

Jordan Sprague

From: robottaco@protonmail.com
Sent: Sunday, September 12, 2021 8:25 PM
To: cdadmin@cityofseaside.us
Subject: Vista Ridge II - Proposed Development 21-061PDSUB - Request to deem application incomplete and schedule new public comments and hearing
Attachments: LWI for Seaside.pdf

To the City Planning Team and Commissioners:

My name is Lief Morin. My wife and I live at 35 Hilltop Dr. I submitted written comments and provided verbal testimony at the September 7, 2021 planning commission hearing regarding the above development. Of course, this proposed development would materially impact on many properties, including ours, but it is our genuine, and respectful, viewpoint that the process to-date has been heavily biased against that of public interest. There is a good opportunity to change that viewpoint and ensure a healthy public engagement.

I write today, on behalf of the community of Seaside, to respectfully request that the application for the proposed development be deemed incomplete. As such, we request that the developer be required to submit additional information to form a complete application, to reopen the written comment period, and schedule a new/additional public hearing. The foundation for making this request is supported by several details below, but notably, on the provisions of the City of Seaside ORDINANCE NO. 74-36 – “SUBDIVISION AND LAND PARTITIONING ORDINANCE”. We realize that you folks know the ordinances inside and out, so we reference them here exclusively to ensure we are thorough in our request.

1. Additional information that was identified as missing was not provided prior to a public hearing being scheduled.
 - a. In both the “SUBDIVISION OF LAND TENTATIVE PLAN – SECTION 5 – PROCEDURE TO REVIEW” and “MAJOR LAND PARTITIONING – SECTION 19 – PROCEDURE FOR REVIEW” it is written that: “... If the application is incomplete, the applicant will be informed of the additional information that is required. Upon submission of that information, a public hearing will be scheduled.” This is exclusively included here to document the appropriate sequence of events.
 - b. In the “SUBDIVISION OF LAND TENTATIVE PLAN – SECTION 7” it is written that: “Streets to be held for private use shall be so indicated and all reservations or restrictions relating to such private streets are fully described.” In the City’s staff report it notes that the “The Plan does not indicate whether or not Fern Court will be a public or private road, and it is assumed that hemlock Court is a public street.” The developer did not indicate the status of either street and as such would have a potential economic consequence to the City in the context of maintenance and liability if either or both were public. While we realize this is a minor point, it is a matter of procedure and this information is absent in the preliminary proposal and is required for a complete application. The following two points are not minor.
 - c. In “MAJOR LAND PARTITIONING - SECTION 21 – INFORMATION ON TENTATIVE PARTITION PLAN” it is written: “[the tentative partition plan shall include] the width and location of all proposed easements for draining or public purposes.” There are no delineations of any easements for drainage that may be needed for the adjacent properties. Because of the terrain of the adjacent properties (terrain well known by the developers), drainage must – by force of gravity – be drained into the proposed development. This drainage will affect specific lots and perhaps lot sizing in the proposed development. It might also impact existing public streets and require easements on existing private lands of the adjoining properties. This drainage information is absent in the preliminary proposal, is

required for a complete application, and the public must be given an opportunity to review and provide commentary.

- d. In "MAJOR LAND PARTITIONING – SECTION 21 – INFORMATION ON TENTATIVE PARTITION PLAN" it is written: "[the tentative plan shall include] the approximate location of physical features such as wetlands and streams on the property, when required by the City Manager." The location of streams are noted on the proposal, so it is reasonable to assume that both wetlands and streams were required by the City Manager. There are, indeed, wetlands on the property and they are not noted on the proposal. In fact, most of the property is delineated as wetlands. The wetland delineations can be public found as part of the Seaside LWI (Local Wetlands Inventory) which is available at the web links below and in the attached document:
1. <https://www.oregon.gov/dsl/ww/Pages/Inventories.aspx>
 2. <https://www.oregon.gov/dsl/WW/Pages/SWI.aspx>

Although the wetlands do not appear on the Clatsop County GIS, the most important comment from the Statewide Wetlands Inventory website reads as follows: **"the current web map does not include the LWI mapping, which will be added soon. The web map does show the outlines of LWI study areas and the LWI names. If the area of interest is within an LWI study area then do not use this tool at this time (see * below), but instead go to the LWI web page to view the LWI maps and reports in PDF. LWI mapping is more accurate than NWI and NHD mapping within an LWI study area."**

It is most likely that the current drought has shrunk the visibility of those wetlands, but it is critical information, is absent in the preliminary proposal, is required for a complete application, and the public must be given an opportunity to review and provide commentary.

- e. More generally than the items above, in the City Staff Report section "CONCLUSION & STAFF RECOMMENDATIONS" it states: "This staff report identifies a number of items that need to be clarified and/or additional information that needs to be provided by the developer before the Commission considers making a final decision. Therefore, staff has not prepared a formal recommendation at this time, other than to suggest the Commissioners review the overall development plan, hear any relevant public testimony, and prepare a list of any additional information that may need to be provided to the Commission before they make a final decision." On the one hand the Staff report identifies additional information needed and states that it has not prepared a formal recommendation, yet at the same time says that the Commissioners should hear public testimony, knowing that public comment would be closed immediately thereafter without the public having seen the additional information needed. Perhaps this the normal process, but this appears to be inconsistent and biased against a robust (or almost any) public response.
2. While it may be customary, the timeline for public comment and testimony was inadequate given the scope of the proposal. The developers had a full three months to prepare for this hearing and the public only had seven days. In the context of the significant scope of proposed development and the potential community impact, these competing timelines represent an imbalance of power in favor of the developer, and again denies an opportunity to have a robust public response.
 3. Because of COVID-19 restrictions, many members of the community were unable to testify at the hearing. Specifically we are aware of individuals who wished to speak, including those who live on a directly adjacent property, and more broadly in the Sunset Hills community, but were prevented from doing so because of the restrictions imposed at this hearing. We are grateful for the work that the staff does to keep all proceedings healthy and safe, but it was common knowledge that this hearing was going to be heavily attended. It would have been a reasonable solution to address those concerns to either hold the hearing at the convention center or to schedule a second hearing in order to ensure no member of the interested community was denied an opportunity to give verbal testimony.

4. Unusually, the written comments from the public were not included in the package with the development that was made available to the public and to the commissioners one week prior to the meeting. This procedural challenge is significant in that the commissioners heard testimony without the benefit of having a review period to be able to formulate questions for the testifiers – most notably those in favor of the proposal. It represents a denial of information to the broader public who hold an interest in these proceedings until after a potential preliminary decision. This becomes extraordinarily irregular because of the huge impact this proposal might have on the community.
5. Also unusually, there are three members of the Commission who must recuse themselves from voting on the proposed development because of the immediate impact it would have on their properties. Further, a fourth member - Jon Wickersham was unable to attend. We are of the strong believe that every voting Commissioner must hear the public testimony and the that public must be given an opportunity to speak directly to those limited amount of voting Commissioners.

For all of the reasons above, we respectfully request that the application be deemed incomplete, that additional information be provided by the developer, that the information is made available to the public, that a new period of written commentary is opened, and that a new/second public hearing be scheduled.

Thank you very much,

Lief Morin
818-746-6620

Cc: Concerned members of the Sunset Hills Community

Jordan Sprague

From: Kevin Cupples <kcupples@cityofseaside.us>
Sent: Thursday, September 16, 2021 10:52 AM
To: 'Jordan Sprague'; robottaco@protonmail.com
Subject: RE: Vista Ridge II - Proposed Development 21-061PDSUB - Request to deem application incomplete and schedule new public comments and hearing

Leif: We did not deem the application incomplete at the time we scheduled the hearing, so I can't retroactively do that now. I have provided the applicant's representative with a list of additional information that I believe they need to provide for further Planning Commission consideration pursuant to their request. The Commission will need to re-open the public hearing to take that additional information into consideration, and when that is done, you will again be able to provide additional input on the proposal. The Commission will undoubtedly need to provide the public more time to review and comment on that information as well, so the Commission will need to allow for that too.

In many cases when the Commission plans to continue an item, the public hearing is not closed as it was last Tuesday. In the past, there have been instances when the Commission is reviewing something complex, and staff has suggested the Commission leave the record open for a specified period of time in order to allow additional written comments after the live public hearing is concluded. The Commission can then review all of the information before making a final decision at a deliberation meeting. Ultimately they have to say that's it, no more new information, and render a decision, but we want to make sure the applicant and other interested parties have their chance to address the request. There is a final decision clock that must also be taken into consideration in order to avoid having a judge make the decision instead of the City because the City took too much time to render a final decision. So these decisions are on a time clock, but that generally doesn't become a concern unless we start facing multiple continuances.

If the stream and any associated jurisdictional wetlands along the stream will be impacted or altered as part of the drainage system for the development, that will be subject to permits from the Department of State Lands (DSL). They have been notified of the request and the applicant knows they will need to provide details concerning any proposed actions within those areas that are related to their storm water system.

Just to be clear, all of the public's written comments were forwarded to each of the Commissioners shortly after we received them and hard copies were provided to each Commissioner at the start of the meeting. Public testimony was not limited during the proceedings; however, it was structured based on occupancy limits. We had a monitor at the door that was there to ensure we did not exceed the 25 person limit at any one time, and as people left the chambers additional people wishing to testify were allowed in. Near the conclusion of the public testimony, there was an empty seat in the Council chambers and no one outside wished to take that seat according to our monitor. She did report the people that were still outside appeared to be watching the proceeding on their phones.

With the assumption the public hearing will be re-opened to admit additional testimony and/or written information, we will be having Jon Wickersham review all the submitted materials and the tape of the meeting prior to the October 5th continuance so he will be fully aware of your comments and any new materials, information, or testimony that takes place in the future. It is unusual for us to have three Commissioners unable to take part in a decision, but we will do our best to ensure the remaining decision makers are aware of any neighboring property owners verbal or written concerns, in addition to the applicant's information, prior to making any decision.

Kevin S. Cupples
Seaside Planning Director
Ph: 503-738-7100
Fx: 503-738-8765

