

**City of Oak Harbor  
Planning Commission  
Regular Meeting Minutes  
September 27, 2016 at 7:30 PM**

**1. Roll Call**

**Present:**

Greg Wasinger (Chair)  
Bruce Freeman (Vice Chair)  
Cecil Pierce  
Jes Walker-Wyse  
Hal Hovey

**Absent:**

Alyssa Merriman

**Staff Present:**

Steve Powers, Development Services Director  
Nikki Esparza, City Attorney  
Dennis Lefevre, Senior Planner  
Ray Lindenburg, Associate Planner  
Joe Stowell, City Engineer  
Brad Gluth, Civil Engineer  
Arnie Peterschmidt, Project Engineer

Chairman Wasinger called the meeting to order at 7:30 PM.

**2. Approval of Minutes – August 23, 2016**

***Motion:** Commissioner Walker-Wyse moved to approve the August 23, 2016 minutes as presented. **Second:** Commissioner Hovey seconded the motion. Commissioner Pierce abstained, as he had been absent. With all in favor, the motion carried unanimously.*

**3. Public Comment:** There were no comments from the public.

**4. Public Hearings and Meetings**

**A. MARIN WOODS PLANNED RESIDENTIAL DEVELOPMENT (PRD) AND  
PRELIMINARY PLAT – Public Hearing**

Chairman Wasinger presented the introduction to the public hearing and opened the hearing at 7:31 PM. The Planning Commission will conduct a public hearing to consider the PRD, Preliminary Plat and Subdivision Waiver submitted by the George F. Marin Family Trust, for a 43-lot single-family residential subdivision known as Marin Woods on 10.6 acres, located at 1292 SW Swantown Avenue, parcel number R13204-459-4200. The Planning Commission may forward a recommendation to the City Council after conducting the public hearing.

**Appearance of Fairness**

Nikki Esparza, City Attorney, explained that these PRD, Preliminary Plat, and Subdivision Waivers are a quasi-judicial procedure, and as such conducted an Appearance of Fairness colloquy to determine if the Commissioners can hear this particular matter. Prior to the colloquy, Commissioner Walker-Wyse indicated she intended to recuse herself from the proceedings regarding Marin Woods for two reasons: she has had limited ex parte communication with the real estate agent in regards to this project; and given the nature of the business she is in, it is possible she could fund a loan within this development and benefit financially from that transaction. Commissioner Walker-Wyse stepped down and exited the Chambers.

City Attorney Esparza continued with the Appearance of Fairness colloquy as follows:

**Question 1:** *Does any member of this Commission have knowledge of, or conducted business with, either the opponents or proponents of this particular plat?*

Commissioners Wasinger, Freeman, and Pierce answered in the negative.  
Commissioner Hovey answered in the positive. Commissioner Hovey explained that in

late June / early July 2013, he met with Richard Marin; he had subsequent email communications with Richard and George Marin on various dates; on July 10, 2013 he met with the Marins regarding Coldwell Banker Koetje representing the sale of the property; on July 16, 2013 he received an email that the Marins were still considering the proposal; on July 26, 2013 he received an email that the Marins had rejected the proposal; on September 11, 2013, he received communication that the Marins were still wanting to sell but had not yet picked a real estate agent. Commissioner Hovey stated he has had no communication with the applicant since that time.

Question 2: *Does any member of this Commission have a pecuniary or non-pecuniary interest in the outcome of this proceeding?*

Commissioners Wasinger, Freeman, Pierce, and Hovey answered in the negative.

Question 3: *Does any member of this Commission know whether or not their employer has a financial interest in the property or area which will be impacted by the decision in this proceeding?*

Commissioners Wasinger, Freeman, Pierce, and Hovey answered in the negative.

Question 4: *Does any member of this Commission live or own property within 300 feet of the area which will be impacted by the decision in this proceeding?*

Commissioners Wasinger, Freeman, Pierce, and Hovey answered in the negative.

Question 5: *Does any member of this Commission have any special knowledge about the substance of the merits of this proceeding which would or could cause the Commissioner to pre-judge the outcome of this proceeding?*

Commissioners Wasinger, Freeman, Pierce, and Hovey answered in the negative.

Question 6: *Is there any member of this Commission who believes that he or she cannot sit and hear this matter fairly and impartially as to the respective positions of the proponents and the opponents of this proceeding?*

Commissioners Wasinger, Freeman, Pierce, and Hovey answered in the negative.

Question 7: *Has any member of the Commission had any ex parte contacts concerning this matter?*

Commissioners Freeman, Pierce, and Hovey answered in the negative.

Commissioner Wasinger answered in the affirmative. Commissioner Wasinger explained that he has had ex parte communication indirectly, through his son Brian Wasinger, and his daughter-in-law. His son and daughter-in-law have a real estate business; and though they are not under contract, they do business with Waldron Construction [which may be the builder for this subdivision]. Commissioner Wasinger stated that the record should show that he would have no financial benefit. He heard from his son that there was discussion about the egress onto Swantown; since then he has not had any contact regarding the matter.

Question 8: *Is there any member of the audience who believes because of the "Appearance of Fairness Doctrine" that any member of the Commission should be disqualified?*

There were no comments from the audience.

#### Staff Presentation

Ray Lindenburg, Associate Planner, presented the Staff Report and Attachments A-L to the Planning Commission. Mr. Lindenburg read an email submitted by the James family, who are owners of property adjacent to the proposed Marin Woods subdivision. The citizen was opposed to making Putnam Drive a connecting road; they proposed that if the connection must be made, that there be a correction to the visibility problem faced by the James' property.

### Applicant Presentation

Rick Duran, John Bissell, and Michael Ryan presented on behalf of the applicant. The documents presented to the Planning Commission at this meeting, and not previously, were the Gibson Traffic Consultants, LLC updated traffic study dated December 16, 2015; and a packet containing a landscape site map, peak hour trips graphic, SW Swantown aerial map showing "Swantown Connection Analysis Alternate Connection 0" dated 02-26-2016 DRAFT, and Master Plan Exhibit map showing "Swantown Connection Analysis Master Plan" dated 02-26-2016 DRAFT.

### Public Comment

Chairman Wasinger asked for any comments from the public in attendance. No members of the audience wished to make comments.

### Commissioner Questions

The Commissioners addressed many questions to the applicant and Staff. Staff Members responded per their areas of expertise. Responding Staff Members were Steve Powers, Ray Lindenburg, Joe Stowell, and Brad Gluth. Rick Duran, John Bissell, and Michael Ryan responded on behalf of the applicant as appropriate.

Commissioner Freeman inquired if the road conditions at Fairway Lane will have to be brought up to code, including ADA, if this new street connection at Swantown is instituted. Mr. Stowell explained that Fairway Lane would not have to be corrected; it would only need to be brought to code when improvements are made.

Commissioner Freeman inquired of the applicant if the construction traffic for the project would use the side roads for access. Mr. Duran explained that a temporary alley would act as an access point onto Swantown Road. Commissioner Freeman asked if this would not create the same hazard that the applicant was claiming to avoid in the creation of a connection to Swantown; Mr. Bissell explained that temporary construction traffic would typically make use of a flagger with the trucks entering and existing the construction site.

Commissioner Freeman inquired as to the R1 zoning of this property and using the PRD to increase the number of lots to 43 smaller lots, and how this would impact the side street traffic, on-street parking, deliveries, etc. Commissioner Freeman referenced the letter submitted by the James family with the complaint about their blind spot on Putman. Mr. Bissell referred to the second traffic study the applicant submitted when they decided to change access; the report states that the impact will not change the level of service at any of the intersections; and that the construction traffic hazard would be mitigated as mentioned above. Mr. Duran referenced the smaller lot size was in conjunction with the recommendations the applicant received from local banks of a price point of \$300,000 to target Navy families moving into the area.

Commissioner Hovey asked for clarification regarding the requirements for making the road connection at the intersection of Swantown Avenue and Fairway Lane. Mr. Stowell clarified that Staff has asked the applicant to make sure the road is aligned with Fairway Lane; the applicant is not responsible for the west side of the roadway, grading, ADA status, etc. Staff explained that emergency services were provided a chance to respond to the application, and they did not identify the lack of connection as a public safety issue. Mr. Stowell explained that the idea of connectivity between neighborhoods is to bolster alternative routes to various places in the City. Mr. Powers clarified from the Staff presentation that there is no reference in the Staff Report to using this connecting street as a relief valve for State Route 20.

Commissioner Pierce inquired what would be done to the Fairway Lane side of the road if this street connection was made. Mr. Stowell reiterated that since there is not an ADA facility in place now, one will not have to be installed. As quoted in the Staff Report, the fact that new design

values are in place does not imply that existing design values are unsafe; nor does it indicate that new upgrades are required. Mr. Gluth pointed out that the traffic study submitted by the applicant does not mention inherent danger or accident increase at the site of the proposed street connection.

Commissioner Wasinger asked for clarification regarding the hardship waiver. Mr. Stowell explained that there is a cost to development; Staff is not asking applicant to make improvements to Fairway Lane; and not asking the developer to do more than the code requires.

Commissioner Freeman inquired to Staff if the proposed street connection on the annexation drawing had been a factor in approving the annexation of the property. Mr. Powers stated that the road was a part of the conversation at the time; he directed the Commissioners to the Staff Report Attachment F for historical annexation information.

Mr. Powers directed the Commissioners to the Staff Report's list of Staff's recommended action for their consideration.

#### Motion

**Motion:** *Commissioner Hovey moved to recommend to the City Council disapproval of the Marin Woods subdivision application, and associated permits; and to adopt the Findings of Fact included in Attachment A to the Staff Report. **Second:** Commissioner Pierce seconded.*

Mr. Powers asked the Commissioners to grant a five minute recess to confer with the applicant. After the break, Mr. Powers stated that the applicant believes they have heard some new information at this meeting concerning the road connection on the Fairway Lane side of Swantown Avenue, and would like to request the Commission grant a continuance on the proposal. Mr. Powers suggested that the continuance be granted until the October 25, 2016 Planning Commission Meeting.

*Commissioner Hovey asked if there was any objection to withdrawing his motion; with none he withdrew the above motion. Commissioner Pierce withdrew his second of the above motion. The motion failed.*

Chairman Wasinger stated that the applicant would be granted a continuance to the October 25, 2016 Planning Commission Meeting, and the hearing will remain open.

#### **B. MODEL HOMES CODE AMENDMENT – Public Hearing**

This item has been rescheduled for the October 25, 2016 Planning Commission Meeting; the Commission did not address this agenda item.

#### **C. LOW IMPACT DEVELOPMENT – Public Meeting**

Dennis Lefevre, Senior Planner, provided a Staff Report on the continued subject of Low Impact Development. The Report is for Commissioner's information and will not be reviewed at this meeting.

Chairman Wasinger adjourned the meeting at 10:49 PM.

Respectfully submitted,

Lisa Felix  
Administrative Assistant  
Development Services