Changes to Applications

Changes to an application have been shown to disrupt the land use process and impact citizen involvement. It is important that an application is allowed to change during the approval process, in order to accommodate revisions to developer goals, citizen requests and city mandated compliance with code and standards. On the other hand, changes invalidate much of the outreach done for citizen involvement because the final project may be substantially different in scope and impact from the project that was communicated and reviewed. Reconciling these two needs is the subject of the following section

During our review several problem areas have been identified. We can divide them roughly into changes before Application Complete and changes after Application Complete.

Changes before Application Complete

Once the pre-app conference has been held, we assume that the developer has an initial idea of the project. The current process requires a meeting with the neighborhood association prior to application complete. Depending on when this meeting is held, certain risks arise. If the meeting is held too early, the NA may not be aware of changes made to the project until the PC hearing. If the meeting is held too late, the developer may learn of some required or desired changes too late to be able to respond.

In addition to the changes that may arise from the NA meeting, the city may request changes to bring the development into compliance with the CDC, the Comp plan and the Neighborhood plan. TVF&R may also require changes. While the project is in this dynamic state, it is still desirable to have affected citizens aware of the changes being considered.

Finally, the information obtained from city mandated studies, like traffic or geotechnical, may identify areas where potential change is required.

Changes after Application Complete

The application complete milestone certifies that all required information has been submitted and starts the 120 (or 100) day clock. At this point, the actual reviews of the information by Planning and Engineering can begin if they have not already started.

These reviews may cause the city to request additional changes to the application. A problem arises when city requested changes occur after the required NA meeting. Despite the level of citizen interest, the public’s first awareness of the change may not come until 10 days before the hearing.
In addition, the applicant may make changes to the application at anytime prior to the hearing. This may negate some of the information that was presented to the planning staff and to the NA making the hearing more contentious.

Although the CDC makes oblique reference to “substantial change” as a trigger to cause the application to be resubmitted, there does not appear to be a “clear and objective” definition of “substantial change”. Consequently, neither the applicant nor the neighborhood association is protected.

The essential challenge is to allow sufficient change to allow the application to be reasonably adjusted while keeping everyone involved and educated. This is complicated by the realization that an applicant only has to cooperate up to the limits of the code. An applicant can do anything that is not specifically forbidden by the CDC or the Comp Plan and its extensions.

The following sections divide possible solutions into 3 areas: Education, Administrative Changes, and CDC Revisions.

**Education**

The application must be consistent with the CDC, Comp Plan and Neighborhood plan. Copies of all these plans should be made available at the Pre-Application meeting.

The CCI should create a guide to the land use process that describes roles of the city, the developer and concerned citizens. The guide provided by Corvallis is a good starting point. Citizens should understand that their rights to influence a project are limited by what is specified in the CDC or can be inferred from the Comp plan. The developer should understand that small compromises and sympathetic listening to neighbors can build support for the project. The city should see itself as both a defender of the city through the codes, a mediator between the developer and the citizens, and as the keeper of both the larger vision of the community and how the project fits into it.

“Putting the people in Planning” should be available to all concerned parties.

The citizens’ role at the pre-app meeting needs to be more clearly defined. The pre-app meeting is a chance for the citizens to get an early look at the project, but it is primarily a meeting to educate the developer on how to create an application.

**Administrative Changes**

The CCI has identified several areas and ideas for changes in the review process that may be implemented without making changes to the CDC. These changes involve subjective judgments that might not satisfy the requirements for “clear and objective standards” that are required for the CDC. Ignoring these potential areas for improvement may leave us with a CDC that does not necessarily achieve the vision of the Comprehensive Plan. The
approach in this section is to offer services that are optional, but guide the developer toward the community vision.

Application review

Currently, the staff report evaluates the application against the requirements of the CDC. While this is essential and required by law, we would suggest that the staff report include an additional section that evaluates the application in terms of the vision or both the neighborhood plan and the comprehensive plan. This non-binding commentary might be useful to the planning Commission in discussing potential conditions of approval and could bend applications toward equivalent solutions that are more consistent with our long term vision.

We would encourage a practice of completing all staff reviews (Planning, Engineering, etc) within two weeks of Application Complete.

Project Committee

Building on the ideas brought forth by Ms. Youkubaitus, an NA rep for the project could be appointed at the first NA meeting. This rep would be a liaison between the NA and the developer. Working together with the developer and the planner, changes to the application that occur between the first and second NA meetings could be communicated to the NA. This does not empower the NA with any official veto power over aspects of the application. But the liaison role should function to keep the NA informed on the state of the changes to the application and avoid surprises.

A project committee of the Developer, NA rep and Planner should work together between the first NA meeting and Application Review. We anticipate that the Planner would coordinate this group. Participation in this group would be optional. It is designed to assist the developer in working together to solve problems before the application hearing.

Architectural Review Board

One of the difficulties in planning is that we are trying to create a city, but we have to do it by only regulating the individual components of the city. Examples of this are that we require sidewalks in front of individual properties, but do not act to insure continuous sidewalks. We hope that the continuity will emerge from the individual decisions.

It is extremely difficult to realize the emergent vision in this way. No matter how carefully the code is written, some aspect will be neglected and the piece will not fit into the whole.

One way to attack this problem is to look at how the pieces fit together directly. This is problematic because, especially with in-fill, every piece is different. It is hard to describe exactly what makes an application inconsistent with its surroundings, but, like pornography, we know it when we see it.
We suggest the creation of a volunteer Architectural Review board that is charged with the responsibility to review the application for compatibility with the surrounding neighborhood, and with the goal of realizing the values of the NA and Comp plan.

The applicant would have the option of using the board’s suggestions but would not be bound to implement them. This is a service that the city would provide to help achieve our long range vision.

**Code Changes**

The CCI review has identified several areas where changes to the CDC would be beneficial. This section discusses those changes in general. The specific language or the decision to implement these changes is the task of the working group, should the City Council decide to proceed.

**Application Review Complete**

We suggest that Chapter 99 be modified to describe the addition of a new milestone called Application Review Complete. At this milestone, all documentation (other than letters of testimony) will be available. It would be expected that all city reviews are completed, the NA’s have been informed of the details of the final proposal, and the developer has committed to the final design.

Noticing to properties within 500 feet would be done immediately after this milestone, rather than 10 days before the PC hearing to give everyone as much time as possible to review the finished application.

**Two NA Meetings**

We suggest that the CDC require two NA meetings. The first one should come as soon as possible after the Pre-app meeting. This should advise the NA about the proposed idea and be a source of concerns to guide the developer. At this meeting, an NA volunteer is appointed to work with the developer and to take the responsibility of keeping the NA informed as the application changes. This is a vital role in reducing changes late in the process.

The second NA meeting should be held between Application Complete and Application Review Complete. This should communicate the final project information and allow the NA to comment on any changes that might be proposed to solve problems that arise during the Application Review.

An example of this might be that a geotechnical report submitted at Application Complete showed unstable soil. The city might direct the applicant to replace the soil with something more stable. The second NA review would alert the NA to this increased impact and they could begin working with the applicant to minimize disruption. Since
the problem was identified during the application review, a second NA meeting would
insure that the NA is informed and can help find a solution.

Limit Changes after Application Review Complete

The ideas outlined above are all designed to increase communication between the applicant, the city and the NAs. The hope is that increased communication identifies problems earlier and thus limits changes that occur late in the process.

Changes that occur after application complete are disruptive because they have not been vetted by the community before the hearing process. This limits the opportunity to solve problems. It is useful to divide changes after Application Review Complete in to three categories:

Minor changes are those that can be dealt with by Conditions of Approval. These changes are minor enough that they can be understood and resolved during the hearing.

Changes that cannot be resolved by Conditions of Approval can be resolved by allowing the applicant to suspend the 120 (or 100) day clock, revise the application working with the project committee, and then presenting the modified application at a continued hearing.

Changes that cannot be resolved in this manner should be resubmitted with a new application. We could consider criteria that would waive the one year delay currently specified.

Conclusion

Areas covered under Education should be done by the CCI with staff help. Areas covered by Administrative Changes are intended be implemented by administrative procedures within the city. The areas identified as Code Changes should be directed to a working group for further study.