties, stated that they have no new information or evidence for tonight's meeting but have included a rebuttal submittal to the evidence submitted at the last hearing. He continued by presenting modifications to the site plan including the elimination of a drive-thru, adding an additional restaurant, parklet, and fire pit area. The design vision was discussed including pedestrian connections, shared pathways and plazas, and theme elements.

The applicant introduced their traffic consultant Mark Vanderhey, Kittleson & Associates, Inc., to present the Nyberg Rivers Transportation Analysis on behalf of

the developer. Mr. Vanderhey summarized the transportation improvements to be made, the areas of disagreements with the City's traffic analysis, and addressed the Zian property opposition. He specifically covered the Seneca Street extension, driveway closures, traffic signal modifications, bike and pedestrian crossings, and street widening.

Bob Durgan, Zian Properties, expressed concerns regarding the increase in traffic that will be caused by Cabela's as it will draw people from six counties as a major tourist destination.

Seth King, Perkins Coie, representing Zian Properties, submitted written testimony for the record.

### **PUBLIC COMMENT**

Comment in Support: None

Comment In Opposition: None

Neutral Comments:

David Emami expressed concerns regarding the traffic analysis and its effects on Boones Ferry Road and Martinazzi Avenue.

Connie Ledbetter expressed concerns regarding the planned pedestrian paths in the development.

The applicants attorney, Steve Holtberg, requested a short recess to discuss the new information that was submitted for the record and to prepare a rebuttal if necessary.

Council took a break at 6:46 p.m. and returned at 6:54 p.m.

The applicant returned with a rebuttal statement. Traffic Consultant Vanderhey addressed concerns regarding the traffic at Boones Ferry Road and Martinazzi Ave and the pedestrian pathways. He noted that there will be traffic signals in place for traffic to yield to pedestrians in these areas. Mr. Vanderhey also addressed the Perkins Coie letter submitted for the record in regards to trip caps for the development. He stated that this is not applicable to this project as there is no plan amendments or zone changes to the transportation system plan.

### **COUNCIL QUESTIONS**

#### Goal 2 Housing

Council President Beikman asked why the pedestrian connection was removed that connected the residential areas to the development. Planning Manager Hurd-Ravich stated that the proposed plan shows the existing connection and complies with the condition.

Mayor Ogden would like to see it noted that the intent is that the plan makes the residential connection.

#### Goal 11 Design Considerations

Councilor Truax expressed concerns regarding the growth of trees in the proposed

tree planters.

Mayor Ogden asked for clarification regarding the tree removal plan. Applicant Bruning noted that the removal of trees is based on expansion and the trees where there is no expansion will remain intact.

#### Goal 5 Transportation

Councilor Truax asked to see the city's traffic analysis presentation from DKS Associates.

Carl Springer from DKS associates presented their traffic analysis and addressed concerns regarding the analysis from the applicant. He noted that the results may vary now that the revised site plan has been submitted due to the reduction in the drive thru and would cause the total internal trips to change.

The Martinazzi entrances, specifically the Seneca Street entrance, were discussed amongst the traffic consultants and the Council. Issues regarding traffic, pedestrian safety, and the need for a traffic signal were addressed.

Mayor Ogden asked how the Seneca Street extension would be paid for. Mr. Vanderhey stated that it would hopefully be funded through a combination of Transportation Development Tax (TDT) credits and the developers. Assistant City Manager Rouyer noted that the city has not had a chance to do a full analysis on any credits that would be issued.

Councilor Davis asked questions regarding the trip cap requested by Perkins Coie. Assistant City Manager Rouyer noted that at this time she does not feel that a trip cap is necessary for this project.

Council took a break at 8:41 p.m. and returned at 8:54 p.m.

Mayor Ogden asked when and how a TDT credit would be determined if it applies. City Attorney stated that an analysis would have to be done to see if the project would meet the requirements to receive credits.

#### **COUNCIL DELIBERATIONS**

Council President Beikman would like to add a condition to goal 2 regarding the residential connections.

Mayor Ogden would like to add a condition regarding the tree planter diamonds and the growth monitoring of the trees. Councilor Truax wants this condition to be an outcome based approach.

Mayor Ogden requested a updated tree removal plan be included in the application to forward to the Architectural Review Board (ARB). Councilor Truax wants the expectation to be that no trees will be removed unnecessarily.

Deliberations occurred around the Seneca Street extension and the need for a traffic signal and how it should be funded.

MOTION by Mayor Lou Ogden, SECONDED by Councilor Wade Brooksby to not include the Seneca Street extension as a condition of the master plan.

Councilor Grimes asked a question of clarification regarding the timeline of the Seneca Street extension. City Attorney Brady stated that the master plan does not dictate the timing of the extension.

Discussion on the motion:

Councilor Truax would like to have all funding options available and if the Council forgoes this opportunity the City will lose its flexibility.

Mayor Ogden asked if the extension had to be a condition in order to use TDT credits. Attorney Brady stated that it did not, that it just had to be on the transportation list.

MOTION by Council President Monique Beikman, SECONDED by Councilor Joelle Davis to call the question.

**Vote:** 7 - 0 MOTION CARRIED

Vote on Original Motion: To not include the Seneca Street extension as a condition of the master plan.

**Vote:** 2 - 5 MOTION Failed

Aye: Mayor Lou Ogden

Councilor Wade Brooksby

MOTION by Councilor Ed Truax, SECONDED by Councilor Joelle Davis To approve the proposed Nyberg Rivers Master Plan subject to the conditions recommended by staff, conditions related to performance and monitoring of tree growth in the diamond planters, conditions relating to providing pedestrian connections to existing and future housing in downtown, and conditions relating to tree preservation.

Discussion on the Motion

Mayor Ogden stated for the record that applicant has done a great job of putting Tualatin on the map, but this development will continue to make this area an auto dependent area and not the downtown that the citizens had envisioned for the last 30 years.

**Vote:** 7 - 0 MOTION CARRIED

2. Consideration of a Conditional Use Permit for the Nyberg Rivers Development to Allow Retail Uses in a Commercial Office (CO) Planning District and Outside Storage and Sales in a Central Commercial (CC) Planning District at 7055-7463 SW Nyberg Street (2S124A 2700--2S124A2100 and 2S124B2507) (CUP-13-04)

Mayor Ogden opened the Conditional Use Permit Hearing. He read the rules of the hearing in accordance with ORS 107.763(5) and (6) and ORS 197.796(3)(b).

Planning Manager Aquilla Hurd-Ravich and Assistant City Manager Alice Rouyer presented the Conditional Use Permit (CUP) for the Nyberg Rivers Development. Planning Manager Hurd-Ravich stated that the CUP would allow for commercial (retail) uses and outside storage and sales in a central commercial planning district. She gave a brief overview of the conditional use process and the process to date. The application was reviewed along with the proposed conditions of approval.

Applicant Fred Bruning, CEO of CenterCal Properties, noted that this CUP is important to Cabela's in order to have a outdoor sales area.

**PUBLIC COMMENT**

Comments in Support- None

Comments in Opposition-

Seth King, representing Perkins Coie, on behalf of Zian Limited Partnership, submitted a letter into the record and requested that the record remain open for seven days.

Comments Neutral-

David Emami expressed concern over the city setting a precedent by approving this conditional use permit in the central commercial planning district, and wanted it made clear that Cabela's sells motorized vehicles.

**COUNCIL QUESTIONS**

Mayor Ogden asked questions in relation to the type of items that this retailer would be able to sell in this district. Planning Manager Hurd-Ravich clarified what items could not be sold in the district.

Steve Holtburn, legal representative for the applicant, requested a seven day rebuttal period to the requested seven day open record period to respond to evidence submitted into the record during public comment.

Mayor Ogden continued the hearing to a special meeting to be held Monday, August 19, at 6:00 p.m.

**C. ADJOURNMENT**

The meeting adjourned at 10:15 p.m.

Sherilyn Lombos, City Manager

 / Nicole Morris, Recording Secretary

 / Lou Ogden, Mayor