



CITY OF
West Linn

PLANNING COMMISSION

SPECIAL MEETING

Minutes of September 4, 2013

Members present: Chair Michael Babbitt, Vice Chair Christine Steel, Russell Axelrod, Lorie Griffith, Nancy King, Robert Martin, Holly Miller

Members absent: None

Staff present: John Sonnen, Planning Director; Chris Kerr, Economic Development Director; Zach Pelz, Associate Planner; and Megan Thornton, Assistant City Attorney

PREMEETING WORK SESSION

Chair Babbitt called the work session to order. Mr. Sonnen and the Commissioners discussed emails and an upcoming planning commissioners training session. Mr. Pelz pointed out recent written testimony that had been received. He confirmed the City had notified DLCD as it was legally required to. Staff clarified that the Savannah Oaks, Marylhurst, and Robinwood Neighborhood Associations had submitted resolutions opposing proposed changes. None had submitted information indicating they were in favor of it. The group of neighborhood association presidents had not submitted testimony, but Mr. Sonnen understood they had indicated their opposition to the proposal at a recent meeting. Commissioners asked what the process would be if the Commissioners were not ready to forward a recommendation. Mr. Sonnen advised that after 60 days the City Council could move forward with its hearing. Commissioners and staff discussed the format of the document to be forwarded to the City Council (how it distinguished between changes initiated by staff and changes initiated by the Commission; and how it showed language that had been dropped). Staff confirmed they were prepared to talk about ORS 197.319 at the hearing if asked. The work session was adjourned at 7:00 p.m.

CALL TO ORDER

Chair Babbitt called the meeting to order in the Council Chambers of City Hall at 7:04 p.m.

PUBLIC COMMENT

Alice Richmond, 3939 Parker Rd., announced the upcoming September 11 ceremony at Willamette Park and the Oktoberfest on September 27/28.

Roberta Schwarz, 2206 Tannler Dr., announced a September 14 fundraiser for the White Oaks Savannah.

Gary Hitesman, 2188 Clubhouse Dr., advised the City and everyone to plan to be ready for a natural disaster.

APPROVAL OF MINUTES

Vice Chair Steel **moved** to approve the Minutes of July 3, 2013. Commissioner Martin **seconded** the motion and it **passed** 5:0:2. Commissioners Miller and Axelrod abstained.

PUBLIC HEARING

Amendments to chapters 2, 8, 9, 10, 11, 12, 13, 14, 15, 16, 18, 19, 21, 22, 23, 27, 28, 31, 32, 33, 46, 52, 55, 56, 60, 65, 75, 85 and 99 of the Community Development Code and various sections of the Comprehensive Plan for the purpose of eliminating ineffectual and inefficient regulations to encourage positive economic development.

Chair Babbitt opened the public hearing. He outlined the applicable criteria and procedure. He asked the Commissioners to declare any potential or actual conflicts of interest. None were declared. No one present challenged any Commission member's ability to participate in the decision. Chair Babbitt related that the Commissioners had considered the public comments that had been received at work sessions after the initial hearing. The current draft [dated August 23, 2013 for the September 4, 2013 hearing] reflected that. He noted the Commission had decided to re-notice to show the correct chapters and to hold this new hearing.

Staff Report

Mr. Kerr talked about the yellow-highlighted, strike-out/underline format. It incorporated changes made by the Commissioners during their work sessions. The highlighted boxes showed the staff recommendations. He reported that the most significant recent change was that staff now proposed and had completely removed provisions which would have allowed additional floors in some multifamily and commercial areas and which would have expanded allowable lot coverage in commercial areas.

Chapter 75 Variances and Special Waivers, Class II Variance Approval Criteria

- b. **The variance will not result in violation(s) of any other code standard or conflict with the goals and policies of the West Linn Comprehensive Plan, and the variance will meet the purposes of the regulation being modified.**

Ms. Thornton explained this part of the document did not include the staff's alternative recommendation, which did not include the words, 'or conflict with the goals and policies of the West Linn Comprehensive Plan.'

Goals, Policies and Recommended Action Measures, Recommended Action Measures

- ~~14. Explore the availability of high-speed data connections for voice and data transmission to all homes.~~

Commissioner Martin indicated he thought the Commissioners had agreed not to strike the above RAM. Vice Chair Steel, Commissioner Axelrod and Chair Babbitt recalled they thought it was captured in another RAM; they had observed it was somewhat dated and there were other elements and services they wanted to support so it would be better to be less specific; and in general, they wanted to be more generic and there were other RAMs that covered this.

Commissioner Axelrod explained that the currently proposed draft amendments document was not necessarily the language the Commissioners agreed to. They viewed it as a working draft.

Commissioner Martin advised the public that there was no need to comment on the 'chicken code' under CDC 08.050. Staff had only removed part of it, but the Commissioners had decided to remove all of it because there was a Municipal Code ordinance which prohibited poultry and livestock.

Commissioner Axelrod wanted staff to explain which roadways were referred to when the draft said, 'street sizes greater than 18,000 per day.' Mr. Kerr recalled the Commissioners had discussed how to identify extremely high use roadways in terms of traffic volume. This referred to Highway 43, which was typically 19,000 to 20,000 trips per day. None of the other roads had volume that high.

25:11

Public Testimony

Proponents

None.

Opponents

*Written testimony submitted during this part of the public hearing can be found in the September 6, 2013 package of public testimony regarding CDC-13-01 received at the September 4, 2013 hearing, entitled, "Testimony in Opposition to 'Cutting Red Tape' amendments to the CDC and Comprehensive Plan for the City of West Linn."

Scott Gerber, 3940 Kenthorpe, indicated he viewed the whole 'cut the red tape' effort as an indicator that something was not right in the City. It was not the right program for economic development or what needed to be done to help the businesses of West Linn. He did not think most of the citizens wanted to see huge economic development in the sense of bigger buildings or easier ways for developers to get around the rules. He indicated the citizens of West Linn did not want to see what they saw along Highway 99 going through Milwaukie. He had been glad to hear Commissioner Axelrod say this was not the Planning Commission's final decision on this. The Commissioners had offered a lot of good input. His recommendation was for the Commission to send it back with a great big 'X' on it and recommend starting over. This was not the right direction for the City.

Beverly Burke, 19110 Suncrest Ave., explained she was there to clarify the recommendation from the Marylhurst Neighborhood Association. She explained that some of the original wording had been changed in the version that had been sent to the Planning Commission. The Association had approved its recommendation unanimously on August 17. She submitted a copy of the original recommendation.* She testified that, in general, the Association was not supportive of the proposed amendments document for many of the same reasons Mr. Gerber had related. She indicated she was shocked to think she was being asked to accept some very vague statements that would affect her residence. She asked that Definitions be placed at the beginning of the document. She asked to have the minutes of Planning Commission meetings available at least a week before the next meeting. Mr. Sonnen related the videos of the meetings were posted online. The written minutes were posted online after they were approved. Commissioner Martin explained the minutes were not available yet because the Commissioners had been meeting once a week because there was so much pressure to get the document to the City Council. Vice Chair Steel pointed out that Definitions had been moved to Chapter 2.

Questions

The Commissioners inquired whether the one page summary of the Marylhurst meeting of August 27 signed by MNA President Jeff Treece on 8/30/13 that was in the hearing package was valid (see the September 4, 2013 package of public testimony, "CDC-13-01 – Email testimony regarding proposed 'Cut the Red Tape' amendments to the West Linn Community Development Code .") Ms. Burke clarified she had not seen it so she could not compare the documents. She had been informed it was a 'secondary document.' She recapped that the neighborhood association had met to discuss the proposal. They had worked on it that night to some degree. Then two women had been tasked with cleaning it up and providing it to the Association president. The women had informed Ms. Burke last week that they understood the president had modified the original document. They had asked her to attend this hearing and provide the original document. Ms. Burke clarified that the secondary document had not been presented to the rest of the neighborhood association.

Brenda Perry, 2286 Haskins Rd., pointed out she had submitted an email* with questions that Mr. Kerr had not been able to answer at a meeting she had attended. She listed concerns and questions related to the following aspects:

- Survey. How many and which businesses had been surveyed and what were the questions?
- Shared parking. The proposed changes raised questions about what happened if one of the business left and the premises could not be leased to a business that had the same suitable hours. There needed to be enough parking for whatever business was there.
- Retail space. How much existing retail space was vacant; how long had it been vacant; and why would the City want to build more if it could not rent what it already had?
- Business opportunities. What business opportunities had been lost because of so-called 'red tape'? It seemed businesses still came to West Linn. What was the City looking for?

- Type of businesses. What specific types of businesses did the City want to bring in? Was it light industry, commercial, retail? They should be the types of businesses that fit the community.
- Areas of benefit. What areas would benefit from the changes? Was it just the Arch Bridge area? A lot of Highway 43 was already built out. Where would the potential development the City wanted to accommodate be that meant the City had to rush to make all the changes?
- Fiscal responsibility. It did not make sense for the City to be talking about fiscal responsibility while they were talking about a large aquatic center that they knew would run at a loss.
- Type of employment. What type of employment did the City want to increase? Was it going to be minimum wage retail, skilled labor, or what type? Most people commuted.
- Infrastructure. The city could not do a lot of business development without improving the roads and they needed to look at the infrastructure necessary to support the changes.
- Planning Director authority. Ms. Perry did not support giving the director the authority to decide what happened on quite large amounts of land without going through the Planning Commission and neighborhood associations.

Ms. Perry testified that what was proposed what not what they wanted for West Linn. She suggested if this had a lot of problems the City should throw it out and start again. She agreed to submit her list of questions as additional written testimony.

43:30

Ed Schwarz, 2206 Tannler Dr., President of the Savanna Oaks Neighborhood Association, read aloud written testimony from Dr. Mark Gilbert, 2594 Bronco Ct.* Dr. Gilbert wrote that he was concerned that the proposed changes would undermine the qualities he had moved to West Linn for, lower real property values, and potentially threaten health. He cited a study done for the City of Portland Bureau of Planning and Sustainability called the "SE 122nd Avenue Study." It was a health impact assessment of the built environment of the SE Powellhurst-Gilbert neighborhood. It was a blueprint for developing a livable, sustainable and healthy community. Study conclusions relevant to the West Linn effort addressed:

1. The importance of streetscape with trees and green medians with plantings.
2. Parks and open spaces that provided active recreation opportunities for health and provided a quality appearance for residential and commercial development.
3. Douglas fir trees were a character defining asset. They were often lost in the development process. The recommendation was a tree policy to help preserve more trees in development.
4. A key finding was to include the community and its organizations in all aspects of development and planning.

Dr. Gilbert recommended the Commission vote 'no' on the proposed amendments and recommend further study and the participation of grass roots organizations. Mr. Schwarz pointed out Dr. Gilbert had followed up with an email with a link to the study:

<http://www.portlandoregon.gov/bps/55598?a=263935>. Mr. Schwarz recalled that Dr. Gilbert had advised the Savannah Oaks Neighborhood Association that he was aware of about a dozen

doctors who had moved to West Linn for the livability. Several of them were concerned about the proposed amendments.

Mr. Schwarz reminded the Commissioners that the Savannah Oaks Neighborhood Association had presented three resolutions at the last hearing. The Resolution dated August 6, 2013 listed eight things they wanted to be removed from the draft before it was forwarded to the City Council. Another resolution addressed Municipal Code 2.085S2, which required the Economic Development Committee to work in close partnership with the West Linn Chamber of Commerce; neighborhood associations; and the general public. As far as his Association could tell they might have only involved the Chamber. The neighborhood associations had not been engaged up front. They had been chasing this ever since they learned about it before the previous meeting. Mr. Schwarz indicated he was not so sure how involved the general public had been. Commissioner Miller asked what the City of Portland had decided to do with the study Dr. Gilbert referred to. Mr. Schwarz indicated he did not know.

Roberta Schwarz, 2206 Tannler Dr., submitted written testimony as well as a copy of "Demographic data and urban tree canopy" from Appendix F of Metro's Nature and Neighborhoods code (2007).* She read her written testimony aloud. In it she asked the Commission to reject the amendments the neighborhood associations and citizens had brought to their attention. She argued those items were not about cutting red tape, but about making the City bend to the will of the developers. It would fundamentally reduce the quality of life the citizens had moved there to enjoy. She reported that four neighborhood associations had already passed resolutions against those amendments and more were planning to do so. She charged the amendments had been fast-tracked. She reported the majority of neighborhood association presidents had met the previous week and submitted a resolution to not go forward until the neighborhood associations and citizens could be involved in drafting of the amendments (as was required under Municipal Code 2.085). She then discussed the information in the table in Appendix F, which showed the amount of urban forest cover protected by each Metro jurisdiction. West Linn had one of the highest percentages of mostly and partially protected tree canopy in the metropolitan area. That was because its code was clear and effective. The tree canopy was one of the biggest reasons people wanted to live in West Linn. Tree canopy was about more than just aesthetics. It was also about other services trees performed related to addressing ozone, water purification, flood control, and climate regulation. She advised protecting natural resources made good financial sense and helped retain the City's value. She cited a 2005 United Nations' Millennium Ecosystem Assessment, which warned that many of those services were being undercut by ill-advised development. She asked the Commission not to approve tree protections being diminished or any of the other amendments cited by the neighborhood associations' resolutions.

Kathleen Larson, 6126 Irving St., offered an historic perspective on planning for West Linn based on her experience as a former mayor and city councilor. She had been one of the original authors of the City's Comprehensive Plan in 1982. They had been guided by the need for citizen involvement; the desire for open space and neighborhood parks; and the desire for

trees, especially street trees. She advised the best decisions were made when all of the people were at the table. She asked the Commission not to change some of the things that were important in 1982 because they were still important today: citizen involvement; an open process for development decisions; and the importance of trees and the tree canopy. Those things made it a livable community with a heart. She related they did not want Highway 43 to become another McLoughlin Boulevard. The existing Highway 43 with pockets of development for commercial and parks and neighborhoods had not developed that way by accident. Commissioner Martin thanked her for what her work had produced.

Julia Simpson, 1671 Killarney Dr., Chair of the Willamette Neighborhood Association, testified that her association had adopted a similar resolution after they saw the Savannah Oaks Neighborhood Association's resolution. They had been shocked to see their rights as citizens were possibly being taken away. They certainly wanted to see economic development, but she was not sure some of the things proposed were going to result in saving any money or helping. In fact there might be some unintended consequences. She indicated it would be interesting to hear what the planners thought would happen after the changes were made. She talked about the proposed deletion of the standard related to tree protection which set the protected area as the dripline, plus ten feet. [See 55.100(B)(1) Tree protection, page 49.] She recalled when they worked on the tree protection code ten years ago they had gathered a huge amount of information. There was a reason for setting the protected area. It was very important during construction because a tree could be destroyed by equipment going over its roots.

Robert Jester, 3475 Riverknoll Way, testified that seven neighborhood association presidents had met and passed a resolution that asked for the Commission to hold a meeting with the neighborhood association presidents prior to considering the proposed changes. The vote had been six in favor, with one abstention. He said he did not know who in the City had received it or what the response to it was. He said the issue they had talked about related to the spirit of the document. He indicated he found it stunningly arrogant to eliminate the role of the neighborhood associations. He pointed out 2003 City Council Goals was proposed to be eliminated (page 3). Goals 1, 2 and 3 called for the City to 'Maintain and protect West Linn's quality of life and livability'; 'Actively support and encourage West Linn's neighborhood associations and promote citizen involvement...'; and, 'Maintain and strengthen trust and credibility in city government.' That meant that all references to requiring or even desiring the input of neighborhood associations in the process of economic development would be eliminated. The established process of neighborhoods coming together and meeting in a formalized way and then forwarding that information to city government would be gone. He noted Goal 9: Economic Development Policies (page 6) talked about reaching out to organizations such as TriMet, but did not mention neighborhood associations. The proposed changes did not reach out to neighborhood association presidents in any formal way. They had been presented with the proposed changes instead of being asked to contribute during the process. Mr. Jester indicated he thought the vast majority of residents in West Linn actually favored economic development because it strengthened the City's tax base. He said neighborhood associations and their presidents were fairly savvy when it came to issues like

that. He thanked the Commissioners for their service. He said it would be nice if neighborhood associations and their presidents had also received some appreciation by the group that put the document together.

Questions

Commissioner Miller acknowledged that the format of the document was very confusing because of all the revisions. She pointed out the Planning Commission proposed to insert Citizen Vision Goals (page 2). Mr. Jester noted Goal 2 just said 'Support the City's neighborhood associations.' The words 'actively' and 'encourage' were gone. The tenor of the document had definitely been changed as if reaching out would be some sort of obstruction to economic development. He did not think that was the case.

Lamont King, 4257 Kenthorpe Way, commented that they might be better off to strike the entire document and start over again. He contended that staff had used a shotgun approach and hit and missed pretty badly; and that the document was 50% in error or controversial, or just not well thought out. He indicated he was concerned about the process. He understood that City Manager Chris Jordan had given the Commissioners a pep talk before a Planning Commission meeting. He recalled Vice Chair Steel had related that Councilor Mike Jones had talked to them at one of the meetings and said if they got through 50% of it they were good to go. He cautioned that the push by the City to get this passed raised a red flag. He asked why they were in such a hurry. He suggested that the staff wanted to strike 'actively support and encourage West Linn's neighborhood associations and promote citizen involvement' in order to sidestep neighborhood associations. He saw that the Commissioners were trying to modify it, but one of the arguments he had heard was that if there were only 20 to 30 persons at a neighborhood meeting that was not representative of a neighborhood. He had gone door to door in his own neighborhood. He explained that he understood that there was a lot of busy people and there was apathy. But generally, the people who participated in neighborhood associations were probably the best informed in the City; cared about what was going on; and spent an enormous amount of time to try to work with the City to make things better. To ignore them, as staff seemed to be doing, was an insult to the people of West Linn.

Mr. King then discussed the proposed striking of the criterion 'overall benefit to the community.' He suggested the intent might relate to the Lake Oswego-Tigard Water Partnership application, where the applicant could not prove overall benefit to the community. He was concerned that what was proposed would leave them open to having additional industrial plants being put into neighborhoods. He recalled City staff fully endorsed that for some reason. He held that if it did not benefit the neighborhood maybe they ought to take a second look at it and at least hear the different arguments and view this like the Planning Commission did during that hearing.

Questions

Commissioner Martin clarified that City Manager Jordan had not offered a 'pep talk' prior to a meeting. He had come to ask the Commissioners for their help in ensuring that when people testified they respected staff as professionals and treated them with respect. Commissioner Martin said he thought that was a very legitimate request for Mr. Jordan to make. They had been lax and a little tolerant of people talking somewhat abusively to the staff. It had become a trend. The Commissioners realized how emotional it was for people to testify and they had given them a chance to vent. Sometimes that had been to the detriment of the staff. Mr. Jordan was asking them to please not do that and to establish and maintain a certain decorum. That was all. That was what the meeting had been about. Mr. King said he appreciated that. They had not been allowed in the meeting, so they had to do some conjecture regarding what was going on. He knew staff had an interest in the outcome.

Vice Chair Steel clarified that when Councilor Jones said, 'We do want to move this along, and if you only give us a percentage of it, that's fine' she had interpreted that to mean that that if some of the amendments were just thrown out then that was fine. She noted that was what had actually happened. She acknowledged it was hard to see from the current document format what had been simply taken off the table. One of the things she wanted to discuss as they moved forward was having some kind of addendum or appendix or something that showed the things that had been deleted wholesale from the document. One of the examples that Mr. Kerr had mentioned was the removal of amendments related to having six stories in general commercial. She recalled the Planning Commission had addressed the whole change related to neighborhood involvement by just recommending not even going there and not making any changes. Mr. King clarified that he was not talking about Mr. Kerr personally. He was referring to the product that he produced.

Alice Richmond, 3939 Parker Rd., held the City was supposed to work for its resident taxpayers. She indicated she trusted that the majority of Commissioners would listen to the people and advise the City Council accordingly. She advised them to look at what was good for West Linn, not other cities. She mentioned considering the topography and the financial burden of a new aquatic center and police station.

Gary Hitesman, 2188 Clubhouse Dr., explained he had come to mourn the death of community involvement; public participation in land use; and healthy and sustainable small business in West Linn.

Sandy Greenwald, 3680 SW Fir Grove Rd., asked the Commission to consider that at the national and state levels and as a society they were struggling to find the proper balance between economic development and corporate power and the rights of citizens. That extended to their rights to privacy, and bailing out banks versus people who were underwater in their mortgages. She saw the same parallel in this document: balance between cutting some red tape (which was certainly a good goal) and rolling the red carpet out to development at the expense of the citizens. She asked the Commission to protect the quality of life of the residents

as the number one goal. She questioned that the current rules had discouraged development. She said they had certainly done a good job of protecting the quality of life of the residents.

1:28

Questions of Staff

Commissioner Martin recalled he had asked staff to separate things that were going to create economic development from things that had nothing to do with economic development. He recalled that staff had based some things on claims of efficiency in internal processes that would save the City money. He noted those were loosely coupled goals. After Mr. Kerr confirmed for Commissioner Martin that when the Planning Director made a decision staff still had to do noticing and produce findings Commissioner Martin questioned how the change could result in savings to the City. Mr. Kerr talked about preparing for and staffing Commission meetings in terms of real and opportunity costs to the City and the applicant. The additional costs related to things such as the fact the Commission usually met at night; that the Commission often met more than once to decide an application and staff prepared for each of the additional meetings; the applicants were paying their attorneys and traffic consultants to prepare and be present at the meetings and they were charged for staff time. He noted most applicants were property owners in the city. The cost to the public was they came to the meetings when a non-discretionary decision was to be made thinking they could make a real difference when the City could not legally deny the project. He noted staff and the Planning Commission could be working on other things. The Commission could be working on things on their agenda that would make a real difference instead of spending time on non-discretionary decisions. He questioned that the current process was making the best and most efficient use of city time and tax dollars for a decision that was non-discretionary.

During the discussion Mr. Kerr clarified that some staff got paid over time for being at evening meetings and some did not. It took a long time for everyone to prep for the meetings. Commissioner Martin recalled the Commission often modified the conditions of design review approval that staff proposed and they had found things staff had overlooked. He held there was a value to having seven pairs of eyes on the quality of work that came from staff. Mr. Kerr agreed. He clarified his proposal would still let the Planning Commission review all of the applications; see all of the testimony that came in; make all the comments they wanted to make; point out mistakes when they found them; and even recommend conditions of approval to the Planning Director. Commissioner Martin questioned how the cost would be reduced if staff still did that work. Mr. Kerr clarified the Commission would be provided with the same information that was going to be in the record and reviewed. It would just not be a glossy presentation in front of an audience. The process he had described was not in the code, but he would write it in the code if the Commission recommended that. He recalled staff and the Commissioners had discussed how it would work at a work session. Commissioner Martin said he was still not convinced that anyone had demonstrated (and they certainly had not quantified) an economic benefit or an efficiency from moving decisions to the Planning Director. He anticipated that the consequence of the new code would be that the process

would actually be less efficient and could put the City in danger of not meeting the 120-day rule.

Mr. Kerr advised that even today the Planning Commission could call up a Planning Director decision if at least two Commissioners wanted that. The draft proposal would make it three and staff recommended requiring a majority. The code also allowed the Planning Director to forward something he would otherwise review to the Planning Commission. Commissioner Martin noted when there was a more controversial design review decision to be made having a Planning Director review, a Planning Commission review and a City Council hearing would be more work and less efficient than it was when it just came to the Planning Commission (and could be appealed to City Council). Mr. Kerr agreed it would be if the Commission called up the Planning Director decision. Commissioner Martin suggested they could count on those being called up if they were that controversial. Chair Babbitt commented that he did not pay as close attention to the notices of preapplication conferences or announcements that the Planning Director had made a decision if they were not about something the Commission was actually going to hear. The Commissioners could be missing information and possible Planning Commission decisions. He indicated that the argument that the Planning Commission could be working on other things did not seem valid because the Commission had not been able to take up certain projects because they did not control staffing resources.

Commissioner Martin was concerned that when a Planning Director decision was appealed to the City Council people might not be able to offer additional testimony because the City Council would hold an on-the-record hearing. Ms. Thornton advised that a record was created when the Planning Director decided. That record would go to the City Council. The City Council could re-open the record if they thought facts were missing they needed. It would usually be the applicant who appealed. In their notice of appeal they would have to state the exact grounds they based their appeal on.

Mr. Sonnen explained the process of making a Planning Director decision today. When the application came in it was circulated with the notice. People could offer their comments. He reviewed those comments along with the staff report before he made a decision. The decision was distributed to the public. That was the first time they saw the full analysis and the proposed conditions of approval or the basis for denial. At that time they could appeal it. The record would not contain any public testimony as it was currently structured. The Commission recessed for five minutes and thereafter reconvened.

1:55 to 2:05

Questions of Staff (continued)

Commissioner Axelrod indicated he respected the work of staff but he was frustrated with and embarrassed by the document that was before them under the premise of economic development. He recalled that the Commissioners had asked Mr. Kerr to parse out what were really critical elements of economic development and come back with a revised document. He noted that some things had been removed and some adjustments had been made, but by and

large what he saw in the document now was it was loaded with items that he did not see as vital to economic interests. The public testimony raised more questions about the motivation for the revisions. He acknowledged that he had missed a work session.

Commissioner Axelrod related that he had looked at the April 9 survey results to see if they offered a compelling reason for the proposed changes. He noted 59 people (compared to a population of over 25,000) had been surveyed. 28 of 59 had no direct experience with West Linn. That meant 31 of them had experience with West Linn. He summarized what they said:

Issues: Parking. Less paperwork. The will and the voice of the West Linn people are disregarded and we have too many police. Good experience, the only exception was signage. Protect the residential area business from trespass of noise and light. Rezone to smaller lots and get rid of self-serving sector. No problems, no issues, no complaints. Make rules business friendly. Extend open time for planning staff to 8 or 9 at night. West Linn should use local businesses, put its money where its mouth is. Make the application process easier for home businesses, especially regarding signs and parking. Scale the review process to reflect the scale of the proposal. How much easier could it be? Be flexible regarding requirements and needs that are business specific. Upgrade the website. Reduce regs, permits and licenses. Increase thresholds for permits. Combine permits. Shorten the turnaround time for permits. Inspection should be more reasonable than rigid.

Commissioner Axelrod noted there were some issues to address and there were always some efficiencies to be made, but he did not see a compelling reason or directive from the survey that supported the proposed, major, code revisions. He noted that not one business had come forward to testify to the need for code revisions. He said he was struggling with trying to reconcile how it was they were looking at the code revisions under the premise of the survey. It seemed inconsistent to him. He asked Mr. Kerr to comment on aspects of the survey that might shed a different light on it.

Mr. Kerr explained the survey Commissioner Axelrod talked about was not the impetus for the proposal. The survey was just one of the outreach methods they had used after the decision had been made to work on the project. It also involved one-on-one discussions with businesses, the school district, planners and others, and people who actually did work in the City about what worked and did not work in West Linn and other places and about what was effective or not. It involved meetings with the EDC, the Main Street group, Clackamas County Economic Development; the West Linn Chamber of Commerce and other groups. In those discussions he had picked up things to be addressed that hindered development and redevelopment in the community that ranged from minor changes, such as the A-frame sign issue, to things such as an on-going issue related to joint parking. The survey he had talked about was not the survey Commissioner Axelrod had read from. It was the survey he had discussed in a PowerPoint presentation that was about the broad surveys and the City Council priorities that had changed over the past four or five years, making economic and business

development in the City more important. The elected City Council had established economic development priorities and this was a small part of the related strategy. That was where the project started.

Commissioner Axelrod indicated he did not see the strategy for economic development reflected in the current proposal. He advocated having a master planning process to determine how it would be integrated into West Linn. He could not really understand or support this approach. He thought it focused on the Arch Bridge area to the detriment of other areas, such as Highway 43 and small neighborhoods. He thought they needed a comprehensive strategy that supported planning for economic development with analyses. This was nitpicking on some process elements and eliminating people's involvement in a lot of that process.

Mr. Kerr clarified the current proposal was one of four components of the City Council-to develop an overall economic development strategy. This piece dealt with regulatory barriers and ways to incentivize redevelopment to keep their commercial areas from turning into Gladstone. They were not intended to be colossal, wholesale, changes, but important, incremental changes that could be done immediately in the commercial areas. Generally speaking these were applicable to all of the City's commercial and multifamily areas. The master plan and the things being done related to the Arch Bridge would benefit from some of this. But it was not designed to make the Arch Bridge the recipient and not focus on all the rest. They just could not focus on all of them at the same time. The clear desire that came out of all the work and surveys and inputs was to make the Arch Bridge the first focus of real economic development.

Commissioner Axelrod asked how changes like reducing the number of Commissioners/City Councilors who could order a review of a Planning Director decision was critical to economic development. Mr. Kerr clarified these were not just about economic development. That change was something the City's attorneys had asked for to address a clear inefficiency. They thought the Commission should have a more transparent process to overturn a lower level decision.

E. Not more than two (2) Class II variances may be approved for any one lot in a continuous 12-month period. [See 75.050 Application, page 18.]

Commissioner Axelrod asked Mr. Kerr to explain the reason for this change and if someone could continue to submit two each year for their development on one property. Mr. Kerr explained the City currently had no cap on them. This would force applicants to try to meet the code and not get half dozen variances to get what they wanted.

~~**B. Any change in the conditional use plan or conditions of approval shall require a new application and hearing pursuant to the provisions set forth in this chapter and CDC 99.120(B).**~~ [See 60.050 BUILDING PERMITS FOR AN APPROVED CONDITIONAL USE on page 29.]

Commissioner Axelrod referred to the above provision and wanted to know if the code still captured the critical changes in use they wanted to review. Mr. Kerr advised that any change to a conditional use approval required a new application. The applicant had to go through the entire conditional use review process for what could be a very minor change. In contrast, the current design review process allowed minor changes without having to go through the entire review process again. This change would mean that the process would treat changes to approved conditional uses the same way it treated every other shopping center in the City. Other Commissioners advised Commissioner Axelrod they had discussed this at a work session.

Commissioner Axelrod questioned permitting Hotel/Motel use in any commercial area. Mr. Kerr reported hearing the number one thing the community wanted was to get a hotel built. Moving Hotel/Motel use from conditional use to permitted use would hopefully make it easier and encourage hotel development.

Commissioner Axelrod related he was struggling with adding religious institutions to the permitted use list because they already had a lot of churches and the community was small and might be a little overrun with religious facilities. It might not be wise to permit them outright in all commercial areas. Perhaps they should remain conditional use so they could be evaluated for appropriate siting. Ms. Thornton explained 'religious institutions' was proposed to be added because of the change to permit 'Lodge, fraternal, community center, and civic assembly' which was a similar use. The Commission could decide to move them both out of permitted use, but not one or the other.

Commissioner Axelrod indicated he opposed the changes to zoning, including the narrowing of lots and parking on the street. That was not the kind of growth he wanted to see in West Linn. He liked the concept of mixed-use, but he did not want to see and he was not sure the people in West Linn wanted to see skinny little houses with a lot of cars on the street even if it would expand the tax base to some degree. He had looked at others' codes. The City of Portland allowed some pretty narrow lots and skinny houses, but that was not what people moved to West Linn for. Commissioner Martin and Chair Babbitt related the Commissioners had discussed the proposed removal of the lot proportion requirement at a work session. They decided to remove the requirement from the three lowest-density residential zones but leave it in R10 and higher density zones until they could see new diagrams from staff at a work session. The draft in front of them did not show that. Mr. Kerr clarified the changes that allowed people to count on-street parking in the parking requirement only applied to commercial properties – not in residential areas.

Commissioner Axelrod did not support changing the provision that protected trees in a development. He indicated he felt the current approach was well founded and protected trees while at the same time allowing a reasonable or appropriate development of property. He recalled when tree protection issues had come before the Commission they had addressed them pretty well under the existing code. In the Bland Circle case they had dealt with conserving trees in conservation areas and integrating it with the development design. He felt

the current code met or exceeded Metro Title 13, as it should. He noted the Commission had not heard the City Arborist explain why they needed to change it and the Commission had heard testimony regarding the basis for the current sound approach. Mr. Kerr advised the current code was confusing regarding things like how much pressure the arborist could apply to save trees. There was an issue that the City had been historically misinterpreting that code and requiring 20% of land area to be dedicated to the City. The County Assessor did not like to put trees in easements. The City had a tree protection code that applied to every tree in the city. What was proposed would allow the City Arborist to determine what kind of development was or was not appropriate near individual trees. It would result in a win: win situation in that it would save more trees on a site while it opened up more land on the ground to be developed in accordance with best practices and the approval of the City arborist. Commissioner Axelrod asked to see an analysis.

Commissioner King related she felt they were missing the communication of some top level goals to work with. She was not sure what each proposed code change was trying to accomplish. She wanted to know what end would be achieved. That was the disconnect for her and it might be for the citizens who came to testify. They were not sure what they were trying to accomplish. Commissioner Griffith indicated she would like to hear the overall plan for economic development, with all of its components. She noted citizens were very concerned about citizen involvement. She asked if the public would still be noticed regarding developments the Planning Director reviewed. Mr. Kerr confirmed that. Commissioner Martin also wanted to see the overall Economic Development master plan that supported the need for the changes. He asked if there was one. Mr. Kerr advised the City Council had approved an economic development plan/strategy about three years ago. He had some specific, targeted goals for his department that he would be happy to share.

Vice Chair Steel suggested creating something similar to an index to serve as a road map. It would cite the code being changed; the general subject (for example, 'fees'); provide a one-sentence rationale (for example, 'streamlines for the applicant'); and then show the page number. She related that she had talked with Ms. Schwarz at the break. Ms. Schwarz had agreed to tell the Commissioners specifically what she saw in the proposed changes that would be detrimental to the tree canopy. Commissioner Griffith said it would help if the Commissioners understood the benefit of each proposed change.

Chair Babbitt noted Mr. Kerr had been attempting to explain what the benefits were, but the hang-up was there was no research analysis. There was no analysis, for example, related to whether changing tree code protection or on-street parking would be more beneficial and promote businesses. Each of the Commissioners was disagreeing with things Mr. Kerr said. They were all asking staff to show them the research, the analysis. Mr. Kerr offered to organize the information so it showed a clear path; provide a presentation on the overall strategy; and provide more information about the more contentious changes so the Commissioners understood what they meant. He recalled they had already discussed the change to de novo hearings a lot and the report talked about it. Chair Babbitt clarified he would prefer more

information and less commentary. Commissioner Axelrod hoped Mr. Kerr would not be offended to find he had to back away from some of the things he proposed. It was a laundry list. They would not look upon him less if things disappeared for some reason. Mr. Kerr said many had been removed.

Commissioner Axelrod offered to provide printouts of the 'Vision for the Future' chapter of a book by Ed McMahon called The Secrets of Successful Communities. It listed eight things that were vital to successful communities.

1. Have a vision for the future
2. Inventory community assets
3. Build plans on the enhancement of existing assets
4. Use education and incentives, not just regulations
5. Pick and choose among development projects. (we have heard that from citizens)
6. Cooperate with neighbors for mutual benefit.
7. Pay attention to community aesthetics.
8. Have strong leaders and committed citizens.

Commissioner Martin observed the project had not followed the citizen involvement in land use guidelines the CCI had recommended which had been made Administrative Procedure 20-1201. He charged the project had essentially talked to the businesses and not the other stakeholders. The after the fact communication with the neighborhood associations did not count.

Mr. Kerr recalled he had discussed all of those checkpoints for citizen engagement with the City Council and Planning Commission when he presented to them on April 1. He listed what had been done, including newsletters, post cards, emails, and notices in homeowner's utility bills. Every single homeowner in the City had been provided with a brief summary of the project; a link to how to get involved; and a schedule for how this was going to move forward. All those things had been done before they even started the public hearing process with the Planning Commission. He reasoned that because every member of a neighborhood association had been notified about the project if the neighborhood association presidents lived there, read their utility bills or the Tidings, or paid attention to the Planning Commission and City Council agendas they had been notified. He recalled the City Council identified the EDC as the key stakeholder and asked the Committee to take the lead. After the EDC had identified the bullet points it wanted in the first draft and the Planning Commission had looked at it, Mr. Kerr had edited the draft and sent it to the City Council. It had been sent out to every neighborhood association president together with the agenda for the Planning Commission meeting ten days before the meeting with a link to the site that contained the proposal. He indicated he could not understand why neighborhood associations said they had not been notified or involved in the process. He had met with several of them. He noted the testimony they had just been hearing was from neighborhood associations and their presidents. He held the outreach had been far more extensive than was typical. He agreed the project was being done in an abbreviated time frame, but he did not think the project was moving fast. Commissioner Martin explained identifying and actively involving stakeholders and people with opposing

points of view was not just sending an email or putting a notice in the newspaper. He said he was not sure Mr. Kerr had involved the EDC in the creation of the changes. He described the process as fatally flawed.

3:00

Chair Babbitt indicated he agreed with Commissioner Martin to the extent that even the Planning Commission did not have the code changes until right before the hearing, so even if there was a lot of outreach there had been no draft code to share. That was the major disconnect. There had been outreach, but it did not meet the intent of the CCI. He recalled the issue that the first time Savannah Oaks Neighborhood Association was presented with it was the night before the first Planning Commission hearing.

Commissioner Miller explained that as an involved citizen when she heard the term 'Cut the Red Tape' it had not occurred to her that meant tree canopies and parking spaces. That was what the citizens were saying. They did not really understand the scope of the project: that it was not just about economic development, but also about streamlining processes. The Commissioners had been sitting through hours of work sessions to try to understand it. If Mr. Kerr wanted this to move forward more fluidly she would suggest he needed to do a better job of capturing it.

Mr. Kerr related that the day after the bullet points in the first draft of things to address were prepared it was put in an agenda package and sent to the neighborhood association presidents. As soon as the draft code language was prepared and given to the Commissioners it was sent in an email to neighborhood association presidents. That was 45 days ago. He recalled there was a resolution opposing the project on the first week of June. Chair Babbitt clarified what Mr. Kerr was hearing was that all seven members of the Planning Commission were saying there was a failure in the process. Mr. Kerr needed to understand that. Mr. Kerr stated for the record that the Planning Commission was in a work session with the City Council when he laid out the schedule. He clarified for Chair Babbitt that the specific code language was in the staff report for the first public hearing. It had been addressed at the April 1 meeting that the survey, outreach, EDC work and discussions had to be started before they could write the code. Then it was presented to everyone.

Commissioner King recalled during the meeting with the City Council she had asked the City Council what the vision for this was and where were they going with it. What was missing for the Commissioners and the community was how it all tied together.

Vice Chair Steel **moved** to hold a work session on September 11, 2013 at 5:30 p.m.

Commissioner Axelrod **seconded** the motion and it **passed** 7:0. Chair Babbitt announced the public was invited to attend the work session, but would not be allowed to testify.

Vice Chair Steel **moved** to continue the hearing to October 2, 2013 and hold the record open for written testimony until 2:00 p.m. on October 2, 2013. Commissioner Miller **seconded** the motion and it **passed** 7:0.

ITEMS OF INTEREST FROM THE PLANNING COMMISSION

Commissioner Axelrod announced the ribbon-cutting ceremony for the Rosemont Trail would be held on September 7 at Luscher Farm. Chair Babbitt asked staff to ensure the Commissioners' electronic tablets contained all the documents related to a project. Commissioner Miller had a suggestion related to page numbering the agenda packet.

ITEMS OF INTEREST FROM THE COMMISSION FOR CITIZEN INVOLVEMENT

Mr. Sonnen observed the Commissioners did not seem to all be in agreement about how to handle correspondence related to the matters they were reviewing. The current process was to mail what they had to the Commissioners ten days in advance of a meeting; the Friday before the meeting; and then offer everything they got after that on the day of the meeting. He could email it or put things into their electronic drop box.

Chair Babbitt suggested the Commissioners schedule a CCI meeting to revisit the CCI guidelines for citizen involvement and formally adopt a process for projects like the 'Cut the red tape project' after they were done with it.

ITEMS OF INTEREST FROM STAFF

None.

ADJOURNMENT

There being no other business, Chair Babbitt adjourned the meeting at 10:29 p.m.

APPROVED:



Michael Babbitt , Chair



Date

Economic code amendments for 9/4/13 hearing:

<http://westlinnoregon.gov/planning/economic-development-code-amendments>