



PLANNING COMMISSION

Minutes of July 7, 2010

Members present: Chair Robert Martin, Vice Chair Michael Jones and Commissioners Michael Babbitt, Laura Horsey, Christine Steel, and Jennifer Tan.

Members absent: Commissioner Dean Wood

Staff present: John Sonnen, Planning Director; Sara Javoronok, Associate Planner; and William Monahan, City Attorney

Guests: City Councilor Jim Mattis and Charles Awalt, Historic Resources Advisory Board

CALL TO ORDER

Chair Martin called the Planning Commission meeting to order in the Bolton Room of City Hall at 6:45 p.m.

Review draft code amendments to establish a Historic Review Board

Sara Javoronok, Associate Planner, distributed the staff report (see Staff Memorandum, "Establishment of a Historic Review Board," dated June 29, 2010). Charles Awalt represented the HRAB. The Board had met the evening before to examine the draft. They did not support striking the provision that any interested parties could initiate the process to designate a Historic Landmark (CDC 26.050). They wanted to continue to allow anyone to start the process. The staff explained they proposed to strike it because it was redundant and reflected what was already in Chapters 98 and 99. Awalt held the provision should remain in Chapter 26 so when someone read the historic preservation chapter they would be aware of it. Steel suggested the solution of inserting cross-references to the other chapters.

The Commissioners examined the proposed amendments to ensure they reflected the changes the Planning Commission had asked for and directed the staff to schedule a joint Planning Commission/HRAB work session the following week. The current draft clarified the role and authority of the Planning Commission as well as the HRB. Monahan clarified that the new HRB would ensure that the code that applied to historic resources was met – not that all applicable code criteria were met. The proposed amendments limited HRB authority regarding Chapter 55 Class II Design Review in the Willamette Falls Drive Commercial Overlay District to a review and recommendation to the Planning Commission. During the Planning Commission hearing an HRB representative could sit at the staff table to discuss the Board's recommendation and answer questions. He/she would not be subject to the normal time limits for testimony. Awalt explained the HRAB wanted the HRB to have final authority. He argued the District was almost entirely built out and the future design of the few remaining developable properties there was critical. The staff explained their reasons for fashioning the process they proposed: The

process had to be accomplished within the 120-day rule time period; the conditions of approval imposed by the HRB and the Planning Commission should not conflict; and the new process had to address the problem that the county HRB that currently heard West Linn applications ensured they complied with Chapter 58 Design Review, but did not look at whether they complied with all the other applicable code criteria. There was no body ensuring those applications met Chapter 55 Design Review. The recommended process required the Planning Commission and HRB to have a close working relationship, but it was the Planning Commission that made the recommendation to the City Council. The Commissioners indicated they wanted the HRB to trust the Planning Commission. They said they regularly accepted the professional expertise and recommendations of certain entities, such as TVF&R, and the Engineering Department staff, and they would also respect and accept the HRB recommendations. They explained that when development was proposed in the District it had to comply with the historic code, but it also had to be reviewed for things like traffic impacts. They were concerned there might be times when a process that required two different hearings by two different hearing bodies would not meet the 120-day rule. Awalt wanted the Planning Commission to be bound to accept the HRB recommendation. Monahan advised that both boards had to match an application with the applicable criteria. If the HRB recommendation did that the Planning Commission would have no basis to recommend otherwise.

The Commissioners considered process options. They talked about holding a joint hearing; holding a joint work session and then a Planning Commission hearing; or having two Planning Commissioners join the HRB when it considered an application and then having two HRB representatives at the staff table during the Planning Commission hearing. They wanted a process that could be accomplished within the 120-day time limit; that would not be too cumbersome; that would be a process the public could understand; and that would enhance communication between the two bodies. The likelihood was this process would only have to be used to process four development sites in the next few years. Awalt indicated he could support the "two plus two" alternative. The staff agreed to make the procedural change. They advised it could be done via changes in Planning Commission and HRB rules. It did not have to be accomplished via code amendments.

The staff sought direction on another issue. The process to designate landmarks was not subject to the 120-day clock, because it was not a land use matter. Some jurisdictions used a separate process outside of the development code. But because West Linn's CDC addressed landmarks, the Planning Commission had to be involved. The staff agreed to make designation of landmarks a separate legislative process in the next draft. Sonnen said that he would bring his recommendation regarding any application that the Planning Director was authorized to decide that had an historic element in it to the HRB for that body to decide. That would also be accomplished through changes in administrative procedures. The Commissioners directed the staff to schedule a joint Planning Commission/HRAB work session the following week. *Jones left the meeting.

The remaining Commissioners examined CDC provisions that required that a property that was on the National Register of Historic Places automatically had to be a designated local Landmark.

That reflected state law. But other properties could be designated as Landmarks if they met at least one of the listed criteria, which were National Register criteria. The staff agreed to further clarify that language. They confirmed that when the City adopted another historic district the amendments would apply to it as well as to the Willamette Historic District. Awalt asked the City to try to work the Planning Commission out of the Landmark designation process. He explained if the process seemed too onerous to property owners they would opt out of it and the City would lose a Landmark. The staff advised that when a historic district was being created, more than half the property owners there had to object to it to prevent district designation.

Babbitt expressed some concerns about the process. Monahan confirmed to him that an applicant could opt to apply for a variance to avoid an HRB review. Babbitt was concerned the public might feel the "two plus two" process the Commissioners were considering was confusing and complicated and resulted in conflict of interest. He was concerned that if the HRB got to sit with the staff and could speak freely during a Planning Commission hearing neighborhood associations would want the same right. Monahan observed the HRB was a Council-appointed advisory body that had to be accountable to the Council. Neighborhood associations were not. He advised Commissioners who had sat in on an HRB meeting to declare ex parte contact, explain why, and keep the other Commissioners informed so they all had the same information when they made a decision. He advised that the two Planning Commissioners could not vote at the HRB meeting. He cautioned that they could help educate the Board about the applicable criteria and process but they should not participate in HRB deliberations. Steel suggested it might be better not to lock into "two plus two," in case someone could not attend a meeting. She suggested specifying that "one or two representatives" would be present. The group looked forward to the joint meeting the following week.

ADJOURNMENT

There being no other business, Chair Martin adjourned the work session at approximately 9:30 p.m.

APPROVED:



Michael Jones, Acting Chair

9/16/2010

Date