



PLANNING COMMISSION

Minutes of Wednesday, October 2, 2013

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

Members absent: Lorie Griffith

Staff present: John Sonnen, Planning Director; Chris Kerr, Economic Development Director; Tom Soppe, Associate Planner; Khoi Le, Engineering Department

PREMEETING WORK SESSION

Vice Chair Steel convened the work session at 6:30 p.m. in the Rosemont Room of City Hall, 22500 Salamo Road, West Linn, Oregon. The Commissioners discussed a letter from the City Manager suggesting a way to move forward on the Cut the Red Tape project. Mr. Kerr clarified a document the Commissioners had received in their drop box was the City's notice to the state. Mr. Soppe pointed out the subdivision applicant had submitted two changes to the recommended conditions of approval. A neighbor had written about his concern regarding where the trail near his property was to go.

The Commissioners and staff talked about the procedure for putting material in the Commissioners' electronic drop box. Vice Chair Steel reported that the recent commissioner training session had been useful. She congratulated Chair Babbitt on the great job he did at the seminar and as a panelist. She offered to provide copies of the handout to Commissioners who had not gotten one. Mr. Sonnen announced that there would be another training in November. The Commissioners used the remaining five minutes before the regular meeting convened to read the written materials.

CALL TO ORDER

Chair Babbitt called the regular meeting to order in the Council Chambers at 7:02 p.m.

PUBLIC COMMENT

Roberta Schwarz, 2206 Tannler Dr., announced the next fundraiser for the White Oaks Savannah was a craft fair on November 22/23. Commissioner Miller asked her how much they had raised so far. Ms. Schwarz related they had received a \$500,000 grant from Metro; a pledge for \$200,000; and their partner, the Trust for Public Land, was applying for a grant from Oregon Parks and Recreation and for Bonneville settlement money of \$6,000 per acre. They had until June 2015 to raise the funds.

PUBLIC HEARINGS

SUB-13-02/VAR-13-05/VAR-13-06, 11-lot subdivision with Class II Variance for two lots with depth more than 2.5 times their width. Site location: 23150 Bland Circle. See the October 2, 2013 Staff Report and the October 2, 2013 Staff Memorandum.

Chair Babbitt opened the hearing and outlined the applicable procedure and criteria. Each of the Commissioners present reported making a site visit. No one present challenged the right of the Planning Commission or any individual Commissioner to hear the matter.

Staff Report

Mr. Soppe referred to the aerial photograph, site plan and photographs of the site. He pointed out the site was located at the Tannler Drive/Bland Circle intersection and adjacent to the City pump station site. He pointed out Sunbreak Lane and Crestview Drive were currently stubbed. The applicant proposed to extend them through the subject site. The applicant was requesting a variance to the lot depth: width requirement for Lots 3 and 4, which faced Sunbreak Lane. The request stemmed from the distance between the streets; having them connect to Bland Circle; and getting zone density.

Staff discussed how the variance request met Chapter 75 variance criteria. They found this was an extraordinary circumstance created by the trajectory of the two streets to be extended. Zone density would fit on the site with those trajectories. The proposal complied with the Comprehensive Plan, the Savannah Oaks Neighborhood Plan and other codes. The applicant proposed the minimum variance necessary as the two lots were only a few feet short of meeting the zone requirement. This was not requested in order to address a past violation. It did not affect the develop-ability of other properties.

Mr. Soppe pointed out and discussed the potential utility/trail easement route. He advised it could eventually be connected to property to the north when that property was developed. Mr. Soppe advised the applicant met Subdivision Approval Criteria. All lots met the area requirement and the subdivision met the minimum density requirement. The variance was for two of the nine lots that did not meet the lot shape standards. Sewer/water/storm facilities were available and adequately sized. Street improvements and dedications met the code for a collector street (Bland) and for the local streets going through the subdivision. All significant trees were preserved except those to be removed for street grading. The proposal met the tree preservation criteria as long as there were easements for the ones that remained and mitigation for those removed.

Staff recommended conditions to address the visual impact of a large wall on Bland and to require fencing along the trail. They had consulted TVF&R regarding fire access. TVF&R would agree to the applicant's proposal to provide the access via the driveway to the west if it was gated access. The applicant was to dedicate land for their half of the Sunbreak extension and pay a fee in lieu in preparation for some future time when the parcel on the west side of it as annexed and developed and would be responsible for the other half. Water lines were to be looped through the easement or right-of-way between streets. There was a condition that

addressed the locations of utility vaults. The staff recommended approval subject to the recommended conditions.

Mr. Soppe advised staff could agree to two changes the applicant had just requested. One was to clarify that trail fencing along each lot was required 'Prior to occupancy' of that lot. The other would allow the water line loop to go either between Sunbreak and Bland, or Sunbreak and Crestview, whichever was required by Engineering. The Engineering staff had agreed to that. Neighbor Charles Matthews (who lived on Crestview next to the site) had indicated he would prefer that the trail route be where he recalled a past trail plan proposed it along the edge of the site. Mr. Soppe related that he had not been able to find a plan for a trail through the site.

20:03

Questions of Staff

Mr. Soppe confirmed the easement was both a utility and trail easement. He delineated its route through the subdivision. He confirmed that the fencing condition would apply to every lot that bordered the trail. He confirmed that staff anticipated that another extension of Sunbreak would eventually be done so it would serve the property to the west, but they did not know when that might happen. He clarified TVF&R did not favor using bollards for a turnaround at the end of the street, but they could agree to a locked gate access. The applicant would have to negotiate an agreement to use that easement. He confirmed the idea was that the Fire Department would be able to come in, turn around, and go out on Sunbreak. He clarified that the applicant could decide if they wanted to satisfy the fire access requirement by sprinklering houses or by using the easement. They did not have an easement agreement yet.

Vice Chair Steel inquired who maintained the three tracts and what they were for. Mr. Sonnen said Tract A (stormwater) would be maintained by the City. The homeowners association would be responsible for maintaining Tracts B and C. The applicant had added Tracts B and C in order to shorten some lots so they satisfied the lot shape requirement. That meant they only had to ask for a variance on two lots, not five lots. Condition 12 would allow them to eliminate those two tracts in the event the City changed the code and eliminated the lot width: depth requirement. Staff clarified they understood that some marketing material that said this was a 10-lot subdivision was old material that had been around for years. They were not sure the applicant had anything to do with it.

Applicant

Andrew Tull, Senior Planner, 3J Consulting, Inc., 10455 SW Canyon #245, Beaverton, Oregon 97005, spoke for the applicant, JT Smith Companies. He explained the applicant would locate the trail between Lots 9 and 10 instead of the western boundary of Lot 9 in order to avoid a significant tree at the northwest corner of Lot 9; to better align it for visibility reasons for people who would be using the trail; and because where it was proposed was where engineers could best address the steep grades. He advised the fire district was often willing to waive turnaround requirements for fire trucks if the homes featured sprinklers. The applicant had no

problem with being required to sprinkler the homes along the Sunbreak extension. He said the applicant would prefer not to have Tracts B and C as it complicated ownership and maintenance and the code might be changed. They had initially applied for five variances for lots which exceeded the depth standard by a couple of feet. That was because the site was a remnant infill parcel. He said he believed the Commission had the authority to approve the original plat the applicant had submitted, which showed those lots extended and did not show the tracts. He referred to the marketing materials the Commissioners had asked about. He explained it was difficult to determine exactly what subdivision density was going to be until the property was surveyed and lot configuration was considered. He pointed out the proposed configuration of lots was similar to that of adjacent Florendo's Hideaway which had spaced Crestview and Sunbreak. That spacing and the grades meant the streets in the applicant's subdivision were far enough apart that the applicant's lots were too deep.

Questions of Applicant

Vice Chair Steel inquired if moving the existing utility vaults would disrupt other properties. She inquired if a gravel driveway would accommodate a large fire truck. Mr. Tull clarified they would put the vaults in the public right-of-way. He anticipated the fire department might ask the applicant if the gravel driveway was sufficient to handle a fire truck. He related that the applicant had found the owner of the property the easement was over was not inclined to discuss allowing them to use the easement. The applicant thought the sprinklering option would work better for them.

38:00

Public Testimony

Proponents

Alice Richmond, 3939 Parker Rd., pointed out on the aerial photograph that there was currently no connectivity. This was the opportunity to create better connectivity. That would be better for fire access. She asked that her written testimony be what she had written on her testimony form where she indicated that the City needed to bring tax revenues into the City budget to make up for what it lost due to the L.O.T. project; and that this was also the right thing to do.

42:40

Rebuttal

Mr. Tull and Michael Robinson, 1120 NW Couch St., Tenth Floor, Portland, Oregon 97209-4128, came forward to answer any questions. Commissioner Martin asked if the applicant was concerned about proportionality or nexus regarding the trail. Mr. Robinson responded that they would have had more discussion with staff about it if they thought it was an exaction they could not afford or that did not make sense. They thought it was appropriate in the proposed location and it would serve the public and the neighborhood, so they were comfortable with it.

Commissioner Axelrod indicated he would not like to see a significant Douglas Fir tree on the front corner of the property on Bland removed to develop the half street on Sunbreak. He suggested not developing the half street and keeping it a pedestrian pathway; and not putting a

sidewalk on the Tract A side of Bland Circle as it would not connect to anything and there was an existing sidewalk on the other side of the street. The additional room that would create could be used to make the storm detention facility more attractive. He would prefer to see that area terraced rather than surrounded by a high wall if that was feasible.

Mr. Tull related the applicant had considered that and talked with staff about it as they were laying out the site. The factors were that Bland was a restricted access (every 300 feet) collector street; and the extension of Tannler into the site created a natural four-way intersection and was probably the best place to connect with Bland, but it directly aligned with that tree. Aligning the connection with Tannler was also the most logical and safe place for Tax Lot 500 to eventually take access when it developed. Mr. Sonnen and Mr. Robinson clarified that the tree did not have to be taken out now because of the road, because it was just a dedication. Mr. Robinson advised the tree had to be removed because of utilities. He advised the applicant was complying with the code. They understood they were required to do the frontage improvements on a collector street even if the sidewalk did not go anywhere. Their preference was to save significant trees. That was why they relocated the trail. The Douglas fir Commissioner Axelrod referred to was probably a tree whose days were numbered because of its location.

Mr. Robinson advised that he believed the Commission could approve all five variances if it wished to. The application the applicant had submitted requested five variances. They believed they had provided substantial evidence that satisfied the variance approval criteria. The hearing was noticed for five variances. If the Commission decided the tract solution was not something they wanted to approve they had the ability to approve the application as the applicant had originally submitted it. They had worked very hard with staff to come up with solutions they could support. That was how they had arrived at the two tract solution. However, they preferred their original proposal.

Vice Chair Steel noted the isolated location of Tract B sandwiched between two back yard fences and asked what it would look like. Mr. Robinson confirmed it could just be a grassy area maintained by the homeowners association, accessed via the trail easement. If the Commission approved the five variances that tract would be divided between the lots it abutted. He acknowledged the applicant just used it as a device to comply with the "2.5 times" requirement the City was thinking about taking out of its code. He asked the Commissioners to look at how the application addressed the variance criteria and find it was satisfied. He indicated it was not a normal situation and it was not a self-imposed hardship in that the street locations forced long lots. It was a condition the applicant found when they purchased it. It was the result of infill. He confirmed the trail alignment would remain the same. There would still be future connectivity if the Commission approved all five variances so the applicant did not need the two tracts. The lot lines would shift back to where they were originally proposed. The applicant would be happy to have the two tracts go away. The shape and length of the lots would then not be appreciably different than the code required. Vice Chair Steel clarified that the

Commission was considering changing the lot proportionality requirement but not for the R7 zone.

Vice Chair Steel indicated she preferred to avoid a situation like the one at Trillium School. Over time people had occupied land that was not actually theirs by deed. It had been difficult for them to find out something else was going to happen to that land.

Commissioner Axelrod asked the applicant if it could help the design of the stormwater retention area in Tract A if there was a condition of approval that removed the requirement for the sidewalk. Mr. Tull indicated that if they moved the sidewalk, curb and planter strip along the north/south extension all the way to the west they might be able to retain the tree. However, they would have to move them all back and put in the street when TL 500 developed. That would be extremely expensive. It was not something they would want to pay for twice. A possible way to handle this would be to require the applicant to install a temporary asphalt trail at that connection.

Mr. Le related they had discussed alignment of roadway many times. The only good alignment meant they had to remove the tree. They had talked to the arborist. They all agreed that they wanted connectivity and an alignment that provided safety for the future, so they agreed to remove the tree. As for the sidewalk, the master plan listed a sidewalk connection from the site all the way to Salamo Road. Mr. Le recommended keeping the sidewalk as shown on the plan. Mr. Tull added that they would mitigate removal of the large, 30-inch tree by planting 15 mitigation trees (a mixture of oaks and western red cedars).

Questions of Staff

Staff re-confirmed that the City planned to have sidewalks from the site to Salamo. Commissioner Axelrod questioned why they needed a sidewalk on both sides of the street. Chair Babbitt noted that was code. He recalled a past planning director had advised that connectivity could take many years to accomplish. Mr. Soppe clarified for Commissioner Axelrod that the boilerplate "Note to the Applicant" might ask for a geotechnical study but if there was already one in the packet staff was not asking for another one.

1:03

Deliberations

Chair Babbitt closed the public hearing. He recalled Vice Chair Steel had talked about accepting the original application for five variances and eliminating two tracts. Commissioner Miller asked why staff had reduced the number of variances. Mr. Sonnen related staff and the applicant had discussed options for dealing with the variance requests. One of them was to add tracts. Then staff had suggested the condition that would allow the tracts to be removed should the code no longer necessitate them. Mr. Sonnen and Mr. Soppe concurred that the hearing notice had in fact identified five variances and the original application had been submitted with five variances. Mr. Sonnen confirmed that the Commission had the prerogative to approval all five variances if they thought that was appropriate.

Chair Babbitt noted removing the lot proportions requirement was on the legislative agenda and there was a condition of approval that if the code was changed the tracts were not needed. It seemed cleaner to take care of that now and not have the two tracts if the process had already met the legal requirements to enable the Commission to do that and it was the applicant's preferred method. He asked staff to recommend how to modify the related conditions of approval. Staff recommended as follows:

Conditions 2 and 4: Remove the references to Tract C.

Condition 12: Change this condition to: 'Tracts B and C shall be eliminated.'

Chair Babbitt reopened the public hearing and invited the applicant to comment on the proposed modifications of the conditions. Mr. Robinson indicated the applicant agreed with the changes the staff had recommended to Conditions 2, 4, and 12. He noted the opening statement under 'Recommendation' needed to be changed to: "Staff recommends approval of application SUB-13-02/VAR-13-05 through VAR-13-09." Mr. Soppe clarified that these changes would not change the trail easement width. It would still have to be 15 feet without Tract C.

Chair Babbitt recalled the October 2 Staff Memorandum made other three other changes to the conditions as follows:

Condition 4: Add 'Prior to occupancy.'

Condition 6: 'The applicant shall work with the City engineer to determine if a looped water line is possible and if so how the looped water lines shall be accomplished.'

Chair Babbitt closed the public hearing.

Commissioner Axelrod discussed Condition 10 requirements for the design of the Tract A retaining wall. They ought to require a stepped down design with native vegetation that integrated the structure into the landscaping and remove the 'either/or' language. He specified he did not want to see an arborvitae wall around the structure. He confirmed he would replace 'add trees of sufficient height to screen the wall' with 'add native vegetation of sufficient height to screen the wall.'

Chair Babbitt reopened the public hearing and asked the applicant to comment on the proposed change. Mr. Robinson indicated the applicant could not be sure that could be done until they had fully engineered it. If they found out they could not do a stepped-down design they wanted some other way to satisfy the condition. He asked the Commission to not change the condition and let the applicant work with the City Engineer to see what was possible. He added that they thought the suggestion about landscaping was a good one and they would be able to satisfy it. Commissioner Axelrod suggested the condition could just indicate that a stepped down design was preferred. Mr. Robinson indicated that was okay with the applicant.

Staff then displayed how they had modified Condition 10. The Commissioners clarified it should specify 'native' landscaping and 'native' vegetation.

Chair Babbitt closed the public hearing.

Commissioner Martin **moved** to approve SUB-13-02/VAR-13-05, -06, -07, -08, -09 subject to the conditions of approval as modified by the Commissioners during deliberations. Commissioner King **seconded** the motion and it **passed** 6:0. The Commission recessed for a few minutes before they reconvened for the next hearing.

1:21 to 1:32

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CDC-13-01, "Cut the red tape project." CDC and Comprehensive Plan amendments intended to eliminate ineffectual and inefficient regulations to encourage positive economic development. Continued from September 4, 2013 for Deliberations. See the October 2, 2013 hearing draft.

Chair Babbitt reconvened the hearing and asked for a staff summary.

Staff Summary

Mr. Kerr listed the sections that staff was proposing to defer in order to get additional vetting, analysis and public input:

- 99.038 Regarding neighborhood contact (Page 21)
- 99.060 Regarding approval authority (Page 23)
- 60.070 Approval standards for conditional uses (Page 27)
- 55.100(B) Regarding tree protection in subdivisions (Page 46)

Questions of Staff

Vice Chair Steel referred to 11.070. She noted that in this draft the proportionality of lot shape provision was not shown as deleted in R7 and R10 and some of the related diagrams were shown in place and some were shown as deleted. Mr. Sonnen recalled the Commissioners had discussed this in work session. The Planning Commission recommendation was to apply it to the larger lot districts and not to the higher density districts. Mr. Kerr clarified for Commissioner Axelrod that Public Works and Engineering standards addressed stormwater detention so staff did not want to duplicate them in the code. He clarified for Commissioner Martin which of the deferred sections he had listed were shown as current code language and which had changes. Commissioner Martin recalled the subdivision application the Commission had just decided. The applicant had found the code referred to 'Principal Street' but did not define it. Mr. Kerr planned to look into it. It might be a remnant of old code. Mr. Kerr agreed with Commissioner Axelrod that 75.050 Application provisions A. and C. should each refer to both 'variances and special waivers.'

Chair Babbitt then talked about the outreach. He first detailed each outreach action by date, method of communication, who it had been sent to, and what the message was. He noted the message was repeatedly and consistently that this was about eliminating unnecessary, inefficient, regulatory barriers associated with doing business in West Linn. There had been no actual code provided to refer to until an August 7 article in the West Linn Tidings, which advised the Cut the Red Tape Project focused on economic development and changes that were 'transparent, understandable and efficient.' Chair Babbitt commented that the proposed code did not seem to make the code 'transparent.' It was about changes that were not in the outreach messages such as changes to the City's land use appeal process; variance criteria and a new variance type; eliminating lot dimensional requirements; increasing building heights; removing Chapter 33; and revising conditional use standards. He noted the proposal called for exempting public projects that had been approved through a master planning process from having to go through the land use process. He advised those would not get the detailed level of review they would get at a Planning Commission hearing. He continued listing aspects of the proposal that were not in the outreach messages, including that it would allow on-street parking to count toward minimum parking requirements for new development; significantly reduce the landscaping requirement in general commercial; only require neighborhood association meetings for large scale projects; change tree protection; eliminate lot coverage requirements in commercial districts; expand the list of permitted uses in commercial zones; make staff responsible for setting agendas, not the commission and board chairs; modify sections of the Municipal Code, specifically regarding allowing poultry; and increase the fees for appealing land use decisions. He concluded that those things were proposed but had not been advertised. The outreach message was like a sales pitch.

Chair Babbitt indicated a lot of mistakes had been made during the process. The Economic Development Director was now suggesting removing several sections because they were controversial. Chair Babbitt explained they were controversial because the outreach had been very deceptive. People had not been made aware of them and there had been no code to refer to. Chair Babbitt noted that one of the reasons the original hearing had been continued was because it was noticed wrong. It had not listed some chapters proposed to be modified and it listed some chapters that were not proposed to be modified. The notice that had been sent to the DLCD only referenced changes to seven chapters, but the original hearing draft made changes to 29 chapters. He noted the Commission was being blamed for the process taking so long. They had only had the actual proposed code for a few months. He believed the first neighborhood association had seen it the night before the first hearing. He related that the Commissioners had repeatedly asked for the rationale and supporting information and related analyses during the process. They had asked questions including what the goals were. If a goal was to ease process for new development, where would that development happen and was there a related analysis showing it was needed there. If it was to improve efficiency in the process they wanted to know what the savings were in terms of hours and dollars. Improving citizen commitment and awareness was a big issue for people who testified. Where was the transparency? Brenda Perry had asked good questions about how much unoccupied retail space there was in the City; what specific business opportunities had been lost because of the

restrictions and regulatory requirements in the current process; what type of businesses or industries did they want to bring to West Linn; which areas in West Linn did they think would most benefit from the proposed changes; and what other areas besides the Arch Bridge area were targeted for significant development and required West Linn to make these huge policy decisions. Chair Babbitt related the only thing the Commissioners received in response to all of the questions they had asked was a copy of the West Linn Economic Development Committee's Economic Development Plan. He complimented the EDC for coming up with a list of great ideas. However, he was not sure how any of the proposed code changes related to them. He read aloud the list of topics in the Plan: Location of business and industry, including the vitality of the Willamette River industrial land; Retention and expansion of existing businesses; Types of new businesses needed; Access control on major roadways; Appearance of commercial /industrial development; and the City's role in economic development. Chair Babbitt observed that many of them focused on raising the profile of the business community in West Linn; retaining, strengthening and expanding the existing base; encouraging new businesses that enhanced the community and provided wanted and needed businesses services. He related that the Commissioners agreed with the action plan calling for the City to inventory the needs and assessments and to open channels to stakeholders. Many channels were apparently opened up to business license holders. He opined that if the message had been that the City was talking about making major policy changes to the land use processes more people would have been made aware and paid better attention. He did not see where the proposed code created the 'business ombudsman' the plan called for; or where it addressed 'toolkits for new businesses;' 'create a plan for priority sites;' 'focusing on outside grants;' 'audit all of our codes;' and 'rezoning,' 'permitting,' and 'SDC fees.'

Chair Babbitt explained he felt that the code that had been presented to the Planning Commission really missed the mark regarding what the Economic Development Committee said were important issues and the committee's specific recommendations. He noted that none of the things that the EDC recommended were about changing the City's land use policies. He felt the outreach did not accurately convey what was actually being presented. There were some good sections of proposed code. The Planning Commission had worked hard on a lot of it. For example, the change related to A-Frame signs was a positive thing. Even though he thought there were some good sections of code proposed, he could not support recommending this to the City Council. The process had been too flawed and plagued with problems. The Commission had consistently been sending that message from day one, yet nothing had changed.

Commissioner Martin commented that Chair Babbitt had said a lot that all of them were thinking. He appreciated Chair Babbitt's work to document things so well. It had been a very frustrating three months going through this process. Commissioner Martin explained there were no 'bad guys.' There were things that were not done that should have been done. Chair Babbitt had talked about those in terms of the outreach and focusing this on economic development and not allowing it to expand into other areas. The Commissioners had talked about those things throughout this process. Commissioner Martin agreed the process and the

output were flawed. He suggested one of the reasons for that was that it was rushed. There was a mandate to Mr. Kerr to do this quickly, in a time frame that Commissioner Martin did not think could ever work if they wanted to write code and involve the public the way they should. He complemented the Commissioners for their hard work in many meetings since July to salvage the proposed code. He indicated he thought to some degree what they had was workable going forward. He preferred to send what they had worked so hard on to the City Council in order to continue the dialogue and have the Council confront the same issues. He related that he understood Chair Babbitt's feelings and this was something for each Commissioner to decide on his/her own. He indicated the problem that led to this request for this code was a real one. This was a pivotal time because the land around the Mill was available. They did need a real economic plan. But the current effort was a failed effort. It needed to be done right. The public had been left out. If they were able to back up and start this effort over they desperately needed Mr. Kerr's very best effort and the best cooperation and positive ideas from neighborhood associations and the Planning Commission. They all had to solve the problem of how to do it right together. They could not just say 'no,' they had to move forward.

Chair Babbitt suggested a good place to start to create something meaningful that fit within the scope of what was advertised was to go through the West Linn Economic Development Committee's plan and create code, procedures and policies based on what was in it.

Vice Chair Steel related she felt as if this effort was more about marketing than communication. She recalled the code they first saw had a lot of things in it that troubled the Commissioners and the citizens because it seemed like the City was using this as an opportunity to get changes the City wanted. The Commissioners had repeatedly asked how things related to economic development. They had gotten a grid at the very end of the process that gave them a little of that. She related the Commissioners had worked very hard to pull the weeds out of the patch. One example was they had discussed not restricting an infill lot with the lot proportions provision. It was a change that would have made the code cleaner. It would have benefitted the subdivision application they had just heard that night. She indicated she agreed this had come about in a dismal way. The Planning Commission had been blamed for procedural errors they had nothing to do with. The delay had been because they had tried to salvage it when perhaps they should have decided early on not to support it. She explained she was inclined to recommend it to the City Council and let it move on from there because what they had at this point was worthwhile. She strongly encouraged staff to listen to the comments made and learn from them. Next time they should consider the communication aspects and ensure that everybody got the message and that it was a very accurate message regarding what was proposed.

Commissioner Miller described the Commissioners position as being between a rock and a hard place. She indicated she agreed with Chair Babbitt's and Commissioner Martin's comments. She related she was personally very disturbed that the Commission was being criticized as ineffectual and an embarrassment when they had persevered to work though this in numerous

meetings. She indicated she felt they were doing the job they had been charged with: To make sure that the public process was protected. She related that she felt that in some respects they needed to say 'no' because the outreach guidance they had spent considerable time crafting after the Master Trails Plan hearing had been ignored and because they had tried to do the work that other people should have done for them. On the other hand they had spent a lot of time vetting and working on this. At this point she did not feel great about 100% of it. However, they had tried. She related she did not know what to do. The issue had made the previous month of being a Planning Commissioner very frustrating and disappointing. She had great concern about what happened when it got to City Council. She would probably testify when it got there. She was at the point that she was not at all pleased with the way it came about, but she felt they had done their due diligence and it was time for this to move forward.

Chair Babbitt interpreted the City Manager's September 26 Memorandum as an acknowledgement that the process was flawed. It indicated he had several conversations with individual City Councilors and staff regarding how to divide the package into phases. Chair Babbitt read aloud from the Memorandum: 'Please note that as we proceed with a modified approach to the Cut the Red Tape Project we will continue to work toward the next phase of this project, which includes amending the mixed-use district regulations and creating a new civic institutional zoning district. Based on my discussions with Council and staff I have determined that the best way to move forward is to ask the Planning Commission to conclude its discussions on the first phase as of the October 2, 2013 meeting and to postpone making recommendations on certain proposals that staff will consider repackaging and deferring to a later date.'

Commissioner King offered her perspective that if they had demanded to know what the goal outcome was at the beginning of the process it would have been better. She felt the suggested neighborhood association changes were an entire, separate project, and not something to blend into an economic development proposal. In hindsight, there should have been a lot more analysis and a goal. Commissioner Axelrod said he appreciated each Commissioner's thoughts and dedication to the effort. He appreciated and agreed with Chair Babbitt's honest appraisal. He related that he had said from the beginning that he thought the whole process was misaligned and they were going about it backwards. They should first develop their vision and plans and then work on the code. They should not treat all their commercial areas the same as they were each unique. He related the Commissioners had tried their best to work with what they had been given. There were a few things in the proposal he thought should be incorporated into the code at some point. There were some things which could be made better if they were tweaked a little more. He said he wanted to send a message to the City Council and the rest of the City that the Planning Commission was not against the objectives of embracing economic development and balancing it with the needs and interests of West Linn growth. This was just the wrong approach. It had been misaligned from the beginning. He indicated the test was whether this proposal was really going to change anything about West Linn development. He thought the answer was 'no.' It did address some ineffectual aspects and some procedural elements that could streamline and help focus things. One example was

changing the number of copies required for certain things. He noted the Commission had just addressed dimensional lot requirements in the previous hearing by granting a variance and it went fine. So that change was not critical to move forward. He held that to forward a document that was not fully supported by the Planning Commission and not fully vetted was sending the wrong message.

Commissioner Axelrod did not see a need to mess with the tree code because it seemed like the tree code they had worked okay; years of work and a lot of information had gone into crafting the existing tree code; and if it needed to be changed there should be supporting analysis. He indicated the survey information underlying the proposal seemed weak and what he read indicated the current situation was fairly functional. He related that if he had to vote on this that night he could not approve it in its current form. He thought there were a lot of elements in the package that could be salvaged and worked on. They did not have to lose all the good work and insight that had gone into the package. He said he had been discouraged at the lack of engagement of the neighborhood associations. He was not sure how to get others in the City involved. They seemed to see a lot of the same players come and complain about changes. It would be nice to hear from more members of the community. He agreed with Commissioner Martin about trying to approach this from a positive perspective. He acknowledged he had the same feeling of frustration as Commissioner Miller when he heard the rumors about how dysfunctional the Planning Commission was when they had been working very hard to try to do the right thing. They were just not quite there yet. There was a lot to be gained from what they had done, but he did not think it was in a form he could support that night if they were going to vote on it.

Chair Babbitt thanked the Commissioners for their comments. He indicated he did not disagree with anything they said. He agreed that West Linn needed to have a vision and base its code on that vision. They did not have that now. He agreed if they made all of the proposed changes it would not really effect how West Linn would function.

Commissioner Martin indicated the proposal had previously been a very large step in the wrong direction but now it was a very small step in the right direction and worth taking. There was value in it. The change to a *de novo* appeal hearing of a planning director decision was worth doing. In many other areas the Commission had reaffirmed and strengthened the things that they felt were important that were sometimes the opposite of what was proposed.

Commissioner Martin **moved** to send CDC-13-01 to the City Council as the Commissioners had modified it and allow the Council to decide whether to go ahead with further revisions or not. Vice Chair Steel **seconded** the motion and discussion followed.

2:30

Commissioner King suggested the Commissioners ask for a joint session with the City Council to talk about it. She noted there was a communication link that needed to be strengthened. Chair Babbitt directed Mr. Sonnen to make that request. Commissioner Axelrod inquired if they had more time to work on the proposal. Mr. Sonnen advised the code allowed 60 days from the

date of the initial public hearing to make a recommendation to the City Council. At the end of the 60 day period the planning director was to notify the City Council of any failure to take action. Then the City Council could proceed as it wished.

Chair Babbitt commented that the outreach had never mentioned the significant proposed change to *de novo* appeal hearings. He suggested the City Council could get more people involved by actually advertising what the code was going to do and that it would change land use policies. Vice Chair Steel suggested the Commission could recommend that.

Commissioner Martin voiced his disappointment that the administrative procedures related to citizen involvement that the CCI had worked on, which were now city administrative procedures had been disregarded. That was the crux of the problem. All voices should have been represented at the beginning of the process. He hoped staff was listening to the message that they should do it the right way or they were going to do it over. The Planning Commission was not going to tolerate projects being brought forward that ignored the administrative procedures. Commissioner Martin suggested that each Commissioner write his/her own memorandum to the City Council.

Commissioner Miller indicated that while she very much wanted to move the document forward she was concerned that also sent the message that the city could disregard the Commissioners advice to reach out to stakeholders. The Commissioners had worked hard, vetted a lot of things, pulled out a lot of things. Yet she felt at a crossroads about it.

The vote was conducted and the motion failed 4:2. Commissioners King, Axelrod, Miller and Chair Babbitt voted no. Commissioner Martin and Vice Chair Steel voted yes. Commissioner Miller related she had voted 'no' with a very heavy heart. She wanted Mr. Kerr and the City Council to know she was sorry. But she felt that even as hard as they had worked to try to get it right it was just not there. Commissioner King saw this as an opportunity to get things right. She hoped there were ways for the Planning Commission to move the positive parts forward. She still felt they had made the right decision. Chair Babbitt observed the Commissioners had put a lot of work into it and there were some good ideas in it that could go forward, but he just could not recommend approval. Commissioner Axelrod agreed with Commissioner King's comments about connecting better with the City Council on the matter. There were some elements in the proposal that were good and should be advanced at some point even though they could not embrace the package as a whole. Vice Chair Steel noted the clock had run out for the Commission to continue to work on it and the result of the vote might mean that the draft would default back to the original draft with things in it the Commissioners found objectionable. The Commissioners inquired what version of the draft the City Council would get.

Mr. Sonnen advised that the vote effectively was the Planning Commission recommendation of denial of the proposal. The City Council would have the record from the Planning Commission's part of the process. The Commission could also write a transmittal memorandum to the City

Council offering their perspective. However, the City Council could now go forward and take action any way they chose to that was within the scope of the notice.

Mr. Kerr advised that even though the Commission had recommended denial he was still going to tell the City Council what the Commission had worked on. Nothing would be left out. He would try to capture what he could in terms of the reasons for denial. If the Commissioners sent correspondence that explained the rational for what they did that would be very beneficial. Commissioner Martin indicated he would have preferred to send the document forward with more wind in its sails, just to keep the other proposal from gaining any traction. He said he thought a joint session was a wonderful idea. In the absence of a joint session, they could each talk directly to individual Councilors about it.

Chair Babbitt summarized the Planning Commission was going to ask for a joint work session with the City Council and it had been suggested that each Planning Commissioner write a memo or letter to the City Council for the record supporting what they liked or did not like about the process, the code. He then closed the hearing.

ITEMS OF INTEREST FROM THE PLANNING COMMISSION

None.

ITEMS OF INTEREST FROM THE COMMISSION FOR CITIZEN INVOLVEMENT

None.

ITEMS OF INTEREST FROM STAFF

None.

ADJOURNMENT

There being no other business, Chair Babbitt adjourned the Planning Commission meeting at approximately 10:00 p.m.

APPROVED:



Michael Babbitt, Chair

12-5-13

Date