



# Planning Commission Minutes

Note: Anyone wishing to speak at any Planning Commission meeting is encouraged to do so. If you wish to speak, please rise and, after you have been recognized by the Chair, give your name and complete address for the record. You will then be allowed to speak. Please note the public testimony may be limited by the Chair.

**October 10, 2023**

**REGULAR MEETING**

**Minutes**

## **I. CALL TO ORDER:**

Chair Verner called the meeting to order at 7:00 p.m. at the Civic Center Council Chambers, 1175 E. Main Street.

### **Commissioners Present:**

Lisa Verner  
Doug Knauer  
Eric Herron  
Russell Phillips  
Susan MacCracken Jain  
Kerry KenCairn  
Gregory Perkinson

### **Staff Present:**

Brandon Goldman, Community Development Director  
Derek Severson, Planning Manager  
Jennifer Chenoweth, Associate Planner  
Michael Sullivan, Executive Assistant

### **Absent Members:**

### **Council Liaison:**

Paula Hyatt

## **II. ANNOUNCEMENTS**

Community Development Director Brandon Goldman made the following announcements:

- The application for PA-T3-2022-00004, 1511 Highway 99 North was withdrawn by the applicant after it was remanded to the City by the Land Use Board of Appeals (LUBA). Staff anticipates that the applicant will submit a similar application in light of new state laws. PA-T3-2022-00004 is now concluded.
- The City Council will review a draft ordinance to eliminate City parking mandates at its October 17, 2023 Regular Meeting. These changes are part of the Climate Friendly and Equitable Communities (CFEC) state guidelines, and will be reviewed by the Commission in November before going back to the Council for final review and adoption on December 5 and December 19, 2023.
- The Bear Creek Restoration Summit will be held on November 2, 2023 at the Talent Community Center. It will focus on the rehabilitation of the Bear Creek corridor as a path for pedestrians and cyclists, while also making it a fire adaptive space.

Commissioner KenCairn asked if the Brea Creek summit would be a multi-community meeting. Mr. Goldman responded that it would, and that representatives of Ashland, Central Point, Phoenix, Talent, and Jackson County had been invited to attend.





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Chair Verner requested that staff send the sign up forms for the summit to the Commission.

### III. **CONSENT AGENDA**

1. **Approval of Minutes**
  - a. September 12, Regular Meeting

**Commissioners Perkinson/KenCairn m/s to approve the consent agenda as presented. Voice Vote: All AYES. Motion passed 7-0.**

### IV. **PUBLIC FORUM** – None

### V. **TYPE I PUBLIC HEARING**

- A. PLANNING ACTION:** PA-APPEAL-2023-00018  
**SUBJECT PROPERTY:** 321 Clay Street  
**OWNER / APPLICANT:** Table Rock Tree for Jenny Osborne  
**APPELLANT:** Albert Pepe  
**DESCRIPTION:** This is an appeal for the removal of the weeping willow tree located at space #19. The original request, PA-TREE-2023-00210, was for approval to remove four (4) trees near residences at the Wingspread Mobile Home Park; located near spaces 19, F, 92, and 94. The trees are as follows: weeping willow, 47 inch diameter at breast height (DBH) at space 19; cottonwood, 12 inch DBH at space F; two silver maples 11 inch DBH and 9 inch DBH located between spaces 92 and 94. The application has been prepared by a certified arborist and states that trees are in a state of decline; causing damage to property; severely leaning, and have evidence of decay, respectively. As the trees continue to decline, they present a hazard to nearby properties. In summary, PA-APPEAL-2023-00018 is an appeal of PA-TREE-2023-00210 which was approved for removal of all four trees. The Notice of Land Use Appeal was submitted for only the removal of the weeping willow tree at space #19.  
**COMPREHENSIVE PLAN DESIGNATION:** Multi Family Residential; **ZONING:** R-2; **MAP:** 39 1E 11C; **TAX LOT:** 3000

### **Ex Parte Contact**

No ex parte contact was reported. Chair Verner conducted a site visit, while Commissioner Knauer reviewed the site via Google. No other Commissioners reported site visits.





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## **Staff Presentation**

Mr. Severson informed the Commission that the original application requested the removal of four trees, though the appeal seeks only to halt the removal of the weeping willow. An arborist contracted by the applicant submitted a report stating that all four trees could prove hazardous to nearby properties. Mr. Severson described the current and potential damage that the trees pose to nearby homes, and stated that the weeping willow has dead limbs weighing from 100–400 pounds that could cause significant damage if not removed. He noted that some branch failures had already resulted in damaged property and caused damage to the tree itself. Mr. Severson noted that continued pruning would likely increase the chance of the tree decaying.

Mr. Severson showed the weeping willow's current rate of decay using aerial photographs, and pointed out that some of the decaying limbs were hanging over adjacent property lines (see attachment #1).

Mr. Severson displayed public comments that staff received showing support for the tree's removal, citing its potential danger to nearby property. One public comment stated that the seeds from the tree made it impossible for the resident to maintain a garden and resulted in up to 35 sprouts in her yard per year. Albert Pepe, who is a tenant at 321 Clay Street and the appellant of this planning action, also submitted public comments opposing the tree's removal, stating that he was appreciative of the shade and view it provided. He proposed that he would maintain the tree at his own expense, including hiring an arborist to prune the tree when necessary. Based on the comments received from nearby residents, the recommendation of the applicant's arborist, and the approval of the Tree Management Advisory Committee (TMAC), staff approved the application to remove all four trees.

Mr. Severson stated that there is nothing in the Ashland Municipal Code (AMC) that would allow staff to deny the submitted application. Therefore, based on the public comments received, and the recommendation of the arborist, staff advised that the appeal be denied and the original approval be upheld.

## **Questions of Staff**

Commissioner Knauer inquired if the applicant of the original application is the property owner. Mr. Severson responded in the affirmative, adding the applicant's arborist would be speaking on the owner's behalf.

## **Applicant Presentation**

Arborist Tate Dunn spoke on behalf of the property owner, and provided the arborist report in the original applicant. Mr. Dunn noted that he had not spoken with the property owner personally, and that he communicated solely with Jenny Osborne of CPM Real Estate Services, who manages the property.



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Mr. Dunn informed the Commission that he had been contracted to assess the trees three months prior to this meeting. During his visual review he noted severe cuts in the tree that had resulted in dead limbs and decay. Mr. Dunn explained that pruning the tree would not mitigate these hazards, and would only result in a reduced canopy and a reduction in the tree's ability to photosynthesize. Mr. Dunn concluded that he could not say definitely when the tree would uproot or experience a major branch failure, but that it would likely occur.

### **Questions of the Applicant**

Commissioner KenCairn requested that Mr. Dunn elaborate on the disease afflicting the tree in question. Mr. Dunn responded that the tree is suffering from epicormic growth, which is a growth that occurs when the tree suffers a significant wound. The tree experiences accelerated growth to heal the wound and regrow the canopy as quickly as possible, but the resulting branches are weaker and prone to failures when they become overgrown.

### **Appellant Presentation**

Appellant Albert Pepe began by clarifying that he lives at unit #21 on 321 Clay Street, and that some of the dead branches hang over his home and shed, as well as unit #19. Mr. Pepe stated that the resident of #19 appeared willing to allow him to prune the tree, something he had done during the Alameda Fire to remove some epicormic growth. Mr. Pepe reiterated that the property is an owner-occupied mobile home park, and that he attempted unsuccessfully to contact the property owner directly to request that the tree be preserved. Mr. Pepe refuted the arborist for the applicant's claim that the diameter of the tree measured 47 inches, stating that his own measurements showed it to be significantly larger.

Mr. Pepe stated that the tree is located in a riparian zone and has not been properly maintained by the owner. He presented a video taken of the site that emphasized his commitment maintaining the tree himself, as well as his personal connection to it ([see here](#)). Mr. Pepe stated that his father showed a great appreciation for nature. He requested that the City support him in his efforts to save the tree.

### **Questions of the Appellant**

Commissioner MacCracken Jain asked if Mr. Pepe is a trained arborist for the basis of his opinion that pruning would be a viable alternative to removal. Mr. Pepe responded that he is not a trained arborist, though he did hire an arborist who stated that the tree could be maintained through pruning. He added that he had assured the owner that they wouldn't be held liable for any damages caused by the tree to his property.

Chair Verner inquired if the appellant had been able to communicate with any of the property owners. Mr. Pepe responded that he spoke briefly with one, but that this person was not interested in





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communicating. He stated that the primary property owner lives in southern California, but has twice denied Mr. Pepe's request to speak through CPM Real Estate Services. Chair Verner asked if the Mr. Pepe had submitted any formal proposal to enter into a maintenance agreement with the property owner, to which Mr. Pepe responded that all of his proposals had been verbal. Chair Verner recommended that Mr. Pepe submit a formal written request.

Commissioner KenCairn stated that weeping willows commonly have life expectancies of 75-100 years in her experience, and that one such specimen on her property had to be removed after pruning was unable to remove the decay afflicting the tree's core. Mr. Pepe acknowledged that the property owner's main concern is the liability issues the tree poses, and that he did not expect this appeal to succeed.

The Commission expressed admiration for the appellant's dedication to preserving the tree.

### **Applicant's Rebuttal**

Mr. Dunn echoed the Commission's admiration for Mr. Pepe, stating that he respected his resolve and testimony. Mr. Dunn stressed that this admiration does not change his professional opinion that the tree will likely have further issues and cause more damage in the future. He added that Mr. Pepe's method for calculating the tree's diameter was incorrect.

### **Deliberation and Decision**

Commissioner MacCracken Jain pointed out that insurance companies are becoming increasingly reluctant to grant insurance policies to tenants with trees above their homes.

The Commission voiced general appreciation for the appellant's case, but stated that they do not have the jurisdictional authority to deny the application.

**Commissioners Perkinson/Herron m/s to deny the appeal, to accept staff's and the arborist's recommendation, and all conditions within the staff report. Roll Call Vote: All AYES. Motion passed 7-0.**

## **VI. OPEN DISCUSSION**

Mr. Goldman announced that the Interim Parks and Recreation Director would be presenting an update of their master plan at the Commission's October 14, 2023 Study Session.

Commissioner MacCracken Jain asked which organization within the City has jurisdiction over the replacement of removed trees. Mr. Goldman responded that the AMC requires a one-to-one



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replacement of any trees removed, and the applicant is proposing a two-to-one replacement program. He noted that the applicant will be submitting an irrigation and tree plan in the future, as well as proposing trees more suitable for an urban environment.

Commissioner Knauer inquired if the Commission's approval of the tree removal permit, including staff's conditions, constitute a binding agreement. Mr. Goldman responded that all proposals by the applicant are conditions of approval, and so the applicant is legally committed to replace the trees at the two-to-one rate proposed.

### **VII. ADJOURNMENT**

*Meeting adjourned at 7:50 p.m.*

*Submitted by,  
Michael Sullivan, Executive Assistant*

