



CITY OF WHITE SALMON
Planning Commission Meeting - Wednesday, February 9, 2022

COMMISSION AND ADMINISTRATIVE PERSONNEL PRESENT

Commission Members:

Greg Hohensee, Chairman
Ross Henry
Seth Gilchrist
Tom Stevenson
Michael Morneault

Staff:

Brendan Conboy, City Land-Use Planner
Erika Castro Guzman, City Associate Planner

CALL TO ORDER/ ROLL CALL

Chairman Greg Hohensee called the meeting to order at 5:33 p.m. A quorum of planning commissioner members was present. Eight audience members attended by teleconference.

APPROVAL OF MINUTES

1. **Approval of Meeting Minutes – October 27, 2021.**
2. **Approval of Meeting Minutes – November 18, 2021.**

Commissioner Stevenson requested the following change in the October 27, 2021 meeting minutes, page 9 of 10 (first paragraph).

~~Commissioner Stevenson stated that existing short-term rentals want to be grandfathered because of what was said in tonight's public hearing. He believes strict rules and regulations for short-term rentals are important and likes the idea of short-term rentals following the conditional use permit process.~~

Moved by Michael Morneault. Seconded by Tom Stevenson.

Motion to approve minutes of October 27, 2021, as amended and November 18, 2021, as written.

CARRIED 5-0. Morneault – Aye, Henry – Aye, Stevenson – Aye, Gilchrist – Aye, Hohensee – Aye.

PUBLIC HEARING

3. **Proposed Conditional Use Permit 2021.005**
 - a. **Public Hearing**

Greg Hohensee, the Chairman, opened the public hearing at 5:40 p.m. and read the Appearance of Fairness Doctrine to the planning commissioners for both public hearings.

Commissioner Stevenson disclosed that John O'Donnell was married to a cousin's daughter but would not impede his decision; there was no audience opposition.

Land-use Planner, Brendan Conboy, read into the record the following written testimonies:

1. James Stavish, Inside city Business Owner
2. Ruth Olin, Inside city Resident
3. Holly Middaugh, Inside city Business Owner

4. Tim Middaugh, Inside city Business Owner

One anonymous comment from an inside city resident was not read into the record.

Chairman Hohensee closed the public hearing at 5:55 p.m.

b. **Presentation**

Land-use Planner, Brendan Conboy, presented to the Planning Commission the conditional use permit report.

The subject property, owned by Julie Burgmeier and Rob Lutgens and represented by Tyson Gillard, Saga Build Design, Inc., is located at 415 E Jewett Boulevard. The conditional use permit proposes a 2,561 square-foot, 30'-4" tall, three-story residential duplex in the rear of the lot. The applicant proposes two stacked units separated by a ceiling on a commercially zoned lot. An existing duplex structure is located in the front of the lot and contains one long-term rental and one short-term rental.

The property is located approximately two blocks east of the downtown corridor, surrounded to the south, north, and east by a mix of predominantly single-family and multi-family residential properties adjacent to multiple commercial/institutional properties to the north and west.

The property contains four large oak trees (all to remain within the current design parameters). The heritage trees will require buffers that the proposed building will encroach into, lest the applicant receive a variance for said buffers. Additionally, the applicant requests a reduction in parking requirements based on the site's expected use and landscaping plans.

The applicant proposes dark corrugated sheet metal siding with stained cedar trim as an exterior material. The White Salmon Municipal Code requires that metal siding in the Commercial zone be subject to Planning Commission approval. WSMC Sec. 17.048.075(C) states:

Exterior walls/metal—Metal walls, panels, partitions, facing or surfacing of any type is subject to review by the planning commission and must be found to be compatibly designed and intentionally applied rather than relied on solely as a less expensive option. Window panel fillers, exterior metal doors, door casings and windows shall be allowed.

Recommendation: Staff recommends that the Planning Commission approve the applicant's Conditional Use Permit, WS-CUP-2021.005, to construct a 2,561 square-foot, 30'-4" tall, three-story residential duplex at 415 E Jewett Boulevard, subject to seven conditions of approval.

The applicant's representative, Tyson Gillard, presented to the Planning Commission. He clarified the applicant's proposal is intended for long-term rental. He stated that in the future, the applicant intends to reconstruct the front of the lot as the commercial zone intended with walkable commercial retail. Still, the owner hopes to meet the local demand for housing in today's housing crisis. He stated that the proposed duplex is designed to support future commercial use fronting Jewett Blvd and act as a buffer to existing residential on the south side while preserving four heritage trees. Gillard stated

that the applicant intends to submit a heritage tree management plan prior to construction. He noted that his client has experienced that only one parking space per unit is sufficient, and the reduced parking requirement would also help preserve landscaping.

Commissioner Henry questioned if the short-term rental was being interpreted as meeting a percentage of the commercial use split; he believed that previous discussions revealed that a short-term rental was not considered a commercial use.

Planner Conboy stated that it is at the Planning Commission's discretion to evaluate if the finding is correct. He noted that a Comprehensive Plan sentence acknowledges hotels and short-term rentals as a permitted use in the commercial zone. He added that there is an existing short-term rental, and one of the two units in the proposed duplex is for the owner/applicant who manages the short-term rental.

Commissioner Henry asked what would be the maximum number of units. Planner Conboy stated that there is no limit on units beyond 60% maximum residential square-footage of the structure(s) requirement. He clarified that he has attempted to create conditions of approval that would allow the future development of the lot into the 60% maximum residential, but at this time, the application would not meet the commercial/residential ratio.

Commissioner Henry asked for clarification on the 20-ft setback on a commercial lot abutting a residential zone. Planner Conboy stated that the city has been interpreting the minimum rear yard when abutting a residential district as zero when there is a road between the zoning transition. He said that the applicant's proposal happens to meet the 20-ft rear setback but could build up to the rear lot line.

Commissioner Gilchrist asked how staff could enforce the additional parking requirements. Planner Conboy stated that the condition is worded to be enforceable, even after occupancy, if parking becomes an observable nuisance. He said that the current parking code tends to over park sites, and staff is comfortable with the reduced parking as it can cause additional stormwater run-off and affect the heritage tree's protection area. Planner Conboy states that it is a balance to the objective and the validity of the applicant's statement that they feel capable of managing the site with four parking spaces. He referenced White Salmon Municipal Code (WSMC) 17.48.080 that authorizes flexibility to parking requirements in the downtown area and allows the Planning Commission to review if this is not an adequate condition of approval that would mitigate the perceived risk of parking.

Commissioner Gilchrist brought attention to the applicant's proposal for a 3-inch setback from the east property line along the Community Youth Center. He said he wonders what the implications would be if the eastern property redevelops to the property line to the proposed building as the city would not be able to prevent it.

Commissioner Gilchrist asked a procedural question of the next step for the applicant if the proposed conditional use permit were to be approved. Planner Conboy stated that the intent of the application is that the applicant proposed a residential structure in the commercial zone at the discretion of the Planning Commission. Planner Conboy stated

that the next step would be a heritage tree variance to encroach into the trees protection area.

Commissioner Stevenson clarified that the short-term rental is the only commercial use on-site. He also explained there is on-street parking on E Jewett Blvd. Commissioner Stevenson asked where the current parking is; the applicant's representative, Tyson Gillard, stated that parking is located south of the existing duplex in a gravel parking lot where the proposed duplex is proposed to be. Gillard clarified that the new parking would include two parking spaces in a garage and two parking spaces on compact gravel. He stated that there are additional on-street parking spaces on SE 4th Ave. Commissioner Stevenson said he understood the need for housing but didn't think it's good to set a precedence.

Commissioner Morneault clarified that the applicant lives in one of the two units and short-term rentals in the other. The applicant's representative, Tyson Gillard, stated that the applicant/property owner plans to move into the new building and rent the remaining unit's long-term.

Commissioner Morneault asked why the parking spaces are being proposed on gravel versus paved surfaces. Gillard stated that the applicant would like to keep permeable parking to manage storm water run-off better. He adds that the grading will be surrounded by a concrete curb so that the landscaping can handle catching all stormwater run-off.

Commissioner Morneault asked staff if a hard parking surface is required by code. Planner Conboy said yes. Gillard stated that the code does not specify paving but does read that parking shall be of a permanent surface. Chairman Hohensee stated the parking surface requirement should be verified with the Building Official as the previous conversation had resulted that gravel does meet the permanent surface requirement. Commissioner Gilchrist noted that he believes there is a requirement for the paving of the driveway to prevent over-spillage of rock onto the road. Planner Conboy stated that his recommendation would be to require pavement of the apron.

Commissioner Morneault asked if there are ADA requirements in the new duplex. Planner Conboy stated that ADA requirements are not required for residential developments.

Commissioner Morneault asked if the City's stormwater analysis met the State's requirements. Planner Conboy stated that the condition of approval can be found on similar projects but cannot say if it is the current state requirement. Commissioner Morneault stated that there is a stormwater manual pertaining to Eastern Washington. Planner Conboy recommended updating the condition to read: the analysis considers the hydrology generated by the required Washington State Stormwater Management Manual.

Chairman Hohensee asked for the existing duplex square footage. The applicant's representative, Tyson Gillard, informed that the existing duplex has 1,536 square feet.

Chairman Hohensee brought attention to section G of the Conditional Use Permit section; he requested clarification on the staff's finding of the second sentence.

“WSMC 17.80.055(G): That the public interest suffers no substantial detrimental effect. Consideration shall be given to the cumulative impact of similar actions in the area.”

Planner Conboy said that staff interpreted section G as one statement. He stated that one duplex is not seen as detrimental to the public but may set precedence as an accumulative impact of similar actions in the area. He clarified that these are staff’s findings, and it is up to the Planning Commission to determine if they are adequate.

c. Discussion

The Planning Commission discussed the conditional use permit proposal for 415 E Jewett Blvd to add a residential structure to a commercial lot with an existing residential structure.

Commissioner Henry expressed his concern about setting precedence in recognizing short-term rentals as part of the commercial percentage in this scenario. Still, he believes what is being proposed is reasonable and not detrimental.

Commissioner Gilchrist stated he liked the idea of having a covenant on the existing duplex that, if redeveloped, is redeveloped into traditional commercial. He said the idea of putting a high-density building like the one proposed by the applicant between the commercial and residential zone is ideal and is an appropriate use of that area on that lot. Commissioner Stevenson agreed.

Commissioner Stevenson stated that he would like to make it clear that in the future, the existing structure will need to be redeveloped into ‘true’ commercial use and meet the appropriate commercial/residential split. He said he also had concern for the proposed parking, although there is optional on-street parking.

Commissioner Morneault asked if the redevelopment of the existing structure could be placed in a timeframe and be made traditional commercial. Chairman Hohensee clarified that a condition may be placed, but it would have to be now versus later, but understands that if the existing structure would be demolished, it would become a large front yard for a residential structure when the city is attempting to preserve its commercial zone. Planner Conboy clarified that a provision in the city’s code states that any building fronting a commercial street must contribute to a commercial streetscape meaning the ground floor must be commercial retail or service. He noted that the condition intends to bring the existing structure into conformance of the commercial zone, knowing that the city may allow this residential development due to the market forces that have been prior identified.

Chairman Hohensee stated that he has some concerns and does not support infill. He noted that his focus is on Section G, which states *the cumulative impact of similar actions*. He asked if there may be similar actions done that accumulate the impact. He advised to the Planning Commission that when applications get granted, they set precedence. He does not believe short-term rental is a traditional commercial use and not the commercial use put forth by the Planning Commission in the latest comprehensive plan. Chairman Hohensee said he believes this application proposes no commercial, just four residential units in a commercial district with limited parking that

could have an accumulative impact if similar actions were done within the community, regardless of the housing shortage.

Commissioner Henry shares Chairman Hohensee's concerns; short-term rentals should not be viewed as commercial use.

Commissioner Gilchrist suggested outlining if the existing structure was demolished to alleviate concern. He added that he does not consider the proposal to be an apartment house, and doesn't concern that granting this application will affect residential zones. He stated that he appreciated the proposed project as a buffer between the commercial and residential zones while saving the trees on the lot.

Commissioner Stevenson stated that he agreed with Commissioner Gilchrist and didn't believe granting the application would set a precedent for the residential zone. He said that because the city has a general commercial zone that emphasizes traditional commercial, he suggested having two types of commercial zones in the code. He strongly suggested that a condition outlines commercial on the ground floor if the existing structure is redeveloped.

The majority of the Planning Commission agreed that parking in the applicant's area is a serious concern and supports increasing Condition #2 to state six additional off-street parking stalls at the Planner Director's discretion, instead of three, per the codes parking stall standards. The Planning Commission had partial support for pavers to assist in managing stormwater.

Chairman Hohensee requested the word *site* be changed to *parcel* in Condition #3. The Planning Commission specified that in the redevelopment, short-term rentals would not be considered for the purpose of commercial use.

The Planning Commission supported Commissioner's Morneault specific addition to Condition #6, "The Stormwater Analysis is to *comply with the Storm Management Manual for Eastern Washington* and be completed by a qualified Washington Licensed Professional Engineer."

Chairman Hohensee contacted City Attorney Ken Woodrich (via telephone) to clarify if the city could compel traditional redevelopment or public space on this specific parcel. City Attorney Woodrich said that it could not be done as that would be considered a taking. A taking is defined as private property shall not be taken for public use, without just compensation. He also clarified that the city cannot require any specific timeline for redevelopment as the redevelopment proposal will have to meet the current zoning code effect at the time of application.

d. **Motion**

Moved by Seth Gilchrist. Seconded by Michael Morneault.

Motion to approve the request for a Conditional Use Permit for the construction of a 2,561 square foot, 30'-4" tall, three-story residential duplex at 415 E Jewett Boulevard, subject to 7 conditions of approval, as amended. CARRIED 5-0.

Morneault – Aye, Henry – Aye, Stevenson – Aye, Gilchrist – Aye, Hohensee – Aye.

Conditions as adopted:

1. Prior to submittal of Building Permit application, the applicant shall obtain a variance for encroachment into the required buffer from each heritage tree affecting the proposed duplex.
2. The applicant shall identify a **total of six (6)** parking stall locations **shall be** required to be improved into off-street parking.
3. Redevelopment of the portion of the lot fronting Jewett Boulevard shall be required to bring the overall square footage of the **parcel** into alignment with the requirement for a maximum of 60% residential floor area devoted to residential space, or the most current requirements of the White Salmon Municipal Code at time of application. **Short-term rentals will not be considered for the purpose of commercial use.**
4. Any new structure fronting Jewett Boulevard shall maintain a commercial street frontage at the ground floor level.
5. Short-term rental is not an allowed use within either unit of the duplex subject to this application.
6. Stormwater shall be collected, retained, and disposed of on-site, WSMC 17.48.075(D). A Stormwater/ Erosion Control Plan shall be submitted to the City Planning Department. The plan shall ensure that stormwater run-off from the additional unit does not exceed pre-development rates and shall include appropriate treatment for run-off from impervious areas before discharge to the natural drainage areas of the property. The plan shall provide for individual lot on-site collection, retention, and release to either surface (hydrological) or subsurface (geophysical) receivers. The analysis is to consider the hydrology generated by a 25-year storm event of 15 minutes duration. Lot grading and other stormwater drainage improvements shall be completed before the Certificate of Occupancy. The Stormwater Analysis is to **comply with the Storm Management Manual for Eastern Washington** and be completed by a qualified Washington Licensed Professional Engineer.
7. All materials and flashing shall be non-reflective. At the request of the Planning Director, the applicant shall submit materials for approval at time of Building Permit submittal. Materials shall be of a dark or earth-tone hue.

4. **Proposed Critical Area Ordinance Variance 2021.003**

a. **Public Hearing**

No written comment or spoken testimony was made.

b. **Presentation**

Land-use Planner, Brendan Conboy, presented to the Planning Commission the critical area ordinance variance report.

The subject property, owned by John O'Donnell, is located on Klickitat County Tax Parcel No. 03113012001400. The project consists of the development of a single-family building. The building is in the flatter existing degraded portion of the site, with access from E Jewett Avenue, utilizing the existing approach. Stormwater generated from the project will connect to City storm system and will not discharge into Jewett Creek. The building and parking will be located at least 10-feet from the top of slope (per allowed geotechnical report setback) and at least 30 feet from the Ordinary High-Water Mark (OHWM) of Jewett Creek, at closest extent. The site plan has been designed to avoid

development within the driplines of Oregon White Oak trees and will not require the removal of any trees.

The parcel in question is a 12,756 square foot Two-Family Residential (R-2) zoned lot at the intersection of E Jewett Boulevard Pole Yard Road. The property is located approximately one-half mile east of the main downtown corridor along East Jewett Boulevard. The property is surrounded by a mix of predominantly single-family and multi-family residential properties and proximate to Skyline Hospital.

Per WSMC Section 18.10.125.C, the applicant requests a reasonable use variance, as the standards listed under Chapter 18.10, would deny the applicant's reasonable use of the property. There are no alternatives that avoid encroachment into the 150-foot reduced buffer. The project has been designed to minimize encroachment as much as practicable, with development being located as far away from Jewett Creek as possible, adjacent to E Jewett Avenue and Pole Yard Road.

Recommendation: Staff recommends that the Planning Commission approve the applicant's Critical Area Ordinance Variance, WS-VAR-2021.003, to the required critical area riparian buffer, a reduction from 150 feet to 10 feet for the required minimum geohazard offset, and an encroachment into the required 15' building setback line in the dimensions shown on the attached site plan, for Parcel 03113012001400, subject to sixteen conditions of approval.

The applicant, John O'Donnell, presented to the Planning Commission. He stated he purchased the lot in the early 2000s when he lived across the street, and he intended to remove a single-wide trailer to improve the neighborhood. He said his initial project was to construct a duplex, but given the property's constraints and after speaking with staff, the desire is now for a single-family residence. He added that the proposed mitigation plan would plant 110 new shrubs and trees to minimize any geophysical aspects of the property.

c. **Discussion**

The Planning Commission discussed the critical area ordinance variance proposal for Parcel 03113012001400 to review the riparian buffer reduction from 150 feet to 10 feet and encroach into the required 15 foot building setback line.

Commissioner Henry brought attention to the DNRs classification of streams that places the burden of proof to reclassify or remove said restrictions on the surrounding property owner to the stream.

Commissioner Gilchrist asked staff regarding the implications of the applicant's request when their entire parcel is within the identified riparian buffer. Land-use Planner Conboy clarified that the variance request reduces the 150-ft riparian buffer as discussed and would not affect the surrounding properties.

Commissioner Stevenson asked staff if the proposed 10-ft geo-setback enough to keep the bank's stability intact. Land-use Planner referenced Conditions #16 and 14:

14. *The geotechnical engineer who authored the Geotech study for John O'Donnell will need to provide a current,*

dated stamp documenting that they are a licensed engineer in the State of Washington prior to approval of building permits.

16. *Prior to building permit approval, the applicant shall provide additional information about the load capacity of the site and how the site can accommodate the proposed uses and specific recommendations and best management practices for constructing a single family home or duplex and associated uses on the site in relation to the load capacity.*

Commissioner Morneault asked if the temporary fencing during construction could become permanent. Land-use Planner Conboy stated that based on the site plan submitted and surrounding properties, fencing is not required elsewhere along Jewett Creek.

Commissioner Morneault clarified that the site's stormwater would drain into the city sewer but only noted one connection. Land-use Planner Conboy confirms the property will be connecting to a storm-sewer. Commissioner Morneault asked why the city was not requiring on-site stormwater retention. Land-use Planner Conboy suggested the following condition of approval: At the time of building permit submittal, the applicant has to either tie into the stormwater system or, if it's not adequate, the developer must retain all stormwater onsite.

d. **Motion**

Moved by Seth Gilchrist. Seconded by Tom Stevenson.

Motion approve the request for a variance to the required critical area riparian buffer, a reduction from 50 feet to 10 feet for the required minimum geohazard offset, and an encroachment into the required 15' building setback line in the dimensions shown on the attached site plan, for Parcel 03113012001400, subject to 17 conditions of approval, as amended. CARRIED 5-0.

Morneault – Aye, Henry – Aye, Stevenson – Aye, Gilchrist – Aye, Hohensee – Aye.

Conditions as adopted:

1. Prior to site disturbance including vegetation removal, the applicant shall post a performance bond or other security measure to the City for completion of any work and mitigation (including long-term monitoring, maintenance, and performance standards) required to comply with this code and any conditions of this report at the time of construction. The bond or security shall be in the amount of 125 percent of the estimated cost of implementing the riparian habitat management plan and mitigation plantings specified in the AKS Critical Areas Study and Habitat Management Plan addendum memo. The bond shall be in the form of an irrevocable letter of credit.
2. As a Condition of Approval, the applicant shall file notice with the City for review and approval of content prior to recording the notice with Klickitat County. The notice shall address all criteria highlighted in WSMC 18.10.119.A.1-3.
3. The applicant shall consent to allow entry by the City or City's agent, during regular business hours, for any inspection purposes relating to the proposed

- development activity to ensure accordance with any approved plans and permits of WSMC Chapter 18.10.
4. If a violation occurs and a stop work order has been issued, construction shall not continue until said violation has been corrected and assurances have been put into place that the same or similar violation is not likely to reoccur.
 5. If a violation occurs, the City or its agent shall have the power to order complete restoration of the critical area by the party responsible for the violation. If said responsible party does not complete the restoration within a reasonable time following the order, as established by the City, the City or its agent shall restore the affected critical area to the prior condition and the party responsible shall be indebted to the City for the cost of restoration.
 6. All undeveloped riparian and steep slope buffers, as well as landslide hazard areas and heritage tree protection areas on site shall be designated as native growth protection easements (NGPE) and recorded on the deed for the property. The NGPE shall state the presence of the critical area and buffer on the properties, the application of the White Salmon Critical Areas Ordinance to the properties, and the fact that limitations on actions in or affecting the critical area or buffer exist. The NGPE shall “run with the land.” Other than the riparian buffer enhancement actions proposed by the applicant in the habitat study/HMP addendum, no other alterations including grading, vegetation clearing, planting of lawns or gardens, or other yard improvements may occur within the NGPE unless another critical areas permit is approved.
 7. Temporary fencing shall be placed along the outer perimeter of the riparian buffer, landslide hazard area, steep slope buffer, the disturbed buffer area, and the heritage tree protection area prior to commencement of any permitted development activities. Inspection by the City or its agent shall occur prior to commencement of any permitted development activities. Fencing shall remain throughout construction and shall not be removed until directed by the city or its agent.
 8. The applicant and/or developer shall implement the habitat study/HMP, including performance standards, maintenance and monitoring plan, and contingency plan, as detailed in the O’Donnell Property Critical Areas Habitat Study and Habitat Management Plan, dated May 25, 2021.
 9. A detailed construction plan prior to building permit approval shall incorporate the mitigation and planting specifications, the performance standards, maintenance and monitoring plan, and the contingency plan outlined in the O’Donnell Property Critical Areas Habitat Study and Habitat Management Plan, dated May 25, 2021.
 10. If a specific deviation or failure occurs that is not covered in the proposed contingency plan, modification measures shall be implemented to address the specific deviation or measure subject to the same monitoring requirements of the original contingency mitigation measures. The modification measures shall be submitted to the City as part of required monitoring plans.
 11. Utilities shall not be located outside of the proposed developable area for the lot.
 12. With the exception of tightline drainage over the slope, stormwater facilities shall only be allowed in the buildable areas of the lot.
 13. No grading, excavation, demolition or construction activity shall occur within the heritage tree protection area. If any grading, excavation, demolition, or construction activity is proposed within any heritage tree protection area, a tree

protection plan shall be prepared in accordance with the applicable guidelines for a critical areas report and habitat management plan per Section 18.10.200 and a critical areas permit shall be obtained, prior to the issuance of any permit for grading or construction in the protection area.


14. The geotechnical engineer who authored the Geotech study for John O'Donnell will need to provide a current, dated stamp documenting that they are a licensed engineer in the State of Washington prior to approval of building permits.
15. Prior to the commencement of any approved building activities, the top of slope shall be flagged and inspected by City staff or a City agent for review and approval.
16. Prior to building permit approval, the applicant shall provide additional information about the load capacity of the site and how the site can accommodate the proposed uses and specific recommendations and best management practices for constructing a single family home or duplex and associated uses on the site in relation to the load capacity.
17. **At the time of building permit submittal, the applicant has to either tie into the stormwater system or, if it's not adequate, the developer must retain all stormwater onsite.**

ADJOURNMENT

The meeting was adjourned at 9:04 p.m.



Greg Hohensee, Chairman



Erika Castro Guzman, Associate Planner