



# CITY COUNCIL SPECIAL MEETING

**August 26, 2019**

**CALL TO ORDER:** Mayor James Kingsbury called the meeting to order at 7:01 PM. The Pledge of Allegiance was said, and Randy Cranston said a prayer. Councilors present: Michael Taylor, Jim Crowther, Brian Schumacher, and Greg Atkin. Staff Present: Myrna Harding, Finance/Office Manager; Alan Frost, Public Works Director; Katie Scott, City Recorder; Lisa Brosnan, City Planner; Rebekah Dohrman, Attorney. There was 11 persons in the audience.

**PUBLIC HEARING** – Appeal 2019-01: Removal of Planning Commission Condition of Approval #36, requiring a six-foot masonry barrier wall as a barrier to Starr St. from lots 1 through 6.

Mayor Kingsbury opened the public hearing at 7:02 PM, and asked the Council for any conflicts of interest, bias, Ex-parte contact, or site visits. None were noted.

Lisa Brosnan, City Planner with the Mid-Willamette Valley Council of Governments, read the required items into the record and presented the prepared staff report.

Don Jensen, applicant, presented a picture of a wall that was placed on a subdivision in Sublimity with level ground. He stated that the cost of the wall was dispersed over 91 lots in this subdivision. The current application site is not level and the cost would only be dispersed over 15 lots. He believes they can use the existing earth berm as a barrier rather than building a wall.

Jack Yarbrough, property owner, stated that many of the lots are sloped enough that the ability to drive into the yards cannot be done. The wall is not an issue of safety. No one will be able to access Starr road from this property. One of the issues is who will maintain the property from the fence to the sidewalk. The wall makes the subdivision not doable financially. Four pages of pictures of the site were entered into the record as Exhibit E.

Councilor Atkin asked about the stem wall and the chain link. Will the trees be removed? Only the trees that are necessary to remove will be removed.

The applicant stated that they will place in the CC&R's that a fence would be required to be built by the property owner abutting Starr Street. The applicant noted that they would place restrictions in the CC&R's about parking boats, trailers, etc. in yards and street side and would enforce them, along with placing fences along Starr Street. Discussion followed.

Those in Favor: None

Neutral:

Ron Etzel, 501 SW Lupine Court. Senses that down the road, if there is no barrier and is the homeowner's responsibility to build a fence, they could build it with a gate in it.

Randy Cranston, 372 SE Church Street. Noted that CC&R's are not code and the City has no control or consideration of them. Homeowners are fully responsible for maintaining the area between the street and the wall. The applicant appeared to be willing to build a cyclone fence and seems to no longer be an option.

Dolores Morris, 227 E Main St. She would like to see something other than natural barriers, such as shrubs. She agrees with Ron, that the homeowners could place a gate in the fence if they put in their own fences.

Those Opposed: Peter Klosterman, 615 W Main St. He lives to the South of lot 8. He is concerned about safety. The trucks driving down Starr Street are not speeding at just 35 miles per hour. A car, truck, or farming equipment can very easily go over a berm into these yards and hurt or kill a child. He noted that the applicant stated that he would be around for five years to enforce CC&R's, what happens after those 5 years?

Staff Response to Public Testimony: Lisa Brosnan stated that the biggest response has been safety. What is the best way to promote safety along the road?

Rebekah noted to the Council that the current decision places a deed restriction for vehicular access to the lots on Starr Street. The applicant has proposed a CC&R that will require homeowners to place a fence along Starr Street. The issue is whether or not these lots are hazard.

Councilor Taylor questioned the Planning Commission President, Randy Cranston, regarding the intention of the Planning Commission for requiring the six-foot masonry wall. Randy stated that at the public hearing they were told that a six in curb would prevent people from backing into their backyards. A berm was never mentioned. As a matter of safety, a permanent feature would provide safety to those houses. Councilor Taylor noted that a specific material was mentioned, could this intention be met by utilizing a different material? Randy stated the Planning Commission did not think so as no other material was discussed as an option.

Applicant Rebuttal: Don Jensen noted that the Planning Commission started discussing the wall after the close of the public portion of the hearing, so they did not get a chance to discuss the item. They are concerned about safety, but the houses across the street have fences. The masonry wall is not doable for a 15-lot subdivision.

Jack Yarbrough noted that the cyclone fence can be placed by the applicant if necessary. They can also place in the CC&R's that no gates are allowed within the fences. Councilor Taylor questioned whether they would consider a material other than the cyclone fence. The applicant said yes, but wooden fences are more maintenance.

How tall would the cyclone fence be? 5 – 6 feet.

He also stated that he cannot restrict what plants the property owner can plant on their property.

Mayor Kingsbury closed the public hearing at 8:04 PM.

Council Deliberations/Discussion:

Councilor Crowther noted that he does not see a problem with a cyclone fence if the builder places it before occupancy and a gate may be a good idea to ensure maintenance of the portion between the fence and the street.

Does cyclone address the safety issue? Yes, just as much as the fence on the opposite side of the street. Height? Minimum of five feet.

Councilor Taylor noted that the code does not give the Council or Planning Commission the ability to specify the material used. Rebekah noted that to an extent the City can specify what they want a wall or fence to be, to give guidance to the applicant.

Mayor Kingsbury proposed a shorter masonry wall on top of the berm. Discussion followed.

**MOTION:** Councilor Crowther made a motion to require a not less than 5-foot cyclone fence with gates not more than 4 feet wide along the property line to be built before occupancy amending the Planning Commission Condition of Approval #36. Seconded by Councilor Atkin. Ayes: Crowther, Atkin, Schumacher. Nays: Taylor, Kingsbury. Motion carries 3-2.

Council called for a break at 8:25 PM.

Mayor Kingsbury called the meeting back to order and entered into Executive Session under ORS 192.660(2)(e) to conduct deliberation with persons designated by the governing body to negotiate real property transactions at 8:33 PM.

Executive Session closed at 9:05 PM

**Adjournment:** Meeting adjourned at 9:05 PM