



PLANNING COMMISSION

Meeting Notes of June 3, 2020 Work Session

Commissioners present: Gary Walvatne, Charles Mathews, Joel Metlen, Jim Farrell, Carrie Pellett, Lamont King, and Margot Kelly

Staff present: Darren Wyss, Associate Planner, John Williams, Interim City Manager, Lance Calvert, Public Works Director, Tim Ramis, City Attorney, Shane Boyle IT Director, and Lynn Schroder, Administrative Assistant

(time stamp 00:00:10)

1. CALL TO ORDER

Chair Walvatne called the work session to order at 6:08 pm via Webex video conferencing.

(timestamp 00:01:18)

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

None.

(timestamp 00:01:45)

3. WORK SESSION: MAJOR AND MINOR UTILITY DISCUSSION/(STORMWATER FACILITIES)

Associate Planner Wyss provided background on the lack of specific “use” language for stormwater detention/treatment facilities in the Community Development Code (CDC). The most closely associated “uses” listed in the CDC are major and minor utilities; however, neither one directly identifies stormwater detention/treatment facilities in its definition. In December 2019, the PC voted to hold a CDC Chapter 80 hearing to determine if these facilities should be classified as a minor utility. CDC Chapter 80 addresses unlisted uses, with the purpose of “determining whether certain specific uses would have been permitted in a zone had they been contemplated and whether such unlisted uses are compatible with the listed uses.” The Planning Commission has held two work sessions to discuss Chapter 80 hearing notice requirements and process, as well as background information on stormwater planning/engineering and how it currently addresses each. ☐

After the work sessions, Mayor Axelrod, Interim City Manager Williams, and Planning Chair Walvatne discussed the issue on a conference call and other matters. The conference call ended with a recommendation to hold an additional work session on the Major/Minor Utility issue to:

1. Discuss state housing law and its relationship to stormwater permitting in further detail to understand the legal framework; ☐
2. Review and discuss the history of major/minor definition amendments over the years and how other jurisdictions permit stormwater facilities;
3. Find consensus on whether the current City process is sufficient or code amendments are necessary. If so, clearly define the problem to be solved with the amendments.☐

Associate Planner Wyss provided background on the history of amendments to the major and minor utility definitions in the Land Use Code and other jurisdiction approaches to stormwater facilities.

Commissioner Metlen stated that his goal related to the major/minor utility issue was to clarify the Code by changing the definition. He noted that the policy discussion related to whether a stormwater facility is a

major or minor had not been flushed out at the PC; however, he did not think stormwater facilities should be major utilities.

Commissioner Mathews disagreed with designating stormwater facilities as minor utilities because he wanted to hear public comments at a Chapter 80 hearing before making a policy determination.

Commissioner Farrell stated that the use determination problem seemed to result from the change in major/minor utility definition over time. He said that previous definitions clearly classified stormwater facilities as minor utilities. He suggested that returning to an earlier definition would address the issue. He supported using the 1983 definition to define major/minor utilities.

Chair Walvatne agreed that previous definitions from 1983 and 2011 were easier to understand. He agreed that returning to an earlier definition would be the simplest solution. ²

Commissioner Kelly agreed with the 1983 definition was very specific. She stated that she would be comfortable going back to a previous definition.

Commissioner Pellett wanted the determination to account for visual effects and safety. She noted an example of a stormwater facility with steep slopes on Rosemont Road that she considered to be a safety hazard. She wanted the Planning Commission to consider the safety of the stormwater facility's design. Interim Planning Manager Wyss stated that the Planning Commission only reviews preliminary designs. The final engineered design is reviewed and approved by the Engineering Department. Any proposed changes to the stormwater design standards would require changes to the Municipal Code.

Commissioner King agreed that a previous definition of major/minor utilities would alleviate the problem.

Interim Planning Manager Wyss recapped the Planning Commission consensus to amend the definition of major and minor utilities to address the neighborhood stormwater facility designation rather than pursuing a Chapter 80 hearing use determination. The definition change could be included with the proposed 28-foot street width Code amendments that are scheduled to be considered in September. The majority consensus of Commissioners, except Commissioner Mathews, agreed that neighborhood stormwater facilities should be regarded as minor utilities. Wyss will draft definitions amendments for final review by the Planning Commission.

City Attorney Ramis commented that residential use applications should not be required to obtain a conditional use permit for a stormwater facility because that would run afoul of state housing laws. ²

City Engineer Calvert stated that the 1983 definition would need to be tweaked to address the Lake Oswego/Tigard Water Treatment Plant.

Commissioner King did not want a facility like the LOT water treatment plant to be classified as a minor utility.

Commissioner Mathews reiterated his desire to hear from the community whether neighborhood stormwater facilities are major or minor utilities. ²

Commissioner Metlen proposed that the staff take the recommendations and draft a proposed definition for consideration. Commissioners Walvatne, King, Kelly, and Farrell agreed. Commissioner Mathews disagreed with the proposed definition change. ²

Interim City Manager and Community Development Director Williams expressed his appreciation for the policy direction that the Planning Commission has given City staff.

(time stamp 00:59:25)

4. WORK SESSION: TRANSPORTATION SYSTEM PLAN/COMMUNITY DEVELOPMENT CODE AMENDMENTS TO IMPLEMENT 28-FOOT PAVEMENT WIDTH AS DEFAULT DESIGN FOR LOCAL STREETS IN NEW SUBDIVISIONS

At previous work sessions, the Planning Commission found consensus on the proposed amendments to the CDC to implement 28-foot paved width for both internal and adjacent Local streets in a new subdivision. ☐

The PC also agreed that access to more than three lots/parcels by a public street should be built to public street standards and recommended that private streets be prohibited. Interim City Manager Williams advised that because these recommendations would create additional maintenance costs for the public and because the recommendations are outside the approved scope from Council, the Council would need to provide policy direction on these recommendations before proceeding.

Interim Planning Manager Wyss asked for direction on how to proceed with these recommendations. He suggested two options:

1. Commence the legislative process on the proposed 28-ft street amendments immediately. Include a recommendation on the additional items, with a description of the issue, for City Council to discuss and potentially prioritize for a subsequent amendment process, or
2. Include a companion code amendment proposal by delaying the legislative process, hold a joint meeting with City Council to discuss the issue, and request Council to direct staff to postpone work on another docket priority project while focusing on the companion proposal. ☐

Commissioner Metlen agreed with Option 1, moving forward with the legislative process for 28-foot street standards and including a recommendation to Council on driveway access and the private streets.

Commissioner Kelly stated that the private streets and driveway access should be 28-foot minimum paved width. Commissioner Kelly supported Option 1, but she wanted to revisit the private street and driveway access.

Commissioner Pellett agreed with Commissioner Metlen that the 28-foot street standards should move forward quickly, but she did not want to delay the driveway access and private street recommendations. She asked how much docket shuffling would be required to prioritize the driveway access and private street recommendations. Commissioner Pellett supported Option 1. She wanted to prioritize the private street and driveway recommendations soon. ☐

Interim City Manager and Community Director Williams responded that the Planning Department is down one staff member. Other docket priorities include a rezone/visioning of Highway 43, Waterfront Master Plan, street standards in Robinwood, etc. He noted that the proposed recommendations seem simple, but pull away from other docket priorities and land use applications. He suggested that the Planning Commission focus on community visioning.

Commissioner Mathews stated that public and private roads should both be 28 feet. He did not think that the recommendation to include driveway access and private streets overstepped the City Council scope. He wanted to proceed with the full recommendation to Council. He stated that the Council could remove any recommendation if they did not like it.

Commissioner Farrell wanted to ensure that access to two or more houses has at least 28-foot paved access. He supported Option 1, getting 28-foot street standards into the legislative process and including recommendations on access and driveway.

Commissioner King supported Option 1 with the recommendation to Council to add the private street/driveway access recommendation to the Docket.

Chair Walvatne did not think the recommendations would take additional effort from City staff. Wyss responded that there would be ripple effects in the Code requiring staff time to review the Code to address the impacts and draft fixes. Chair Walvatne agreed with Option 1 but did not want to give up on the private street issue. He was concerned about the private street issue being kicked down the road.

Commissioners agreed to go with Option 1 and prioritize the private street and driveway access recommendation to Council so that the item is placed on the Docket.

(timestamp 01:52:52)

5. TENTATIVE PLANNING COMMISSION SCHEDULE

Staff Planner Wyss noted the following items for Planning Commission consideration:

- 28-foot street width standards and major/minor utilities proposed CDC amendments legislative hearing – mid-summer
- HRB proposed CDC amendments joint work session – late summer
- Willamette Falls Concept Plan – late summer
- Waterfront Project Update – early fall
- Status update for approved projects – July meeting
- Public Works Project Updates – quarterly

(timestamp 02:02:20)

6. ITEMS OF INTEREST FROM PLANNING COMMISSIONERS

Vice Chair Mathews discussed conditions of approval. He asked that the Planning staff provide documentation to the PC that the conditions of approval have been met. Any proposed changes to conditions of approval need PC approval.

Commissioner Pellett asked for a briefing on the progress of House Bill 2001. She was concerned about the lack of public process.

Commissioner Farrell asked how many additional parking spaces would be achieved in Willamette Old Town. Wyss responded that the ten new parking spaces would be provided in Willamette Falls Drive. He asked about the Upper Midhill project status. He requested a meeting with ODOT on the transportation issues at the north end of Highway 43.

(timestamp 02:28:09)

7. ITEMS OF INTEREST FROM STAFF

Planner Wyss stated that the City had been awarded grant funding to implement House Bill 2001, Middle Housing and HB 2003, Housing Needs Analysis. The City will use the funds to hire a consultant in the fall with an adoption ready recommendation by June 2021.

(timestamp 02:29:47)

8. ADJOURN

Chair Walvatne adjourned the meeting at approximately 8:38 pm.