

**CITY OF SUTHERLIN
PLANNING COMMISSION MEETING
CIVIC AUDITORIUM – 7:00 PM
TUESDAY, OCTOBER 17, 2023**

COMMISSION MEMBERS PRESENT: Michael Hogsett, John Banducci, Tom Schaub, Alan Woods, Adam Sarnoski and Norman Davidson

COMMISSION MEMBERS EXCUSED: Tom Maloney

COMMISSION MEMBERS ABSENT: None

CITY STAFF: Brandan McGarr, Division Chief (Sutherlin Fire Department), Jamie Fugate, City Planner, Brandi Medeiros, Community Development Assistant and Kristi Gilbert, Community Development Director

Meeting called to order at 7:00 pm by Chair Davidson

MEDIA PRESENT: None

AUDIENCE: Dian and Larry Cox, Terry and Carole Wells, Gary and Lorrie Lee, Larry Bangs, Jim and Mary Dennis, Kevin and Karen Butcher, Carol Freeman, Mary Nordeen, Carolyn Reeves, Lisa Werts, Jerry Tilley, Marcie Tilley, John Lahley, Khari Gates, Richard Lundstrom, Chuck and Peggy Brummel, Lucus Main, Rick Edwards, Bruce and Lonnee Harris, Roland Berrie, Alex Palm, Kelly Sandow, John Stimac, Jessie Larner, Dave Guyer, Bob Merrill, Carter Boehm, Adam and Vicky Morgan, Nanette Haley, Mark Garrett and Gary Fugate

VIA ZOOM: Josh Soper, Beery, Elsner and Hammond, LLP, Ashleigh Dougill, Beery, Elsner and Hammond, LLP and Amy

FLAG SALUTE

APPROVAL OF MINUTES

A motion made by Commissioner Banducci to approve the minutes of the September 19, 2023 Planning Commission meeting; second made by Commissioner Schaub.

In favor: Commissioners Banducci, Schaub, Hogsett, Woods, Sarnoski and Chair Davidson

Opposed: None

Excused: None

Motion carried unanimously

APPROVAL OF FINDINGS OF FACT(S)

1. **FOREST EDGE INVESTMENTS, LLC**, Findings of Fact for a Conditional Use Permit and Tree Falling Permit (greater than 5 acres) on a 14.40± acre portion of the 240.24 acre subject property located south of S. State Street. 119.71± acres of the subject

property are inside the City of Sutherlin, with the remaining located outside city limits.
PLANNING DEPARTMENT FILE NO. 23-S011.

A motion was made by Commissioner Woods to approve the Finding of Facts and Decision for a Conditional Use Permit and Tree Falling Permit (greater than 5 acres) on a 14.40± acre portion of the subject property. **PLANNING DEPARTMENT FILE NO. 23-S011.** Motion seconded by Commissioner Banducci.

In favor: Commissioners Banducci, Schaub, Hogsett, Woods, Sarnoski and Chair Davidson
Opposed: None
Excused: None
Motion carried unanimously

QUASI-JUDICIAL PUBLIC HEARING(S)

1. **SAM ROBINSON, ET/AL**, request for a Comprehensive Plan Map Amendment from Low Density Hillside to Medium Density and Zone Map Change from (RH) Residential Hillside to (R-2) Medium Density Residential on a 3.81 acre property located on the east side of Fir Grove Lane and inside the City of Sutherlin. The subject property is described as Tax Lot(s) 201, 300 and 400 in Section 19C, T25S, R5W, W.M., and Property I.D. Nos. R46993, R47000 and R47007. **PLANNING DEPARTMENT FILE NO. 23-S010.**

Chair Davidson opened the hearing, with reading of the disclosure (legal) statement; all persons testifying shall be deemed parties to appeal the application and must provide full name and mailing address if they wish to be notified of the decision, continuances, appeals, or procedural actions required by the Code. The Sutherlin Development Code and Sutherlin Municipal Code specify applicable criteria to be relied upon in making a decision.

Chair Davidson asked the Commission if there were any conflicts of interest or personal bias; Chair Davidson asked the audience if there were any challenges of impartiality of any person(s) on the Commission. Hearing none, Chair Davidson asked for the Staff Report.

Jamie Fugate, City Planner, identified the parties; Kathy Wall, Senior Planner, Douglas County Planning and Mathew Hogan, Fair Housing Council of Oregon. Then proceeded to enter Staff Exhibits 1-11 including the staff report. Mrs. Fugate then proceeded to summarize the Staff Report, with the recommendation of action alternative number 1.

APPLICANT'S TESTIMONY – Mark Garrett, representative for the property owner/applicant, stated he (and his client) concur with the staff report submitted and request approval as submitted.

TESTIMONY IN FAVOR - No testimony in favor.

TESTIMONY IN OPPOSITION – No testimony in opposition.

RECEIVE NEUTRAL - No neutral testimony.

APPLICANT'S REBUTTAL – No applicant's rebuttal.

Chair Davidson closed public portion of the hearing

A motion was made by Commissioner Banducci to recommend to City Council approval of the proposed Comprehensive Plan Map Amendment and Zone Change applications per staff's recommendation of Action Alternative No. 1; Commissioner Hogsett seconds the motion.

In favor: Commissioners Hogsett, Schaub, Sarnoski, Banducci, Woods and Chair Davidson

Opposed: None

Excused: None

Motion carried unanimously

2. **GOODFELLAS OF SUTHERLIN**, request for a Subdivision to be developed in three phases that total 91 lots on a 22.00± acre portion of the 193.11 acre subject property. The subject property is located north of Scardi Blvd in the City of Sutherlin. The subject property is described as Tax Lot 1500 in Section 7, and Tax Lot(s) 100 and 203 in Section 18, all in T25S, R5W, W.M; Property ID Nos. R20392; R21680 and R138405. It is designated Low Density and Low Density Hillside by the Sutherlin Comprehensive Plan and zoned (R-1) Low Density Residential and (RH) Residential Hillside. **PLANNING DEPARTMENT FILE NO. 23-S009.**

Chair Davidson opened the hearing, with reading of the disclosure (legal) statement; all persons testifying shall be deemed parties to appeal the application and must provide full name and mailing address if they wish to be notified of the decision, continuances, appeals, or procedural actions required by the Code. The Sutherlin Development Code and Sutherlin Municipal Code specify applicable criteria to be relied upon in making a decision.

Chair Davidson asked the Commission if there were any conflicts of interest, exparte contacts or personal bias. Commissioner Schaub stated that at the advice of the City's Attorney, he will recuse himself from the hearing. Commissioner Banducci noted that he lives in a nearby development, but does not feel he has a conflict of interest and can make a fair decision in the matter. There were no other declarations of exparte contact or other conflicts of interest made by the Planning Commission. Chair Davidson asked the audience if there were any challenges of impartiality of any person(s) on the Commission. Hearing none, Chair Davidson then asked staff for the Staff Report.

Jamie Fugate, City Planner, identified 71 responses received to the administrative land use and public hearing notice, this includes adjacent property owners as well as public utility and governmental agencies as having party status. She then proceeded to enter Staff Exhibits 1-10 including the staff report. She then identified Staff Exhibit No. 11, an amended comment from Micah Horowitz, Region 3 Development Review Planner, Oregon Department of Transportation received after the mailing of the staff report. Mrs. Fugate stated Applicants Exhibit No. 1, Tech Memo from Kelly Sandow, Traffic Engineer, Sandow Engineering. Mrs. Fugate then proceeded to summarize the Staff Report, with the recommendation of action alternative number 1.

APPLICANT'S TESTIMONY –

Khari Gates, property owner/applicant, thanked the city, the citizens for being here, and has read all the letters submitted and the concerns. Mr. Gates understands the short impact on the construction of the subdivision and long-term impacts on traffic in the community. He recognizes Sutherlin and its citizens may have witnessed a number of development struggles in the last few years, that have left citizens fatigue and weary of developers. Mr. Gates and his partners have many years of experience in all aspects of development, along with aligning with their vow to local resources (engineering and materials). Oregon is in the midst of a housing crisis and the governor has asked for over 550,000 units (houses) to be built over the next 20 years, per the Oregon Housing Needs Analysis. Their goal is hoping to do their part and help build homes that are needed for the community.

Alex Palm, i.e. Engineering, applicant's representative, stated he is familiar with many of the west side (of Sutherlin) developments. i.e. Engineering has been the engineer firm that did all engineering phases of the Knolls Estates, Fairway Ridge Estates, Fairway Estates, Fort McKay PUD to name a few. Mr. Palm stated they are asking for approval of a standard, single family subdivision that is a permitted use that conforms to all rules and documents, no variance application is necessary. In previous approvals on the subject property, the development of housing has already been addressed and planned for. He noted the civil construction plans and erosion/sediment control plans have already been submitted to city for review, along with the construction of the secondary EMS access road. The storm drainage will be engineered, just like all other developments have done. They will provide detention and treatment that meet city standards. Mr. Palm went on to state that the EMS road will be used for construction equipment ingress and egress to alleviate traffic in the adjacent residential neighborhoods (along Dovetail Lane and Scardi Blvd). Mr. Palm then shared the preliminary layout design on the TV screen in civic auditorium, and explained the way the proposed development is laid out, with an existing 100' power easement to the west that will buffer adjacent properties from the proposed development, along with a buffer that will be in place to the properties to the east (Slazenger Ct). This buffer and layout were to be respectful to the neighbors, yet it is costing the developers buildable lots. As the governor and Mr. Gates pointed out, the governor has asked the State of Oregon to develop housing to help with the housing crisis.

Kelly Sandow, Traffic Engineer, Sandow Engineering, had a power point presentation that was displayed on the TV screen in civic auditorium. Mrs. Sandow gave an overview and scope of work of the traffic impact analysis (TIA) that she conducted for the proposed development. Mrs. Sandow continued to discuss the impacts and differences in congestion. ODOT (Oregon Department of Transportation) sets very specific standards and criteria to evaluate the impacts of a specific development; when those impacts are exceeded, then those improvements are needed. The process begins with coordinating not only with the City of Sutherlin, but ODOT for the scope of work that needs to be evaluated. The scope of work included the intersection of State Hwy 138W and Dovetail Lane, and intersections (Dakota St, Park Hill Ln, etc) along Hwy 138W. In the previous zone change of this property, ODOT had placed specific mitigation measures and trigger mechanisms. Mrs. Sandow went through the slideshow, describing measures used in the TIA, which include volume to capacity (V/C), along with evaluating queuing and crash patterns. This analysis concluded that this proposed development does not trigger measures that require additional road improvements. The proposed development does not exceed/trigger any queuing problems, no crashes were associated with geometric issues (crashes that did occur were due to driver error). She also looked at the emergency access, and stated in her professional opinion will be sufficient. Current mitigation by ODOT is still within

Phase 1 (prior zone change requirements put in place) and will be below the threshold. Future development (next phase) will require another study (TIA) to be completed.

TESTIMONY IN FAVOR - No testimony in favor.

TESTIMONY IN OPPOSITION –

John Lahley, 2070 Culver Loop, Sutherlin, prior superintendent of the Sutherlin Schools, stepped forward and asked if the commissioners live in the area or travel out Hwy 138W. Speed increases from 35 MPH to 40 MPH to 50 MPH. Mr. Lahley stated he has spent four (4) occasions watching traffic. The city goal noted on the back wall (in civic) is public safety. Mr. Lahley noted that a gated locked road does not make sense. Mr. Lahley entered opposition no. 1 into the record, which was a map that outlined the existing speed limits along Hwy 138W. He went on to state he is not opposed to more homes, homes are good for families, kids, the community, the school, etc. The only fatality is at the intersection of Dovetail Lane and Hwy 138W and adding 91 more homes with one way in and one way out is not safe. He knows it's not the Planning Commissions job to change the speed limit, its city's job to change the speed limit. Mr. Lahley indicated that has however talked to ODOT about changing the speed limit. He concluded by asking the Planning Commission to please think about and ask about safety.

RECEIVE NEUTRAL –

Terry Wells, 1827 Culver Loop, Sutherlin, stated he has lived in an adjacent neighborhood for three (3) years now and is not opposed to development, thinks it's good that we need more single family dwellings. Mr. Wells expressed concerns with safety and traffic, the additional cars and pressure it will put on Scardi. Along with no sidewalks along Scardi and people walking could cause more need for safety. Mr. Wells noted that there are an additional 171 acres that Goodfellas owns and can develop. He stresses to the commission the need for a secondary permanent ingress/egress.

Kevin Butcher, 811 Pebble Creek St, Sutherlin, expressed his concerns with water and sewer. The city indicates there is adequate water and sewer. His concerns are with safety (driving and walking), he spent hours talking to ODOT, that they are saying that 3,000 vehicles a day have to drive State Highway 138 to put a light at the intersection. Not only that, but 400-500 vehicles have to drive down Dovetail and Scardi. The right turn lane that is existing, people are using it as a pullout, not a turn lane and ODOT informed him that if you put a light in you will get more re-end accidents because of the light and the speed. Mr. Butcher stated the problem is there is no other way out. A road needs to be built that connects over towards the freeway and down to Dakota Street. No one will use a road to Stearns, people want to go directly to the city, not to the freeway. If the secondary road is opened up, then we will get every kid from Oakland and person coming into our neighborhood. They stated they will use the secondary access road for their construction traffic, but if Avery and Goodfellas are building that is a lot of construction traffic down Pebble Creek, he expressed concerns about the safety.

Jerry Tilley, 1724 Scardi Blvd, Sutherlin, expressed the biggest concern is public safety. They've talked about everyone's safety concerns and the secondary EMS road. Mr. Tilley stated he worked in public safety and has for the last 27 years. Mr. Tilley stated that if when we have a natural disaster, we aren't going to open a Knox box, they are going to save lives and take care of people. They have had disasters in nearby communities and look around, we are surrounded

by timber. Mr. Tilley stated that what we want and are asking for is a fulltime secondary access road. It is not a matter of if a disaster occurs, but when. He referred to Kelly Sandow's analysis and stated their neighborhood has the only neighborhood that as a single ingress and egress and urges the commission to require a permanent secondary ingress and egress.

Robert Merrill, 1951 Scardi Blvd, Sutherlin, stepped forward and stated one way in/out, if they open up the road at the end of Pebble Creek, there will be people who use it. I only ask that we get a permanent road.

John Stimac, 713 Sandpiper, Sutherlin, stated he has the same concerns as others - safety. If there are 91 homes, that's an average of two vehicles per each home, if there is an emergency, people will take the shortest way out. He doesn't see people hustling to go down Stearns, they will travel down Scardi. Looking at the plans, all their streets exit out on Scardi, like most people will travel down Scardi to Dovetail, he doesn't believe they will go down and up and over. His concern is for the community, the houses up there and the people that live there. There have been presentations of what it will be like theoretically. Mr. Stimac just wanted to add progress can appear to be good, but can also be a comfortable disease.

APPLICANT'S REBUTTAL -

Kelly Sandow, Sandow Engineering, representative for the property owners/applicant, came back to the podium to address the question regarding traffic signals. Mrs. Sandow stated that ODOT will not put a traffic signal in unless the threshold (LOS – level of service) is met. What they have found in the past if you put a traffic signal in and the threshold is too low, then more crashes tend to happen due to people disregarding them or don't see them coming. She, stated the threshold is 9,000 daily trips and currently is at 7,590 on the main line, so it is not very far off in warranting a signal. Dovetail's threshold is 500 daily trips. With the subdivision going in will be at 350 daily trips, this warrant is not far off either. She went on to explain how you derive at 500 daily trips by explaining the number of cars traveling at the peak hours of the day. In the report it shows that the intersection can be operated safely and efficiently, along with the secondary EMS road. As development occurs and future property is developed, the road connectivity will continue to build out towards Stearns. The current property owners don't own any land to the south of them to be able to construct a road, and the golf course is there. Ms. Sandow reiterated that if a roadway was built, people are not likely to use it, they tend to use the fastest and shortest route available to them.

Chair Davidson closed public portion of the hearing

Chair Davidson allowed additional testimony from those in opposition

TESTIMONY IN OPPOSITION –

Jerry Tilley, 1724 Scardi Blvd, Sutherlin, stepped forward and state that they understand the majority of people will continue to use Scardi and Dovetail, however they are talking about the secondary access is not available, and they must have a dedicated access. Mr. Tilley stated he is not opposed to the building of homes, that's the American dream right. He stated that they want a dedicated, permanent road built, in the case they don't have access to Dovetail or Scardi.

Karen Butcher, 811 Pebble Creek St, Sutherlin, asked about the traffic on Dovetail and Scardi. She says the numbers aren't that far off, if this development (which she is not opposed to), continues on when will a secondary access be required. The turnoff onto the highway, is not used as a turnoff, people use it to stop. She lives there and has been in comparable situations a lot. It is very dangerous turning onto the highway. In addition, we need a second road out. She asked what if a fire road going down Stearns is blocked with a fire? At what point will it be required to put in another road.

Kevin Butcher, 811 Pebble Creek St, Sutherlin, came back to the podium and stated that he has talked to ODOT for many hours and they stated that we will probably never get a light in there, so whatever that means. Also, before they do put a light in there they will put in a right in/right out, when you come in you turn right, if your coming out you will turn right. ODOT indicated that will happen long before they install a light.

Chair Davidson re-closed public portion of the hearing

DISCUSSION – Commissioner Hogsett asked what the basic timeline was for development. Lucas Main, Lucas Main Construction (property owner/applicant) asked if your referring to the lots or the home construction. Commissioner Hogsett said the whole thing. Lucas Main said it is hard to determine, but is hoping for December 2024. Commissioner Sarnoski stated he has an assumption, but was only an assumption that this is phase 1 and there are more phases to come. He asked if the secondary access would become a permanent road for the future phases. Lucas Main responded that this initial approval is for 91-lots to be developed in three phases total. No it will not become a permanent road with these phases. It will remain an emergency access. Mr. Main also stressed that they will not be accessing onto Pebble Creek with their construction traffic, they will use the emergency access road and then veer east keeping on their property. Kristi Gilbert, Community Development Director, stated she believes what is asked by Commissioner Sarnoski is regarding the future development of the 171 acres and the plans to construct a permanent road. Commissioner Sarnoski stated, yes with future development is there intent to connect to some other access road. Mr. Main responded by saying that would have to be discussed with the city. Commissioner Woods asked a question of the staff, if safety and access getting out is the issue, what can the city do to work with the builder to maybe change the speed zones through that area in a way to help mitigate and control traffic along the highway. Commissioner Sarnoski stated that as far as he knows, that is a state highway and out of city control. Jamie Fugate, City Planner stated that from the intersection of Comstock Road west is under ODOT's jurisdiction. Mrs. Gilbert did add that we (city) do request speed analysis to be conducted every so often and they have extended the slower speeds out each time and we will continue this over time. Commissioner Woods then asked if the issue of a fulltime ingress/egress is the cost or what the problem is? Commissioner Sarnoski said it is probably just because it's a State Highway and if the State doesn't determine it's a valid expense, they won't allow it. Mrs. Gilbert did note that as the entire site, including the industrial portion, gets developed, she would anticipate it all connecting, along with internal circulation. No other objections to the proposed request were stated.

A motion was made by Commissioner Sarnoski to approve Action Alternative Number 1 the request for a 91-lot subdivision to be developed in three phases on a 22.00± acre portion of the subject property. **PLANNING DEPARTMENT FILE NO. 23-S009.** Motion seconded by Commissioner Hogsett.

In favor: Commissioners Hogsett and Sarnoski

Opposed: Woods, Banducci and Chair Davidson

Excused: None

Motion denied with a 2-3 vote

DISCUSSION – After the vote, further discussion ensued from Commissioner Sarnoski asked what the big hang up was if it was the access road. He noted that if they don't own the property and the State won't allow a change, then he didn't know what an alternative was? Commissioner Hogsett stated that as things progress, the houses won't be put up overnight it will take years and as progression occurs it will get looked into. Commissioner Woods asked staff if it will be looked into or condition put in place to address another access. Commissioner Sarnoski stated he was not sure how they would make that a condition. Commissioner Sarnoski went on to say they have met all their legal requirements, and he doesn't necessarily agree with the traffic requirements, but it is what it is and the applicants are meeting the requirements. Commissioners agreed there are a lot of houses and will be more.

Brandan McGarr, Division Chief, Sutherlin Fire Department, stated for the record the Fire Department is not opposed to anything the public is speaking about. From the fire departments standpoint is legal right. The fire department has to follow fire code, and the state code allows them to comment for new development on two things: water supply and access. Access for the fire department is for ingress and not egress. Again, for the fire department the only legal requirement is access and it is gated is because it does not meet city standards for a street. Mr. McGarr went on to explain a new fire code that is being developed (and not adopted yet) that will have additional requirements for egress and has no idea of when this code will be complete. Commissioner Banducci stated that he understands it will take a long time to develop the proposed properties and, his reasoning for saying no to the approval goes back to the state highway and the speed limit. The speed limit needs to be changed. Staff and Commissioner Sarnoski stated the city cannot require the speed limit to be changed. Commissioner Banducci replied that the state can authorize and lower the speed and install the blinking speed signs. Commissioner Banducci went on to say he does not oppose the development. Discussion continued about altering their votes, with the understanding as a developer they are limited on access, land and the state (ODOT) may or may not lower the speed limit. Lucas Main, Lucas Main Construction stepped up to the podium and stated they've met all the legal requirements of the city, and state, how could the application be denied. Commissioner Sarnoski agreed, the legal criteria were addressed, but also the Planning Commission has a requirement to the community to keep them safe. Mr. Main then asked, "Again they have met the legal requirements?" Commissioner Sarnoski stated, that's why he doesn't see how they can vote no. Kristi Gilbert, Community Development Director, stated that potentially the Planning Commission can do a revote, asked for the guidance of Legal Counsel via ZOOM to speak to that. Josh Soper, City Attorney, Beery Elsner & Hammond, LLP, stated however this is certainly unusual but doesn't see that they cannot do revote after deliberation. Chair Davidson asks the question is whether there is any way that they can set a condition or not really a condition that any future development occurs that they get a permanent secondary access? Mrs. Gilbert responded by stating that we would have to have the internal circulation and redevelopment plan submitted, along with the development of the industrial site to the north to be able to construct a road that's feasible. Mrs. Gilbert went on to say that she cannot speak to how that would look today with these variables, but it will be looked at as development continues, along with future development will have road improvement requirements that will need to take place. Chair Davidson reiterated that as development occurs (the next 91, next 91, etc) how will we get another complete access to help eliminate the concerns. Mrs. Gilbert stated that when this property was brought into the city in 2007, this property did have the connectivity to Stearns, we are a small community it is not that far around and their access points where to Stearns. Chair Davidson asked if this approval can be conditioned to require traffic safety to be looked at with future phases. Staff indicated yes, due

to traffic is part of the criteria and requirements that are addressed with any application (development).

A motion was made by Commissioner Sarnoski to reconsider the previous vote. Motion seconded by Commissioner Banducci.

In favor: Commissioners Banducci, Hogsett, Sarnoski and Chair Davidson

Opposed: Woods

Excused: None

Motion approved with a 4-1 vote

A motion was made by Commissioner Sarnoski to approve Action Alternative Number 1 request for a 91-lot subdivision to be developed in three phases on a 22.00± acre portion of the subject property. **PLANNING DEPARTMENT FILE NO. 23-S009.** Motion seconded by Commissioner Hogsett.

In favor: Commissioners Banducci, Hogsett, Sarnoski and Chair Davidson

Opposed: Woods

Excused: None

Motion approved with a 4-1 vote

MONTHLY ACTIVITY REPORT – no questions/comments stated.

PUBLIC COMMENT – No public comments.

COMMISSION COMMENTS – No commissioner comments.

ADJOURNMENT - With no further business the meeting was adjourned at 8:40 p.m.

Respectfully submitted,

Jamie Fugate

Jamie Fugate, City Planner

APPROVED BY COMMISSION ON THE 21st **DAY OF** November, **2023.**

Norman Davidson

Norman Davidson, Commission Chair