



DETROIT CITY COUNCIL
Planning Commission Regular Session & City Council Special Session
Joint Public Hearing Minutes
Tuesday, July 26, 2016

- 1. CALL TO ORDER:** Planning Commission Chair Kevin Hills called the planning commission meeting to order at 6:33 PM
- 2. ROLL CALL** – Kevin Hills, Eric Page and Dean O’Donnell. **Planning Commissioners absent** – None
Vacancies - 2 Staff Present: Christine Pavoni City Recorder, Deborah Hastings City Clerk, Renata Wakeley & Lisa Brosman City Planners (COG)
- 3. CITY COUNCIL CALL TO ORDER:** Acting Mayor Jim Trett called the special session to order at 6:34 PM.
- 4. ROLL CALL – Present:** Jack Campbell, Jim Trett, Greg Sheppard and John Manthe, **Absent:** Debby Ruyle, Sandy Franz and Mark Messmer.
Citizens Present: Ron & Pam Lierman, Matt Lofton, Chris Storey, Elaine DeGeorge, Lyn Medley for Ann Amundson, Ron and Barb Wachter, Donald Smith, and Randy Thomas (not signed in: Frank Kirkbride, applicant)
- 5. PLEDGE WAS RECITED**
- 6. OPEN PUBLIC HEARING**
 - 6.1. Planning Commission Chair Kevin Hills opened the Public Hearing for Planning Commission.
 - 6.2. Acting Mayor Jim Trett opened the Public Hearing for City Council 6:35 PM.
 - 6.3. Acting Mayor Trett read into the record the Hearing Disclosure Statement in full. This is for a property line adjustment, site development review and conditional use application filed by Frank Kirkbride. He is requesting approval of the property line adjustment to consolidate 18-5,000 square foot lots into one 90,000 square foot lot; a site development review of a proposed four building self –storage facility and an additional building housing an office, manager residence, and recreation equipment repair and supply business; and a conditional use to construct and operate said use in the Commercial General Zone. The application include lots 9 -26 located between Humbug St S and Hwy 22, south of forest Ave. Detroit Oregon. Acting Mayor Trett explained the public hearing procedure.
 - Acting Mayor Trett asked if any member of the planning commission had any conflicts of interest concerning the issues before them, this includes conflicts of interest, bias, and ex parte contacts. If so to state for the record your decision regarding your ability to vote on these applications. Planning Commission Chair Kevin Hills stated he wanted to recuse himself, because he works for the applicant. Planner Renata Wakeley explained that staff had informed her of the potential recusal and asked if there were any other planning commissioners that needed to make declarations of bias, or ex parte contact; there were none. She said because they currently have three people serving on the commission of a five person body, they would need all three people to have a quorum, that with the recusal of one of them they no longer have a quorum to make a decision tonight. She stated that she is recommending the planning commission close their hearing, and have no recommendation from the planning commission. Renata explained that these types of applications are considered Type III, specifically site development review and the conditional use permit and that normally there is a recommendation from the planning commission to the city council for final decision. That there is still a quorum of the city council and a decision can still be made tonight they just won’t have a recommendation from the planning commission.
 - Planning Commission Hills closed the hearing of the planning commission at 6:40 PM. Chris Storey (Humbug resident) asked if they could say they would rather have five people involved in this with the planning commission and postpone this hearing all in all. Planner Wakeley replied that was a very good question, that the city has had vacancies of two out of the five, (Recorder Pavoni added, one vacancy for at least a couple of years, and the other several months), and the city has tried for quite some time, but the likelihood that a

planning commission would have a quorum within 120-days of receipt of the application is very unlikely. That land use law requires that a decision by the city is made within 120-days of receiving the application. She said there is a second option, which is not her recommendation, there is something called the rule of necessity, that says even though he is recusing himself from a decision, staff can say we need you to make a decision. That she is not calling upon that because ultimately the city council is the decision body anyway and can move forward without a recommendation. Discussion followed. Planning Chair Hills closed the planning commission meeting at 6:42 PM. Don Smith (Humbug resident) commented that it would have been nice if they would have somehow known there wasn't five beforehand and feels there was a way it could have been done. Renata responded that a decision can still be made tonight and doesn't know what benefit an advance notice would be, because you still walk away with being able to testify and come away with potentially a decision. That the City code says very clearly that the planning commission holds a hearing, makes a recommendation to the city council, the city council deliberates, has their public hearing, and makes a decision. Historically, that is the way it has been done. Now that the planning commission hearing is closed they have no recommendation, we are now continuing with the city council for that final decision, that this is in compliance with what the procedure is in the city code.

- Acting Mayor Trett asked if any member of the City Council has a conflicts of interest concerning the Issue before them, this includes, bias, and ex parte contacts. There were none. He stated those that will be testifying must provide their name and full mailing address on the sign in sheet if they wish to receive the notice of decision, be notified of a continuance, appeal, or other action on the application.

6.4. Staff Report – Renata Wakeley, Planner stated that she would be summarizing the staff report (full staff report attached), afterward the applicant can speak and then they could take testimony. Renata stated the property is located on the east side of Front Street and is zoned commercial general. That exhibits A thru P have been available at the city for review. That one additional submission for request for comment had been received which is under exhibit L, which staff has a copy of. She asked if there was anybody else who wanted to submit comments or additional evidence to the record that would go under exhibit L. She read an email received from Dan Ensminger, who owns property on Humbug Street. He expressed concern for the accessibility to the property, that the street (Humbug) is a gravel road and not able to accommodate the traffic they are proposing, hopefully this will be accessible only from the Front Street address. That he is opposed to this if the access is through the Humbug Street. She stated that they have three applications before them. Chris Storey, Humbug resident asked if there was seven days for someone to submit concerns about that access that he would like to submit something himself. Planner Wakeley stated that they can still proceed with the public hearing for those that are here tonight and want to testify, but if additional evidence was submitted into the record and someone request they have an addition seven days to rebut. That she was going to continue on with summarizing the staff report and if at the end of the hearing he continues to want to leave the record open is fine. She went through the criteria for each of the applications and afterward asked for any questions, there were none.

Applicant Frank Kirkbride stated they have reviewed in detail the staff report and concur with all the findings and recommendations. That their next step is to detail the building plans to incorporate the conditions that are before them. That they agree with all of them, the one thing they would prefer is to not make a half street improvement on Humbug, that they would agree to the non-remonstrance agreement, which means they would agree to participate in helping with paying for the improvement if the city were to go ahead with that sometime in the future. He commented he wanted to share with all the neighbors that they have tried to be very sensitive to their particular needs particularly those along Humbug. That the property is lowered 14-feet and there is a retaining wall along Humbug to lower the buildings down, that the tallest building at the peak is 26-feet. That they did some studies along the homes along there, and if you can see it you will look right over the top and actually still see the highway. He said the whole thing will be fenced for security, not only for the folks who rent space there, but also to prevent people from falling off that wall. That down Humbug not only regular landscaping but planting street trees that will help buffer any visual would be done. That they had removed a lot of trees, so they are going to put at least a hand full of them back to be able to go down Humbug and get some green space in front of their views. He said the four buildings they see on the plan for the storage, each of them contains some 10x12 enclosed storage with garage doors. Also it is opened covered storage for boats and RV's and face inward into the site not outward, so what you will see while you're driving down the street or looking over the wall is a standard storage operation with rollup doors. He said their objective is to aide your recreationalist that come here instead of having to take their toys or boats and RV's and stuff back down into the valley and leave it here and hopefully use it more often, that that is the big part of the objective. Access will be controlled electronically, they will have codes to get into the gate. They can

control the hours they can access. The fifth building is the office (inaudible) and commercial space. Which they thinks is a great opportunity for a marine repair or equipment repair or recreational vehicle repair or sales, those kinds of things. He said there is about 3,000 feet of available space they will lease to some tenant and hopefully will find one. There will be a small office there for the administration. They have asked for approval for an apartment in case they need an onsite resident or manager. He said they don't think that is something they need to do right now but is within the request in case they need to have that if they find somebody that can't find housing in town. Frank stated that their intent upon approval by council of the recommendations, is to proceed with applications for site engineering, site work. That most of that engineering has been done, that they have engaged the company to provide the buildings, which will be premanufactured steel buildings with some color on them. That they will also contract with a sign company for signage they need and they will meet the criteria and apply for the necessary permits with the city, that they will do that within the next few weeks, site construction though is depended on site conditions. Could they start work this year, maybe not, probably next summer to start construction after they can access the site after it dries out, and that depends on our winter. He said they are already designing the septic and drainage system working with Marion County to get that approved, that they are ready to go as soon as council says it's ok.

Frank introduced Ron and Barb Wachter, owners of the property and owners of the operation who wanted to introduce themselves and share a little bit about their vision and what they are doing here. Ron Wachter stated that they are just pleased that they are willing to look at this and see if they can get something going, that they would do it right. That they have a son that's an Attorney in Portland, the daughter in law is a CPA in Portland, so they have relatives close by, that continuity. Barb Wachter added that she thought her Dad had a lot of vision, that every time she got in his truck and they went to Idanha, and started going in the truck at 6-years old and they would go by these lots and he would tell her he was going to build her a little house on it, and he actually did construct one, but then he was a very busy man and they didn't get to come. But she said she was here when they moved the town. That she felt this was a great project and they want to make everybody happy and don't want to make big tall ugly buildings, but want to bring some sort of enterprise for Detroit.

6.4.1. Proponent(s) Testimony – Dean O'Donnell stated that he owns Mountain High Grocery and also owns a residence on Santiam Avenue. That he has lived about 20-years at his residence and about 10-years at the store. He said he is in favor of seeing Detroit prosper, that the last 20-years we have been losing business not gaining business, so he is happy to see new visions, new idea's, new energy and new positive excitement for our town. Elaine DeGeorge, owner of The Lodge at Detroit Lake, stated that she thought the last time that anybody has done anything in this town was her late husband, that he remodeled, rebuilt, the motel in 2010. To look up and down the streets there are so many things for sale that it's all about me and me having my own in this town, boat owners to property owner. But let's talk about the business owners that's gotta make it here. That the low water thing is killing us already, people are dropping like flies off of their reservation list because the water's going down. She said it's a hard go here and that she's happy that someone wants to drop some damn money in the city. That she thinks it is a good idea, it's a no brainer. You don't need to hire people to run it, it can run itself. That she has a hard time trying to find somebody to run her motel, and it's a nice property. That everybody's got to pitch in, not just the people that come up and use the lake, we gotta keep this town going. No one wants to volunteer, nobody wants to be on the city council and she's got her hands full, that she runs four companies. Another hotel in Silverton, A business in California, a vending company and runs a Christmas tree farm, that she's in all kinds of stuff, but we see her a lot, that she takes pride in her business also, that it's a tough gig for her and she's doing it by herself, it is what it is and she's going to keep fighting.

6.4.2. Opponent(s) Testimony – Chris Storey stated that his address is adjacent to the property, two corners of it at 220 Humbug. He said that he is a contractor that he worked for Detroit Marina for two years and built the Santiam Ice Company with Scott Lunski. Due to the water levels he said he lost his job. So he knows everybody is hoping for the better. He showed on the map where his property is located and said that he is totally affected by this. Chris voiced the following concerns, septic, having enough room for traffic volume and if applicant isn't able to have someone stay on the property for security and it bringing in crime. He wanted to keep the record open for seven more days. City Planner explained that you can only ask to keep the record open if additional evidence is being submitted for the record and asked if he would please tell her which criteria he needed. Chris said the lighting and parking, that there is an open and close gate, where will the people back up. Renata stated that he needed to address criteria within the code and that the transportation system plan doesn't require that they do any sort of mitigation for this type of property and even if it's 30 boats at one time that does not offset the development from having to do traffic impact analysis. They have to improve the street they are getting access from which is Front Street. That she wants to give everybody the opportunity to

express their concerns so that the council can hear that. But the question is which criteria are not being met in the application. She said he brought up the septic, that it is Marion County who has the responsibility with the septic, so that's not something that the council is going to review or she is going to review. That they need to come to the city and show us that the county has approved a septic plan and that doesn't need to be shown tonight. That he absolutely has the opportunity to express his concerns, but we need to keep it to what is the criteria for approval, because that is the only thing the council can make a decision on is if the criteria is met or not. Chris Storey stated council is going to deal with all the complaints on this thing that they know what happens up here and if there is a big storage facility like that, what is going to happen on those rush times in and out. This 11:00 – 7:00, if there is nobody there, a family member to represent your company you're going to come into a dilemma and that's something you are going to get complaints on. Renata stated that council wants to hear the concerns but the argument with concern that crime would be brought to the property, any new development could bring crime. She told Mr. Storey if he wants to keep the record open he is going to have to show us which criteria has not been addressed that you yourself will submit additional evidence for the city council to submit and crime is not one of the criteria and Chris said it should be and mention Dave and Kathy Power's having one of these facilities right down the street that have tried to make a mechanic shop out of it and have not been able to do it and they have had a lot of crime and that it is going to be right in his front yard now. Acting Mayor Trett said, again this is something they can't consider. Chris stated that he would in the next seven days. And Trett stated that they couldn't consider it even if he submitted it that it is not part of the criteria. Chris stated that lighting is one and septic is another, so he said he would hold this up seven days so he could talk to his neighbors on this thing for sure and get back to this thing in at a later date in time. That he's been in this trade his whole life and also knows the area that he's owned property up her a number of years.

6.4.3. Neutral Testimony – Ron Lierman 325 Humbug Street, stated that he heard a little bit about fire protection tying a six inch main to the six inch main on Front and Forest. That he did not hear anything about the placement of fire hydrants from that point to the far end of Santiam. Renata read the comments received from the Assistant Fire Chief, which said, that the Fire District reviewed clearances for fire apparatus and the propose hydrant location, that there is a proposed hydrant on the private property. That there is adequate fire apparatus access and circulation through the property, the propose hydrant location south of the proposed access from Front Street has been deemed satisfactory. A recommended condition of approval includes submission of a final fire safety plan approved by the Idanha Detroit Rural Fire Protection District or Fire Marshal confirming these clearances in that preliminary review. Renata stated that for any hydrant location on the private property, which they have shown on the conceptual plan, the condition of approval states a fire line public easement will be recorded prior to issuance of a building permit for that hydrant and the Fire District will also have to have access to the purposed electrical gate with manual over ride ability in the event of a power outage and that needs to be approved by the fire district before occupancy. Ron Lierman said on the master plan that the drainfield at the south end of the property up against Santiam, if that was for Stormwater mitigation and what was going to prevent that from going on to his property. Frank Kirkbride responded that is supposed to be the septic tank drainfield on those plans. That their septic drainfield consultant is working solution with the county right now and if the soils are adequate in that location then they would put it there. That it is a placeholder for that. That that area appeared to be the one area that would be undisturbed soil but would be up to Marion County where that would go. That for the storm water runoff, what the Engineer has asked them to do is to reroute the culvert that comes under Humbug to tight line it. They would take a pipe and run it down to Santiam Avenue right-of-way and then down that right-of-way to ODOT's property. Then the storm water ties into that system that is the Santiam Avenue. Ron Lierman also asked that during the course of the improvement of the property will there be any access of equipment off of Humbug onto the property. That when that was cleared and the work was done, Humbug took a beating, it's been a real pain to drive up and down that street and asked if there were any chance since they are going to put the wall and the fence in, prior to that would there be any access by heavy equipment. Chris Story commented that they want them to help improve it. Renata explained that if the council approves a non-remonstrance agreement, that says the city is saying there is no need for the improvements now but if in the future the city or residents decides to call upon the agreement, then the improvements would be done. The non-remonstrance agreement is recorded with the county. Pam Lierman 325 Humbug asked if that meant if the road is improved the Humbug property owners would foot some of the bill. Renata responded not for what they normally would have been responsible for. That question is yet to be answered of whether access on Humbug. Frank Kirkbride stated that he would anticipate there would be some access on Humbug to make the drainage improvements the city wants them to do on their property side of Humbug, with putting the pipe in and run it down Santiam Avenue. All of the

grading and retaining wall construction is going to come off Front Street that obviously they will have to come off Humbug to do the landscaping, that those are the only two things he could imagine there wouldn't be any other construction and agreed that street is a disaster and wouldn't want to make it any worse. Lyn Medley read concerns and questions for Ann Amundsen full time resident at 285 Humbug. Lyn stated that Ann like her neighbors are concerned about traffic during construction and after. That she would prefer there be no heavy equipment on Humbug Street during the project at all, that noise, dust and road quality are her concerns about heavy equipment on Humbug. She suggests dust abatement during construction. She is also concerned about the lack of light plan, that she does not want lights shining on her house and would like to see a lighting plan. Like her neighbors she is also concerned about vandalism. Regarding the fencing, according to the plan it's six foot and the plan does not mention a retaining wall on Humbug Street side and that there were some discrepancies and just wants to make sure there was a retaining wall along Humbug Street. She would also like to see a taller fence between 8-10 feet with some privacy slats to minimize the visuals and lessen the noise and dust impacts. She asks how long the construction is going to take and what guarantees there are that it would be done within the plan and how the neighbors and other impacted persons would be compensated if the project extends past the time that it is said to be. City Planner Renata Wakeley stated that she would check to see if a higher fence would be allowed. Frank Kirkbride stated that he would be agreeable to build as tall a fence as they can and likes the idea of the slats. Lyn stated that she thinks Ann would approve of the tree proposition. Councilor Campbell commented on the upside on dealing with construction, they are building a 14-foot retaining wall with a fence, that's going to cut down a huge amount of road noise and anybody above the facility is going to experience less road noise also. City Planner Renata reading from the development on the requirements for fences, she doesn't see anything saying they can't go over the 6-foot in height but would require a building permit. So that is an option the city council could add as a condition of approval. Frank commented that another issue that was raised that the city's requirements for light does not allow lighting off site, that it is all part of the building plan. Lyn stated that Ann is also concerned about the loss of the wetlands. Renata Wakeley responded that they are being mitigated and are being proposed for fill and the state has already approved the mitigation of filling those wetlands and have in the record they are doing a land bank and have gotten permits for this. Frank that the Corps of Engineers is the responsible party for the issue as well as the state for wetlands. What they want to do is make sure that they have the best possible wetlands that are helping habitat and clean water. That what they found when there are little wetlands like this, they would allow them to go build that wetland someplace else. That the Corps came up with building a wetland mitigation bank and are looking within the drainages, in this case with the Santiam River drainage, that there is one in each of the drainages throughout the valley that builds a wetland that is either a class 1 or class 2, the highest quality wetland for habitat and water cleanup., that it is under a long term contract with the state to maintain that wetland. They pay for that by selling square footage within that wetland. So as they take care of a 30-acre wetland they have to go buy a 30-acre wetland, but the one they are buying is four times better in quality than the one they are taking away and that meets the objective of the Corps and the State. Ron Lierman gave an example of that from when it was done from Salem to Stayton.

6.4.4. Questions from the Public – Already done.

6.4.5. Questions from Planning Commission

6.4.6. Questions from City Council - None

6.4.7. Applicant Summary/Rebuttal – Frank Kirkbride stated they appreciated all the comments they have heard and felt most were very valid and they are going to do what they can to mitigate those concerns with the neighbors.

- City Planner Renata Wakeley stated that they have a request to leave the record open (from Chris Storey) and read from the code of when the record can be asked to be left open and then the council can make the decision. That someone must present additional relevant evidence or testimony within the scope of the hearing. If council decides to grant the continuance a date must be set for at least 7-days to come back and deliberate, based on additional evidence. Chris Storey said he has the lighting thing and the septic thing he knows they can't do, that they want to push all that septic across that property and they're driving on it doesn't work. Renata said that is not the criteria on which the council is making a decision and cannot be part of his request, because the county will not come here nor can he inspect the property and tell this council whether a septic plan can be approved or not. A lighting plan has not been submitted, that the city council is not reviewing a lighting plan tonight, but that doesn't mean you can't condition that a lighting plan would be included. She asked again what additional evidence does the person making the request that you need to submit into the record you feel the city council needs to have. Chris asked council if they were good with the half improved Front Street, planner responded that is the maximum the city could require for Front because

they cannot require the applicant to do a full street improvement. Councilor Sheppard asked about doing an impact study for traffic, and the planner replied that if the proposed development met the threshold for requiring that she would have required that, it doesn't meet the threshold. Acting Mayor Trett asked if council approves this tonight and then the lighting plan doesn't work do they have to bring that back. Renata stated that the lighting plan would not be reviewed by the city council, it would be the city engineer and the city planner to review. That they can continue the hearing and say you need a lighting plan and you want to see it, or you can make a decision that the approval is conditioned upon the city engineer and the city planner approving the lighting.

7. CLOSE PUBLIC HEARING – Acting Mayor Trett closed the public hearing at 7:56 PM.

- City Planner said Front Street and Humbug Street improvement, as a condition of approval is that the applicant do a half street improvement to Humbug and a half street improvement to Front that is the maximum they could require. Because Humbug is not proposed for access, they could revise condition H and require a non-remonstrance agreement for Humbug be recorded with the property. That these are all recommendations from staff to the city council. Also the hours of operation were discussed, letter O of recommended conditions of approval the hours. Based on the city's most recent nuisance code 7 AM to 11 PM she thought would be acceptable, whatever the council decides. Discussion followed about the time and if any damage was done to Humbug Street. Renata went through the city council's motion option on page 16 of the staff report. If approved with amended findings they must be stated in the motion. Recorder Pavoni commented in regards to the non-remonstrance agreement that this is how the city usually does it, that we don't ask people to do street improvements, they are asked to sign a none-remonstrance.

8. CITY COUNCIL

8.1. Decision – Councilor Campbell made a motion to have the applicant sign the non-remonstrance agreement, that they change the hours of operation to 7 AM to 10 PM and that they require a half street improvement on Front Street and improving Humbug to its prior condition; Acting Mayor Trett repeated the motion that they are approving the application LLA 16-01, SDR 16-01 and CU 16-01 with the following amended findings; half street improvement on Front Street, a non-remonstrance agreement regarding Humbug Street, the hours of operation from 7 AM to 10 PM and any damage to Humbug during construction be repaired prior to final approval, motion was seconded, all in favor; Campbell, Manthe Trett and Sheppard, motion passed. Renata informed the audience that those who testified tonight would be mailed a copy of the notice of decision.

8.2. ODOT Special City Allotment 2017 – Councilor Campbell motioned to accept the ODOT special city allotment 2017, motion was seconded, all in favor; Campbell, Manthe Trett and Sheppard, motion passed.

9. ACTING MAYOR JIM TRETT CLOSSES CC SPECIAL SESSION – at 8:08 PM

10. ADJOURN – Councilor Campbell motioned to adjourn, motion was seconded, all in favor; Campbell, Manthe, Trett and Sheppard, motion passed. Adjourned at 8:08 PM.

Attest

Signed: _____
James Trett, Acting Mayor

Christine Pavoni, City Recorder