

October 2, 2023

RE: City Council

October 2nd, 2023, 2023 Public Hearing for Land-use Action ZC-01-23

Subject: Land-use Action ZC-01-23 Rezone – Ordinance 2023-02 Updates

The proposed Ordinance 2023-02 in your packet has two errors, City Council should request the following modifications to the Ordinance prior to adoption:

Error No. 1 – The Planning Commission’s recommendation was NOT unanimous

*“WHEREAS, on August 22nd, 2023 the Planning Commission held a public hearing to consider the proposed amendment and based on facts, findings and conclusions presented in the staff report and public testimony and evidence in the hearing **unanimously** voted to recommend approval of the proposed amendments to the Cornelius City Council; and”*

The Planning Commission had a split decision and the vote was 1-nay, 4-yay. This WHEREAS clause needs to be corrected.

Error No. 2 – The recommended Condition of Approval is missing from Ordinance 2023-02

In the land-use hearing held on August 22nd, 2023, Barbara Fryer recommended a Condition of Approval for the proposed rezone. The Planning Commission also recommended the proposed Condition of Approval as part of their vote, see page 2 of City Council Agenda Report dated October 2, 2023. However, the Condition of Approval is missing from the proposed ordinance.

As was acknowledged by City staff, the proposed zoning change has the ability to adversely affect the City’s utility infrastructure – water system, wastewater system, stormwater system, and transportation system. The impacts of middle housing was not analyzed as part of the “Grand Bargain” and middle housing will result in more strain on the City’s utility infrastructure. This adverse impact means that Criteria (1)¹ of a rezone requirements is not met. However, a “bridge condition” was proposed by City staff to mitigate this adverse effect. The Condition of Approval is noted below, and should be added to the ordinance:

“If, in the future, a middle housing development is proposed on the property, an impact analysis shall be prepared to address the impacts of increased number of homes on the transportation, water, sewer, and stormwater systems. Any mitigation, if required for additional impacts, shall be constructed prior to occupancy permits for any of the homes. “

¹ (1) The proposal conforms with the city’s comprehensive plan.

See the screen capture from the August 22nd Planning Commission meeting minutes:

Director Fryer answered that State land use law states that anytime an application is submitted, it is subject to whatever rules are in place at that time. The inclusion of the parking minimums, if the legislature is overturned, may apply depending on where the applicant is in the land use and building process. She noted that the applicant can choose to include parking, but currently the City cannot require parking. It would not be retroactive. Regulations that are in place at the time that an applicant submits an application are the regulations that the application is reviewed against.

Chair Waffle asked staff to speak.

Director Fryer explained there was an error on page 4 of the staff report. The first sentence, under Criterion three, states the subject property directly abuts city of Cornelius low density residential R7 zoning to the west. She corrected that for the record. The proposed R10 zoning, as shown on the map on page five of the staff report, is surrounded by very low density residential comprehensive plan designation with the equivalent zoning of R10 and approximately 400 feet west of the site, the property is within the Cornelius City limits and is zoned R7. The property is not directly next door, but rather, it is 400 feet away to the west. She discussed the comments and letters received concerning the potential impacts to the neighborhood. Specifically, with regard to transportation, water, sewer, and storm. After communicating with the City Attorney, she wrote a condition of approval. **The recommended condition of approval states, "if, in the future, a middle housing development is proposed on the property, an impact analysis shall be prepared to address the impacts of increased number of homes on the transportation, water, sewer, and storm water systems. Any mitigation, if required for additional impacts, shall be constructed prior to occupancy permits for any of the homes."** That is saying right now there are a certain number of homes that can be built on the property that were planned for in our water, sewer, and storm infrastructure. That infrastructure looked all the area in general. Not all of the area is going to come into the City with additional development. As a development does those analyses, it may or may not require additional mitigation. The application would only be required to do it before occupancy. She noted for the record that the City received three written submittals for tonight's meeting. The three submittals include a letter from George Svicarovich dated August 27th, a letter dated August 28th, with 11th appendices (A through K) submitted by Kristen Svicarovich, and the email chain with Ms. Svicarovich regarding whether the Planning Commission would be accepting testimony at tonight's hearing. The final item she requested be submitted into the record, is the complete ODOT study, that she referenced when I spoke on the August 22nd hearing. The study that was attached to Ms. Svicarovich's testimony has writing on it and not all the pages. She wants the Commissioners to have the benefit of all the pages. She noted that she emailed the

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We appreciate being part of this land-use action and we thank you all for your time and commitment to being public servants, your role is vital to this process.

Sincerely,

Kristen Svicarovich on behalf of
George and Francine Svicarovich
SW 336th Avenue, Hillsboro, OR