



CITY OF
West Linn

PLANNING COMMISSION
WORK SESSION
Minutes of February 16, 2011

Members present: Chair Robert Martin, Vice Chair Michael Babbitt, Gail Holmes, Holly Miller, Laura Horsey, and Christine Steel

Members absent: Dean Wood

Council Liaison: Teri Cummings

Staff present: John Sonnen, Planning Director.

Chair Martin called the Planning Commission work session to order in the Willamette Room of City Hall at 6:45 p.m. The Planning Commission welcomed new Commissioners Gail Holmes and Holly Miller.

Debriefing on recent cases (continued discussion)

Pre-application conferences /Sunday signs

Sonnen announced the City Council had adopted the code amendments pertaining to temporary signs and pre-applications with very few changes. Council considered Kari Oakes' suggestion to notify all neighborhood association presidents whenever the Planning Director waived a preapplication conference, but decided to keep the current notification procedure for now. It would consider expanding notification requirements at a later time.

Meeting audios

Sonnen announced the staff was now posting audio recordings of Planning Commission work sessions on the web the day following each meeting. Chair Martin asked staff to thank Ms. Oakes for the suggestion.

Email communications / Commissioners' notes

The Commissioners had asked if their personal notes were part of the public record. The City Attorney's office advised that they were to be kept as part of the permanent record. Individual Commissioners could keep them themselves, or the staff could fashion a procedure to collect each Commissioner's notes at the end of each meeting.

Sonnen reported that a court had found that Lane County Commissioners had effectively achieved a quorum and deliberated via email over an extended period of time, so the communications were subject to the Open Meetings Act. The City Attorney's office suggested that each Commissioner send his/her responses and comments directly to the staff or the

Commission chair to compile instead of “cc-ing” all the other Commissioners. The compiled document would become the public record. Any kind of interchange among Commissioners regarding either quasi-judicial or legislative matters that could constitute a quorum should be done in a public meeting. Current Commission practice was to capture the conditions of approval on the screen in the hearing room as a decision was reached. Sonnen suggested that when the staff circulated the draft findings to ensure they accurately reflected Commission arguments and reasoning, each Commissioner send his/her response directly to the staff, or to Chair Martin, without “cc-ing” the others. The comments would then be compiled into a public document. The important thing was to be careful how “cc” was used and avoid having interchanges amongst Commissioners that could be construed as effectively working toward a decision or altering something.

Babbitt related that his interpretation of the court ruling was that it was not just about everyone copying everyone else, but that the court had seen a string of emails that they considered to be a dialogue and conversation. He suggested sending the minutes out for comments and copying everyone with responses was fine as long as the Commissioners did not engage in debate in a string of dialogue. Commissioner Holmes serves on the Open Oregon Board. She reported the Board was concerned that people were discussing cases on Facebook as well. She recalled the Commissioners had previously been advised to “cc” everyone to avoid the appearance of side conversations. Sonnen clarified that it was not a problem if fewer than a quorum were communicating and they were not trying to deliberate toward a decision. But he cautioned there was potential to “slip into” deliberations. Steel recalled the reason for circulating the draft findings was to ensure the staff correctly reported the intent underlying a Commission decision. Sonnen confirmed that the staff could serve as a kind of clearing house for comments, but they could not facilitate or be a conduit for deliberation. The Commissioners could see each other’s comments, but the actual deliberation had to take place in an open meeting. The City Manager had given the City Council the same advice. A representative of the City Attorney’s office was going to be at the next Commission meeting to answer questions. Councilor Cummings suggested that the staff alert the Commissioners if there were differences in final wording to work out so the Commission could plan to do that in a public meeting soon enough to meet deadlines such as the 120-day rule. Sonnen reported the City Attorney’s office suggested the Planning Commission delegate someone – perhaps Chair Martin – to sort that out. The purpose would be to ensure the findings accurately captured what happened at the Planning Commission meeting - not break new ground. Otherwise the issue would have to be discussed at a public meeting. Chair Martin held the Commission should craft the final wording in a public meeting even if they had to stay a little longer.

City Council / Planning Commission priorities

The Mayor and City Council had written the Planning Commission a letter that advised that the Council’s top priority was planning for the Highway 43 corridor. Sonnen suggested the Commission could fashion a recommended approach to a corridor visioning process. Chair Martin observed the adopted Highway 43 Plan, the Comprehensive Plan update (which would

also look at Highway 43) and this project would overlap, which could be awkward. Sonnen advised that the adopted plan addressed the streetscape and the new project would plan how the area around it would redevelop. Chair Martin and Babbitt observed the Planning Commission still had pressing issues and unfinished projects to address. Babbitt recalled the City Council had a history of changing priorities or not being very clear about priorities. Because of that the Commission often could not move forward with or finish projects. Chair Martin recalled the Commission had identified problematic code that needed to be addressed because it forced bad decisions that hurt neighborhoods. It was important for the Commission to “stop the bleeding.” He cited some examples. WRA code pushed development on a sloped property into such a small area that the development had to be a PUD with oversized buildings that were out of character with the rest of the neighborhood. The current code had a “loophole” in it that allowed 5,000 sq. ft. buildable area to be positioned anywhere on a subdivided property lot, even if that area impacted a stream. A couple of chapters of the code needed to be reconciled. He noted the Commission was utilizing a task force to correct the PUD part of the problem. He wanted to change the code so it steered the 5,000 sq. ft. buildable area to the part of a lot where it would do the least damage to the resource. Babbitt suggested the Commissioners could accomplish that in one month’s time – they did not have to utilize a task force for it. Sonnen agreed it could be done as a “surgical fix.” Chair Martin then suggested the Commissioners compile a list of fixes they wanted. They might be able to find a “fix” without using a task force, but some issues might need to be addressed by a task force that would offer a forum to hear all voices and then resolve the issue. Cummings cautioned that during goal setting the Council heard there were not sufficient staffing resources in the budget to accomplish every project on their list. The Council had felt some pressure to consider ODOT’s suggestion that abutting cities take over Highway 43. The Mayor had been discussing that with the mayors of the other cities. Sonnen advised that it would be a challenge to implement the adopted Highway 43 Plan while the highway was under state control because state constraints regarding additional traffic would stymie mixed use/higher density development. The state may have offered the roadway to the abutting cities, but they would have to be responsible for maintaining it and that could cost millions. A Commissioner suggested that it would be better to be proactive and start fashioning a plan that West Linn could live with than wait until forced to take it. Another anticipated that if the City controlled the corridor it could make it safer, more pedestrian friendly, and connect the community on either side of it.

Sonnen suggested the Commissioners use their March 16 meeting to brainstorm how to approach Highway 43 visioning and how to balance that project with its other interests, and then meet with the Council. Chair Martin wanted to also use the March 16 meeting to work on “stop the bleeding” issues. Sonnen reported the staff already had a list of fairly discreet fixes to present regarding water resource areas. But he advised that the City Council was likely waiting for the Planning Commission to weigh in on Highway 43 planning.

Chair Martin questioned why it was so hard for the Commission to move forward now than in the past, when it had more work to do and got it done with two planners and weekly meetings. Sonnen counseled that “quick and dirty” had a price that was that a lot of things fell through the cracks. Staff was now more meticulous and thorough and they were also able to focus on longer-term projects. One of those projects was a technical goal and policy analysis that would help reconcile City plans, policies and code with regional and state requirements. Babbitt observed the letter the Commission just received from the Council prevented the Commission from moving forward with the projects the Commissioners had just talked about and they might have to wait three or four months until the Council figured out what it wanted to do. Based on Infill/PUD Task Force progress so far he anticipated the Task Force would only accomplish a fraction of what needed to be done with the code and there would be huge gaps left in the code when it was done. He had been told the work would be done in phases over time and eventually it would address all the things that needed to be addressed. But his concern was that history showed the Planning Commission was traditionally pulled off projects and not allocated staff time, and he worried that priorities would be changed so it could not finish that project either. Sonnen advised that the Task Force work was not affected by the other projects because Planner Kerr’s time was dedicated to that project. Its scope was to look at all related aspects and come up with a fix for infill related development and deal with that wherever it fell in the code. Sonnen reported he had heard that it was the Task Force that wanted to deal with priority things first and in phases instead of in one fell swoop. Babbitt and Steel served on the Infill/PUD Task Force. Steel reported the Task Force had only focused on one chapter of the code, and only in the last few sessions. It had taken a long time, but they were finally going to have some draft code to work on at their next meeting. Sonnen advised the recommendations should be sent forward as a complete set of regulations that addressed more than just the PUD chapter if the changes in the PUD chapter meant other parts of the CDC needed to be changed too. Steel recalled at the Task Force “checkup” meeting the Commission had advised the Task Force to focus on a few issues. Babbitt related the Task Force was primarily looking at a three-acre threshold and taking out the density transfer. It planned to deal with WRA areas and Flag Lots later. He clarified that his concern was not the way the meetings were facilitated, but that the letter from the Council seemed to indicate the Council was moving in another direction before the Commission could finish what it was doing now. It might never get finished. Horsey recalled that when the Task Force representatives came to the Planning Commission for a “checkup” and feedback, one of the things that had hampered her from giving feedback was that there was no draft code to look at.

Babbitt reported that he had represented the Task Force at a Sustainability Committee meeting the previous evening and asked the Committee for input regarding criteria for alternative housing. He also reported that the Lake Oswego City Council liaison to the Lake Oswego Planning Commission had suggested the planning commissions of both cities meet to trade ideas about what worked and what did not work. He agreed to let the Lake Oswego Councilor know the Planning Commission wanted to set up a meeting.

Sonnen recalled the recent history of the work plan. Last year the Council had agreed to a five-year work plan, the cornerstone project was to conduct a goal and policy analysis to see how the City was aligned with Metro and state regulations. But the Commission wanted to prioritize working on pressing code issues. Then the Council directed the Department to work on all of the projects, plus commercial design guidelines. The work exceeded staff's capacity by 1.7 FTE so the Council recognized that it could not be accomplished in one year. The goal and policy analysis was the Council's top priority for 2010. The staff had been working on all fronts. Many smaller projects were done and they were currently working on the goal and policy analysis and the PUD project. But they were barely into WRA regulation issues and had not even touched commercial design guidelines. This year they went over the entire list of potential projects and then asked the Council to prioritize them while considering the impact on staffing resources. Sonnen had suggested to the Council that it could postpone commercial design guidelines. During goal setting the Council decided to change direction and apply staffing resources differently. It also agreed to a docketing project that would match resources with projects over a two-year period in a more realistic manner. Cummings explained the City Council had not voted on that yet. She recommended the Commissioners read the proposal. Using that method would mean that staff was not always just "putting out fires."

Horsey contrasted the Council's "top down" view with the Commissioners' perspective that problematic areas of code that impacted the community "where the rubber meets the road" needed to be fixed now. Babbitt observed that *Imagine West Linn*, neighborhood plans and the Sustainability Plan had never been implemented. He reported the Sustainability Committee was frustrated about that. Sonnen advised the goal and policy analysis broke out every goal and policy in those plans and paired them up with City, Metro and state regulations to ensure they were aligned. That report would inform the Council, help it clarify what the City wanted to accomplish and help it prioritize the work program. It would also inform the surgical fix effort. The Commission had asked for an Infill/PUD Task Force and more recently a WRA task force. There was likely concern that another task force would tie the Commission up and it would not have the capacity to work on Highway 43 planning, which was the project that seemed to have the most traction with the Council. Cummings saw a need for the Mayor to explain it in more depth to both the City Council and the Planning Commission. Chair Martin suggested the Commissioners could accomplish what they wanted to accomplish by doing much of the work themselves and not taking up so much staff time. He had served on a task force that had successfully operated that way. Babbitt recalled a time when the Commissioners drafted code themselves and then had the staff review it.

*Babbitt left the meeting at approximately 8:00 p.m. Cummings and Chair Martin talked about code problems. She observed that at the same time Metro called for large stream buffers, it was calling for additional density. The overall result was code that did not protect streams. Chair Martin observed that the areas that caused the most problems for the Commission were almost all the areas where the City code went far beyond what Metro recommended. In Chapter 28 riparian setbacks for rivers, for example, when the City followed Metro everybody liked it and it was clear. It was only where the City ill-advisedly went beyond it that caused problems. He observed a need to correct that. Cummings cited another example that Metro

wanted the City to exceed the limit of the number of houses on dead-end streets or cul-de-sacs, but it also wanted connectivity. Sonnen advised that Metro did not want someone to create a new cul-de-sac where it was physically possible to have a connection; and it did not want an arbitrary limit on the number of units on an existing cul-de-sac that would stymie infill. A Commissioner observed the review by Tualatin Fire only considered whether or not emergency equipment could get in, not public safety. Sonnen suggested the fix process could look at the potential public safety consequences of allowing more housing units on a cul-de-sac and fashion criteria to address that concern. Cummings perspective was that if the City allowed more houses on a private driveway the street would get worn out sooner. Then the residents would ask the City to take it over because they could not afford to rebuild it. Alice Richmond held the City should not prohibit private driveways so middle class Americans could afford to buy a house on a cul-de-sac. Chair Martin recalled that one issue that would need to be fixed with a task force was the issue of the 200' stream setback. But Cummings clarified the issue with the prior code had not been the size of the setback, but that the code was not being followed. Horsey wanted to address the problem that in practice what staff required of a developer was sometimes different than what the code required.

Sonnen related the direction he received from the City Council with the letter was to put WRA work aside and start working on Highway 43 planning. Cummings suggested it would be helpful to the Council if the Commission responded to the letter. Horsey suggested they explain that they might use the surgical approach instead of a task force and that they ask what the scope and timetable was for the Highway 43 project the Council was thinking about. Sonnen advised that Metro was willing to make investments in town centers and transit corridors. He believed the Council wanted to find out what the community wanted to see in the corridor and then fashion a longer term plan for it. He contrasted reactionary fixes with forward planning. Chair Martin held code fixes were necessary so the Planning Commission did not have to approve any more small, ugly, development mistakes because they conformed to the current code. Sonnen suggested the Commission ask Councilor Mike Jones for his perspective. He had recommended a complete rewrite of the Comprehensive Plan and CDC instead of putting Band-Aids on the code. Chair Martin contrasted a "top down" approach with a "growing a garden" approach and held that improving the garden environment was the better way. He observed the success of the Willamette Neighborhood. A Commissioner wondered if the neighborhood adjacent to the Highway 43 corridor would be more willing to support a plan for the area now that they were seeing vacant buildings there. Sonnen observed that the community was very neighborhood oriented. But he asked if one neighborhood should be allowed to decide for the entire community what should be along Highway 43. A Commissioner held the neighborhood needed to buy in to the future vision and the entire community needed to move together. Cummings explained that developer Gramor had not been receptive enough, soon enough, to the original Bolton vision. The community was not against development; they just wanted it to be very special. She also indicated it was not a good idea to propose to put a drive-through across the street from the library.

The Commission generally agreed to place the following items on the March 16 agenda: specific fixes to the WRA code and the scope of the Highway 43 project the City Council was

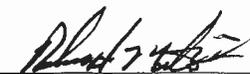
thinking about. Staff would bring their "laundry list" of issues that might be fixed without utilizing a task force. When Sonnen confirmed the docket proposal would create a system to accept suggestions from the public and the staff would forward projects of merit to the City Council with a cost estimate and staff report, Chair Martin was concerned that would disenfranchise citizens. He asked the staff to schedule a CCI meeting to discuss it. He wanted a citizen or citizens' group to be able to come directly to the Commission or the Council at any time to have a concern addressed. Sonnen related his experience that the proposed system was a good because anyone could suggest code amendments, the ideas were published on the website right away, the Council looked at each suggestion on its merits, not because the requestor already had an advocate on the Council. The Council discussed the ideas on a periodic basis. The staff was able to get all their work done each year. He cautioned that to have to deal with every issue when it came up was disruptive. It made it hard to commit to a bigger project when one was always dealing with the issue *de jour*. In the current code a neighborhood association could call for a code amendment and it had to be processed within 60 days. But that was not possible. Horsey suggested the City use the proposed system on a trial basis. She favored a monthly review of the suggestions. She suggested the Commission schedule a meeting to have a free-floating discussion about agenda priorities and matching staffing resources and projects. Sonnen agreed to present Chair Martin's suggested approach as an alternative when he presented to the Council. He encouraged the Commissioners to attend that Council meeting.

Horsey pointed out some news articles that announced changes in Washington County's code and that Lake Oswego had changed its side yard setback requirement. One article reported that a residential area was being used by a writing group. She wanted to know what process had been used to approve that. She wanted to know how the Lake Oswego/Tigard water partnership project would affect Robinwood, but others cautioned that would be considered at a future land use hearing. Sonnen anticipated the applicants would ask for a WRA permit to cross the Willamette River and associated riparian area; design review of the expanded capacity water treatment plant; and a conditional use permit. He reported the applicants had contacted the neighborhood to talk about the proposal and hear residents' concerns. He noted there were also legal issues related to covenants (that the subdivision could only be used for residential purposes) but they did not involve the City. Cummings related that she would convey the Commissioners' concerns to the Council.

ADJOURNMENT

There being no other business, Chair Martin adjourned the meeting at approximately 9:00 p.m.

APPROVED:



Robert Martin, Chair

04/20/2011
Date