



PLANNING COMMISSION

Meeting Notes of May 6, 2020 Work Session

Commissioners present: Gary Walvatne, Charles Mathews, Joel Metlen, Jim Farrell, and Margot Kelly
Commissioners absent: Carrie Pellett and Lamont King
Staff present: Jennifer Arnold, Planner; Amy Pepper Senior Project Engineer, Shane Boyle IT Director, Lynn Schroder, Administrative Assistant, Tim Ramis, City Attorney

The [meeting video](#) is available on the City's website. The meeting notes have a video time index. Each time index is provided in red text above the upcoming agenda item (i.e. (00:00:00)).

(00:00:10)

1. WORK SESSION - CALL TO ORDER

Chair Walvatne called the work session to order at 5:30pm via Webex video conferencing.

(00:00:31)

2. PUBLIC COMMENT RELATED TO LAND USE ITEMS NOT ON THE AGENDA

None.

(00:00:42)

3. MAJOR AND MINOR UTILITY DISCUSSION

Associate Planner Arnold presented a memo providing background on major and minor utilities and a memo on the process for Chapter 80 review. She asked for questions or comments from Commissioners.

Vice Chair Mathews asked Senior Project Engineer Pepper how neighborhood stormwater facilities function. He stated that the Planning Commission could not make determination on major and minor utilities before receiving testimony in a Chapter 80 hearing from interested parties. He requested that the Public Works Department provide testimony in the Chapter 80 hearing on the functioning of stormwater detention facilities.

Associate Planner Arnold stated that the purpose of this work session was to set up for the Chapter 80 hearing. She stated that to properly notice the hearing, the Planning Commission needs to identify the action that they want to take at the hearing. She stated the proposed action needs to be laid out in a work session.

Vice Chair Mathews suggested that the notice would state that the Planning Commission would determine whether or not a stormwater detention facilities was a major or minor utility in the CDC. Mathews did not want to hold a Chapter 80 hearing in a virtual meeting Webex format; he preferred to have a regular meeting in the Council Chambers at City Hall. He did not think the virtual meeting facilitated public input into the process, so he favored putting off the hearing until the City Hall was reopened.

Commissioner Farrell disagreed with Mathews about putting off the Chapter 80 hearing until City Hall was opened. He stated that it is important that city business proceed, and Commissioners can accommodate the virtual meeting platform.

Vice Chair Mathews wanted to know if classifying a neighborhood stormwater facility as a major utility would impede a land use application.

Associate Planner Arnold stated that clear and objective standards are required for all land use decisions involving housing. Any development with 500 square or more of ground disturbance requires a stormwater facility. Because development requires onsite treatment of water quality and quantity, the Planning Commission needs to develop clear and objectives standards to address when facilities would meet the threshold of a “major utility/conditional use” designation.

Chair Walvatne noted that the definitions of major and minor utilities include drainage collection systems, but minor utilities are distribution lines and major utilities are collection systems. He stated the Code needs to clarify what is a transmission line and what is a distribution line. He stated that an alternate approach could exclude residential stormwater facilities that do not need NPDES permits from the major utility definition.

Commissioner Metlen reiterated that a Chapter 80 hearing is not the best path forward to address the definition of a major/minor utility. He preferred to discuss the matter as a Code amendment as amending the Code is the ultimate outcome of the Chapter 80 process. He stated that the policy interpretation issued under a Chapter 80 hearing would need to be finalized by the City Council as an amendment to the Code.

Senior Project Engineer Pepper stated that the City does not have a cohesive stormwater collection system. The City has twenty-two sub-basins. Stormwater collection and treatment is neighborhood-by-neighborhood serving a small number of homes. As required by the City’s NPDES permit, the neighborhood systems are designed to hold and treat stormwater from developments, but they are each designed differently as stormwater treatment has evolved. In West Linn, neighborhood stormwater facilities primarily treat, retain, and transport stormwater. Because stormwater facilities treat, retain, and transport stormwater, the Engineering Department cannot provide a definitive definition that would classify these facilities as major or minor utilities *under the current Code definition of minor utility*.

The Engineering Department would classify the neighborhood stormwater facilities as minor utilities because they are small systems designed to serve a small number of homes and are required as part of site development. They are similar to water, sewer, and other onsite utilities. The neighborhood stormwater facilities must be constructed at the lowest point of the property. The developer must design the neighborhood facility to meet water quantity and quality standards. Conversely, a major utility would be defined as a regional treatment facility that collects stormwater from a large, divergent area and would require a land use permit in and of itself. A major utility generally has options on who it serves and what/when/ where/how it is developed. The conditional use approval would control the who/what/where/when/and how factors of the proposed regional facility.

City Attorney Ramis commented that if neighborhood stormwater facilities are classified as major utilities and are subject to conditions, then the conditions must be clear and objective. The Planning Commission would need to amend the Code to develop clear and objective criteria to allow the neighborhood stormwater facilities.

Chair Walvatne commented that the current Code definition of major/minor utilities could not accommodate how the neighborhood stormwater facilities function. They cannot be segregated into treatment or transmission function. He stated that the definitions of major and minor utility are

inadequate and should be rewritten to accommodate current technology and standards. He considered that there might be a better way to address the major/minor utility issue. He asked how other cities address the issue.

Vice Chair Mathews commented that the purpose of the Chapter 80 hearing is to make a determination of unlisted use, not to change the Code. Mathews wanted the major/minor classification to be discussed in a hearing with input from the public before drafting proposed language. Chair Walvatne responded that the Commission was not ready for a hearing without the proposed language.

Commissioner Kelly wanted the staff to develop language for consideration by the Planning Commission.

Vice Chair Mathews wanted staff to prepare a memo for PC consideration that explained why neighborhood stormwater facilities are minor utilities and another memo that explained why neighborhood stormwater facilities are major utilities. The Commissioners could then decide whether to make neighborhood stormwater facilities major or minor utilities.

Planner Arnold responded that the staff memo provided to the Commissioners for this meeting addresses the PC request for information. She stated that the next step would be for the Planning Commission to provide guidance to the staff on the draft language for PC consideration at a Chapter 80 hearing.

Commissioner Farrell was not comfortable deciding the designation with the information provided. He wanted more information about how other cities regulate neighborhood stormwater facilities.

(01:41:50)

4. ITEMS OF INTEREST FROM THE PLANNING COMMISSION

Chair Walvatne review the upcoming PC schedule. Planner Arnold noted that proposed work sessions might need to be bumped to allow the PC to hear land use applications. She recommended that the PC and the City Council have a joint work session to place the neighborhood stormwater matter on the docket because the Chapter 80 process requires a Code amendment.

Chair Walvatne voiced his concerns about the construction of Lot 6 of the Savanna Heights Development (SUB-15-02) at the corner of Tannler Drive and Bland Circle to City Attorney Ramis. When the development was in the application approval process, the PC placed a condition of approval that required the driveway for Lot 6 to access Tannler Drive directly. The remaining four homes would access Tannler Drive from a private, shared driveway. When the development went into the construction phase, the developer asked for a modification to Lot 6 access. As it is being constructed, the house on Lot 6 is configured to access the private, shared driveway with four other homes, not directly to Tannler Drive. Walvatne stated that the condition of approval should not have been administratively changed. Any changes to the Planning Commission's condition of approval need to be put to the Planning Commission. In an email to a citizen about this issue, Interim City Manager/Community Director Williams noted that the City made an error in allowing Lot 6 to access via the private driveway. Walvatne wanted to know what recourse the PC had to address the matter. He requested that no further construction happens on the home until the issue is resolved. He requested that this matter be placed on the PC agenda.

Commissioner King stated that he did not think the mistake was intentional, but the issue needs to be addressed.

Commissioner Mathews wanted a public hearing to review the matter and ensure Conditions of Approval are fulfilled.

Commissioner Farrell wanted a process to review all development projects to ensure they complied with the original CoAs. Commissioner Farrell asked again for the number of parking spaces that were created with the Willamette Falls Drive construction project. Pepper responded that the exact number of spaces was still being evaluated. The stripping plans are not finalized. She provided an estimate of spaces at the last meeting. Pepper stated that she would email a response to Commissioner Farrell.

City Attorney Ramis will review the matter. Planner Arnold will communicate the PC concerns to Williams for follow-up.

(01:59:15)

5. ITEMS OF INTEREST FROM STAFF

Planner Arnold stated that the Upper Midhill project was starting preliminary construction activities. The City is reviewing the project.

Commissioner Farrell asked for a status report on Highway 43 and Arbor Drive project.

(02:05:40)

6. ADJOURNMENT

Chair Walvatne adjourned the meeting at approximately 7:37 p.m.