

CITY OF WEST LINN
PLANNING COMMISSION / COMMISSION FOR CITIZEN INVOLVEMENT

Minutes of August 5, 2009

Members present: Vice Chair Robert Martin and Commissioners Laura Horsey, Michael Jones, Charles Lytle, Christine Steel and Dean Wood

Staff present: Chris Kerr, Acting Planning Director/Senior Planner; and William Monahan, City Attorney

Members absent: Chair Michael Babbitt and Commissioner Dean Wood

CALL TO ORDER

Vice Chair Martin called the Planning Commission meeting to order in the Council Chambers of City Hall at 7:03 p.m.

APPROVAL OF MINUTES

Jones **moved** to approve the Minutes of June 3, 2009 as amended. Steel **seconded** the motion and it **passed** 5:0.

Steel **moved** to approve the Minutes of June 17, 2009. Jones **seconded** the motion and it **passed** 5:0.

Jones **moved** to approve the Minutes of July 1, 2009 as amended by Lytle and Horsey. Lytle **seconded** the motion and it **passed** 4:0. Steel abstained.

PUBLIC COMMENTS (None)

PUBLIC HEARINGS

(Note: The staff reports and all related documents for the hearings are available through the Planning Department.)

CDC Chapter 25, Willamette Historic District Re-write

Vice Chair Martin opened the public hearing and announced the staff had asked that the public hearing be continued. Jones **moved** to continue CDC Chapter 25 to August 19, 2009. Lytle **seconded** the motion and it **passed** 5:0.

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Regulatory Improvement Code Amendment Package CDC various chapters including Chapters 2, 10, 14, 18, 19, 21, 22, 23, 24, 28, 37, 46, 48, 52, 55, 60, 66, 81, 96, 98 and 99

Vice Chair Martin opened the public hearing and outlined the applicable criteria and procedure. He asked the Commissioners to declare any conflict of interest, bias, or ex parte contact. None were declared. When invited to, no one in the audience challenged the authority of the Planning Commission or the ability of any individual Commissioner to hear the matter.

Staff Report

Chris Kerr, Acting Planning Director, presented the staff report (See Planning & Building Department Staff Memorandum dated August 5, 2009). He explained the purpose of the

amendments was to clarify and update the CDC. Some of the changes were to correct Scribner's errors and improve the format. He corrected an incorrect proposed reference in draft Section 14.060(16) from "Section 60.060" to "Section 60.090." Then he highlighted other changes the staff thought merited the greatest scrutiny by the Planning Commission, as follows:

Chapter 24 proposed changes would make it clearer that someone who wanted to create a PUD had to meet with the neighborhood association before they submitted the application to the City.

Chapter 35 proposed changes to address a new type of portable storage facilities (like "PODS") people were starting to use.

Chapter 37 clarified how a "trip" was measured in the home occupation provisions.

Chapter 46 incorporated new columns into the required parking spaces table to reflect state requirements.

Chapter 48 reflected the City's recent emphasis on sustainability and habitat-friendly practices. It would allow driveway designs that minimized the total amount of impervious driveway surface.

Chapter 52 changes were intended to make existing regulations regarding temporary signs easier to understand.

Chapter 55 added language to reflect updated Goal 5 maps and code. It required the applicant to identify and address constrained lands in the site analysis they provided for design review.

Chapter 60. changes added conditional use standards that schools and other government facilities that attracted a significant amount of regular public users were to be centrally located in the population they served and in areas served by sidewalks and bike routes/lanes. Kerr related that the staff agreed with the City Attorney's suggestion to move this language from 60.070(A)(2)(a) to its own Section 60.100 so people were more likely to find it.

Chapter 81 proposed changes corrected the zoning designation table used to assign a zone to newly annexed land.

Chapter 85 changes would remove a blanket requirement that all subdivisions and partitions were to establish at minimum, a five-foot utility easement on front and rear lot lines. Kerr advised the City was no longer allowed to ask for that. That language would be replaced by language that the City could require the applicant to establish a utility easement when the City Engineer determined it was needed.

Chapter 96. The staff had rewritten street improvement standards to make it clearer when they were required. The draft indicated the applicant had an option to make a payment in lieu of construction of street improvements if the improvements were not "included in" the Transportation System Plan (TSP). Kerr clarified the TSP did not specifically "prohibit" any street improvements.

Chapter 98 changes proposed to eliminate a requirement that the Planning Director include a copy of the Planning Commission's recommendation in his/her report to the City Council. Kerr explained the Code did not require one.

Chapter 99 proposed new language to address an issue raised by a neighborhood association. If the developer/neighborhood association meeting the developer asked for was on a regular association monthly meeting date, the letter to be sent to the association chair was to explain the proposal might not be the only topic of discussion on the meeting agenda and urge concerned citizens to contact the association president prior to the meeting if they wished to comment on the matter. Kerr explained that was to give the association officer a "heads up" regarding if and how many people would be there to speak about it.

Chapter 99 changes included a new section that clarified the effective date of City Council final decisions. Kerr advised that City Council had different standards because they had to meet Land Use Board of Appeals (LUBA) requirements.

Chapter 28. Kerr then focused on changes to Chapter 28, Tualatin River Protection proposed by Kerr and Peter Spir in their August 5th memorandums. They recommended removing a sentence that called for a pathway where there was sufficient space [28.110(F)(5)]. They recommended removing a sentence that said that maintenance and repair of public paths was exempt [28.040(W)]. Since these were late changes, Kerr recommended that the Planning Commission continue the hearing in order to offer the public more time to review them. He then explained the reason to remove them was there concern that they should never have been incorporated into the code. It was not clear whether the motion at City Council to adopt changes to Chapter 28 included them. The staff had researched the issue. They reviewed the related files, videos and minutes and talked to the people involved in that meeting, but they did not have a high level of confidence those provisions were intended to be in the ordinance that passed. There had been no mention of them at the meeting. For that reason, Kerr suggested deleting them from the draft code and letting the public have a chance to address that in the hearings process. Eventually, the City Council could put them back if they determined they should be in the code. Martin thanked Kerr for the research had had done.

During the questioning period, Kerr explained the changes proposed under CDC 55.110, Site Analysis, more closely reflected how staff had been interpreting slope ranges. Lytle referred to the proposed change in Chapter 24 that clarified that before a developer could file an application for a PUD they had to meet with the affected neighborhood association. He suggested that should be a pre-annexation requirement, too, so voters would know when they voted on an annexation that the owner intended to make it a PUD. He recalled that Hidden Springs Neighborhood Association members had been surprised and angry in two instances when the voters' pamphlet had not told them the annexed property would be rezoned to PUD. When asked, he clarified that he was not suggesting that change be added to the currently proposed amendments, but as an officer of the Association he wanted to explain the issue for the record. When an audience member suggested Lytle might have a conflict of interest, Monahan advised that it would be difficult to find there was a conflict of interest since that change was not one of the changes being reviewed in the current proposal.

Horsey was concerned the title on the agenda, "Regulatory Improvement Code Amendment Package," would lead the public to believe the Planning Commission was overhauling the code. She suggested striking the word "Improvement." Kerr said he was not tied to the title, and could

agree to do that, but he did think the changes would improve the code. Jones observed the title on the file itself was "CDC-08-03 – Regulatory Improvement Package." Steel indicated she had no problem with the title because she thought that it was an "improvement" to clarify the code and correct Scribner's errors.

Jones **moved** to keep the title as it was on file CDC-08-03: "Regulatory Improvement Package" because it reflected the staff's feelings that they were improving the code. Lytle **seconded** the motion and it **passed** 3:2. Martin and Horsey voted against. Monahan advised that "improvement" was a value-laden type of word that would not be appropriate in a ballot title, so he understood how someone would see that as an issue. The staff had fashioned a title that described what they were doing: improving the code to correct and clarify it. He had no problem with that. But he advised them in the future to try to label legislative changes without using value-laden words in the title. Horsey explained that her point about the title was related to how the City communicated the scope of the review to the public. She asked Kerr if the staff used different terms to convey "substantive and material" and "housekeeping" changes. Kerr said in the case of very comprehensive and intense rewriting of a chapter like Chapter 28 they would likely call it a "rewrite" of that chapter or a "code update for the Willamette River."

Steel suggested 24.020 could be worded more clearly, as follows:

- A. The Planned Unit Development (PUD) zone is an overlay zone and the following are preconditions to filing an application:**
- 1. A preapplication conference with the City Planning Department; and,**
 - 2. If the Planned Unit Development proposal includes more than 4 lots, a meeting with the impacted, City recognized, neighborhood association, per CDC Section 99.038, at which time the applicant will present their preliminary proposal and receive comments.**

Kerr said it sounded like clear language the staff could include in the draft they brought back for the hearing.

Public Testimony

Mayor Patti Galle, 2530 Hillcrest Dr., thanked Kerr for the time and concern he had given to researching his memorandum on Chapter 28. She anticipated that the City Council would get better at providing clear direction to the staff in the future. She then presented issues people had brought to her attention. One was a concern that the code requirement for a 20-foot wide path in front of new homes might eventually be applied to existing homes. She read aloud two provisions in 28.110, Approval Criteria that said:

Incentives are available to encourage provision of public access along the river. By these means Planned Unit Developments shall be able to satisfy the shared outdoor recreation requirements of CDC 55.100(F).

Provide a minimum, 20-foot wide all weather, public access path along the project's entire river frontage.

Mayor Galle said she did not understand why that was being required of new construction. She asked if it opened the door to requiring it for existing homes. Martin recalled the staff had told him that the pathway requirement had been put into the code in anticipation of the time the mill area was developed into a commercial area. Then, it would be desirable to ask PUDS in that

area to create that sort of public access as part of the development. Galle asked if the language should specifically say it was to apply along the Willamette River in the area of the falls. Martin suggested the master trails planning process might be a better process in which to clarify that. Galle indicated she could accept that if that was what the Planning Commission wanted. Kerr clarified that the current code required 20-foot wide pathways, and although there had once been some discussion about requiring 24-foot wide pathways, that was not being proposed. Galle noted that the staff had reported that Councilor Burgess had suggested applying the pathway requirement to single-family zones as well. She wanted the staff to find out if the task force had talked about that. She observed a PUD could be single-family homes. She observed the code language said the requirement was to be applied where there was sufficient space, "such as" at a riverfront mixed use or multifamily development. She worried the words "such as" might mean it would be interpreted to apply to other development too. The staff was recommending the Planning Commission strike the provision, but if the Commissioners decided not to strike it, she suggested they remove the words, "such as" so the Code was more specific about what development it applied to. Monahan agreed the provision was not clear about what development it applied to and he agreed the Commissioners could make it clearer during the current review. Galle indicated she supported that. Martin was concerned that it might be a waste of Planning Commission time to work on modifying the language instead of following the staff recommendation to take it out and let the City Council decide what to do about it. He noted the City Council was the source of the previous code changes and had made them after a public hearing. When Galle asked, Kerr confirmed the staff notations (such as "P7") Councilor Burgess had referred to in his motion and were included in the agenda bill submitted to the Planning Commission.

When Galle asked for clarification, Monahan clarified that Chapter 99 proposed changes were intended to clearly distinguish between the process of appealing a "local" decision (e.g., an appeal of a decision by the Planning Director to the City Council) and the process required by LUBA to appeal a City Council decision (which was not considered a "local" appeal). He also clarified that the only appeal of a "legislative" decision was appeal of a City Council decision, because the Planning Commission only made recommendations and did not make final legislative decisions.

Martin asked staff to prepare their report and final recommendations for the upcoming hearing. Kerr said the staff would include the two Chapter 28 changes the staff proposed in their recent memorandums and Steel's suggested change in that set of draft amendments.

Jones **moved** to continue the Regulatory Improvement Package to August 19, 2009. Horsey **seconded** the motion and it **passed** 5:0. Martin encouraged anyone concerned about the issues to come and testify.

ITEMS OF INTEREST FROM STAFF

Status of Trails Master Planning

Ken Worcester, Director of the Parks and Recreation Department, and Don Kingsborough, Chair of the Parks and Recreation Advisory Board (PRAB), announced the trails planning process was about to start. The process would more specifically identify routes and connections conceptualized in the Parks and Recreation Master Plan. The public would be involved and asked to suggest routes and connections that made the most sense. A Request for Proposals from consultants had been issued. A committee of community and PRAB members and staff would be formed. The approach would be to fashion a citywide plan, but

divide it up into three logical planning areas so residents could focus on their particular area. He stressed the Department was not in a hurry and would take as long as necessary and engage the public as often as necessary in order to end up with a plan the community supported.

During the questioning period, Worcester clarified that the map he was showing the Commissioners was a general map that showed conceptual routes. He said there would be a hierarchy of levels of development of trails from separate, paved, pathways to simply widening a street during paving projects. He said he currently did not see a need to acquire property for it. The City had a lot of undeveloped right-of-way the planners would consider using. Lytle observed City residents had strong views for or against trails. He cautioned the process should bring all the groups with different views to the table to work things out. Worcester agreed the committee should include as many stakeholders as possible and take as long as necessary to assure as many people as possible that their needs were met. He recalled that citizens had indicated they wanted trails and access to areas given high priority on every survey the City had conducted since 1988. He advised that having a plan would allow prospective property purchasers to know if a trail was planned past the property and how it would look. But he knew there were "hot spots," so there was no deadline. When asked how the planners would know when it was time to narrow the process down from brainstorming to a more specific plan, and how they would sustain citizens' interest and input over a long period of time, Worcester acknowledged at some point the planners would have to say they thought they were done, but they would make every effort to get the word out and not cut anyone off from participating. Martin recalled that trails was a contentious issue in the community and he wished the planners well in their goal to present a plan to the Planning Commission that enjoyed so much support there would be no public testimony. Kingsborough said PRAB was looking forward to the challenge even though they knew it would not be easy. They were discussing how to get broad participation from neighborhood associations, schools, civic organizations and other groups. They each planned to attend as many meetings as they could.

Public Comments

Alice Richmond, 3939 Parker Rd., pointed out her property was incorrectly shown as outside City limits on the map. She stressed that using an old map had consequences.

ITEMS OF INTEREST FROM THE PLANNING COMMISSION (None)

ADJOURNMENT OF PLANNING COMMISSION

There being no other business, Vice Chair Martin adjourned the Planning Commission meeting at 8:50 p.m.

APPROVED:



Dr. Robert Martin, Vice Chair

10/7/2009

Date