



CITY OF West Linn

PLANNING COMMISSION

WORK SESSION

Minutes of August 21, 2013

Members present: Chair Michael Babbitt, Vice Chair Christine Steel, Nancy King, Robert Martin and Holly Miller
Members absent: Russell Axelrod and Lorie Griffith
Staff present: John Sonnen, Planning Director; and Chris Kerr, Economic Development Director

CALL TO ORDER

Chair Babbitt called the meeting to order in the Council Chambers of City Hall at 5:24 p.m.

WORK SESSION

Discuss proposed CDC and Comprehensive Amendments intended to eliminate ineffectual and inefficient regulations to encourage positive economic development ("Cut the red tape project")

Commissioner Martin acknowledged receipt of additional submittals from Teri Cummings (August 16); Gary Hitesman (August 16); and a resolution from the Savannah Oaks Neighborhood (August 15).

The Commission and staff continued their discussion of the July 26 Public Hearing Draft. Mr. Kerr announced he was going to remove the amendments that would allow increases in height and lot coverage from the package. It would make more sense to consider them next year when the City updated the Transportation System Plan (TSP). He was working with ODOT and Metro to determine how to analyze what the related impacts could be. He confirmed he would provide a map that called out the impacted areas. He recalled he had handed out the complete survey results at a previous meeting.

The Commissioners and staff discussed what kind of document should be distributed to the public prior to the September 4 hearing. They agreed that it would be a track-changes version that also distinguished what were staff recommendations if those were different than what the Commission recommended.

Lot Dimensions

4. ~~The lot depth comprising non-Type I or II lands shall be less than two and one-half times the width, and more than an average depth of 90 feet.~~

The above requirement was proposed to be struck under R40, R20, R15, R10, R7 and R5. Mr. Kerr explained the goal was to allow more flexibility of lots. The Commissioners noticed the diagrams did not match the language above them. Mr. Kerr offered to provide better examples. He clarified this restriction applied to the buildable portion of the lot. On lots that had steep slopes, the buildable portion would be smaller than the lot. He agreed with Commissioner Martin that this provision would have more profound effects on smaller lots in the higher density zones than on the larger lots in the lowest density zones (R40, R20 and R15). For that reason he could agree not to strike E.4 in the lowest density zones. He spoke about flexibility on smaller lots. E.4 limited lot depth on the buildable portion of all of those lots which were already subject to a minimum lot width requirement; a minimum overall lot size requirement; setbacks; and frontage requirements. It was an additional constraint when someone was considering doing a subdivision and trying to work around trees, WRAs and steep slopes. He noted the zones typically required 35 ft. frontage. He noted there were deep lots all over the City that he did not think were problematic. During this discussion Commissioner Martin indicated they should have done an economic development plan first (with public input) and then looked at the impacts and considered related code changes. He questioned how the proposed change could encourage economic development. Chair Babbitt commented it would impact redeveloped infill lots as well as new land that was going to be annexed. He asked Mr. Kerr to provide examples showing how it would affect lots in various zoning districts (just as Mr. Kerr had provided examples when they were looking at PUD code). He polled the Commissioners. They agreed with the proposed changes (to strike requirement 4) under R40, R20 and R15. They agreed to leave requirement 4 in the code under R10 and higher density zones at least until Mr. Kerr presented his new examples and helped them understand what the proposed change would do and where the impact would be.

The Commissioners suggested it was important to find out about any potential conflict between the proposed amendments and the pending PUD and WRA codes. Mr. Sonnen confirmed the staff planned to discuss that with them. The Commissioners wanted to know how large lots could be in the City. Mr. Sonnen advised that Metro required cities to establish minimum densities as well as maximum densities. In West Linn subdivision lots could be up to 30% larger than the zone's minimum lot size. There was no limit on the size of lots created by partitioning. He advised that the 60,000 s.f. lots Commissioner Martin saw along the river predated the current zoning code. If they were redeveloped the lot size requirements would apply. He advised the Commission that there were three subdivisions currently under review and there had been a handful of partitions in the past few months. People were dealing with small, irregular, infill properties where they were demolishing an existing structure. There would probably be some variance requests. If requirement 4 were eliminated he did not think they would see a lot of abuse because people trying to meet the market in West Linn would likely try to have standard lots.

Building heights

1:03

Mr. Kerr reiterated that he was no longer proposing increased heights or expanded lot coverage in this proposal. They could be considered during the TSP update process. He did not expect underground area to be considered a 'story,' but that would be decided later.

Potentially require 50-foot buffer in Neighborhood Commercial / General Commercial / Office Business Center zones.

Mr. Kerr advised that staff did not know what the language 'and in addition, a buffer of up to 50 feet may be required' meant or where it would apply. It was proposed to be struck. Without it they would rely on the required setbacks; noise, light and odor standards; landscaping and parking requirements; and requirements to mitigate impacts. Chair Babbitt indicated he was concerned about protecting residences from impacts. Mr. Kerr questioned whether a little convenience store in the NC zone should have to provide a 50 ft. buffer on two sides. Chair Babbitt suggested this was where the applicant could use the special waiver. Mr. Kerr observed that would make the process harder. The Commissioners agreed to Vice Chair Steel's suggestion to keep the struck language and revise it to incorporate: "in addition a structural or landscaped buffer to mitigate impacts may be required." Chair Babbitt observed it allowed the Planning Commission to weigh all of the options.

OBC Setbacks

Commissioners and staff discussed where buildings should be required to be pushed up against the street. The current language would require that along arterials. Mr. Kerr thought the only two arterials in the City were Highway 43 and Willamette Falls Drive. Mr. Sonnen advised that buildings were usually up against the street to create a pedestrian environment where pedestrians browsed store windows and were enticed into the stores. Pedestrian environments were typically along lower volume roadways. The Highway 43 consultant had advised that was a traffic count under 12,000. Highway 43 volume was higher. Mr. Sonnen suggested basing the setback requirement on the traffic volume of the street instead of the street classification. The Commissioners agreed to that. They would have at least a 20 ft. front setback on higher volume streets.

During this discussion the Commissioners considered the safety risk of having buildings up at the street at intersection corners. One way to address that was that building corners had to be lopped off so they were outside of the sight triangle. Chair Babbitt did not think that was enough. He suggested there should be some minimum front yard setback when cars were going past at 30 mph. Staff pointed out where were two small pieces of OBC along Highway 43 and there was OBC parcel on Blankenship across from Albertsons that might be developed soon. They asked the Commissioners to think about what might be there. They asked the Commissioners to think about Central Village and Willamette where buildings were right up against the sidewalk; and vibrant, walkable areas like NW 21st and NW 23rd Streets in Portland and Orenco Station in Hillsboro. They suggested pushing the buildings back would look more like Kruse Way. It would diminish the pedestrian atmosphere. Mr. Sonnen suggested that if the Commissioners were going to require a front setback along Highway 43 they should allow

those who wanted to build next to a development that was already built to the street to do that too. At the end of this discussion the Commissioners asked staff to revise the OBC, Campus Industrial and GC sections. They were to incorporate the concept of using a traffic volume threshold to determine when there was to be a 20-foot maximum setback. It would be imposed on the higher volume streets. On higher volume streets they would allow parking in the setback. On lower volume streets they would require the setback area to be occupied with certain types of pedestrian oriented features. They seemed to agree that if someone wanted to build to the build-to line on Highway 43 next to other buildings that were close to the street they would allow that instead of making them set back 20 feet.

Commissioners Questions

Mr. Kerr answered some questions the Commissioners had posed at the previous work session. He said special waivers were only applicable to commercial areas. He offered clarification regarding Conditional Use Permits. [Mostly inaudible – apparently related to the school district]

2:28

Parking

Mr. Kerr explained the City did not currently allow applicants to count on-street parking to satisfy parking requirements. The proposed changes would allow it to count under certain circumstances. It would not apply in a residential zone. It only applied to frontage. Engineering Department approval would be necessary. They would compare the request with the longer term TSP and not allow it if they knew that in the future there was to be a turn lane, for example, where the parking was located now. Mr. Kerr clarified there was no parking requirement for businesses in Willamette. He advised that just a couple of spaces could make the difference between a business moving in or not moving in. He advised those in the business of building retail/commercial buildings tended to want to overbuild parking on their sites. Chair Babbitt commented that this was not helping the issue that there was more and more traffic and need for parking. Mr. Kerr clarified for Vice Chair Steel that the City did not track the entire supply of parking spaces. Staff looked at the spaces immediately in front of a business when a new tenant applied for a permit. Some businesses did not have any frontage. Mr. Kerr confirmed the overall change in parking requirements was downward. Commissioner Martin observed there was little mass transit in West Linn and walking was not a good alternative due to aspects such as topography. He wondered if the amount of parking had been part of the reason a number of businesses had gone out of business in Central Village, where it was difficult to find a parking place at noon. He commented that although this moved West Linn in the direction they wanted to go it was a perilous path unless they got some form of mass transit. Later he clarified that he supported the proposed parking section as a good change. Mr. Kerr advised this would be counting spaces the way Metro was going to require anyway. The concept of shared parking better utilized existing spaces.

Vice Chair Steel suggested the Commissioners add an aspect to their memo to the City Council about the competition for parking and ask the City Council to consider a shuttle service

between the business centers. Mr. Sonnen suggested the City could specify what minimum on-street parking was. For example, **'For purposes of this section 20 feet of frontage equals one space.'** They might want to add, **'with the approval of the City Engineer consistent with the TSP.'** Mr. Kerr suggested that the parking requirement could be expressed as follows when a business, such as Adult foster care, had 24-hour operations: **'One off-street space for each three units, plus one space for each employee working during the time period with the greatest number of employees on site.'**

2:50

Tree Protection

The Commissioners discussed the following proposed provisions.

55.100(B)(1. Tree Protection)

- b. Significant trees on Type I and II lands shall not be removed, except as permitted elsewhere in this code. The City Arborist may authorize the removal of significant trees on Type I and II lands if they are determined to be diseased or hazardous to public health.
- c. New development shall preserve existing trees where feasible and shall plant new trees if needed.
 - b. Where it is determined by the City Arborist that 20 percent of the significant trees on non-Type I and II lands cannot be saved, the applicant shall mitigate for the difference between the required 20 percent and the trees being saved. Mitigation shall consist of replacing trees on an inch-for-inch basis (e.g., the removal of a 24-inch tree requires replanting of (6) 4-inch, (8) 3-inch, etc., trees of a species acceptable to the City Arborist).

The Commissioners agreed with Vice Chair Steel's suggestion to allow off-site mitigation planting in order to prevent overplanting a site if the inch-for-inch replacement would result in overplanting. On-site mitigation was to be to the level specified by the City Arborist. Off-site mitigation would be paid for by the developer. The Commissioners did not support a fee in lieu of mitigation. They did not support the alternative to simply allow developers to pay per inch for tree removal so the City could plant trees where it wanted them. Mr. Kerr related the City Arborist recommended charging around \$100 per inch. He advised most replacement trees were 3-inch caliper. Vice Chair Steel suggested requiring mitigation trees to be 'as large a caliper as possible,' or, as an alternative, half the removed tree's size. Chair Babbitt suggested that could be too costly. He recalled the Commission had previously allowed off-site planting. The condition said replacement had to be inch for inch. In the past there had been an issue related to how to calculate a fee in lieu. The fee never seemed to be used in a reasonable amount of time. Mr. Sonnen suggested another approach would be to require significant trees that would be compatible with the potential development to be planted on a percentage of the site or in a separate tract (some jurisdictions said it should be 5%). Trees could be planted in the islands in the middle of streets, for example.

Commissioner Martin observed the Commissioners agreed to Mr. Sonnen's suggested changes to 1.b.: **'Significant trees on Type I and II lands shall not be removed except as permitted in CDC Chapter 8 of the West Linn Municipal Code.'** After the words, 'are determined to be diseased' add **'hazardous to public safety, inappropriate to the site at maturity, or not likely to survive construction impacts.'**

Commissioner King recalled Commissioner Axelrod had an issue with the change from preserving 20% of significant trees to preserving 20% of the area. The Commissioners decided to wait to discuss this when he was present.

Domesticated Chickens

- *Municipal Code – Chapter 5, Nuisances 5.416 Domesticated Chickens*
- *CAC 08-050 Uses and Development Permitted under Prescribed Conditions*

Commissioner Martin observed the Commissioners favored removing all of the related CDC provisions because they had no meaning given the Municipal Code, which specified:

5.415 Livestock and Poultry (1) Except for domesticated chickens, or as otherwise permitted by the WLMC or CDC, no person shall keep or maintain livestock or poultry within the City.

Mr. Sonnen confirmed the City had allowed people to use goats to clear areas, but just for several weeks at a time. Vice Chair Steel referred to **Municipal Code 5.416 Domesticated Chickens (5): Enclosures must be located at least 20 feet from all neighboring residences.** She commented that 20 feet was too close.

Removal of Ineffectual and Redundant Code

99.030 B. Pre-application conferences

5. At such conference, the Planning Director or designee shall:

- ~~Cite the applicable federal and State laws and rules and the Comprehensive Plan policies and map designation;~~**

Commissioner Martin would have (a.) call for citing 'the applicable Comprehensive Plan policies and map designation.' That was because he understood the Commissioners would look to the Plan any time the decision was discretionary. Chair Babbitt suggested not including the word, 'applicable' so staff would not have to interpret a lot of Comprehensive Plan aspirational statements to find which would apply. He anticipated staff could tell the applicant that if the Commission had to interpret a CDC provision they would look to the Plan. Commissioner Martin agreed with Chair Babbitt's suggestion. During the discussion Mr. Kerr questioned why they would need to go through the Comprehensive Plan policies during a preapplication conference. Mr. Sonnen advised that in interpreting the CDC the Commission first looked at the purpose statements. If that was not sufficient then they looked for guidance from the Comprehensive Plan. They could directly apply the Comprehensive Plan if it was clear enough

to constitute objective criteria. Under the current language for conditional use they would be obligated to cite the applicable Comprehensive Plan policies so the applicant would know.

Class II Design Review Process (in Chapter 55)

55:030 Administration and Approval Process C. (page 61) was proposed to be struck. Staff advised it was redundant because they would consolidate the all approval processes in Chapter 99.

Definitions

Mr. Kerr noted the definition **Transient Lodgings** was struck and replaced by 'Hotel/Motel.' This definition would be placed in Chapter 2.

GC Permitted Uses

Vice Chair Steel recalled at their previous work session the Commissioners had added Hotel/Motel to the permitted uses list; moved Extended-hour businesses to the conditional uses list; and excepted Hotel/Motel from the Extended-hour businesses CUP requirement. Staff advised Measure 56 notice would be required before the hearing to advise the property owners in the GC district that what was being proposed was to take a permitted use and make it a conditional use and that might diminish their property rights. Mr. Kerr suggested if the Commissioners decided to wait until after the next hearing to propose this change he would revise the existing CUP language under the permitted use, Extended-hour businesses, in the hearing draft to clarify it. Chair Babbitt was concerned this did not address that a new, permitted use, extended-hour, business moving into an existing structure was not required to apply for a CUP. At the end of this discussion the Commissioners agreed to Mr. Sonnen's suggestion to add language at the beginning of **19.030 Permitted Uses: "The following uses are permitted outright in this zone, provided that extended-hour businesses are subject to..."** to make the readers of the permitted use list aware of that.

Special Waiver

Mr. Kerr proposed to change some of the proposed Special Waiver language in order to address Chair Babbitt's concern that it did not require superior development (which was design beyond what the code would require).

The existing proposed language was:

- C. **Special Waivers. Special Waivers are only appropriate where it can be shown that the proposed development provides an alternative or superior means of furthering the intent and purpose of the regulation to be waived. A Special Waiver involves a waiver of a standard to permit a specific proposed development. It does not require demonstration of a hardship. It is a request to modify specific requirements in order to**

provide an alternative design which would not otherwise be possible under the standard requirements of the Code.

Mr. Kerr suggested revising the above language as follows:

- C. Special Waivers. Special Waivers are only appropriate in mixed-use and non-residential zoning districts. Special Wavers may be granted by the approval authority where it can be shown that the proposed site design provides a superior means of furthering the purpose of the regulation to be waived.**

Existing proposed language said:

- 1. The Planning Commission may approve a Special Waiver due to the unique nature of the proposed development if it finds that there is sufficient evidence to demonstrate that the proposed development:**
 - a. Provides an alternative means of furthering the intent and purpose of the regulation to be waived; and,**

Mr. Kerr would change 1.a. to:

- a. Demonstrates the proposed development can comply with the regulation to be waived, but the waiver will provide an alternative means of furthering the intent and purpose of the regulation to be waived; and,**

Mr. Sonnen explained why an applicant would apply for a special waiver instead of a variance. The variance process granted a variance because it addressed a hardship in meeting the code. A special waiver was granted to those who could meet the code, but had a better way to achieve the intent of the code.

3:53

ITEMS OF INTEREST FROM THE PLANNING COMMISSION

The Commissioners asked staff to load the CDC, Comprehensive Plan, Statewide Planning Rules, PC Rules, the Municipal Code, and all master plans on their new electronic tablets and grant each Commission administrative rights to make changes on his/her own tablet to make them more functional.

ITEMS OF INTEREST PRETAINING TO THE COMMISSION FOR CITIZEN INVOLVEMENT

The Commissioners and Mr. Sonnen discussed the procedure for forwarding citizens' emailed testimony to the Commissioners. The Commissioners wanted to ensure receipt was acknowledged. Commissioner Martin suggested if staff was already posting the packets of emails on the website the Commissioners would read them there.

ITEMS OF INTEREST FROM STAFF

None.

ADJOURNMENT

There being no other business, Chair Babbitt adjourned the meeting at 9:35 p.m.

APPROVED:



Michael Babbitt , Chair

11-20-13
Date