



# CITY OF West Linn

## PLANNING COMMISSION

### WORK SESSION

Minutes of July 18, 2012

**Members present:** Chair Michael Babbitt, Russell Axelrod, Thomas Frank, Robert Martin, and Christine Steel

**Members absent:** Vice Chair Gail Holmes and Holly Miller

**Council Liaison:** Mayor John Kovash

**Staff present:** John Sonnen, Planning Director; Sara Javoronok, Associate Planner; Zach Pelz, Associate Planner; and Damien Hall, City Attorney

### CALL TO ORDER

Chair Babbitt called the work session to order in the Council Chambers of City Hall at 6:45 p.m.

**PUBLIC COMMENTS** (None)

### APPROVAL OF MINUTES

Commissioner Steel **moved** to approve the Minutes of June 6, 2012. Commissioner Martin **seconded** the motion and it **passed** 4:0:1. Commissioner Frank abstained. Commissioner Steel **moved** to approve the Minutes of June 20, 2012 as corrected. Commissioner Martin **seconded** the motion and it **passed** 5:0.

### WORK SESSIONS

**Discuss and refine the preliminary draft of proposed CDC amendments pertaining to: public notice requirements, sidewalk use, the number of dwellings allowed along cul-de-sacs, fee in lieu of required improvements, projecting and sport field signs, and docketing.**

The Commissioners reviewed each proposed amendment in the July 12, 2012 Discussion Draft.

**Public Notice requirements:** Expand the required notification perimeter for the types of small scale projects that could be approved by the Planning Director from 100' to 300'. Discussion points were:

Most other metro jurisdictions required 200' to 300' notice for small scale projects. It was appropriate to have a larger radius in West Linn because of the topography. A 500' radius would keep notification consistent for all sizes of projects. In some neighborhoods 300' notice would only get to owners halfway down the block. Many people did not even know there was a neighborhood association, so the City should not rely on notice to the association. The commission directed staff to modify the draft amendment to call for a 500' notification radius.

**Sidewalk Use:** Businesses could locate tables and displays on the sidewalk and in the bulbous extension of a sidewalk at a corner as long as there was at least a 4' wide unobstructed accessway for pedestrians. Discussion points were:

It was important to enforce the 4' unobstructed accessway. Groups of casual shoppers standing around tables at events like Dollar Days forced other pedestrians to walk in the street.

The language should specify that it was 'the adjacent business owner' who was allowed to put his tables in the extension area.

If some businesses located items at the curb and others placed them close to their building pedestrians might have to zigzag as they walked through the area. Staff had received complaints about signs that blocked the way, but they were not aware of any issues related to tables. Three Commissioners each explained why they favored allowing flexibility: The vitality of the sidewalks was important and an attractive feature in the Willamette area. It might be a little more difficult to walk through at times, but it gave people opportunities to meet and interact with others. Business owners would find the best way to place things if they had the flexibility.

**Number of dwellings along cul-de-sacs.** The Commission had asked for changes to this code. The proposed amendments would allow cul-de-sacs where a through street was physically not feasible or was cost prohibitive. Limits on cul-de-sacs would change from a maximum of 400' length and 12 units accessed to Metro's maximum of 200' length and 25 units accessed. Discussion points were:

Staff advised the proposed criteria required applicants to consider other alternatives that would avoid a cul-de-sac. The language 'prohibitive cost' and 'feasible' made it very discretionary criteria. The burden was on the applicant to demonstrate to the Commission's satisfaction that discretionary criteria were met. If the Commissioners weighed the evidence and it was a close call then that would give them the leverage to suggest an alternative approach. The Commissioners considered eliminating any economic consideration when determining if an alternative to a cul-de-sac would be required. The Commission had been struggling with the 'economic viability' argument for years. The code did not define what prohibitive cost was. If only physical constraints were considered the applicant could use the variance process and the Commission would have more control and not have to approve something it did not want to see.

Mr. Hall observed the Commissioners were not very comfortable with the proposed discretionary language. He asked if they wanted to list specific physical impediments. Commissioner Martin did not favor trying to list things because something would always be missed. He observed the amendments were so weak they were more like guidelines. He would take out 'feasible' as well as the language about cost. Commissioner Steel did not support removal, but she did indicate she favored Mr. Hall's suggestion to change 'no feasible alternative' to 'no feasible street connections.'

Chair Babbitt observed the proposed amendments could create even more problems by allowing twice as many units on half the existing length limit. Citizens were already concerned about too much density. Mr. Sonnen advised density should be dealt with in the zoning code. If an area was zoned for the right density a cul-de-sac should not matter. The proposed code criteria would allow reasonable infill to happen on Kenthorpe, for example. The City was obliged to conform to Metro standards.

Staff agreed to highlight the issues the Commissioners had raised for the public and bring the input back to the Commission.

**Fee In Lieu of Required Improvement.** The proposed change specified the fee was to be equal to the estimated cost of the otherwise required street improvements and the proposed amount had to be acceptable to the City Engineer. Discussion points were:

The current code did not specify where the collected fees should be applied. The City currently applied them to the nearest street. Ideally, staff wanted to be able to accumulate enough fees to be able to complete a priority segment or complete sidewalks along an entire street.

Restricting application of the funds to the immediate neighborhood would require a lot of administrative tracking and might mean the City would lose the benefit of having funds to complete higher priority projects somewhere else. Some neighborhoods did not want any

sidewalks. Bundling the fees would enable the City to complete priority blocks in a neighborhood that wanted sidewalks. A suggestion was made to ask the neighborhood if it wanted to use the fees for something else instead of a sidewalk.

The Commissioners generally agreed the funds should be spent on 'like improvements'. That meant if a developer paid a \$7,000 fee in lieu of sidewalks those funds were to be earmarked for sidewalks wherever the City decided they were needed.

The Commission asked staff to find out what the City Engineer based cost calculations on and consider incorporating that into the code. Chair Babbitt recalled the Commission wanted the amount of cost/fees in lieu to be established prior to the hearing.

#### **Projecting and sport field signs.**

- **Sign orientation.** The proposed amendments required sports' play related signs to be oriented toward spectators. That way they would not look like billboards to people in the public right-of-way. During the discussion staff agreed to try to incorporate the concept that the backsides of signs should present a uniform public face to persons in the right-of-way. Discussion points were:

Aesthetics was important. Signs were ugly, but there were both pros and cons to allowing them. If the backsides were visible from the right-of-way the backsides should present a consistent or uniform face to the public.

In the photographs signs of different shapes, sizes and colors looked like trash blown up against the fence. Perhaps there should be a consistent color scheme as well. Staff advised it might be a challenge to apply that at Salamo/Rosemont Ridge because of the orientation of home plate. It was suggested the amendments could just address the back sides of signs along the street in situations like that.

Staff was asked to seek Little League input.

- **Projecting signs.** The proposed amendments would allow projecting or blade signs in business zones and shopping centers. Staff had researched what other jurisdictions did and crafted some limitations. One of the limitations was that any illumination was to be external – neon lights were not allowed.

**Docketing.** The Council had directed staff to work on a docketing process. Staff had incorporated the Commissioners' previous suggestions into options. The docketing process would help ensure there was capacity to accomplish priority projects. The Council would determine the best projects and budget FTEs to those projects. Discussion points were:

- **Planning Commission independence:** The Commission should be able to identify and raise issues. Option 3 set aside some portion of available resources the Commission could use at its own discretion.

The Commission had not been able to move projects like the PUD/Infill code amendments project to implementation due to scarce staffing resources. Staff was looking at how to deal with that.

A suggestion was made to have the Planning Commission control the docket. It had a longer term focus, more continuity due to less turnover, and it was less politically influenced. Staff reminded the Commissioners that last year the Commission's top priorities had been funded.

- **Small projects:** Docketing was a great management tool, but there should be a way to deal with small projects more frequently, so they did not stay down at the bottom of the pile or be delayed waiting for another cycle. Citizens needed to feel their issues were being responded to. Boards currently felt they had to plead with the City Council to give them the resources to work

on their projects. Option 3 would help the Commission address small projects. Option 1 would also help by allowing citizen and board projects to be considered more frequently.

In another jurisdiction the docketing process required the merits and rational of each project to be posted on the website and explained to the elected officials. That way they all got aired, but not necessarily funded. Some projects could languish forever. But docketing did make the process more transparent.

- **Staffing resources:** Docketing would give the staff the ability to set realistic deadlines and get the projects done. Planning Commission related work was about half of the staff's workload. The SAB and HRB were allocated fractions of Planning FTEs. Planning staff had been reduced when Mr. Kerr was transferred to another position.

- **Flexibility:** The Blue Heron opportunity had come up unexpectedly and that project had been shifted into top position. The 20% cushion in Option 3 would provide some flexibility to respond to other opportunities. Option 3 could allow the Commission to set 20% (or some percentage) of the docket.

When opportunity came up there should be a way to avoid dropping the ball on everything else. Option 3 allowed the City Council to reprioritize in order to add new projects at any time. It would make a conscious decision related to what projects to slow down. Flexibility should allow the City to stop a project and then pick it up again later.

The Commission should have the opportunity to explain to the Council why it wanted to work on certain projects.

- **Docketing frequency:** The Council wanted to do docketing every two years and tie it to the budget. Option 3 would allow the Commission to initiate projects outside of the docketing process and more frequently.

- **Responsiveness:** When citizens brought something up they should feel they had responsive, representative, government. Balance needed to be found between responsiveness and limited capacity. Balance needed to be found between citizen involvement and getting things done.

Housekeeping amendments was an ongoing docket item. The staff was constantly working on fixes for code glitches and minor problems. More significant changes that would take more staff time would go on the list and might have to wait a cycle. Commissioner Martin suggested that citizens and neighborhoods should be able to present a request for a project at any Council meeting and hear the Council decision on whether to allocate resources to it at that meeting.

It was not enough just to put the notice on the City website and send it to neighborhood associations. Broader notice was necessary. For example, it could be circulated in the newspaper and in utility bills.

Staff planned to refine and prepare the draft for public comments. Mr. Sonnen observed a consensus to remove Option 2 because it was too similar to Option 3. Commissioners Martin, Axelrod and Steel indicated they favored Option 3.

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2:29

### **Discuss preliminary research regarding the regulation of sports courts and decide whether to pursue code amendments**

Mr. Hall advised the Commissioners that as long as something touched and affected land it was probably safe to address it in the CDC. Nonconforming use regulations protected existing use of land or structures and the City could not make people take down structures that had been

legally erected by passing retroactive ordinances. It could amortize them in order to eventually take them out. Things that were not affixed to the ground, such as a portable basketball hoop, were not considered 'structures.'

Mr. Pelz reported on his research regarding how other municipalities addressed active sports areas. He concluded that noise, safety, light trespass and stormwater issues could be effectively addressed through land use regulations because they seemed to be working in other cities. West Linn's general approach was via nuisance regulations. Enforcement was complaint-driven.

The Commissioners wanted to know if the City could require an owner to make his sport court or fence safer or risk losing it. The staff advised they were structures that were legal and protected by nonconforming use standards. The City could not make the owner add to the existing fence height or require him to tear it down. It could use amortization as a method of dealing with the facilities. Some jurisdictions allowed 7 – 10 years to bring a structure into compliance with the code. If the pole or light fixture had to be replaced the City could require them to be replaced in some other location or with another type of light. It could put a curfew on lighting. A portable cage or hoop could be required to comply with setback standards.

Staff advised that a sports court was not listed as a nuisance in the Municipal Code and the City Council had declined to deem them a nuisance. The Commissioners wanted to know why.

Mary and Bruce Swanson, 2071 Fields Dr., related they did not know why. They had read the law; provided documentation (including noise decibel readings); and asked for enforcement. At the suggestion of the Police Department they had waited for the City to revise the noise ordinance. After it was changed they received a letter saying it did not apply to their situation. The Police did not seem to have the training to use noise meters. The neighbor had declined to participate in mediation. They had unsuccessfully asked the City Council for help. The neighbors had been cited for violating the noise ordinance, but the municipal judge had waived the fine after 90 days without violations. It was no longer a livable situation. They believed if the facility was 25' away and had a different orientation that would help. They suggested not allowing sports courts to be lighted or setting time limits.

Mr. Sonnen clarified that the Council had directed staff to work on the lighting amendment and it had voted down a motion to direct staff to deal with both lighting and noise. Planning staff worked with the community enforcement officer when the CDC was violated. Police enforced the noise ordinance.

Commissioner Martin suggested the Police might be misinterpreting the noise ordinance and assuming it just applied to loud parties. That needed to be addressed. If the Commission recommended putting noise code back into the CDC it should provide some objective way to measure noise. Mr. Sonnen offered to look into it. He advised that state law regarding noise impacts still applied. Commissioner Steel observed that some sounds, such as a bouncing ball, might not reach that decibel level but could still be disturbing.

Chair Babbitt saw consensus to move forward with regulations to address all four areas: noise, safety, light, and stormwater runoff. He asked Mr. Sonnen to drive the related regulations.

Commissioner Martin volunteered to draft and circulate a memorandum to the City Council to ask it to address the current problem. Commissioner Frank asked for more information about why the Police were not enforcing the ordinance. Commissioner Axelrod would ask the Police to reconsider their interpretation of the ordinance language. Commissioner Steel would simply state it was a problem when neighbors did not play by the rules.

3:38

**Work Session: Discuss Planning Commission decisions and associated findings.**

This discussion was deferred to a future meeting.

**ITEMS OF INTEREST FROM THE PLANNING COMMISSION**

Mr. Sonnen updated the Commissioners on the status of the WRA code review process.

**ITEMS OF INTEREST FROM COMMISSION FOR CITIZEN INVOLVEMENT (None)**

**ITEMS OF INTEREST FROM STAFF**

Mr. Sonnen advised that the Council preferred Commission work sessions be televised, the Planning Commission tentatively agreed to televising all future meetings; staff will submit revised rules to that effect for their consideration.

**ADJOURNMENT**

There being no other business, Chair Babbitt adjourned the Planning Commission meeting at approximately 10:30 p.m.

APPROVED:

  
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Michael Babbitt, Chair

7-19-12  
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Date