

MINUTES

Springfield Planning Commission
Regular Meeting
Springfield City Hall—Council Chamber
225 Fifth Street, Springfield

June 20, 2006
7 p.m.

PRESENT: Dave Cole, Chair; Steve Moe, Gayle Decker, Greg Shaver, Bill Carpenter, members; Greg Mott, Sara Summers, Brenda Jones, Andy Limbird, Jim Donovan, Mark Metzger, Gary Karp, Carol Knaple, Gary McKenney, Springfield City Staff; Joe Leahy, City Attorney.

ABSENT: Frank Cross, Lee Beyer, commissioners.

Commissioner Cole called the meeting of the Springfield Planning Commission to order.

1. PLEDGE OF ALLEGIANCE

2. REPORT OF COUNCIL ACTION

There was no report.

3. BUSINESS FROM THE AUDIENCE

There was no business from the audience.

4. QUASI-JUDICIAL PUBLIC HEARING

**a. Metro Plan Diagram Amendment—LRP2006-00013
Mid-Springfield Refinement Plan Diagram/Text Amendment—LRP2006-00014
Springfield Zoning Map Amendment—ZON 2006—0020—Goodwill Industries**

Mr. Mott introduced the item and described the applications in question and the location of the property. He clarified that the commission's recommendation was advisory to the City Council, which would conduct a public hearing on the three applications on July 17, 2006. He indicated that since the council was the decision-maker and because post-acknowledgement plan amendments were not subject to the 120-day standard, the commission did not have to extend the record if requested. Issues not brought to the commission could be raised before the council, and the duration of time the council had to make a final decision was not limited to 120 days. However, he encouraged those offering testimony to raise any issues that they had, particularly if they were not able to attend the council hearing.

Mr. Mott reviewed the criteria of approval for the three applications from the Springfield Development Code.

Commissioner Cole opened the public hearing. He called for *ex parte* contacts or conflicts of interest. There were none.

Mr. Karp briefly reviewed the applications in question and entered the staff report into the record. He identified two major criteria related to the applications, that of the shortage of commercial land and excess of industrial land (Goal 9) and transportation (Goal 12). Speaking specifically to the latter issue, Mr. Karp reported that the applicant agreed to a trip cap for new uses on the property. The applicant would be required to have a traffic monitoring plan to help staff monitor trip generation from those uses. He recommended

approval of the applications as conditioned.

Responding to a question from Commissioner Carpenter, Mr. Karp said that the applicant selected uses in the middle range of trip generation to produce the analysis. Both the City Transportation staff and Oregon Department of Transportation (ODOT) staff approved the analysis.

Commissioner Cole called for public testimony.

Karl Mueller, 380 Q Street, Suite 220, Springfield, represented Goodwill Industries. He spoke on behalf of the applications, noting his concurrence with the staff report. He thanked Mr. Karp for the thorough staff report. He agreed with the staff analysis and noted he had submitted extensive documentation regarding the applications' consistency with the relevant planning goals, goals 9 and 12. He said the proposal would not make the Metro Plan internally inconsistent.

He agreed there was a shortage of commercial land and an excess of industrial land, and said the proposal would help remedy that imbalance and help bring Springfield in compliance with Goal 9. Mr. Mueller also reiterated that the applicant's methodology and findings as they related to the trip cap were approved by Springfield and ODOT staff. He offered to review the findings if necessary.

Mr. Mueller cited the relevant State statutes related to post-acknowledgement plan amendments found in Oregon Revised Statutes 197.250 and 197.610. Referring to the Mid-Springfield Refinement Plan, Mr. Mueller spoke to the plan's limitations on commercial development on Main Street and said the proposed amendment would modify that refinement plan, adopted in 1986, through the implementation of a nodal development strategy, in recognition of changes in planning preferences that emerged since that time. He anticipated the area would function more efficiently as a result.

Mr. Mueller noted that all public services were available to the site.

Mr. Mueller indicated the applicant's acceptance of all the conditions imposed by staff. He invited questions.

Jim Martin, 855 Seneca Road, Eugene, President of Goodwill Industries of Lane and South Coast Counties, indicated his support for the applications. He thanked Mr. Karp for his work and the commission for its consideration of the applications. He briefly overviewed the mission of Goodwill Industries and said the organization thought its property could be put to better use in support of that mission, which was the basis for the application. He also invited questions.

Responding to a question from Commissioner Decker, Mr. Martin said the retail training center already on the site employed about 52 individuals on a full- and part-time basis. In response to a question from Commissioner Cole, Mr. Martin said there were no plans to build a child care center on the site. Goodwill's tentative inquiries into the provision of such services from other providers were not successful for a variety of reasons.

Commissioner Cole called on staff for any comments. Mr. Karp had no remarks. Commissioner Cole closed the public hearing and called on the commission for comments and question.

Commissioner Shaver believed that the community was "gutting" its industrial base and the country was losing its manufacturing base to overseas' competition, making it difficult to sell industrially zoned property for industrial uses. He thought at some point that would change and the country would again need its industrial land and people would be sorry if it was gone into other uses. He would not support decreasing the supply of industrial land for the long-term good of the community without more accurate information about the supply to refute his remarks.

Regarding the changes to the Mid-Springfield Refinement Plan, Commissioner Shaver said that the plan

included some things to avoid problems, such as its prohibition on the mixed use plan designations involving residential and industrial uses. The plan also discussed the need to hold commercial to within 200 feet of Main Street, and the proposal would change the plan to allow the proposed development. He did not “buy the nodal arguments” made by staff. He did not support the changes recommended by staff.

Commissioner Carpenter supported the applications. He said that the area already contained medium- and high-density residential uses, and suggested that the Rust Belt was designated that because the United States did not employ heavy industrial sites to the same degree it had in the last century and he did not think they would be used in the next century for heavy industrial use. He anticipated that what people might deem heavy industry in ten years was likely to be considered medium industry today. He thought the land would be in good use and would support energy conservation, which was a key to nodal development. Since the area was deemed nodal there was nothing to prevent a nodal hub from occurring in central to middle Springfield.

Commissioner Decker also supported the applications. She thought the site provided some buffering between the medium-density apartments to the east from the heavy uses to the west. She thought there was always a problem trying to site residential next to industrial, but the buffering being proposed was a step in the right direction. She agreed with Commissioner Carpenter about the changing nature of industrial development over the next few years. She did not support asking the property owner to hold developable land because of an anticipation the industrial economy would change.

Commissioner Cole also supported the application. He thought it was the best the community could do at this time. He was somewhat troubled by the proposed refinement plan changes, but was unsure how to address those concerns.

Commissioner Moe concurred with the remarks of those in support of the applications.

Commissioner Moe, seconded by Commissioner Decker, moved to approve the Metro Plan Diagram Amendment LRP 2006-00013 as submitted, including the findings before the commission. The motion passed, 4:1; Commissioner Shaver voting no.

Commissioner Moe, seconded by Commissioner Decker, moved to approve the proposed changes to the Mid-Springfield Diagram Text Amendment LRP 2006-00014, as submitted. The motion passed, 4:1; Commissioner Shaver voting no.

Commissioner Moe, seconded by Commissioner Decker, moved to approve the proposed amendment to the Springfield Zoning Map, ZON 2006-0020, as submitted, and including the trip cap. The motion passed, 4:1; Commissioner Shaver voting no.

b. Proposed Metro Plan Designation/Zone Map at 28th and R Streets

Mr. Mott introduced the item, noting the location of the property in question. He reviewed the applicable criteria of approval for the two applications. He said the commission’s recommendation on the applications would be forwarded to the City Council, which would consider the item on July 17. He encouraged those offering testimony to direct their testimony to the criteria or other criteria they thought applicable, and to ensure they raised their issue at the hearing so they were not precluded from raising them on appeal.

Commissioner Cole opened the public hearing. He determined that commissioners had no conflicts of interest or *ex parte* contacts to declare. Commissioner Decker said Marty May Harlow was a patient at the clinic she worked out but she had no contact with her personally, and Commissioner Shaver indicated he had served on the commission with Steve Cornacchia, but that would not affect their impartiality.

Mr. Metzler provided a brief review of the applications and entered the staff report into the record. He recommended commission approval of the applications. He noted staff’s concerns about the impact of the development on Maya Park, a nearby residential development, and reported staff investigation found residents were made aware of the potential development when they purchased their properties. A list of current owners

and short statements regarding their awareness and support of the applications had been submitted by the applicant.

Commissioner Cole called for public testimony.

Steve Cornacchia, 180 East 11th Avenue, represented the applicants. He expressed appreciation to Mr. Metzler for his outreach. He provided the commission and staff with copies of excerpts from newspaper articles from when the Harlow Family had sought approval for the development in place today, which was in 1971. The original development proposal had included the 1.59 acres in question, but representatives of Kingsford and Lane Forest Products had been very concerned about the potential for conflict in the interface between the residential use and their uses across the street. The concerns expressed at that time were addressed by the concepts being presented now in regard to the buffers and transition between heavy industrial and residential uses. He believed that what had been approved in 1971 was both thoughtful and insightful and supported what was being proposed now. If the commission denied the application, he questioned whether it would serve to undo the decision of 20 years ago. He did not consider what had happened in 1971 an error of the past, but good planning. He indicated representatives of the Harlow Family were present to answer questions.

Responding to a question from Commissioner Cole, Mr. Cornacchia said that the packet included a site plan that showed conceptually what was planned for the site, and he understood that the boundary between the five lots and the property in question would contain a vegetative buffer. Commissioner Shaver asked if the applicant objected to that being made a condition of approval. Mr. Cornacchia determined from the Harlow Family representatives they did not object.

Commissioner Carpenter determined from Mr. Cornacchia that the site plan tentatively showed two buildings intended to house small light-medium industrial uses rather than storage units. Mr. Cornacchia deferred questions about the buildings to Mr. Pogue, the next speaker.

Tom Pogue, 990 Obie Street, Eugene, was the project engineer. He spoke to Commissioner Carpenter's question, saying the buildings were designed so they could be used for either a small business or for storage, but his tenant would have to know that demand before deciding that. Commissioner Carpenter expressed concerns about the potential for noise from the two buildings in question. He speculated that the buildings could operate until midnight. Mr. Leahy pointed out the City's zoning ordinances did not override its noise ordinance.

Commissioner Cole called on staff for comments. Mr. Metzger clarified that the light-medium uses tended to be those that could be wholly contained on the site and did not have the same impact as heavy industrial uses. With regard to the site plan development code, he said that the City required vegetated perimeters around industrial uses as they abutted residential uses, so a certain setback was already incorporated into the code.

Mr. Cornacchia, invited to provide rebuttal testimony, had no remarks.

There being no other requests to speak, Commissioner Cole closed the public hearing and called for commission comments.

Commissioner Carpenter indicated his concerns about the potential loss of housing if the application was approved had been addressed by the information provided about the history of the site.

Commissioner Moe questioned the suitability of the site for housing given the proximity of heavy industrial uses and major transportation thoroughfares. Commissioner Cole concurred.

Commissioner Shaver believed the proposal would do much to buffer the residential uses from other uses. He believed the commission was obliged to approve the application because of the history of the site.

Commissioner Decker did not think the development would provide much of a buffer because the charcoal plant was a presence that could not be ignored, but she thought it a step in the right direction. She supported the applications.

Commissioner Shaver, seconded by Commissioner Carpenter, moved to recommend approval of the Metro Plan change (LRP 2006-00012) to the City Council. The motion passed unanimously, 5:0.

Commissioner Shaver, seconded by Commissioner Carpenter, moved to recommend approval of the zone change application ZON 2006-00018, as presented to the commission and including the findings of fact, to the City Council. The motion passed unanimously, 5:0.

c. Formal Interpretation JO#ZON 2006-0032

Mr. Mott introduced the item. He reviewed the criteria of approval for the request, found in Article 4 of the Springfield Development Code. He indicated the commission's action was also advisory to the City Council, giving those who wished to testify multiple opportunities. He recommended that those offering testimony raise all issues to ensure they were heard on appeal.

Commissioner Cole determined that commissioners had no *ex parte* contacts or conflicts of interest to declare. He opened the public hearing.

Mr. Donovan provided the staff report, which he entered into the public record with corrections. He recommended that the commission find the City's past use of the hillside ordinance and cluster subdivision as consistent with the code, and that the submitted findings demonstrated the specific language and intent of both articles was met by using the tool of cluster subdivision consistent with hillside to achieve design flexibility and development in the context of a hillside. He said the staff report identified precedent on the part of staff and the Hearings Official. The City Attorney had also concluded the use of the cluster subdivision consistent with the hillside overlay district was permissible. He invited questions.

Commissioner Carpenter recalled that staff had indicated the more restrictive condition would apply in a development situation. He asked if that should be called out in the ordinance, or if it reflected City policy. Mr. Donovan recalled the text was found in the Metro Plan and reflected staff practice in implementing the code. Commissioner Carpenter recommended that it also be included in the ordinance. Mr. Leahy recommended the commission's discussion be forwarded to the council. Mr. Donovan said that staff would apply the more restrictive requirement.

Commissioner Cole called for public testimony.

Steve Keating, 188 West B Street, identified himself as a civil engineer. He generally agreed with the staff recommendation but said his issue was when clustering was not permitted on slopes greater than 15 percent. Staff quoted a statement allowing a density transfer bonus for areas between 15 and 25 percent slope, but he could not interpret a density transfer bonus as a mandate for clustering. It simply encouraged one to place more dense uses on flatter pieces of ground. The City faced issues of erosion and mass movement of soil in its hillsides, and he did not know if that could be addressed "at this level" due to the potential for erroneous engineering. He thought most dense uses should be placed on land not likely to move. He thought that was why the Type II process existed and said staff needed the tools to actual cluster development. Mr. Keating spoke of his own development approach to a sloped hillside and contrasted it with the approach proposed by staff, which would allow for smaller lot sizes and "less propensity for over-sized houses" and landscaped lots. People would be less prone to remove trees for the sake of the view, and the City would have more control over the trees remaining on the site because open space would be controlled by the CC&Rs, which he assumed would be developed with public input. He recommended the text be amended so that staff had discretion allowing for density transfers for cluster subdivisions in a hillside development district without requiring the transfer of density to relatively modest slopes. He said that most developers were driven by a motive to profit from their work, and the change he recommended would ensure that developers did not seek

the maximum amount of profit possible. He was opposed to the restriction proposed by staff.

Commissioner Carpenter determined that Mr. Keating was seeking more flexibility by increasing the slope with the justification that there were soils engineers that made mistakes, resulting in slides. He suggested that a slide on a 25 percent slope would likely be more devastating than a slide on a 15 percent slope. Mr. Keating said the law of averages was not affected by the risk; it was possible for a piece of land to slide in any location. The distribution of houses was not at issue. Commissioner Carpenter said he was speaking to the relative risk of damage from a steeper slope. While he recognized the concept Mr. Keating was presenting, he said Mr. Keating was not giving him any checks and balances to indicate why the commission should go above 15 percent. For example, if there was more soils analysis required above that slope, he would entertain that. However, he was not supportive of cluster development on slopes above 15 percent without assurance they would not slide. He suggested that this might not be the appropriate venue for resolution of the issues that existed on Mr. Keating's development site. Mr. Keating believed that the 15 percent number was "pulled out of the air" and did not speak to other conditions. Commissioner Carpenter pointed out the City required a soils study. Mr. Keating spoke of his own experience with required soils studies and said he disliked the Ogami study and thought it caused misperceptions because there were so many variables involving soils. He continued to question the 15 percent number and said that somewhere around 20 percent, soils began to move, the rate depending on the type of soils involved. Most slides were related to water management problems; the percentages themselves did not address that.

Commissioner Carpenter encouraged Mr. Keating to work with other City engineers to change the required soils study if he thought it was not workable.

Mr. Keating continued to oppose the use of a flat percentage for slopes.

Commissioner Shaver thought staff had been interpreting the code appropriately and would recommend that the council adopt the staff recommendation. He endorsed the approach of using the more restrictive standard. He believed the City gained flexibility from the change. While he thought Mr. Keating had made some excellent points, he thought that they could be incorporated into a more performance-based approach to the code and called for more exploration of that subject.

Mr. Donovan reiterated the narrow focus of the question before the commission. He noted the code already provided a provision to go to 25 percent on south-facing slopes. He said staff was always willing to engage in discussion of such issues and moving toward appropriate code revisions as directed by the council and commission.

There being no other requests to speak, Commissioner Cole closed the public hearing.

Commissioner Decker recommended staff have further discussions with Mr. Keating.

Commissioner Shaver, seconded by Commissioner Decker, moved to recommend the staff interpretation to the City Council. The motion passed unanimously, 5:0.

d. Request for Vacation of Public Alley

The applicant, the City of Springfield is requesting the right-of-way vacation to facilitate development of the municipal Justice Center and Jail on the downtown city block containing the subject alley. The proposed site plan incorporated the alley right-of-way within the future building envelope of the Justice Center and Jail. The public right-of-way proposed for vacation consists of a 14-foot wide by 264-foot long paved alley extending from 4th Street through Pioneer Parkway East. The mid-block alley is located immediately to the north of the existing police and municipal courts building, and a commercial lease space owned by the City. At present, vehicular traffic within the alley is restricted to police and service vehicles. There are existing public utilities within the alley that must be relocated prior to construction of the Justice Center. In the interim, an easement will be required to accommodate the public utilities until relocation has been completed.

Planning Manager Greg Mott said the commission's action was advisory to the City Council, which would hear the matter on July 17, 2006. He reviewed the criteria of approval for street vacations, found in Article 9 of the Springfield Development Code, Section 06(2). Mr. Mott said that those testifying should address their remarks to the criteria and raise issues with sufficient specificity to allow those participating to form a response. If issues were not raised before the commission or council, it could preclude them from being raised in an appeal.

Andy Limbird, Planner II, reviewed the request for the vacation of a public alley right-of-way located mid-block between 4th Street and Pioneer Parkway East and between A and B streets in downtown Springfield (Case Number LRP2006-00019). The vacation served nine City-owned tax lots. The alley right-of-way was used primarily by police and service vehicles to access the existing court and police buildings. There was also a commercial lease space on the corner of A Street at Pioneer Parkway East, currently occupied by the Best Little Print Shop. The vacation was intended to facilitate the construction of the Springfield Justice Center across the area. In the interim, alley access and utilities would be maintained to provide continued access to the existing court and police buildings until the transfer of their functions in approximately 18 months

Mr. Limbird entered the staff report into the record and noted the inclusion of the attached findings and conclusions.

Commissioner Decker asked if there was any public access to the alley. Mr. Limbird responded that public access to the alley had been discouraged and he believed that casual access was discouraged by the nature of the uses that occurred there and the presence of police cars in the parking lot. However, the alley was not gated. A Lane County elections drop box was located at one end. He said that drop box would be relocated, perhaps to City Hall, as early as November 2006.

Commissioner Carpenter asked if the alley was used to leave the parking lot of the Best Little Print House. Mr. Limbird as on-street parking on A Street. He had not investigated the parking arrangement, but acknowledged that the half-block area was used primarily for police staff. Police vehicles were held in a fenced-off area. Access would be maintained to the front door as well as alley access for service deliveries, but parking must be relocated when construction began. He anticipated the City would review its lease arrangement with the business in question, which would have to relocate at some point in the future. Commissioner Carpenter pointed out that finding 16 mentioned that casual public use of the right-of-way was currently discouraged, but that was not true statement for the west end and the far west parking lot, where patrons of the print shop parked. Mr. Limbird concurred, but pointed out that there was no requirement for parking in the downtown exception area, allowing the parking to be relocated to the front. Commissioner Carpenter agreed, but pointed out that historically there had been public use of the alley at the west end. Mr. Limbird concurred, saying that occurred through the lease arrangement with the City.

Commissioner Cross opened the public hearing.

Fred Simmons, 312 South 52nd Place, suggested that staff should be sworn in when making staff reports. He said he supported the construction of the Justice Center but was "frosted" that the application for a vacation was a deficient piece of staff work. He asked the commission to reject the application until it was corrected.

Mr. Simmons said he based his written testimony on the staff report that was provided to him and later found out that there was a supplemental submission, Exhibit A, a sort of legal description of the property, which he did not have. He wanted to ensure that Exhibit A as well as the discretionary use issue dealt with by the commission in March were included in the record. Mr. Simmons said the application was required by Article 9.9403(a) to contain a legal description of the vacated portion of the alley, and at the time he wrote his testimony the application did not contain such a description. He did not know if Exhibit A satisfied the requirement. Article 9 also called for the inclusion of a map, and he asserted that was not part of the original application. Mr. Simmons said that the article also required that were public easements were proposed to be vacated, a notarized letter of concurrence with the vacation from all affected utilities be secured.

Mr. Simmons said the staff report referenced a finding about Lithia, stating that it was required to have a deed restriction that stipulated no access was to be taken off the vacated alley and all access must come off the adjacent streets for the tax lots.

Mr. Simmons said the commission also heard a briefing at the earlier work session that clearly defined the projected plan about how the Justice Center would be designed and constructed, which spoke to the issue of the potential vacation of B Street, and that briefing should be in the record. The staff report suggested that any potential loss of access from the vacation of the alley could be achieved through the use of B Street; the staff person clearly knew the intent of the advisory committee and council that B Street was to be vacated, yet it was referred to in the finding as providing access.

Regarding access to the Best Little Print Shop, Mr. Simmons submitted copies of the three lease agreements between the business operator and the City. The three agreements called for public use of the parking lot to the north side of the alley and defined the access. He suggested that vacating the alley appeared to the layperson to be a breach of the lease agreement between the two parties. He acknowledged the print shop would have to move and that move would be paid for by the public. However, Mr. Simmons believed a review of the findings indicated they were both deceptive and untrue.

Speaking to the location of the election box, Mr. Simmons asserted that hundreds of people travel down the alley. He asked that his written testimony be included in the record and that the commission defer action until it had time to read it as it clearly refuted many of the findings and demonstrated that they were in error and deficient. The alley had been a public street since 1872. Speaking to the contention in the findings that the alley was not in the Eugene-Springfield Metropolitan General Area Plan, Mr. Simmons pointed out that most alleys do not appear in the plan. He advocated for correction of the staff report and application prior to the commission moving forward with approval of the vacation.

Commissioner Carpenter asked how many years a commercial entity had been in the leased space occupied by the print shop. Mr. Simmons believed it was at least 20 years. He said the primary access to the print shop was not off A Street.

Commissioner Cross called for staff comment.

Mr. Limbird said the vacation of the right-of-way would not immediately prevent or preclude public access or the maintenance of public easements through the area or the maintenance of commercial access to the leasehold building for the duration of the remainder of the lease. He recalled that at the earlier work session, the architects for the Justice Center had indicated that the alley was not to be built upon in the initial phase of development.

Commissioner Cole did not recall seeing anything in the staff report that required the easements and asked if the commission should address that in the findings. Mr. Limbird referred him to Condition #15, which spoke to the issue of easement preservation. Mr. Leahy noted that the current vacation ordinance specified that existing utilities were not required to be moved when a street was vacated. He said the commission could add a condition that stipulated that access to the print shop be preserved until it moved, and that access to the election box be moved until the City negotiated with the County for its relocation.

Commissioner Decker did not think there was any inconsistency to state that access could continue to be taken off B Street as long as the parking area was in existence. If and when B Street was vacated, the parking lot would no longer be in existence, so there would be no access taken from it anyway. Mr. Limbird concurred. Commissioner Decker considered the issue to be a non-issue.

Commissioner Shaver believed the findings erroneously indicated there was no public use of the alley, and that was not the case as he personally used the alley to reach the elections box and the parking lot of the print shop. He suggested that the staff report could state that the alley was not needed as a transportation corridor, but it was not correct to say it was not a public roadway. He disagreed that there would be no impact from the vacation. Commissioner Shaver recommended that the commission direct staff to correct the deficiencies in

the staff report and application.

Mr. Limbird noted that the Exhibit A map discussed by Mr. Simmons was from the draft ordinance that would be presented to the City Council. Mr. Simmons requested the map, which was provided as a courtesy by the City Surveyor. The map was not contained in the packet because the ordinance was not before the commission.

Commissioner Carpenter asked if the City took affirmative action to discourage use of the alley. Commissioner Cole reported that he had walked through the alley earlier in the day and observed multiple signs specifically designed to discourage access by making reference to prohibited access. They were located where the police vehicles were. Mr. Limbird said that there had been some recent incidents of vandalism in the police parking lot area, which was another reason to discourage casual public access. Legally and technically, access was not being denied to the public.

Commissioner Carpenter was concerned that if the City blocked the alley and B Street, it would not have the 1,400 foot length between A and C streets sufficient for a city block. Mr. Limbird said that was to occur, that was correct. Commissioner Carpenter suggested that the staff was “feeding the commission half the story” because it was suggesting that the alley could be vacated and “we’re only at 1,070 feet.” He asked if the City was willing to give up blocking B Street if the alley were to be vacated to ensure the City did not jeopardize the block distance.

Mr. Leahy reminded the commission that it did not have an application regarding B Street before it. Commissioner Carpenter suggested that the commission should be considering the two issues simultaneously.

Mr. Mott said that if there was a requirement for a legal description, staff would prepare one, as well as secure a notarized letter of concurrence from the utility providers. He reminded the commission that the staff report and all testimony was included in the record, and it was the commission’s prerogative to concur or dissent from any of the evidence in the record, particularly if the evidence was used in the findings. He also pointed out that the commission could supplement the findings in the record through a motion. Mr. Mott emphasized that the application would not go before the council if it was not complete.

Commissioner Cole discussed his observations of the alley, saying that it contained utilities that appeared to serve only the buildings on the block and some street lights just past it. There was storm sewer service, telephone service, and electric service underground. He said the print shop was clearly accessed from the alley, but even if the commission vacated the alley it did not mean it could not be used for public access. Commissioner Cole believed the lease agreement obliged the City to maintain access. He pointed out that the election box was also reached through a parking lot, which was not a public way but open to public access for that purpose. He did not see those as barriers to approval of the application.

Commissioner Cole closed the public record

Commissioner Shaver, seconded by Commissioner Carpenter, moved that the commission table deliberations on the application until it had a complete application to look at and the deficiencies that were enumerated by Mr. Mott were addressed; that the staff review the findings of fact for accuracy to state the alley was providing public access, notarized letters of concurrence would be secured from the utilities, and that public access would be lost even though the loss might be minimal and restricted to people using a certain portion of the lot; and that the commission incorporate some of the concerns it heard into the findings, such as open access for the print shop and voting box as long as those two things were in place.

Commissioner Carpenter wanted to have a chance to review the written testimony before the commission deliberated.

Commissioner Decker pointed out that the easements were addressed in Condition #15. Commissioner

Cole suggested that the condition was not as clearly spelled out as it could be. Commissioner Decker also pointed out that the notarized letters of concurrence were required as part of the ordinance passed by the council. Commissioner Carpenter did not think that the commission could recommend approval without them as they were a condition of the code. She thought the issues were easily addressed. Commissioner Moe concurred.

Commissioner Shaver reiterated his belief that the application was incomplete.

The motion passed, 4:2, commissioners Decker and Moe voting no.

5. BUSINESS FROM THE DEVELOPMENT DIRECTOR

There was no business from the Development Director.

6. BUSINESS FROM THE COMMISSION

There was no business from the commission.

7. ADJOURN

Commissioner Cole adjourned the meeting.

Minutes recorded by Brenda Jones/Kimberly Young