



# CITY OF West Linn

## PLANNING COMMISSION WORK SESSION

Minutes of September 7, 2011

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

Members absent: None

Council Liaison: Teri Cummings

Task Force members present: Kevin Bryck, Chris Sherland, Commissioner Christine Steel and Vice Chair Babbitt

Task Force members absent: Thomas Bose and Jerry Offer

Staff present: John Sonnen, Planning Director; and Chris Kerr, Senior Planner

### CALL TO ORDER

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

PUBLIC COMMENTS (None)

### APPROVAL OF MINUTES

Commissioner Horsey **moved** to approve the Minutes of July 6, 2011. Commissioner Wood **seconded** the motion and it **passed** 7:0. Commissioner Steel **moved** to approve the Minutes of July 20, 2011. Commissioner Miller **seconded** the motion and it **passed** 6:0:1. Commissioner Horsey abstained. Commissioner Steel moved to approve the Minutes of August 3, 2011. Commissioner Holmes **seconded** the motion and it **passed** 5:0:2. Commissioners Wood and Horsey abstained.

WORK SESSION [Note: The Commission reorganized the agenda and held the work session last.]

### **CDC-10-02, Proposed Infill/PUD code amendments – Joint work session with Task Force**

See the September 2, 2011 staff memorandum with the Task Force draft dated 9-2-2011.

Task Force members Kevin Bryck and Chris Sherland joined the discussion. Senior Planner Chris Kerr reported the Task Force had held 21 meetings since it was formed. The group discussed the proposed amendments, which addressed Planned Unit Developments (PUDs); Environmentally Constrained Lands; and Flag Lots.

### ***Planned Unit Development***

Public perception seemed to be that the PUD code was too generous to developers and the result was increased density. The Task Force had focused on code changes that would create better outcomes. A two-track process would allow a developer to choose to use the PUD as an alternative to a standard subdivision. The PUD had to be at least three acres, offer superior and sustainable design, be compatible with the surrounding area and offer a public benefit. In return the developer was allowed more flexibility of lot sizes, lot coverage, setbacks, Floor Area Ratio (FAR) and more variety of housing types. The proposed code ensured there were transitions and buffers around the perimeter. PUDs were not permitted in historic districts.

During the discussion Kerr recalled the three-acre minimum had been arrived at as the minimum size necessary to accommodate flexed standards and a City benefit. Wood noticed the PUD code allowed a 25% reduction in lot size, but the environmental standards for constrained land allowed 20%. Steel confirmed that the Task Force had kept in mind that each set of criteria should relate well to that section's purpose statement. The Commissioners questioned the need to use the word, "voluntary" in the purpose statement. Instead they suggested it explain more clearly that a PUD was a kind of "opt in" alternative process. Kerr clarified that a PUD could include more than one zoning district but there were limits on moving density between designations. He explained a sustainable design was connected with reducing vehicle miles traveled because it was more "walkable" (e.g., close to transit and shopping). He reported the Task Force had debated whether to allow a developer to offer an off-site public benefit and then agreed to it. They listed examples of facilities and "other facilities acceptable to the City" which could be on or off site. Kerr reported the group had decided that if a PUD was not substantially completed within five years (after the extension allowed by the current code) the developer should have to submit a new application. The related public facilities had to be completed during each phase of development. Babbitt explained that addressed a problem the City had encountered in the past when a developer did not finish their development and the related required infrastructure improvements and another developer proposed to develop an adjacent site that would use those improvements. After five years the first development approval would expire and the adjacent developer could be required to make the improvements.

A PUD developer would enjoy flexibility of standards but could not reduce lot sizes at the perimeter to less than 75% the size of the exterior lots. They could propose a variety of housing types, including cottage housing, but it would have to be at the same density as the underlying zoning. Density could not be transferred between designations. Horsey asked if a PUD could be of superior design but feature run-of-the-mill materials. Kerr pointed out it had to meet each of the standards related to providing a public benefit, superior and sustainable design and compatibility. Horsey recalled that a PUD with a private drive created a feeling of density. Kerr clarified that current code limited a private drive to four houses. If there were more than four it had to be a public street. Kerr pointed out there were a lot of "parking lot" issues to be addressed in the future that were outside the current scope.

#### ENVIRONMENTALLY CONSTRAINED LANDS

Planner Kerr clarified that the Council had asked the Task Force to recommend how to regulate the developable portion of an environmentally constrained residential property. The WRA committee would consider how to treat the WRA portion of it. 50% of the density that would have been allowed if there were no Sensitive Areas on site could be transferred to the developable area. The resulting developable area had to be the at least as large as the zone's minimum allowable lot size to be developable, but then the lot sizes and setbacks could be reduced. Sensitive Area had to be placed in a conservation easement and offered to the city. The City could decide whether to take it or not.

The Commissioners asked how the Task Force had arrived at allowing up to 20% reduction in setbacks and a reduction in lot size down to 80% of the minimum lot size of the underlying zone. Kerr recalled they had reasoned that an individual 8,000 sq. ft. lot was not incompatible with an individual 10,000 sq. ft. lot (the minimum lot size in the R-10 zone). So allowing four 10,000 sq. ft. lots to each be reduced by 20% would yield one additional 8,000 sq. ft. lot on the developable portion of the site. Smaller lots could have smaller setbacks. Chair Martin questioned whether that addressed the issue that houses in a PUD were much closer together than they were in the surrounding community. He wanted to know if the Task Force had considered not allowing any density transfer. To him, compatibility with neighborhood character was more important than having one more house in the development. Kerr noted allowing density transfer from unbuildable areas was considered a matter of property rights and fairness. The proposed code would be tighter than the current code, which allowed up to 75% density transfer and placed no limit on how far a PUD developer could reduce lot size and setbacks. In addition, the City would benefit from protecting sensitive areas. Task Force members reminded the Commissioners Task Force was not allowed to consider design review. They were not trying to address compatibility in the environmental section, only what someone could do with a parcel that contained Sensitive Area. Bryck related the Task Force had talked a lot about whether to allow a fraction of a unit density transfer or require transfers to be whole units. Horsey questioned whether the City should adopt code that allowed denser development on the developable portion of a property if the owner had already been able to purchase it at a discounted price because it was considered difficult to build on. Bryck pointed out the reduction caps limited how many units could be transferred. A developer who bought an R-10 lot with sensitive area on it might be allowed to have an extra unit but not a condominium project. The Task Force had spent a lot of time applying scenarios to existing potential PUD properties. Sonnen recalled another jurisdiction that allowed density transfer from the transition area, but not from the resource area.

After the Commissioners took a short break Chair Martin related that they had talked about a potential conflict between the proposed code and the WRA code's minimum allowable development area. Kerr advised there was no conflict. WRA code addressed what happened in the resource area and allowed a single family home on a completely encumbered lot. It did not create any new lots. The proposed code addressed what could happen in the area outside the resource. Sonnen advised that under current code if the site had 10,000 sq. ft. of buildable area on a WRA constrained lot the developer could create two lots. But under the proposed

amendments if they had 10,000 sq. ft. of buildable area left they could only have one lot because the WRA was excluded.

Chair Martin and Vice Chair Babbitt questioned whether the WRA should have to be placed in a separate tract. Chair Martin observed the owners would lose part of the property they had purchased. Babbitt was concerned that the proposed code required owners to place 50% of the resource area in a separate tract. They would not be able to get some of the land back in the future if WRA regulations were changed and required a smaller setback. They would have lost that land. The staff explained owners had to conform to whatever code was in place at the time. Putting resources in a separate tract made protecting them easier to enforce. Studies showed that simply applying a conservation easement did not stop people from using the easement as part of their backyard. If the size of the tract was too small the City could decide to let the homeowners own and maintain it. Bryck advised if it were placed in a separate track and not dedicated to the City the owners could come back in the future to ask for a lot line adjustment. Babbitt recalled the City's "preferred" method was dedication. Kerr confirmed owners who wanted to subdivide and take advantage of what the proposed PUD code offered would have to agree never to develop the tract and offer it to the City.

Chair Martin asked the Task Force to make it clearer that the environmental regulations allowed a developer to choose to use an alternative site planning technique in order to take advantage of the fact there were resources on the property and to be allowed to reduce lot sizes. He asked them to consider the impact on property rights (including the right to exclude trespassers) of requiring resource land to be dedicated to the City. Horsey asked them to look at compatibility issues related to massing and scale on small lots with reduced setbacks. She supported the effort to apply limits to density transfer. Kerr clarified that the proposed density transfer amendments would apply to residential property – not commercial property.

#### FLAG LOTS

The Task Force had focused on how to address concerns related to compatibility and impact on neighbors. It proposed standards that would cap building height and limit the number of driveways. The standards would also limit balcony height and force upper stories to be set further back than the ground floor (the "wedding cake" configuration) if that would impact privacy of neighbors. The "stem" did not count towards lot size. The proposed setbacks brought a flag lot closer to the parent lot in order to maximize separation from the other neighbors. The proposed standards only applied in the lower density residential zones. Sonnen suggested the Task Force verify what minimum width access way fire standards required.

Chair Martin wanted to know if the Task Force had looked at problematic flag lots and if the proposed code would resolve the issue of putting a new two-story house in a neighborhood of single level ranch houses. Kerr advised the Task Force addressed issues raised in the complaints the staff heard related to increase in density and access and privacy issues. People did not expect to suddenly see a huge wall of a new house impacting their backyard. He advised current code would allow a 35' high home on a flag lot. The proposed limit was 28' or the

average height of the dwelling units on two abutting properties. 28' was enough to accommodate a second story. The balcony and "wedding cake" standards would not apply if there were no neighbors to be impacted. Bryck related that he had personally supported using only the "average height" standard, but found that would raise a "takings" issue. Babbitt observed the exemptions from the balcony and wedding cake standards would be available to whoever built first. But whoever subsequently built on the adjacent vacant lot would be impacted. Kerr reported that staff research identified between 25 and 40 more opportunities for flag lot developments in the City. Commissioner Holmes left the meeting at approximately 9:45 p.m.

Chair Martin observed that by looking beyond the immediately adjacent houses one might find the most frequent house size in the neighborhood, but the impact was mainly on the adjacent houses. He wanted to know how the height of a flag lot house on a slope was measured. Kerr related that the Task Force decided height on flag lots would continue to be measured the same way the code prescribed for any house. The prescribed method took slope into account. Bryck pointed out the "sloped lot issue" was one of the "Parking lot" issues. Steel questioned whether the code should limit houses on flag lots to one story. That might mean the owners of the parent lot with a one story ranch could never add a story. Kerr related he was pleased with the work the Task Force had done and believed it had paid off. Chair Martin praised the Task Force members for their dedication and the quality of their work.

#### ITEMS OF INTEREST FROM THE PLANNING COMMISSION

The Commissioners generally accepted Commissioner Horsey's offer to circulate information regarding Oregon Commons. Chair Martin announced the WRA subcommittee wanted input from people in the community who had a strong interest in the subject. He invited interested persons to contact Peter Spir to arrange an interview. Director Sonnen planned to circulate an announcement.

#### ITEMS OF INTEREST PERTAINING TO THE COMMISSION FOR CITIZEN INVOLVEMENT

The Commissioners' next meeting was to be a CCI meeting. At that meeting the Commissioners planned to find out what had gone wrong and why so many people did not feel the trails planning process worked for them. The staff reported PRAB had formed an ad hoc subcommittee composed of persons who had testified against the trails plan. The committee was to look for common ground. The staff confirmed that when they circulated the notice of the meeting they would make a special effort to invite the committee members.

The Commissioners discussed how to keep the meeting focused on constructive suggestions about how to improve the process and avoid a debate about what was wrong with the trails plan itself. They generally agreed to ask for an update on the trails planning process as long as the update was about the steps that had been taken to improve the process since the Commission hearing – not about what was changing in the trails plan. Public comments were to be about how the trails planning process could have better engaged them or to convey ideas

about how the City could accomplish better outreach and communication. The Commissioners noted this effort would help the City improve how processed future initiatives such as Highway 43 planning. Holmes recalled Barrington Heights' residents had tried to be involved in aspects such as fire safety all along, but did not feel they were taken seriously. They needed to hear that concerned parties were participating in the trails planning process now. Horsey suggested the CCI also discuss how to process testimony regarding issues that were outside the scope of the hearing, such as the fire safety issue. The staff had documented all the issues raised in testimony and at a previous Commission work session and forwarded them to the Parks and Recreation department so the Parks board could work through them. Sonnen anticipated the responses would be in the package when the trails plan came back to the Planning Commission.

#### ITEMS OF INTEREST FROM STAFF

The staff had heard the County was interested in acquiring the Blue Heron property in order to have its river discharge permit. Commissioner Wood suggested the City consider acquiring the property because a discharge permit was generally hard to get. Planner Kerr reported half a dozen West Linn residents had attended the preapplication conference related to expansion of the LO/Tigard Water Partnership project's water plant facility. He anticipated there would be another preapplication conference related to the pipeline. Chair Martin suggested individual Commissioners try to attend meetings about siting the police station and aquatic center instead of asking those involved to come to a Commission meeting to report. Commissioners Horsey and Steel wanted to know if they could attend the neighborhood meeting at which the water partnership project was discussed. Sonnen recalled the legal advice that had been given to the Council about ex parte contacts. If the Commissioners attended a meeting before any application was submitted it was not considered "ex parte contact." But they should not say or do anything that could be construed as bias. That would make the process subject to appeal to LUBA. If they used any of the information they learned at the meeting to make a decision they should disclose that at the hearing.

#### ADJOURNMENT

There being no other business, Chair Martin adjourned the Planning Commission meeting at approximately 9:55 p.m.

APPROVED:

  
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Robert Martin, Chair

19 Oct 2011  
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Date