

**Minutes of the Planning Commission
Of the City of Portland**
Held on Wednesday, January 10, 2018 at 7:00 P.M.
In Council Chambers at City Hall

Portland Planning Commission Members Present: Grapentien, Fitzsimmons, Williamson, Roeser, Kmetz, Hinds

Absent: Culp

Staff: City Manager Gorman; City Clerk Miller; Deputy Zoning Officer Gensterblum

Guests: Terry Frewen; Justin Hengesbach; Jon Moxey and Max George of Fleis & VandenBrink

Chair Grapentien called the meeting to order at 7:00 P.M. with the Pledge of Allegiance.

Motion by Kmetz, supported by Hinds, to amend the agenda to excuse Member Culp.
All in favor. Approved.

Motion by Hinds, supported by Williamson, to excuse the absence of Member Culp.

There was no public comment.

Motion by Fitzsimmons, supported by Williamson, to approve the Agenda as amended.
All in favor. Approved.

Motion by Fitzsimmons, supported by Williamson, to approve the minutes of the November 8, 2017 regular meeting as presented.
All in favor. Approved.

Chair Grapentien opened the Public Hearing at 7:02 P.M. and noted the packet includes the definition of an accessory apartment and the sections of the Zoning Ordinance that pertain to the request.

City Manager Gorman introduced the proposed request by Terry Frewen for his property at 1323 E. Bridge St. to rent the property as a single-family residence with a cell phone repair business to operate in the front room of the house. He noted that the guidelines, criteria, definition and terms were provided to the Planning Commission.

Mr. Frewen stated that the property had been used for residential purposes until the previous owner made it a commercial use. There have been no major modifications to change it from residential to "office space". Mr. Frewen stated that he purchased the property with the intention to rent the building as office space. He further stated that the Zoning Ordinance does not provide criteria or provide a definition for a residential home in the C-2 District with a small commercial space. There is ample parking available. He further noted that the previous business/owner did not use the property as a residence. There is a door that would separate the business from the residence in the building. He feels this would be a good use for the property.

Planning Commission Minutes
January 10, 2018

Chair Grapentien inquired how long the former property owner used the property for commercial purposes.

Mr. Frewen stated that he and Deputy Zoning Officer Gensterblum looked into that. They were not sure exactly how long but at least 4 years. The property was used for commercial purposes for longer than one year so per the Zoning Ordinance it can not revert to a residential property.

Mr. Hengesbach noted that the benefit of living at the business would allow his business to grow. He further thanked the Planning Commission for their consideration.

City Manager Gorman noted that the proper notices were published for the Public Hearing. No public comment has been received on the proposed request.

Chair Grapentien closed the Public Hearing at 7:09 P.M.

Under New Business, the board considered the request for a Special Land Use Permit for the property at 1323 E. Bridge St. to rent the property out as a single-family residence with a cell phone repair business to operate in the front room of the house.

Chair Grapentien stated that he owns a business in a C-2 District and has turned down tenants that also wanted to live at the property while operating a business. He stated that he will be a part of the discussion tonight but will abstain from voting due to self interest in the decision.

There was discussion regarding the time frame under the Zoning Ordinance for a use to be abandoned.

City Manager Gorman stated the use is permitted. In this situation the question is around an accessory apartment in the C-2 District. The property seems more residential with a home occupation. He further stated that in past practice accessory apartments have been on the 2nd floor. He noted that this request is in the C-2 District and so the analysis has to be made within the guidelines provided for such.

Member Kmetz commented that if the Special Use is permitted then the same would also have to be allowed to others. He further noted that with the recent issues around medical marijuana this same request could be used for that type of use. He stated the consideration is for a business and a residence combined.

Chair Grapentien clarified that consideration is being given to a request in a commercial district, in a commercial building, with a commercial use, with an accessory apartment on the main level.

Vice Chair Fitzsimmons stated that he has looked over this issue several times and although it seems appropriate for this situation he is afraid of the doors that may be opened if approved.

Chair Grapentien stated that if the business were to fail then the property would become a residence. He noted there would need to be some protection to prevent that from happening. He

Planning Commission Minutes
January 10, 2018

also noted that if a use is not listed in the Zoning Ordinance then it is not an approved use. If a first-floor apartment is not listed as a use, it is not permitted.

There was discussion about possible stipulations that could be approved with the Special Land Use Permit and how those could be enforced.

Secretary Williamson noted the criteria to be considered/reviewed for determining a proposed Special Land Use. He further noted his feeling that this specific request meets all of the criteria.

Member Kmetz noted the exception is that approval of this Special Land Use opens the door to turning the property back to a residential use; and the accessory apartment is on the first floor.

City Manager Gorman noted that Section 42-340 of the Zoning Ordinance states the specific criteria that must be met. The general conditions that Secretary Williamson noted are to be considered in addition to.

There was further discussion.

Mr. Frewen noted that the purpose of the application is for a “Special” Land Use. He stated that he doesn’t know how approval in this situation would apply to someone else.

Member Kmetz stated that once a Special Land Use is approved another similar request would also have to be approved.

Mr. Frewen noted that a property across the road on Grand River Ave. has an apartment and a business.

Chair Grapentien stated that is a different situation because the apartment is on the 2nd floor; the uses are on separate floors. The entire first floor is for commercial use and the 2nd floor is residential. The decision on the Special Land Use will set a precedent going forward.

There was continued discussion regarding the precedent that would be set by approving the request.

Mr. Frewen requested consideration be given to the special nature/uniqueness of the property.

Chair Grapentien clarified that the accessory apartment use is what makes the property “special” and creates the need for a Special Land Use; because the property is in a commercial district and the request is for an accessory apartment.

Mr. Hengesbach inquired how long a Special Land Use is approved for.

Chair Grapentien stated that as long as the use is not abandoned the approved use stays in effect until it is abandoned for a year.

Planning Commission Minutes
January 10, 2018

City Manager Gorman clarified that upstairs apartments in the C-1 District are permitted by right. In this situation, we are strictly referring to the C-2 District.

Motion by Kmetz, supported by Williamson, to approve the Special Land Use request for the property at 1323 E. Bridge St.

Chair Grapentien called for a Roll Call Vote.

City Clerk Miller held the Roll Call Vote.

Roeser – No

Williamson – Yes

Fitzsimmons – No

Grapentien – Abstain

Kmetz – No

Hinds – Yes

The motion fails.

Jon Moxey of Fleis & VandenBrink presented information on the roadway design and infrastructure for the proposed Sparrow project. They also presented information for future development of the property at Grand River Ave. and Cutler Rd. Consideration will need to be given on whether the City would like to stay with planning developed for the property in 2010 or move forward with one of the options outlined. The Subarea Concept Plan developed in 2010 will require approximately \$1 million in grading to make the design feasible. The zoning for the property will also need to be reviewed to ensure it is with proposed planning for the property.

There was discussion.

The board expressed their approval with moving forward with the outlined Option A/B without choosing which one specifically until further development on the property occurs.

City Manager Gorman asked the board to look at the zoning for the area and consider what it should look like.

Max George of Fleis & VandenBrink outlined the pros/cons of the possible parcel division plan vs. subdivision platting vs. a PUD.

City Manager Gorman provided development and zoning updates. He noted that he has been contacted by a representative of an assisted living facility that may be interested in property at Grand River Ave. and Cutler Rd.

City Manager Gorman stated that he will be looking at zoning updates in the next budget year and will consider budgeting professional services to do so.

He noted that information distributed regarding the Medical Marijuana Facilities Licensing Act and explained circumstances in the City of Portland.

Planning Commission Minutes
January 10, 2018

City Manager Gorman noted that he has been in discussion with Sparrow's legal counsel in regard to the sale of the property. The Escrow Agreement will be drafted soon with the closing on the property to follow.

Discussions with ADM have resumed regarding the City taking the property at the corner of Grand River Ave. and Divine Hwy.

ConfluxCity Brewery is anticipating they will open this Spring.

The 5-year Parks and Recreation Master Plan process is underway with the assistance of Fleis & VandenBrink. The draft plan is available for public comment for a 30-day period.

There has been interest from several parties in parcels on the property at Grand River Ave. and Cutler Rd.

Old School Manor will likely have full occupancy this Spring.

Under Planning Commission Member Comments, Chair Grapentien noted the homework for the board to look at Division 8, Section 42-280 of the Zoning Ordinance.

City Manager Gorman thanked Deputy Zoning Officer Gensterblum for his enforcement of the sign at Burger King/Shell which was finally reinstalled this week.

Motion by Fitzsimmons, supported by Williamson, to adjourn the meeting at 8:44 P.M.
All in favor. Approved.

Respectfully submitted,

Jason Williamson, Secretary