



CITY OF  
**West Linn**

PLANNING COMMISSION

**WORK SESSION**

Minutes of August 19, 2013

Members present: Vice Chair Christine Steel, Lorie Griffith, Nancy King, Robert Martin, and Holly Miller  
Members absent: Chair Michael Babbitt and Russell Axelrod  
Staff present: Megan Thornton, Assistant City Attorney

**CALL TO ORDER**

Vice Chair Steel called the meeting to order in the Bolton Conference Room of City Hall at 5:00 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”)**

Vice Chair Steel recalled that the Commissioners had previously decided to replace the outdated City Council Goals section with a vision goals document that Commissioner Axelrod had drafted.

*Public Testimony*

The Commissioners confirmed they had received a packet of citizen testimony over the weekend (see the August 16, 2013 Testimony Packet). It contained submittals from Karie Oaks, Tony and Brenda Perry, Julie Simpson, Teri Cummings and Scott Gerber. They referred to Karie Oakes’ August 14, 2013 letter and asked Ms. Thornton for advice regarding whether the process had to start over if the EDC had not involved neighborhood associations. Ms. Thornton advised there was no actual, concrete, violation of Chapter 2 of the Municipal Code that would need to be remedied by starting the process over.

The consensus was to move forward by sending their recommendation with a memorandum to let the City Council know the Commissioners were concerned about the way public outreach had been done; that neighborhood associations had been shortchanged; and that the process did not meet the Commissioners’ interpretation of the intent of the Municipal Code. Points raised during the discussion were that the city needed to do a better job of communicating how a city project would affect citizens; the City Council wanted the project to move forward timely; the process the CCI asked for of identifying and including stakeholders and submitting a minority report had not been followed; some neighborhood associations were not active or were dysfunctional; and the Commissioners did not want to be intimidated by some strong

language in testimony. There were differing opinions about whether the flawed process was due to mistake or was intentional. Ms. Thornton advised that if the Planning Commission decided not to forward a recommendation because it wanted to start the process over, the City Council could decide to take action after 60 days.

43:57

*Definition: Conditional Use*

Ms. Thornton confirmed the definition in the Comprehensive Plan was proposed to be changed to be consistent with the definition in the code. 'Conditional Use' was used once in the Comprehensive Plan. The CDC used it more often so it seemed to make more sense to use the CDC definition and the context that came with it in the Comprehensive Plan. Another alternative would be to simply delete the definition from the Comprehensive Plan. The Commissioners planned to continue to discuss this later.

The Commissioners continued examining the proposed amendments from where they left off at the last work session.

*Variances and Special Waivers*

**CLASS II VARIANCE APPROVAL CRITERIA**

- a. **The variance is the minimum variance necessary to make reasonable use of the property. To make this determination, the following factors may be considered, together with any other relevant facts or circumstances:**
  - iv. **The economic impact on the person requesting the variance if the request is denied.**

Ms. Thornton recommended eliminating factor iv. Vice Chair Steel observed consensus to delete it.

- b. **The variance will not result in violation(s) of any other adopted ordinance or code standard, and the variance will meet the purposes of the regulation being modified and will not conflict with the goals and policies of the West Linn Comprehensive Plan.**

The Commissioners added the underlined language to end of (b.) that they had taken from another item (C. ) which was struck in the draft document.

Ms. Thornton confirmed that Mr. Kerr planned to make it clearer that Special Waivers were meant for commercial development. She explained the proposal would put a limit (2 per 12-month period) on the number of Class II variances for one lot because variances were supposed to be for very special cases and if people needed more than two perhaps the site was not the right location for their structure. The Special Waiver would be available for those who thought they could design a better development than the code would allow. Vice Chair Steel observed consensus to recommend these changes.

*Chapter 99 Procedural Amendments*  
*Neighborhood Contact*

The Commissioners wondered how this section would look if neighborhood associations had been involved in the process. They decided to skip it until they knew what neighborhood associations wanted in order to do no harm. One suggestion Commissioner Martin had was to require minutes from the developer/neighborhood meeting for the record.

1:16

*Approval Authority*

The Commissioners did not favor giving the Planning Director the authority to decide the following:

- h. Enlargement or alteration of a non-conforming structure or use.
- k. Class II Parks Design Review
- l. Class II Design Review
- li. Subdivision of 25 or fewer lots (the Planning Director should not decide any subdivisions)

During this discussion Commissioner Martin suggested removing (r.) water resource area permit because the new WRA code would have a new discretionary component. Ms. Thornton advised them not to remove (r.) until the new code was adopted. Commissioner Martin agreed. Ms. Thornton advised that design review was not supposed to be a discretionary decision. A project either met the letter of the code and was approved, or it did not meet it and was either conditioned so it met the code or it was not approved. There was not a lot the Planning Commission could do to change the application. It was cheaper and more efficient for the applicant and the city when the Planning Director made those decisions. Commissioner Martin and Vice Chair Steel each related the benefit of having the Planning Commission hear an application was because the Commissioners had caught staff errors and because a Planning Commission public hearing got citizens more involved in the matter.

The Commissioners looked at the list of things the Planning Commission would decide. they agreed to wait to make a recommendation regarding the proposed removal of the following two items until Mr. Kerr could explain them:

- ~~d. Enlargement of a non-conforming use or alteration for a structure containing a non-conforming use.~~
- ~~e. Enlargement or alteration of a non-single family residential non-conforming use.~~

The Commissioners would recommend that the Planning Commission decide all subdivision applications; Class II Design Review; Class II Parks Design Review; and any matter not specifically assigned to another approval authority. \*Commissioner Griffith left the meeting.

START OF 2 CD

The Commissioners planned to ask Mr. Kerr to explain 50.050 Building Permits for an approved conditional use.

*60.070 Approval Standards and Conditions – Conditional Use Criteria*

Commissioner Martin recalled Commissioner Axelrod did not want to make any changes to criteria 3 and 7. Vice Chair Steel suggested keeping them and making the proposed new language for 3 and 7 into two additional criteria. There would then be a total of 9 criteria. Ms. Thornton discussed the idea that there should be a criterion that the proposal was consistent with the Comprehensive Plan. She explained the Comprehensive Plan was their base and they built their code on it. There was no need to go back to look at the Plan. The benefit of that was it did not require rehashing of every Comprehensive Plan goal and policy for every conditional use request and it reduced the legal risk of review by LUBA. She suggested the best and easiest way to remove uses they did not like in a particular area was to take them off that zone's list of permitted and conditional uses in the CDC. She advised that if the city kept the old language and added the two new criteria there would be no gain in efficiency and it would require more staff work.

Commissioner Martin noted that 'schools' was on the list, so if someone applied to have a truck driving school the Commissioners would be forced to approve it unless the criterion to be consistent with the Comprehensive Plan gave them a basis to deny it. He asked how the proposed changes would have prevented the McDonalds on Highway 43, which adversely impacted the character of the area. Vice Chair Steel asked how the criteria related to public testimony that West Linn was a quiet bedroom community. Ms. Thornton advised they did not have to approve a use that did not fit. The use would be subject to enough discretionary criteria that the Commission could decide if it was the right fit. She pointed out the criteria related to things like adequate area and aesthetic design treatment to mitigate any possible adverse effect from the use on surrounding properties and uses. The proposal could not have significant adverse impacts on the livability or usability of nearby properties. The proposed criteria would also provide more certainty to applicants because it was more objective and less subjective. She advised the city had a lot more discretion when it came to conditional uses than under standard Class II design review. She advised that the criterion regarding the 'overall needs of the community' was too broad. No one knew exactly what it meant. The applicant did not know exactly what they were going to be required to prove. They would take their best guess as to what it meant to the Planning Commission and hope they got it right.

Vice Chair Steel was concerned about the list (and the code, in general) not keeping up with the times. She noted 'community' needed to be defined. Commissioner Martin was concerned the criteria would not handle all situations. The Commissioners then agreed to send this section to the City Council as nine criteria (as Vice Chair Steel had suggested) and let the City Council strike what it wanted to. They also agreed to write a commissioners' report to forward to the City Council with the staff report.

*Greater Flexibility*

The Commissioners discussed the following uses on the GC Zone Permitted uses list:  
Hotel/Motel. This use was proposed to be added.

Extended-hour businesses. Commissioner Martin did not want to strike language that a CUP was required when an extended-hour business was to go into a new building or an expanded building. West Linn should be careful about the number of extended-hour businesses it had. As a conditional use it would be reviewed. Ms. Thornton advised the current language was confusing and odd. It was about the structure the use was in. It did not limit extended-hour businesses in an existing building. To keep the struck language would mean the hotel/motel use they had agreed should be permitted use in GC zone because it was desired, would have to get a CUP or be limited in hours of operation. She advised if the Commissioners wanted to make extended-hour businesses conditional use they should think of businesses they would want to be able to be open for 24 hours and exempt them from having to get a CUP. The Commissioners decided to make Extended-hour businesses conditional use and create a list of exceptions.

Lodge, fraternal, community center and civic assembly use. Ms. Thornton recommended adding 'religious institutions' to this item in the GC zone and in the Office Business Center Zone. The majority of Commissioners agreed to that. Commissioner Martin was concerned it would have a detrimental impact on a commercial area to have an often-empty church there.

1:00

*Residential Lot dimensional requirements.*

Commissioner Martin held that removing the requirement to have proportionality of lots was not a good way to solve the problem of how to use marginal land and could create other problems. Commissioner King acknowledged she had no way of knowing if the result would be good or bad. The Commissioners agreed to wait and ask Mr. Kerr to explain it.

*Number of Stories*

Ms. Thornton advised this would allow six stories in the GC zone and transitions would be required. The Commissioners decided to talk about this later after they asked Mr. Kerr to explain the rationale for the changes. They recalled Kruse Way had multistory buildings. They took a short break and reconvened.

3 CD

*Parking, Loading and Reservoir Areas*

Ms. Thornton explained the proposed changes would allow both on and off-street parking to count towards the parking requirement and would make it easier to have shared parking. She clarified the number of spaces requirements for specific uses had not been changed. Commissioner Martin indicated he had no problem with this section but he questioned how it related to economic development. Vice Chair Steel suggested a developer might factor the parking requirements into a decision to build or not. She commented that in a bedroom community people expected parking. Commissioner Miller indicated she could agree to the changes, but she was not sure how neighbors would perceive parking on the street. The Commissioners agreed to continue from this section at their next meeting.

*Chickens*

Commissioner Martin asked staff to make sure that the definitions in the Municipal Code were also in the CDC.

**ITEMS OF INTEREST FROM THE PLANNING COMMISSION**

Commissioner Martin noted that a street expansion that was a condition of approval of Mary S. Woods Park had never been done and was not needed. He wanted to know if the Planning Commission could remove that condition. Ms. Thornton advised the applicant could decide to apply for modification of the conditional use permit. The Commissioners discussed how a recent training session had been handled.

**ITEMS OF INTEREST PERTAINING TO THE COMMISSION FOR CITIZEN INVOLVEMENT**

The Commissioners talked about acknowledging public testimony when it came in.

**ITEMS OF INTEREST FROM STAFF**

None.

**ADJOURNMENT**

There being no other business, Vice Chair Steel adjourned the meeting at approximately 9:00 p.m.

APPROVED:

*Christine M Steel*

Christine Steel, Vice Chair

*11-6-13*

Date