

City of Portland
Portland Planning Staff
Dept. of Public Works

June 8, 2016

Re: Letter of Application
Curbs and Sidewalk Waiver
Van Vechten Street

Dear Staff:

We are submitting this letter along with your recommended Conceptual Drawing showing our planned Road Extension of Van Vechten St. under section 14-403, a road extension not requiring subdivision approval. (see attached letter from Portland corporation counsel).

We would like to address in particular, Section 14-506 modification, that pertains to the waiver of Curbs and Sidewalks. Our understanding of this provision is: The Planning Staff through administrative review has the authority to issue a Waiver if the Staff finds 2 or more conditions exist with respect to compliance of the requirements set forth in sections 14-498 and 14-499.

We would like to address each case, first the Curbs and then Sidewalks by showing that 2 or more conditions do exist that should warrant a Waiver.

CURBS:

Section 1: Cost in access of 5%

We expect to encounter a minimum of \$30.00 per linear foot for the purchase and installation of Granite Curbing. Since we will be required to supply curbing for both sides of the street in front of the Site, we anticipate having over 480' of curbing at a cost of \$14,400.00.

We expect the road extension will cost approx. \$140,000 and \$14,400 represents 10% of the total cost..
..double the 5% guideline.

Section 5: Runoff of Stormwater

Our conceptual drawing shows that we intend to install sufficient Storm drains to handle the runoff from the site and the street itself and the installation of these Drains will perform as well as any uncurbed streets in Portland.

We also expect that the present Stormwater requirements will be handled quite well with the installation of drainage swales now required.

SIDEWALK:

Section 1. No reasonable expectation of Pedestrian usage.

The installation of sidewalks in front of the Site will measure approx. 240'. Being the only section of sidewalk on Van Vechten St., the required sidewalk will dead-end on both ends therefore forcing any users to the street. We believe the Sidewalks will be used for recreational use.

Section 2: Existence of Sidewalks.

Within Ray Gardens development (over 8 streets) approx. 1 ½ mi. of road, there is only 225' of sidewalks. This sidewalk exists only on a section of Marlboro Rd. and is virtually never used.

Section 3: Safe alternative-walking route.

The safest alternative -walking route is what exists throughout Ray Gardens..... the Streets themselves. We are unaware of any accidents or mishaps in Ray Gardens due to lack of sidewalks. Ray Gardens is a resident destination and not a Vehicular throughway.

Both myself and Peter Dalfonso, Civil Engineer, will continue working toward approval and in order to achieve this goal, we must be able to control our expenses and your granting us the waivers would certainly assist us to this end.

As a resident of Portland, I am well aware of the financial pressures of the City and that resources for road construction is virtually impossible. No CIP money as well simply requires the applicants to fund similar projects.

I am looking forward to the construction and having the City assist me through these Waivers of Curbs and Sidewalks certainly helps.

I believe the waivers contribute to a " joint venture " benefiting both....especially when the present and future residents of Van Vechten St. can enjoy the safety and improvements of the new street.

Thank You.

Sincerely,

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development and shall be granted only after submission of a written request setting forth the work proposed to be done on the site. All such work shall be done in compliance with information provided with the subdivision application. An erosion control plan shall also be submitted when deemed necessary by the planning authority. Such written permission shall not be required when the only work proposed is the digging of test pits.

(Code 1968, § 603.15; Ord. No. 158-68, § 10, 5-6-68; Ord. No. 149-79, 6-6-79; Ord. No. 95-01/02, 11-5-01)

Sec. 14-505. Appeals.

An appeal from any final decision of the Planning Board regarding subdivision approval may be taken by the applicant or his authorized agent to superior court in accordance with Rule 80B of the Maine Rules of Civil Procedure.

(Code 1968, § 603.16; Ord. No. 158-68, § 10, 5-6-68; Ord. No. 149-79, 6-6-79)

Sec. 14-506. Modifications.

(a) Except for the requirements set forth in sections 14-498 and 14-499 pertaining to the provision and construction of curbs and sidewalks, the Planning Board if it finds that extraordinary conditions exist or that undue hardship may result from strict compliance with these regulations may vary the regulations so that substantial justice may be done and the public interest secured; provided that such variation will not have the effect of nullifying the intent and purpose of the land development plan and the regulations of this article.

(b) Where the Planning Board or planning authority finds that, for each of the requirements listed below, two or more of the conditions exist with respect to compliance with the requirements set forth in sections 14-498 and 14-499 pertaining to the provision and construction of curbs and/or sidewalks, it may waive, in whole or in part, the regulations so that substantial justice may be done and the public interest secured:

Sidewalks-

1. There is no reasonable expectation for pedestrian usage coming from, going to and traversing the site.
2. There is no sidewalk in existence or expected within 1000 feet and the construction of sidewalks does not contribute to the development of a pedestrian oriented infrastructure.

3. A safe alternative-walking route is reasonably and safely available, for example, by way of a sidewalk on the other side of the street that is lightly traveled.
4. The reconstruction of the street is specifically identified and approved in the first or second year of the current Capital Improvement Program or has been funded through an earlier CIP or through other sources.
5. The street has been constructed or reconstructed without sidewalks within the last 24 months.
6. Strict adherence to the sidewalk requirement would result in the loss of significant site features related to landscaping or topography that are deemed to be of a greater public value.

Curbing-

1. The cost to construct the curbing, including any applicable street opening fees, is in excess of 5% of the overall project cost.
2. The reconstruction of the street is specifically identified and approved in the first or second year of the current Capital Improvement Program or has been funded through an earlier CIP or through other sources.
3. The street has been rehabilitated without curbing in the last 60 months.
4. Strict adherence to the curb requirement would result in the loss of significant site features related to landscaping or topography that are deemed to be of a greater public value.
5. Runoff from the development site or within the street does not require curbing for stormwater management.

In no event shall the waiver have the effect of creating potentially hazardous vehicle and pedestrian conflict or nullifying the intent and purpose and policies of the land development plan relating to transportation and pedestrian infrastructure and the regulations of this article.

At its discretion, the planning authority may refer any

petition for a waiver from the curb and sidewalk requirement to the Planning Board for decision.

(c) The standards and requirements of this article may be modified by the Planning Board in the case of a plan and program for a planned unit development which in the judgment of the Planning Board provides adequate public spaces and improvements for the circulation, recreation, light, air and service needs of the tract when fully developed and populated, and which also provides such covenants or other legal provisions as will assure conformity to and achievement of the land development plan.

(d) If at any time before or during the construction of the required improvements the subdivider demonstrates to the satisfaction of the project engineer and the public works authority that unforeseen conditions make it necessary or preferable to modify the design of the required improvements, the public works authority may authorize modifications provided that the modifications do not amount to a waiver or substantial alteration of the function of any improvements required by the Planning Board. (Code 1968, § 603.17; Ord. No. 158-68, § 10, 5-6-68; Ord. No. 149-79, 6-6-79; Ord. No. 41-84, §§ 2, 3, 6-18-84; Ord. No. 204-02/03, 5-29-03)

Sec. 14-507. Conditions.

In granting variances and modifications, the Planning Board and city council may require such conditions as will, in their judgment, secure substantially the objectives of the standards or requirement so varied or modified.

(Code 1968, § 603.18; Ord. No. 158-68, § 10, 5-6-68; Ord. No. 149-79, 6-6-79)

Sec. 14-508. Exemptions.

(a) This article does not apply to subdivisions approved prior to June 6, 1979, nor to subdivisions in existence prior to June 6, 1979, nor to subdivisions which have been legally recorded in the registry of deeds prior to June 6, 1979.

(b) A division accomplished by devise, condemnation, order of court, gift to a person related to the donor by blood, marriage or adoption, unless the intent of such gift is to avoid the objectives of this article, or by transfer of any interest in land to the owner abutting thereon shall not be considered to create a lot or lots for purposes of this article.

(Code 1968, § 603.19; Ord. No. 158-68, § 10, 5-6-68; Ord. No. 149-79, 6-6-79)

Sec. 14-509. - Sec. 14-520. Reserved.