

CITY OF WEST LINN
PLANNING COMMISSION / COMMISSION FOR CITIZEN INVOLVEMENT

Minutes of August 19, 2009

Members present: Chair Michael Babbitt, Vice Chair Robert Martin and Commissioners Laura Horsey, Charles Lytle, Christine Steel and Dean Wood

Staff present: Chris Kerr, Acting Planning Director/Senior Planner; and Peter Spir, Associate Planner

Members absent: Commissioner Michael Jones

CALL TO ORDER

Chair Babbitt called the Planning Commission meeting to order in the Council Chambers of City Hall at 7:00 p.m.

MINUTES (None)

PUBLIC COMMENTS

Solar Highway

Richard Mishaga, 3320 Barrington Dr., represented the Barrington Heights Homeowners Association Committee on the Trail and Solar Highway Project. He submitted their written comments. They asked the Planning Commission to form a subcommittee as soon as possible to study the feasibility, impacts and benefits, and to appoint West Linn citizens with the appropriate technical skills to serve on it. He stressed that they saw a need for a more transparent public process. They asked for a cost/benefit analysis. They were concerned about trail safety, security, feasibility and maintenance. They were concerned about wildfire danger, crime, increased neighborhood traffic, soil stability, noise, aesthetics and reflectivity of the solar facility. They felt it would disrupt a wildlife corridor connecting areas of habitat. They were concerned about the City's cost of policing the facility and controlling invasive species.

The Commissioners asked Kerr to tell them what he knew about the project. He said ODOT would have to work with many different jurisdictions to accomplish it. ODOT had not submitted a formal application to the City, but they had asked and received City Council consent to study feasibility - as long as they involved the citizens. They were holding many open houses. They had arranged to discuss the project at the September 2nd Barrington Heights Neighborhood Association meeting. ODOT would have to work with the Parks Department and the neighbors to identify and address issues at the site. Kerr said it was unlikely that ODOT would be ready to propose a plan for at least ten months. He agreed with Martin that citizens should be involved early in the planning process.

Dave Hannah, 3500 Riverknoll Way, clarified the trail was a City of West Linn project and the solar project was an ODOT project, so they were two different, unconnected, projects. Kerr clarified that ODOT owned the site and ODOT and the City were discussing locating a trail on their property.

Kuo C. Chang, 3340 Barrington Dr., said the City should have some say about the trail because the trailhead would start at Imperial Drive. He recalled the City had previously rejected a proposal to put a football field there after citizens saw the risk of crime and fire hazard. The solar project would bring increased traffic. The risk of fire was high now because the area was

tinder dry. Chang related that as a physician, he was aware that solar panels contained cadmium, which was a serious health risk. It caused kidney damage. It should not be allowed to be in his neighborhood.

Francis Hannah, 3500 Riverknoll Way, said she had received a flyer announcing a June 11th meeting, but her neighbors had not. She and her husband had attended. She submitted a map of the trail that had been distributed at that meeting and a list of Barrington Heights Neighborhood Association concerns about the trail (See "Barrington Heights Homeowners Association's Solar Highway and Trail Committee – 8/19/09, Barrington Heights Concerns:")

Jeremy Wood, 4071 Imperial Dr., wanted the Commissioners to know even before any application was filed that he was opposed to the City allowing ODOT to use the two vacant lots next to his house for parking and access to the solar project. He did not want to have to see a lot of parking stalls there and he was concerned about the impact on trees and wildlife.

Pam Yokubaitis, 3760 Fairhaven Dr., represented Hidden Creek Estates. Someone had provided her with materials that indicated that ODOT was considering a Barrington Heights access point parking lot and kiosk. She and neighbors were concerned about security and access and traffic issues. She supported Barrington Heights' position.

Steve Garner, 3525 Riverknoll Way, supported Mishaga's request for a task force. He wanted to know what the appropriate time and mechanism for that would be. (See Items of Interest from the Planning Commission, below.)

Kim Kelley, 2961 Beacon Hill Dr., had read that an ODOT representative said that ODOT would not proceed without local support. She asked why West Linn was supporting the project. Had ODOT offered the City any money? Babbitt said the Planning Commission had not been involved in the process so far. Kerr recalled the City Council had held a public hearing and then passed a resolution encouraging ODOT to continue to look at feasibility. He advised that there was no application for the Planning Commission to hear, so the Planning Commission was the wrong venue for opponents. He was not aware of any funding coming to the City from ODOT for the project. ODOT had been holding open houses where ODOT, PGE and the solar vendor's representatives and engineers were present to answer questions. He suggested concerned residents attend the September 2nd neighborhood meeting. He said the staff would send information to all who signed up to receive it and he would also put their email address on the listserve that announced the schedule of future City hearings.

Alice Richmond, 3939 Parker Rd., recalled that the City Council meetings in which the Council had considered the matter and agreed to support preliminary studies had been well publicized, well attended, and the minutes and related information were on the City website. She said those who feared new technology should become better informed about it and voice their perspectives through the proper channels. She said the trail was not ODOT's idea – it had come from some West Linn citizens. She supported use of solar energy.

Lynn Fox, PO Box 236, Marylhurst, Oregon, 97036, President of the Hidden Springs Neighborhood Association, raised a procedural issue. She said she had learned from the City Manager that the City Council had discussed the project as individuals and at a goal-setting meeting, but they had not held a public hearing or made a public decision. She explained that lack of proper process was what upset citizens and drew them to the wrong venue to express that. She raised the issue of communications breakdown. She said she had received such short notice of a tour of the site that she did not have time to notify her association members.

She also felt the City could have made more adequate transportation arrangements for the people who did go to the site.

Bill Webber, 3545 Riverknoll Way, wanted to know what the procedure was supposed to be and if it was being followed. He wanted to know when and how the City solicited public input and where to find the schedule of meetings. He recalled the staff reported that the City Council had issued a resolution to move forward. He stressed the trail issue was a separate issue.

Babbitt said he understood the Council had decided to move forward with studying the issue. ODOT was holding open houses, as Kerr had described, but there was no application to review. The Parks Department would likely be the applicant who submitted a master trails plan for the Planning Commission to review at some point in the future. After the application was submitted the Planning Commission would schedule the hearing and invite public testimony. The Parks Director had recently outlined the process to be used to fashion a trails plan. It would offer many opportunities for citizen involvement. The City was about to select the consultant to help. Those who were interested in the process and the timeline should ask the Parks Department director; or look for it on the City website. Notices of hearings would be published there, in the newspaper, and on meeting agendas.

Doug Ainsley, 2951 Beacon Hill Dr., said he had learned that the City had been offered \$1 million to help build the trail. He suggested that PGE would benefit by using that project as a cap and trade offset for what they did elsewhere. He said the City decision to move forward with this process was "misguided."

ITEMS OF INTEREST FROM STAFF (None)

PUBLIC HEARING

(Note: The staff reports and all related documents for the hearings are available through the Planning Department.)

CDC Chapter 25 Willamette Historic District Re-Write (Continued from August 5, 2009)

Chair Babbitt opened the public hearing and explained the applicable criteria and procedure. He asked the Commissioners to declare any potential or actual conflict of interest. None were declared. When invited by the Chair, no one in the audience challenged the authority of the Planning Commission or the ability of any individual Commissioner to hear the matter.

Staff Report

Peter Spir, Associate Planner, presented the staff report. (See Staff Memorandum dated August 6, 2009). He observed the Willamette Historic District featured architecture and houses dating back to the 1890s. The neighborhood association had asked for more protection from infill and new Accessory Dwelling Units (ADUs) that were sometimes of greater height, mass and scale than existing surrounding homes and resulted in loss of privacy and sunlight. The Historic Resource Advisory Board (HRAB) had asked the staff to reduce the re-write of Chapter 25 to some core elements. Then the HRAB and the Clackamas County Historic Review Board had endorsed the proposed language. The staff had subsequently made a few changes to the numbering format, but no text changes.

Spir highlighted the key changes: Allowable house height was lowered from 35 to 28 feet. A new house could not be more than 125% of the square footage of the smallest adjacent house. Total lot coverage of all the buildings on a lot could not exceed 50%. The ridgeline had to be at

a right angle to the street to reduce the perception of mass. The front setback was to be the averaged setback of the homes on either side. No flag lots were allowed. Allowable height of ADUs was lowered from 35 to 23 feet. They could not be larger than 600 sq. ft. or 30% of the area of the primary house (the current code allowed them to be as large as 1,000 sq. ft.) Two-story ADUs had to have larger setbacks.

During the questioning period, Spir clarified there were presently no West Linn citizens serving on the Clackamas County Historic Resources Advisory Board, but there had been some in the past. That board was made up of mostly architects and designers who were passionate about historic preservation. Wood referred to the Massing regulations, which did not allow an infill house to exceed 125% of the square footage of the smallest of either adjacent house. The area of an adjacent house was to be calculated as the area of the livable space in the house plus the area of any attached garage. But Wood recalled very few existing houses in the District had attached garages - most of them had detached garages. He questioned whether this provision achieved compatibility of massing. Spir then agreed to remove the area of an attached garage from the calculation. He pointed out the calculation did not include basements – finished or unfinished –either. Spir clarified that the currently proposed changes would be incorporated into the existing Chapter 25 until a future time when the entire chapter could be rewritten. He said the ADU regulations would apply to the entire City.

Spir described the proposed changes to setbacks. The rear setback had been reduced from 20 feet to 15 feet. The front setback for a primary or secondary structure was now the same. Language to encourage neighborly front porches that was already in other sections of the code was incorporated into this chapter. They could encroach into the setback up to five feet. The side street setback had been reduced. Pop-outs and bay windows could encroach into the setback in order to make sidewalls more attractive. He confirmed there were many ADUs in the City that were walled-off portions of another structure. They typically had a separate entrance on the side or rear of the structure.

Public Testimony (None)

When invited by the Chair, no one came forward to offer public testimony. Horsey observed no one from the Willamette Neighborhood Association had come to speak at the hearing. Spir confirmed that legal notice had been mailed. He observed that the HRAB was composed of Association members who kept the Association updated on the changes.

Martin suggested allowing a front porch to encroach into the front setback by seven feet, instead of five feet, in order to allow it to be a more functional size. Spir advised the five-foot encroachment was what was allowed in other sections of the code; the builder could push the building back a few more feet to make room for a larger porch; most new houses in the District were being built with a larger porch; and the steps that could extend out from the porch could also serve as a place to sit and socialize. However, the staff could accept a change to 7 feet.

Martin **moved** to allow a front porch to encroach 7 feet into the front setback. Babbitt **seconded** the motion and it **passed** 5:1. Steel voted against.

Martin corrected the Setbacks section (1)(a) Front yard, so it began with, "The front yard setback shall be..." Steel had found numbering errors to correct and agreed to submit them to the staff so they could make the corrections. Spir agreed to her suggestions to insert "maximum" in front of "50% Lot Coverage" in the Setbacks (6) section and in Table 25-1. He agreed to her suggestions to modify the Accessory Dwelling Unit section to say, "new detached

accessory structure” in (1)(c); and to replace “accessory” with “detached” in (1)(d). Steel suggested (2)(e) should say ‘No more than one ADU is allowed per lot.’ Spir agreed. Steel observed that the ADU minimum area per 1 or 2 person(s) standards in (2)(f) did not refer to a “family.” Spir said it could be changed to say “two or more persons,” or entirely deleted.

Steel **moved** to delete (R)(2)(f). The motion **failed** for lack of a second.

Deliberations/Motions

Babbitt closed the public hearing. Martin **moved** to recommend CDC-09-01 to City Council with the porch encroachment change the Commissioners had voted for and the other changes they had agreed on. Lytle **seconded** the motion and it **passed** 6:0. Chair Babbitt announced a five-minute recess and then reconvened the meeting.

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CDC-08-03 Regulatory Improvement Code Amendment Package: Minor amendments to CDC Chapters 2, 8, 9, 10, 11, 12, 13, 14, 15, 16, 18, 19, 21, 22, 23, 24, 28, 35, 37, 46, 48, 52, 55, 60, 66, 81, 85, 96, 98 & 99 (Continued from August 5, 2009)

Chair Babbitt opened the public hearing and outlined the applicable criteria and procedure. He asked the Commissioners to declare any potential or actual conflict of interest. None were declared. When invited by the Chair, no one in the audience challenged the authority of the Planning Commission or the ability of any individual Commissioner to hear the matter.

Staff Report

Chris Kerr, Senior Planner, presented the staff report (See Planning & Building Department Staff Report dated August 6, 2009). He explained the City periodically clarified and updated the CDC. That was the purpose of the proposed amendments. The staff had made the changes the Commissioners and staff had discussed at the previous hearing. Most of them related to correcting Scribner’s errors, improving formatting, and clarifying the code. Two Chapter 28 provisions had been removed because it had never been clear the City Council had intended to adopt them with other changes to Chapter 28. The staff had incorporated language Steel had suggested into the 24.020 Planned Unit Development process to clarify it was a PUD development requirement to hold a preapplication meeting with the affected neighborhood association (The specific requirements for such a developer/neighborhood meeting were listed in Chapter 99). Kerr suggested removing the language, “If the planned unit development proposal includes more than 4 lots” from 24.020(A)(2) because the change should not be tied to four lots (that defined a “subdivision”). Kerr recommended approval of the amendments.

During the questioning period, Kerr confirmed that the letters (b) and (c) of 24.020(A), the PUD process section, had been removed, but the requirements they had been tied to were still in the code.

Public Testimony

Peter Jameson, 18480 Nixon Ave., represented the West Linn Riverfront Owners Association (WLRA). He testified that WLRA had reviewed the proposed changes and would accept deletion of language in 28.040(W) and 28.110 (F)(5) that said, “Maintenance and repair of public paths are exempt”; and, “Where there is sufficient space such as at a riverfront mixed use or

multi-family development the desired pathway width shall be at least 20 feet and constructed of all weather material.”

Kim Kelley, 2961 Beacon Hill Dr., confirmed that she agreed to eliminating that language.

Deliberations/Motion

Chair Babbitt closed the public hearing. Martin **moved** to recommend CDC-08-03 Regulatory Improvement Package to the City Council. Horsey **seconded** the motion but she wanted to clarify that the change to the draft that Kerr had verbally suggested was included.

Horsey **moved to amend** the motion to specify the language in 24.020(A)(2), “If the planned unit development proposal includes more than 4 lots,” was to be deleted. Lytle **seconded** the motion to amend and it **passed 6:0**. **The vote on the amended motion was then conducted and it passed 6:0.**

ITEMS OF INTEREST FROM THE PLANNING COMMISSION

The Commissioners discussed the citizens’ request for a task force to consider the ODOT project. Martin advocated involving West Linn residents early in the process, so they could influence ODOT’s plans. He recalled the 10th Street Task Force had worked successfully with ODOT. He asked for Kerr’s advice. Kerr advised that the solar project involved many more entities and players than just the City of West Linn and the trails master planning process was to plan all trails in the City – not just the one through the site people had come to the meeting to talk about. That trail had been in the Master Parks Plan for a long time. The Parks Department planned an extensive citizen involvement program. But getting involved with ODOT was a good idea and a task force might serve as the unified voice of City residents. It should not be limited to just Barrington Heights Neighborhood Association members. He offered to discuss the idea with a City Manager’s office staff person who talked to ODOT representatives more often. Lytle sensed that citizens’ were worried that the “real decision” had already been made. He hoped a task force would be empowered to actually affect it. Horsey asked the staff to keep the Commissioners updated on City Council discussions of the provisions the Planning Commission had removed from Chapter 28.

ADJOURNMENT

There being no other business, Chair Babbitt adjourned the Planning Commission meeting at 9:10 p.m.

APPROVED:



Michael Babbitt, Chair

10-7-09

Date