

**City of Shady Cove Planning Commission
Agenda
Shady Cove Council Chamber
22451 HIGHWAY 62
Thursday, May 12, 2011
6:30 p.m.**

I. Call to Order

- A. Roll call.
- B. Announcements by Presiding Officer.

- 1. This meeting is being digitally recorded.
- 2. The next regularly scheduled Planning Commission meeting will be May 26 at 6:30 p.m. in the City Council Chamber.

II. Public Comment

The public may comment on agenda and non-agenda items at this time. Comment will be limited to 3 minutes per individual or 5 minutes if representing a group or organization. If you represent a group, please identify the group and any members of that group who are present.

III. Consent Calendar

- A. Minutes of April 28, 2011 Planning Commission Meeting (pg 2-5)

IV. Presentations

- A. Pete Mazzini Presentation of Upper Rogue Community Center Water Retention System

V. Old Business

- A. Approve and authorize Planning Commission Chairman to sign Final Order, 31 James Place, FPA 11-01 (pg 6-9)
- B. Approve Development Agreement (pg 10-11)

VI. New Business

None

VII. Staff Reports

- A. City Planner planning and building update (pg 12-13)

VIII. Commissioner Comments

IX. Adjournment

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Planning Department at (541) 878-2225. Notification 72 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to the meeting (28 CFR 35.102-35.104 ADA Title II).

City of Shady Cove Planning Commission Meeting Minutes

Thursday, April 28, 2011

CALL TO ORDER

Chair Elder called the Planning Commission Public Hearing to order at 6:30 p.m.

ROLL CALL

Commissioners Present: Chair Elder; Commissioner Davis; Commissioner Gala; and Commissioner Mayer. Absent: Commissioner Barrett. Staff present: City Administrator, Danise Brakeman; Public Works Director, George Bostic; Deputy City Recorder, Debby Jermain; and Floodplain Manager, Lois DeBenedetti.

Chair Elder read the announcements.

PUBLIC HEARING

The Chair opened the public hearing at 6:32 p.m. to consider siting of a new single family dwelling with attached garage at 31 James Place, Shady Cove, Assessor's Map and Tax Lot: 34-1W-21A, 6702. Zoning is Low Density Residential (R1-40). Applicant is Sally Stout.

The Chair read the Public Hearing Opening Statement and invited anyone who would like to speak before the Commission to please sign the sheet on the table. Jurisdiction was not questioned, there were no conflicts of interest, or Ex Parte contact. Commissioner Mayer had walked the property.

Staff Comments: Floodplain Manager Lois DeBenedetti read her staff report addressing the approval criteria, findings and recommendation; summarized the previous partition conditions of approval on adjacent property.

Staff stated the floodplain review is a Type II application and typically would not go before the Planning Commission if it meets criteria approval, but due to adjacent property owner comments staff felt it prudent that the Planning Commission hear this application, due to conditions stated in a 1995 Partition approval.

Public Works Director George Bostic read his staff report including comments on the sanitary sewer, permanent road access to the city's manhole, the proposed new driveway, and a drainage swale on the north side of the property.

Applicant's Testimony: Tim Jackle, Attorney introduced the Stout's development team: Scott Vasak, proposed contractor; Mike Malepsy, realtor; Ron Hailicka, road builder; Jeff Ballard, Floodplain Project Engineer.

Jeff Ballard from Public Works Management assured the Commission the development complies with floodplain requirements. The project proposes to fix existing drainage issues and he read into the record a statement provided by Neil Burgess from Public Works Management that they will comply with technical bulletin 10-1 "Fill in the Floodplain".

Proponents Testimony:

Mike Malepsy provided wetlands report from Department of State Lands stating the drainage issue was not jurisdictional.

Ron Hailicka answered question from Commissioner Davis on curvature of the easement and that 55 feet is achievable.

Lois DeBenedetti assured Commission that access would meet the fire code by a condition of approval.

Bill Kroeger, 183 Rene Dr., spoke in support of the Stout's development.

Eugene Reitz, 27 James Place, wants access for fire trucks.

Jack Stout, stated concern Russell Logue is asking for a separate road to his property rather than an easement which would give Mr. Logue an additional water front lot.

John Ward, 1525 Baldy Creek Rd, Ashland, offered his support with the Stout's on complying with the Endangered Species Act.

Opponents Testimony:

Doug Mc Geary attorney representing Russell Logue is not an opponent to the actual building of the facility but has concerns with:

1. Standards pertaining to access easement to James Place
2. Is application in compliance with previous planning action (MIP 95-11)
3. Storm drain easement
4. Concern a floodplain certificate was not a part of planning packet
5. Drainage plan not provided
6. DEQ 1200C permit compliance
7. Construction hauling damage to James Place
8. City does not have a riparian setback ordinance

Opponent Logue's attorney proposed resolutions to some of the above issues and requested an extension of this hearing to allow the Planning Commission more time to fully investigate this application.

Russell Logue, 29 James Place, was worried that the fill might create a mote in the event of a flood preventing him from accessing his property. He also stated there should be a road maintenance agreement, and that a culvert is necessary to protect the road. Mr. Logue stated that there was a easement was in place when he purchased his property 18 years ago.

Rebuttal:

Mr. Jackle stated easement disputes cannot be litigated at the Planning Commission level as per an opinion from LUBA. There is a default law that says in the absence of a maintenance agreement it will be based on usage, which is not defined.

Mr. McGeary stated his client doesn't want the design to disturb what his client currently has. Mr. Logue wants proper drainage and adequate services to his lot.

Commissioner Davis had a question about drainage and Jeff Ballard answered stating that a appropriate design could be provided

Final Staff Comments. Lois DeBenedetti stated the Conditions of Approval will be very specific in the Final Order.

Commissioner Davis referred to comments submitted into the record by concerned citizens in regards to ordinance language conflicts in the definitions chapter. Commissioners agreed there is a discrepancy and it should be addressed.

Mr. Jackle stated this refers to the city's subdivision ordinance which is not applicable tonight.

Commissioners were given time to review evidence submitted into the record during the hearing. Chair Elder entertained a motion to close or continue the public hearing.

"I MOVE THAT THE PLANNING COMMISSION CLOSE THE PUBLIC HEARING AT THIS TIME AND BASE OUR DECISION ON WHAT INFORMATION IS BEFORE US AND ON THE RECORD."

Motion: Commissioner Mayer, second Commissioner Davis

Roll call: All ayes. Motion passed 4-0. (Commissioner Barrett absent)

The Public Hearing was closed at 8:09 p.m.

DELIBERATIONS

Commissioner Davis expressed concerns:

- That the road easement will support required gross vehicle weight.
- Project will allow adequate turnaround for fire equipment
- Address drainage issues
- Ensure conditions of approval are enforced.

Commissioner Mayer requested and received information from the Public Works Director on how the drainage issue will be addressed.

Chair Elder entertained a motion.

"I MOVE TO APPROVE THE APPLICATION FOR A FLOODPLAIN DEVELOPMENT PERMIT; (PLANNING FILE FPA 11-01) WITH THE FOLLOWING CONDITIONS. 1) APPLICANT SHALL COMPLY WITH ALL LOCAL, STATE AND FEDERAL REQUIREMENTS FOR FLOODPLAIN DEVELOPMENT. 2) APPLICANT SHALL COMPLY WITH ALL PREVIOUS CITY OF SHADY COVE LAND USE APPROVALS WHICH PERTAIN TO THIS PROPERTY, AND TO ADJACENT PROPERTIES. (PARTITION MIP 95-11). 3) APPLICANT SHALL COMPLY WITH JACKSON COUNTY FIRE DISTRICT NO. 4 REQUIREMENTS DATED 10/16/95, AND ANY CURRENT CONDITIONS. 4) APPLICANT SHALL COMPLY WITH OTHER CONDITIONS AS DEEMED APPROPRIATE BY THE PUBLIC WORKS DIRECTOR, FIRE CHIEF OR PLANNING COMMISSION."

Motion: Commissioner Mayer, second Commissioner Gala

Roll call: All ayes. Motion passed 4-0. (Commissioner Barrett absent)

ADJOURNMENT

Chair Elder adjourned the Planning Commission meeting at 8:15 p.m.

Erin Elder
Chair

Debby Jermain
Deputy City Recorder

Commissioner Vote:

Chair Elder _____
Commissioner Barrett _____
Commissioner Davis _____
Commissioner Gala _____
Commissioner Mayer _____

**BEFORE THE PLANNING COMMISSION OF THE
CITY OF SHADY COVE, STATE OF OREGON**

**THE MATTER OF PLANNING COMMISSION CONDITIONAL)
APPROVAL OF SITE DESIGN REVIEW AND FLOODPLAIN) FINAL ORDER
DEVELOPMENT PERMIT REVIEW TO CONSTRUCT A)
SINGLE FAMILY DWELLING; APPLICATION NO. FPA 11-01)**

ORDER, Granting conditional approval of site design review and floodplain development permit review to construct a new single family dwelling with attached garage on property described as 34-1W-21A, Tax Lot 6702, located at **31 James Place**, Shady Cove, Oregon. Applicant: Sally Stout

WHEREAS:

1. The Planning Commission accepted the above referenced application for review in accordance with the Shady Cove Zoning Ordinance No. 154.
2. The Planning Commission held a properly noticed public hearing on this matter on April 28, 2011. The City Planner mailed notice to property owners within 200 feet of the subject property and posted notice within the local newspapers requesting public comment.
3. At the Public Hearing staff presented the project; questions regarding the application were presented by the Planning Commission and the public. The applicant through her attorney responded as part of the Public Record, Mr. Russell Logue through his attorney also commented on the application.
4. At the conclusion of the said public hearing and upon conclusion of deliberations, the Shady Cove Planning Commission, upon a motion duly made and seconded, approved the proposed project with conditions.
5. The proposal, as described in the materials submitted for review and subject to the conditions in the attached Development Agreement, has been shown to be consistent with the provisions of the Shady Cove Zoning Ordinance, and the Comprehensive Plan, pursuant to the findings in the staff report which are hereby incorporated herein by reference, and this Final Order dated May 12, 2011.

THEREFORE, IT IS HEREBY ORDERED that the application is approved subject to the signing and recording of the attached Development agreement as part of this Final Order.

ACCEPTED AND APPROVED THIS 12th DAY OF May, 2011

CITY OF SHADY COVE PLANNING COMMISSION

By _____
Vice Chairman, Donna Barrett

This order is subject to a ten day appeal period. If the tenth day falls on a weekend or holiday, the appeal period is extended to 5:00 p.m. of the first working day following the tenth day. Affected parties may appeal to the City Council within that time period. If no appeal is filed before 5:00 p.m. on May 23, 2011 the decision becomes final. For additional information contact the City Planning Department at 541-878-8204.



**Type II Staff Report
Floodplain Development Permit**

Description of Property: 34-1W-21A, Tax Lot 6702, 31 James Place, Shady Cove, Oregon

Floodplain Application No: FPA 11-01

Applicant: Sally Stout

Proposal: Review of Floodplain Development Permit to allow a new single family dwelling with attached garage.

Zoning: Low Density Residential (R1-40) 40,000 SF minimum.

Planning Commission Public Hearing Date: April 28, 2011

All Floodplain Development permits shall be reviewed through a Type II review process as per §154.378 Type II Procedure (Administrative) of the City of Shady Cove, Oregon Code of Ordinances.

The staff report shall address the approval criteria as listed below:

1. Is the proposal consistent with the density, setback and dimensional standards of the base zoning district per Chapter 154 §154.035 - 154.038 Zoning- Low Density Residential District, R-1, of the City of Shady Cove, Oregon Code of Ordinances?
2. Is the proposal consistent with §154.378 Type II Procedure (Administrative) of the City of Shady Cove, Oregon Code of Ordinances?
3. Is the proposal consistent with Chapter 151, Floods, of the City of Shady Cove, Oregon Code of Ordinances?
4. Are adequate public facilities available or can they be made available to serve the proposed single family dwelling?
5. Do the proposed improvements meet City standards?

As to Criteria 1. Is the proposal consistent with the density, setback and dimensional standards of the base zoning district per Chapter 154 §154.035 - 154.038 Zoning- Low Density Residential District, R-1, of the City of Shady Cove, Oregon Code of Ordinances?

FINDING: The application and plans are considered complete, and are found to be in compliance with standards of the zoning district.

As to Criteria 2. Is the proposal consistent with §154.378 Type II Procedure (Administrative) of the City of Shady Cove, Oregon Code of Ordinances?

FINDING: The Shady Cove Municipal Code provides that a Type II application for a Floodplain development permit shall be an administrative decision or may be referred to the Planning Commission for a Public Hearing. The City Planner felt due to comments received from adjacent property owners, and past land use approvals involving this parcel, that the Planning Commission should decide this application.

As to Criteria 3. Is the proposal consistent with Chapter 151, Floods, of the City of Shady Cove, Oregon Code of Ordinances?

FINDING: The proposed construction of a single family dwelling can be built in accordance with Chapter 151, Floods, of the Shady Cove Municipal Code.

As to Criteria 4. Are adequate public facilities available or can they be made available to serve the proposed single family dwelling?

FINDING: Adequate public facilities are available to serve the proposed single family dwelling.

As to Criteria 5. Do the proposed improvements meet City standards?

FINDING: Proposed improvements can meet City standards.

Staff Recommendation:

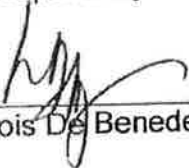
Based on the criteria and findings the City Planner recommends that the Planning Commission approve with conditions the application for a development permit to build a new single family dwelling with attached garage as per applicant's request.

Conditions of Approval

1. Comply with all local, state and federal requirements for floodplain development
2. Comply with all previous City of Shady Cove land use approvals which pertain to this property, and to adjacent properties.(Partition MIP95-11)
3. Comply with Jackson County Fire District No. 4 requirements dated 10/16/95.
4. Comply with other conditions as deemed appropriate by the Public Works Director, Fire Chief, or Planning Commission Members.

The decision of the Planning Commission is the final decision of the City unless appealed to City Council.

Respectfully submitted this 21 day of April, 2011.



Lois De Benedetti, Planner

**After Recording Return to:
City of Shady Cove
22451 Hwy 62
PO Box 1210
Shady Cove, OR 97539**

DEVELOPMENT AGREEMENT

This agreement entered into on this _____ day of May, 2011, by and between the City of Shady Cove, Oregon, hereinafter referred to as "CITY" and Sally Magill Stout Trustee, hereinafter referred to as "DEVELOPER".

WITNESSETH

In consideration of the terms and obligations herein set forth, the parties hereto covenant and agree as follows:

The DEVELOPER hereby acknowledges and agrees to the conditions which follow and hereby agrees to comply with all the said conditions in connection with the conditional approval of the Site Design Review / Floodplain Development Permit to allow a new single family dwelling with attached garage on property described as 34-1W-21A, Tax Lot 6702, located at 31 James Place Shady Cove, Oregon. Unless specifically stated otherwise, the DEVELOPER agrees to complete and pay for all improvements listed below. The conditions are as follows:

1. DEVELOPER agrees to comply with all local, state and federal requirements for floodplain development including but not limited to :
 - a. Compliance with technical bulletin 10-1 "Fill"
 - b. Comply with federal ESA rules
 - c. Other State requirements

2. DEVELOPER agrees to comply with all previous City of Shady Cove land use approvals which pertain to this property, and to adjacent properties.(Partition MIP95-11) specifically including:
 - a. Fire department turn around (Jackson County Fire District No. 4 requirements dated 10/16/95), or current fire code requirements whichever is most restrictive
 - b. Easement for ingress and egress for City of Shady Cove to a sewer manhole, over an all weather road capable of supporting a vehicle weight of a minimum of 70,000 pounds

3. DEVELOPER agrees to comply with Public Works Director requirement to provide hydrologic calculation (to include a 10 year storm) for drainage on the property and how this drainage will be routed including a plan for a culvert

- a. Developer to provide to City construction plans for said road including installation of culvert. Plans must be approved by the City Engineer and Public Works Director prior to construction
- 4. DEVELOPER agrees to grant an easement for ingress and egress to Tax Lot No. 5600 as agreed to in the approval MIP 95-11

The Conditional Approval (file no. FPA 11-01) is granted for the use of the land as described in the application and any attachments thereto, and as shown on the site plan as approved.

Owners:

BY _____
Sally Magill Stout Trustee

City of Shady Cove

Ron Holthusen, Mayor

Danise Brakeman, City Administrator

State of Oregon,

County of _____ } ss

BE IT REMEMBERED, That on this _____ day of _____, 2011, before me, the undersigned, a Notary Public in and for the State of Oregon, personally appeared the within named

_____ known to me to be the identical individual described in and who executed the within instrument and acknowledged to me that _____ executed the same freely and voluntarily.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my my official seal the day and year last above written.

 Notary Public for Oregon

My commission expires _____

MEMORANDUM

To: Shady Cove Planning Commission
From: Lois De Benedetti
Date: May 12, 2011
Subject: Up date of planning/ building activities

Applications Received

1. 203 White Oak Way – new single family dwelling
2. 210 White Oak Way – new single family dwelling
3. 70 Maple – new single family dwelling
4. 274 Park Drive- replace existing deck
5. 37 Schoolhouse -School Plans – cover existing slabs with roofs
6. 6900 Rogue River Drive – new detached garage
7. 22292 Highway 62- rebuild damaged home (trees)
8. 500 Park Drive – playground equipment
9. 33 James Place Floodplain Development Permit Application- RV Garage, shop and guest quarters. Type II
10. 208 Park Drive – replacement of detached garage /storage, damaged by trees and removed

Applications approved

1. 208 White Oak Way – new single family dwelling
2. 210 White Oak Way – new single family dwelling
3. 70 Maple – new single family dwelling
4. 274 Park Drive- replace existing deck
5. School Plans – cover existing slabs with roofs
6. 6900 Rogue River Drive – new detached garage
7. 22292 Highway 62- rebuild damaged home (trees)

Denial

- 1.

Applications Withdrawn

- 1.

Inquiries

1. 21584 Hwy 62- Addition to Shady Kate's
2. 58 Alder -Wood cutting business on highway 62