Changes to Applications

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

During ~~our~~ CCI review of the planning process, several problem areas have been identified involving changes to applications. We can divide them roughly into changes before an ~~A~~application is deemed ~~C~~complete and changes after an ~~a~~Application is deemed ~~c~~Complete.

Changes before Application Deemed Complete

Once the pre-app conference has been held, ~~we~~it is assumed that the ~~developer~~applicant has an initial ~~idea of the project. The current process requires a meeting with the~~ neighborhood association (NA) prior to the application being deemed 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 planning commision (PC) hearing. If the meeting is held too late, the ~~developer~~applicant may learn of some required or desired changes too late to be able to adequately respond to citizen concerns.

In addition to the changes that may arise from the NA meeting, the city may request changes to bring the development into compliance with other standards or guidance – for example, the CDC, the West Linn Comp~~rehensive P~~plan (CP), or ~~and~~ the Neighborhood ~~p~~Plan (NP). 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 Deemed Complete

The application deemed complete milestone certifies that ~~all~~sufficient required information has been submitted, and it starts the 120 (or 100) day city review 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~~ ~~p~~Problems can arise~~s~~ when city requested changes occur after the required NA meeting.

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Despite the level of citizen interest, the public's first awareness of suchthe changes may not come until just 10 days before the PC hearing when the city posts its Staff Report.

In addition, the applicant may make certain 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 confusing and 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 NAneighborhood association is protected from some changes that may be in this "gray" area.

The essential challenge is to allow sufficient change to allow the application to be reasonably adjusted while keeping everyone involved and educated within the 120 day city review period. 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 CPomp Plan and its extensions, although the burden of demonstrating compliance with code lies with the applicant. Commented [AR1]: Not sure what this means?

The following sections divide outline possible solutions to address Changes to Applications ininto 3three areas: Education, Administrative Changes, and CDC Revisions.

Education

The application must be consistent with the CDC, CPomp Plan and NPeighborhood 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 applicant 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 State Statute (ORS) or can be inferred from the CPomp plan. The developer applicant should understand that small compromises and sympathetic listening to neighbors can build trust and support for the project. The city should serves multiple roles in the application process: assee itself as both a defender of the city and its citizens through the codes;, as a mediator between the developer applicant 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" is an excellent resource document and should be available to all concerned parties.

The citizens' role and their conduct at the pre-app meeting needs to be more clearly defined in the citizen guide or in a separate pamphlet. All of these resource materials need to be available and easily referenced on the city website.

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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~~ applicant on how to create an application to achieve a successful project.

[To CCI - I think we should probably address some basic training for select staff and NA reps.

Administrative ~~Changes~~

The CCI has identified several areas and ideas for changes in the city 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 C~~P~~omprehensive Plan. The approach under Administrative measures~~in this section~~ is to offer services that are for the most part optional, but guide the ~~developer~~ applicant toward the community vision.

Application ~~r~~Review

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

~~We would encourage~~The CCI recommends a practice of completing all staff reviews (Planning, Engineering, etc) within two weeks of Application Deemed Complete. This may require the staggering of reviews among departments wherever possible to avoid schedule and other complications that may occur from a longer, parallel type review process.

Project Coordinating Committee

~~Building on the ideas brought forth by Ms. Youkubaitus,~~ The CCI recommends that NAs have the option to form a Project Coordinating Committee (PCC) consisting of an NA rep, a designated planning staff member, and the applicant. The NA rep should be a reasonably skilled member to represent the NA and serve a collaborative role between the NA and the applicant and city planner. This coordinating committee would likely be used only on more complex projects or projects where potentially contentious issues may be anticipated.

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The NA rep~~an NA rep for the project could~~ should be appointed ~~at~~prior to the pre-application conference or at least prior to the first NA meeting with the applicant. ~~This rep would be a liaison between the NA and the developer.~~ Working together with the ~~developer~~applicant and the planner, changes to the application that occur between the first and second NA meetings could be clarified and effectively communicated ~~to the NA~~among the parties. This does not empower the NA with any official design role or veto power over aspects of the application. But the ~~liaison~~NA rep role should function to keep the NA informed on the progress of an application and the nature and scope ~~state~~ of ~~the~~ changes to the application ~~and~~ to avoid surprises at the PC hearing.

The~~A~~ pPCC~~roject committee of the Developer, NA rep and Planner~~ should work together ~~between the first NA meeting and Application Review~~as needed during the planning process. ~~We anticipate that the~~The designated planning staff member ~~Planner~~ would coordinate this group. Participation by the applicant ~~in this group~~ would be optional, but strongly recommended. It is designed to assist the ~~developer~~applicant in working together to identify and re~~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 only the individual components of the city, at variable locations and at different times. Examples of this are that ~~we~~ the current street code require~~s~~ sidewalks in front of individual properties when they are developed, but this action do~~es~~ not act to insure continuous sidewalks. ~~We~~ The hope is that the continuity will emerge from the individual decisions, but this is not always the case.

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 or nuanced, and the piece will not fit into the whole.

One way to ~~attack~~ address 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~~ there are many examples around the city where integration was poorly conceived and executed – for example the street frontage on the southeast corner of the intersection of Rosemont Road and Salamo.

~~We~~ The CCI suggest~~s~~ the creation of a volunteer Architectural Review board that is charged with the responsibility to review ~~the~~an application for compatibility with the surrounding neighborhood, and with the goal of realizing the functional, environmental and aesthetic values of the NA and C~~Pomp plan~~P.

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. [CCI - Wondering if we can't have some kind of enforcement associated with this important review? There is a concern of course with the need for

having reasonably clear and objective standards, but I would hope this process might have some "teeth" to it – perhaps we recommend further research on how other cities may have addressed this?]

CDC [Note to CCI members – I still need to review the following section and apologize for not completing this effort before I left town this morning – my schedule/plans the last several days (and weekend) got hijacked on some other priority items.]ode 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~~applicant 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~~applicant. At this meeting, an NA volunteer is appointed to work with the ~~developer~~applicant 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.