City Planning Commission Minutes
Thursday, June 18, 2020 – 4:00 P.M.
City Hall Council Chambers, 520 E. Cascade Avenue, Sisters, OR 97759

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| Chairman: | Jeff Seymour |
| Commissioners: | Cris Converse, Art Blumenkron, Scot Davidson, Mark Hamilton, Jack Nagel |
| Teleconferencing: | Bob Wright |
| City Staff: | Cory Misley, City Manager, Nicole Mardell, Principal Planner, Garrett Chrostek, City Attorney |
| Visitor: | Sue Stafford, Nugget Newspaper |
| Recording Secretary: | Carol Jenkins |

4:00 PM WORKSHOP:

LEGAL PRESENTATION: PLANNING COMMISSION ROLES AND RESPONSIBILIES

*(Handouts for the Planning Commission Roles and Responsibilities were submitted in the Planning Commission packets for the workshop on 06/18/20, and available upon request). Recorded minutes are located on the City Website for your review.*

*Planner Mardell* presented the Planning Roles and Responsibilities to the Planning Commissioners discussing their Roles and Responsibilities; Planning Fundamentals; Land Use Decision Types and Processes; Public Hearing Process; Tips and Parting Thoughts; and Q&A.

Also discussed were the Authority; Powers and Functions; Roles and Responsibilities of the Planning Commission Members; Roles and Responsibility of the Planning Commission Chair; Role and Responsibilities of Planning Staff; Roles and Responsibilities; Planning Fundamentals; Authority; Types of Decisions; Administrative (Type I and Type II); Quasi-Judicial Applications (Type III / IV); Legislative Applications (Type IV); Public Hearings and Decision Making; The Hearing; Impartial Tribunal; Substantial Evidence / Applicable Approval Criteria; Decision Making Tips; Tips for a Strong Process; LCDC Chair Reflections; and any Questions.

5:30 PM REGULAR MEETING / PUBLIC HEARING:

I. CALL TO ORDER / ROLL CALL / DETERMINIATION OF AGENDA

*Chairman Seymour* called the meeting to order at 5:30 pm.

*Vice Chair Converse* made a motion to adopt the Agenda for Thursday, June 18, 2020 as written.

*Commissioner Hamilton* seconded the motion. Motion carries.

II. APPROVAL OF MINUTES – February 20, 2020 and April 16, 2020

*Vice Chair Converse* made a motion to approve the minutes for February 20, 2020 and April 16, 2020 as presented.
*Commissioner Hamilton* seconded the motion. Motion carries.

III. VISITOR COMMUNICATION – None

*Chairman Seymour* read the Rules for Conducting a Public Hearing at this time. He asked the Planning Commission to disclose any ex-parte conduct, bias, or conflicts of interest. Please indicate the nature and extent of the ex-parte contact, bias, or conflicts of interest, and whether you intend to participate in, or abstain from the Public Hearing.

*Chairman Seymour* asked the Planning Commission to disclose any ex-parte, bias, or conflicts of interest at this time. When your name is called please indicate the nature and extent of the ex-parte contact, bias, or conflicts of interest and whether you intend to participate or abstain from the hearing.

*Commissioner Converse* stated that she has had previous and extensive interactions with that piece of property and the previous owner. I have a lot of familiarity with it.

Commissioner Nagel – no contact or conflict.
Chairman Seymour – no contact or conflict.
Commissioner Davidson – no contact or conflict.
Commissioner Blumenkron – no contact or conflict.
Commissioner Hamilton – I conducted a site visit this afternoon to examine the parcel.
Commissioner Wright – I was involved in the decision on the original application back in 2016 as a Planning Commission member. I have also driven by the site many times for shopping, but I have no bias, or conflicts that would make me not render an honest and unbiased decision.

IV. PUBLIC HEARING

File Number(s): EXT 19-03 (Extension of City File #s: SUB 16-02 and SP 16-07).
Applicant /
Owner: Citrus Development, LLC (Peter Thomas).
Location: 704 W. Hood Avenue, Sisters, OR 97759: Map and Tax Lot: 151008AA00800.
Request: Request for a second extension of approval for City File #s SUB 16-02 and SP 16-07, allowing for a subdivision plan and site plan for 11 lots and 10 detached lodging units.

*Planner Mardell* stated that this application is for a second extension relating to file numbers SUB 16-02 and SP 16-07, a subdivision and site plan decision to allow for 11 lots and 10 detached lodging units. Site plan and subdivision applications have an approval duration of two years from the date the decision becomes effective. If the use is not initiated in that time (if a building permit

is not issued, or a final plat is not recorded), the decision expires, and the applicant loses the entitlement for that project.

An extension application can extend this approval duration. Staff can administratively approve the first extension (1-year past the duration), but approval from the original hearings body is required for a seconded extension. Only two extension are permitted by the Sisters Development Code, a total of four years to complete the project for a single phased development.

This decision became effective on October 5, 2016. A single one-year extension was granted by staff on September 24, 2019 as the applicant demonstrated the following: No changes were made to the original site plan, the applicant showed intent of initiating construction on site within the extension period, no substantial changes to the code had been made that altered the decision, and the failure to obtain building permits was out of the applicant's control.

The applicant on October 4, 2019, applied for the second extension and the application was deemed incomplete. The applicant submitted additional materials and the application was deemed complete on April 6, 2020. The burden of proof included information surrounding the need for the second extension, including a timeline of extenuating circumstances that led to the delay including: litigation, design theme compliance, health issues, and financing issues.

As a reminder, we are only reviewing the extension application, and whether a second extension should be granted. We are not reviewing the original decision, or any of the original parking layouts, design of the building etc. since that was already completed in the initial decision.

*Staff has provided a recommendation to approve the second extension application with several conditions.*

The specific conditions would include:

- The applicant would need to submit a complete building permit application to initiate the site plan review by October 4, 2020 for at least one of the lodging units.
- The applicant would need to submit a complete Final Plat application by October 4, 2020, to initiate the subdivision decision.
- Making sure all the other Conditions of Approval from the original land use decision are carried forward and continue to be in place.

One correction that Commissioner Wright brought to my attention is on page 3 of the staff report. On the Staff Findings - the date says June 16, 2020 for the Public Hearing and it should read June 18, 2020. And with that, I welcome any questions.

*Chairman Seymour* asked if there was any correspondence received on this application other than the items included in the Agenda materials.

*Planner Mardell* stated that I have not received any public comments. I did receive an email correspondence from the applicant's original legal counsel who had submitted the burden of proof stating that she is no longer representing the client as part of the application. I have included it in the formal record, and I am formally entering it in as well.

*Chairman Seymour* stated that he will ask each Planning Commissioner whether they have any questions for staff.

Commissioner Converse – no questions of staff
Commissioner Nagel – no questions of staff.
Chairman Seymour – no questions of staff.
Commissioner Davidson – asked if there are any known negative effects of approving this request including the negative effect of precedent known by you or anyone.

*Planner Mardell* stated that this application is unique so whatever decision you make does not set precedent since each application is reviewed individually with the extension criteria. I do not believe it would create a precedent.

*City Attorney Chrostek* stated that for the record, I would confirm what Planner Mardell just stated.

*Commissioner Davidson* stated that for the other part of the question beside precedent, is there any other potential negative effects of approving the extension. A negative effect might be other development opportunities that should be given consideration, but this extension is effectively blocking.

*Planner Mardell* stated as staff in this situation, I can only review the application that is in front of me. I cannot consider other development potential, or other types of application that could affect the property. With this extension application, staff found just based on the recommendation that the applicant provided sufficient information in the burden of proof to meet the standards that relate to extension approvals. They did provide information that appear to meet all of approval criteria.

*Commissioner Blumenkron* – asked how the extension date of October 2020 was established.

*Planner Mardell* stated that the original approval was granted and effective on October 5, 2016. Then two years from that lead to submitting a new application for the additional extension by October 5, 2019 and then again carried forward.

Commission Blumenkron – no further questions of staff.

Commissioner Hamilton – I have a question regarding the material because there were several mitigating circumstances that the applicant provided. In my site visit today, I noted a For Sale sign from Compass Commercial laying on the ground. What would be the potential impact if the property had been offered for sale during this time and should that be considered.

*Planner Mardell* stated that land use decisions run with the land. If a property were sold to a new owner, the land use decision would remain intact as it was approved with all those conditions of approval. It would be up to the new owner to initiate the use essentially within the same timeframe. There is not necessarily an issue if the property were to be sold because it does run with the land.

*Commissioner Hamilton* asked if the delays in the initiating of the development of the property because it was offered for sale just out of consideration – if in fact, it was offered for sale.

*Planner Mardell* stated that within the staff report there are some criteria that relates to the applicant showing a good faith effort that they have moved forward on initiating the use. That is one of the criteria that relates to whether an extension is granted. It is something that the Planning Commission could consider whether a good faith effort has been shown. In terms of the sale, I will defer to the applicant to discuss that piece during their presentation to talk more about their efforts to move forward on initiating the use prior to that October 4, 2020 date.

*Commissioner Hamilton* stated that from my reading, I do not recall the applicant disclosing, if in fact, it was offered for sale.

*Planner Mardell* stated that I also do not believe I saw that in the burden of proof. I will read the conditions so that we all have them - an extension can be grant provided that the applicant can show a good faith effort. Efforts have been made toward platting for initiating applicable land division and that also applies to the site plan review of getting their building permits.

Commissioner Hamilton – no further questions of staff.
Commissioner Wright – no questions of staff.

*Chairman Seymour* asked the applicant to present the application and provide testimony.

Peter Thomas, Citrus Development, LLC
Bend, Ore.

*Mr. Thomas* stated that we were requested to provide our request in writing which we did. Also, some numerous mitigations back and forth and a written statement as well that addressed the requests as well as backup information that was asked of us. That has been submitted and part of the packet that everybody received. If there is anything in addition to that, I would be happy to answer any questions. With regards to the question that was just asked, I was approached by Adam Bledsoe who indicated that he had somebody that may want to buy our property, buy the project, and build the project. We entered into a very short escrow with that individual, and due to a project failure in California, his sale did not go through. It was not expected that a sign was going to be put on the property, but there actually was, and that might be a standard operating procedure when Compass gets a listing and then a sign goes up. I was contacted by my landscaper who had cleared the weeds on the site, I contacted Adam and he said they would come and get it, but they did not.

*Chairman Seymour* asked if the Commissioners had any questions for the applicant.

Commissioner Converse – no questions for the applicant.
Commissioner Nagel – no questions for the applicant.
Chairman Seymour – no questions for the applicant.
Commissioner Davidson – no questions for the applicant.
Commissioner Blumenkron – no questions for the applicant.

Commissioner Hamilton – my only question would be the length of time that sign was displayed and whether it was just taken down, or was it taken down in time with the resubmitting the request for the extension.

*Mr. Thomas* stated that we cleared the lot at least 8-9 months ago, the sign was down at that time, and far before the request was submitted.

*Commissioner Hamilton* stated that there is quite a colony of the prairie dogs on the property right now, and there are a lot of them.

Commissioner Hamilton – no further questions of the applicant.
Commissioner Wright – no questions for the applicant.

*Chairman Seymour* stated that we will move to public testimony and conduct a roll call of those in attendance to see who wants to provide testimony. When you name and number is called, please indicate whether or not you will be providing testimony. If you are providing testimony, please state your name and address for the record before proceeding with your testimony.

*Planner Mardell* stated there is only one person on the line other than legal counsel and the applicant. That number ends in 2107 and would you like to provide any testimony.

Participant number 2107 stated that I have no testimony.

*Chairman Seymour* asked the applicant if they would like to provide any rebuttal testimony.

*Mr. Thomas* stated I do not believe we have anything to rebut.

*Chairman Seymour* asked staff if they had anything to add in response to the testimony.

*Planner Mardell* stated I do not.

*Chairman Seymour* stated that on questions and clarifications – does any member of the Planning Commission have any further questions of staff.

Commissioner Converse – no questions of staff.
Commissioner Nagel – no questions of staff.
Chairman Seymour – no questions of staff.
Commissioner Davidson – no questions of staff.
Commissioner Blumenkron – no questions of staff.
Commissioner Hamilton – no questions of staff.
Commissioner Wright – no questions of staff.

*Chairman Seymour* closed the public testimony portion of this hearing.

At this time, I will conduct a roll call as we have been doing with the Planning Commission.

Commissioner Converse – I believe that the applicant has presented us with sufficient information to justify giving him another extension. I have no other questions.

Commissioner Nagel – I would go with the staff report to approve it with conditions.
Chairman Seymour – I am inclined to approve the application as it has been submitted. I have no other questions.
Commissioner Davidson – I support the staff recommendations.
Commissioner Blumenkron – I support the staff recommendations.
Commissioner Hamilton – I concur with the last two Commissioners and support the staff recommendations with conditions.
Commissioner Wright – I concur with the extension of EXT 19-03 and with the conditions of approval.

*Chairman Seymour* asked for the pleasure of the Commission.

Member of the Planning Commission: Seymour, Converse, Nagel, Hamilton, Davidson, Blumenkron, Wright.

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| AYES: | Seymour, Converse, Nagel, Hamilton, Davidson, Blumenkron, Wright | (7) |
| NOS: | | (0) |
| ABSENT: | | (0) |
| ABSTAIN: | | (0) |

V. STAFF AND COMMISSIONER UPDATES

*City Manager Misley* stated that we notified the Planning Commission about the vacancy in the Community Development Director position. It has been our intention over the last couple of weeks to get a job announcement out as soon as possible. That has materialized as of next Monday to get that job announcement out for that position. We reviewed and slightly revised the job description. There are not any substantial amendments to that job description that would impact the general duties, job responsibilities, and expectations of that position. One key change that does not impact that positions relationship with the Planning Commission, or the Community Development department is to take the preview of the City Parks Advisory Board out of that position.

*City Manager Misley* continued to say that the City Council and Budget committee with the approved budget for the next fiscal year approved the creation of the new position with the City which is a Parks / Planning and Public Events position. I was a little concerned about hiring that position for the first time ever in the fall, having them report to a new Community Development Director, and seeing how that would work. For the first year, at least in the Parks/Planning position, we will staff the City Parks Advisory Board, they will report directly to me, and then see where we are at about a year from now heading into year two with both of those folks being on board.

*City Manager Misley* stated that we are going to take our time with this recruitment for a new Community Development Director. We are going to leave it open for about a month for applications until July 20th, and if we have not received what we think is a deep enough and qualified enough pool, we will leave it open for longer. Tentatively speaking, with a robust enough application pool, interviews will be in August, at least two, if not three rounds of interviews – we want to make sure they have the right skill set, the right fit, and the proper leadership skills to step into a challenging job that will demand a lot over the coming years. If all that plays out, we

will probably have someone on board probably about the middle of September, and maybe slightly sooner if they need to give two or more weeks of notice to their previous employer.

*City Manager Misley* stated that in the meantime, Planner Mardell will continue to take the lead with Planning, Public Works, and working with City Attorney Chrostek. I will be assisting as needed in the long-range planning, grant management, etc.

*Planner Mardell* stated that as you all know, we are embarking on a Comprehensive Plan Update. Because we are down a staff member, we are going to delay that a little bit, but we are still moving forward. We received a grant from DLCD – a Technical Assistance grant for $35,000 to assist with a few of the goals that are being updated. We spoke with our contact from DLCD and fortunately there were not any firm deadlines that we needed to meet in July, August, or September. We are coordinating with him regularly so that he knows that we are up to date and that is pretty good to go. We are still in the process of selecting a consultant, so we had an initial review with one of the City Council members, Commissioner Converse, Commissioner Wright, Director Davenport, and myself sat in all of those. We did decide because of the circumstance that we are in, to take the opportunity to hold interviews of each of those. Both RFP's were compelling, so we thought it would be helpful to do some additional review, get a chance to see a presentation from each of those companies.

*Planner Mardell* stated that the companies that submitted RFP's are Angelo Planning Group with Johnson Economics and NXT Consulting, and 3J Consulting with ECONorthwest. We are holding those interviews on Monday afternoon, and hoping to move forward with a decision by the end of June. We will have an agreement in place to bring to the City Council in July, and we will give you a broader update during the July meeting. We are still working out committees and subcommittees and finding opportunities for each and everyone one of you to participate in that process to the greatest extent possible if you would like to.

*City Manager Misley* stated that shifting it by a few months and committing to that process because it is again important for the future of the City, in terms of supporting growth, and supporting the framework of Oregon's Land Use system. We have a little bit more behind the scenes to do, but come fall, we will be bringing that up, and certainly in January and into early summer will be crunch time for as much input as possible to refine that. And again, just as an iteration, we are not under a clock, so we will not be rushing into this. We will be taking it step by step making sure that we feel good and comfortable, but also try and maintain momentum to bring the full update to a resolution approximately a year from now.

*Commissioner Blumenkron* asked if there were any new project updates to discuss like the Forest Service property, etc.

*Planner Mardell* stated that we will have a pretty jammed packed summer, so if any of you have any conflicts for the July, August, or September meetings and aware of them right now, please let me know so that we can figure out if there is a quorum, or needing to make any adjustments on meeting dates. We did receive an application for a Comprehensive Plan re-designation and Zoning Map rezoning for the Forest Service property, the northern portion of the property that is near the Ponderosa Lodge – the northside of Barclay. It is owned by Kevin Spencer and he submitted the application to rezone the property and re-designate it from Urban Area Reserve (UAR) to Light Industrial (LI). That requires a public hearing before the Planning Commission and before the City

Council. It is still Quasi-Judicial, but it falls into the Type IV application that we discussed earlier. We will be holding a meeting and planning to incorporate "zoom" into that meeting just to acknowledge that we are still in the pandemic. We will be showing some graphics and a power point, so if any of you would like to participate remotely – you can, or in person because we will still be letting committee members in, but not a public audience quite yet.

*Planner Mardell* stated that in August and this is tentatively scheduled because we are still in the completeness check, but there is also an application for another rezone and Comprehensive Plan re-designation for the Forest Service middle parcel. You may have seen an article in the Nugget about this one, so it is the area above the current Forest Service building that is there. The are rezoning and re-designating the property from Urban Area Reserve (UAR) to Downtown Commercial (DC) multi-family residential open space with more of a mix. At this time, keep in mind that these are higher level applications, and we are not getting into the design of what the buildings would look like, or anything like that quite yet.

*Planner Mardell* stated that those are the two big applications that we have received. We did receive the Threewind Apartments Site Plan and a Partition for their application. We reviewed the Master Plan in February and is currently in the completeness check. We will be sending out notice later this month.

*Commissioner Nagel* stated that he has driven by several times the huge building by Birdgard and what is that.

*Commissioner Blumenkron* stated that it is going to be a company that only does coffee flavors Holy Cacao and is taking part of the building, and the 1687 Foundation is taking the other part. It is my project and the County has held it up because they needed more engineering calcs than the original engineer provided. It is now underway again. There are going to be three (3) apartments in the front because it is live/work, and down below is all warehouse. Same as the other two buildings only a larger scale.

*Planner Mardell* stated that we are going to try and do some more reporting, and it is something that I have been interested in doing. We could send out a quarterly land use application sheet that shows what applications we have received, their locations, and more details.

The Commissioners were all in agreement that they would like to have that quarterly reporting information when available.

*Planner Mardell* stated that we just approved and issued a Mobile Food Unit pod, or food court pod with a structure that will have a bar and seating area inside of it. It is on Main and Fir Streets right behind the Salon.

*Commissioner Hamilton* asked if I could get the information from the February 20th meeting because I was absent. Electronically would be fantastic.

*Commissioner Hamilton* stated that I am away for the September 17th meeting which is a Thursday.

*Commissioner Davidson* asked if there is reason to believe that remote participation is something that is going to be going on in the future.

*Planner Mardell* stated that we want to make sure that we are being as inclusive as possible so just from what I have heard, there is a little bit of concern still about attending meetings in public. In the space in the Council Chambers, we can accommodate all of us today, but it might be difficult to accommodate just 10 people. We are going to continue offering it as an option, but you can either come in, or Zoom in whatever you are most comfortable with.

*City Manager Misley* stated that my prediction which the last three (3) months have significantly eroded any confidence that I have in making predictions is that we will plan on this format for the foreseeable future. Unless, we see a significant downturn in cases which Statewide, we are seeing a different trend. Fortunately, we are not seeing that in Deschutes County, we are going to stay in this environment, and even taking this step was appropriate, but none the less, we are still in an environment that we need to exercise caution.

*Commissioner Davidson* asked if that is characterizing this as it relates to the COVID situation, not today, but at this point, do you not see it as a more effective way to operate regardless of the future.

*Planner Mardell* stated that this is something that we will consider, other jurisdictions have a video/audio system where you can stream it on-line. For us, it is making sure that we have adequate staff to manage it.

*City Manager Misley* stated that it is like a double edged sword – we have had that conversation as it relates to the Council, and if we equip this room with that capability, then Planning Commission meetings and others, could operate in that fashion. We generally have not had a lot of public participation in person (pre-COVID), we have not had a lot of public participation by phone during COVID, so again, pre-COVID, during COVID, post COVID, we are going to look at ways that we can get people to participate in our meetings because we like that. It has proved a little bit challenging whether it is via zoom, via phone, in person, or otherwise. In some regards, we say, ok well, we'll take that as we are doing good job, and in other regards, we have to say that we will brainstorm ways to be able to get, maintain, and expand public involvement. It is an ongoing dialogue that we are having for sure.

*Commissioner Wright* asked what time the zoom meeting is on Monday.

*City Manager Misley* stated that we will be getting together at 2:45 pm. We will have an interview at 3:00pm and then another interview at 4:00 pm.

*Planner Mardell* stated that she will be sending a zoom invite by email to Commissioner Wright shortly.

*Chairman Seymour* asked if there were any questions, comments, or feedback from anybody.

VI. ADJOURN

*Chairman Seymour* adjourned the meeting at 6:20 pm.

Respectfully submitted,

Carol Jenkins, Recording Secretary