



PLANNING COMMISSION

WORK SESSION

Minutes of December 19, 2012

Members present: Chair Michael Babbitt , Vice Chair Gail Holmes, Russell Axelrod, Thomas Frank, Robert Martin, Holly Miller and Christine Steel

Members absent: None

Council Liaison:

Staff present: John Sonnen, Planning Director; Sara Javoronok, Associate Planner; and Megan Thornton, Assistant City Attorney

CALL TO ORDER

Chair Babbitt called the meeting to order in the Council Chambers of City Hall at 6:30 p.m.

PUBLIC COMMENT

Mindi McGill, 3020 Remington Dr., advocated requiring noise and lights from existing sport courts to be off by 7 p.m. She advocated a new permitting process for new sport courts that would require Commission review and the agreement of all the neighbors.

Bruce Swanson, 2071 Fields Dr., commented on the proposed regulations. He advised that requiring nets on top of fences would not solve the problem of projectiles and noise. He urged controlling the location/orientation of the equipment.

Mary Swanson, 2071 Fields Dr., advised that the criminal mischief law in Oregon required proof of intent. That was hard to prove in the situation of ball playing. She would have a local code base it on evidence of the number of balls within a particular time. She advised that the issue was not just related to balls that went over the fence, but the sound of balls hitting the pavement and the fence. She supported requiring a noise control plan for sport courts. She supported setback and orientation standards for tennis and all types of courts. She corrected the record to clarify that she had experienced sport court activity next door going on as late as 3:00 a.m. and as early as 6:00 a.m.

19:40

REVIEW AND REFINEMENT OF UNRELATED SUBSTANTIVE CODE AMENDMENTS

The December 13, 2012 staff report contained some proposed CDC amendments. Some of them related to sport courts and outdoor lighting. The report also contained draft Municipal Code amendments related to nuisances, including lighting, projectiles and noise, which the City Attorney had already presented to the City Council.

Discussion of the Draft Municipal Code Ordinance

Mr. Sonnen reported the Council had received the Commission's letter regarding outdoor recreational facilities and considered the draft nuisance ordinance. The Council decided to move forward with the noise and lighting-related provisions but not regulations dealing with projectiles.

Ms. Thornton discussed the draft nuisance ordinance. The proposed 'Trespass by light' provision would be easy to objectively determine and enforce. That appealed to the police. If the light could be seen from the neighbor's property line and the bulb could be seen from six feet above that point it was a light trespass violation. Mr. Sonnen advised that some jurisdictions measured light in foot-candles a few feet above the property line.

The Commissioners questioned setting the noise and lighting cutoff time at 10 p.m. and not earlier. They were concerned about reflected light. They suggested a dual approach to light complaints. If police were called they could do the simple test first. If there was an issue of reflected light they would have an expert measure it. If the complaining resident felt strongly enough that there was a problem they could pay a minimal fee for the expert's report.

Staff compared the draft CDC amendments with the draft nuisance ordinance. Under the ordinance there might still be reflected light that reached the neighbor's property that could be on until 10 p.m. The CDC amendments regulated the bulb and fixture. They called for all outdoor lights exceeding lumens equivalent to a 75 watt bulb that were elevated more than six feet to be fully shielded so there was no offsite illumination. However, they would not apply to existing nonconforming uses like the light that bothered the McGills.

Ms. Thornton advised that 'Trespass by object' was very difficult to regulate via a nuisance ordinance and it would be hard to focus it on a particular behavior without unintentionally getting into many other behaviors. It would be difficult to enforce. It might be used by neighbors who were antagonistic toward each other for other reasons.

The Commissioners suggested some changes to the 'trespass' language. They indicated that this was about repeated noise and repeatedly sending things over the property line that was bothersome to neighbors. As to the question about ease of enforcement, they noted the police made judgment calls every day. They suggested explaining this was primarily geared toward sports courts in the introductory language. They were concerned that the type of mediation that was called for before a citation could be issued could be misconstrued. Ms. Thornton assured them the police directed people to mediation in other situations. If they refused to go a citation would be issued. That was an incentive for both the complainant and the violator.

Ms. Thornton discussed the Sound Level and Noise portion of the draft ordinance. She outlined what it was meant to do and the difference between general and *per se* noise provisions. She had crafted criteria the police could use to determine whether a noise was reasonable or not. Commissioner Steel suggested adding a word to ensure the noise provisions would address pet owners who allowed their dogs to howl: 'No person shall allow, make, continue or assist in making' [the listed types of noises].

The Commissioners inquired whether they would have staff assistance when they worked on the sport court related CDC amendments. Mr. Sonnen explained that, based on the Council's direction, City Manager had directed staff not to continue working on the sport courts related amendments. Commissioner Frank related that he would support allowing the Commission to work on the CDC amendments when the Council set the docket for next year. Commissioner Martin suggested looking at making the ordinance as effective as possible and then considering whether to move forward with CDC amendments. Chair Babbitt planned to ask the Council to allow the Commission to comment on the revised nuisance ordinance prior to the Council hearing.

1:40

Related Proposed Amendments to Chapter 44, Fences (pages 10 and 12)

Mr. Sonnen clarified that these included some sport-court related changes that would allow taller fences and impose landscape screening.

Design Review Submittal Requirements (pages 13-21)

Ms. Javoronok highlighted changes that would cause an applicant to look at the Tree Technical Manual earlier in the process, and convert an existing comment about complementary material and colors to a standard.

Related Proposed Amendment to Chapter 99 (99.038 NEIGHBORHOOD CONTACT REQUIRED FOR CERTAIN APPLICATIONS)

The Commissioners discussed the proposed ten-lot threshold to a required subdivision developer/neighborhood meeting. Some favored making it fewer lots, reasoning that even a smaller subdivision could impact a neighborhood; the more communication there was, the better; and the PUD threshold was smaller. Mr. Sonnen noted that a PUD often involved sensitive lands and therefore could be of greater concern. Commissioners inquired how lowering the threshold would affect a developer and if a neighborhood could 'hold the developer hostage' by not scheduling a meeting. Staff explained ten lots was consistent with existing Chapter 55 provisions and a developer who was not required to hold a meeting was still required to meet the neighborhood notification requirement. The meeting requirement could add time to the process, but if the association did not meet very often or declined to schedule a meeting the applicant could hold their own meeting and submit that record. The majority of Commissioners then suggested making the threshold four lots to be consistent with existing development code. Commissioner Steel preferred to make it six lots so it was a higher threshold than applied to a PUD.

Residences in Commercial Districts (page 22)

Staff explained these amendments would expand the ability to have residential use in the GC and NC districts. The commission supported the draft proposal.

35.040/35.050 TEMPORARY USE (page 24)

These amendments would allow administrative approval of temporary permits for things like construction trailers. The Council had questioned why it had to deal with frequent temporary permit requests. It had asked that longer term temporary uses be screened.

The Commissioners suggested requiring portable toilets to be moved after a certain amount of time so the neighbor would not have to look at it any longer; adding language to ensure the uses conformed to environmental protection regulations; and requiring drop boxes to be earth tones. They suggested an option that would allow construction trailer and staging area permits for the duration of an active construction project. They favored including in the public review draft the option of exempting construction trailers on the site approved for development, but requiring a permit for offsite trailers and staging areas.

The Commissioners considered what the threshold should be for the various levels of approval authority. The Planning Director or the Commission could currently approve them for up to six months. The Council could approve permits between six months and a year. The Commissioners suggested drafting an option to raise the Planning Director threshold to a year and allowing the Commission and Council to approve temporary uses for up to the maximum duration allowed. That could avoid unnecessary hearings and save the staff and the applicant time and money. Another option would be to have the Commission review the initial permit application and then allow the administrator to approve renewals. .

Stormwater Control on Single Family and Duplex Lots (page 26)

Mr. Sonnen advised the proposed amendments would reconcile the CDC with current city stormwater regulations. It would mean, for example, that a single-family lot that developed more than 500 square feet of new impervious surface would have to have a rain garden.

ITEMS OF INTEREST FROM THE PLANNING COMMISSION

Commissioner Frank related that he had enjoyed serving on the Commission. The other Commissioners thanked him for his service. The Commissioners offered feedback on the electronic tablets they had been asked to try. Mr. Sonnen announced the water treatment plant appeal hearing would start on January 14, 2013.

ITEMS OF INTEREST FROM THE COMMISSION ON CITIZEN INVOLVEMENT

The Commissioners planned a refresher on the administrative rules for including outreach planning in planning projects. The talked about communicating with homeowners associations.

ITEMS OF INTEREST FROM STAFF

None.

ADJOURNMENT

There being no other business, Chair Babbitt adjourned the meeting at 8:55 p.m.

APPROVED:



Michael Babbitt, Chair

2-6-17.

Date