



**PLANNING COMMISSION
Meeting Notes of April 19, 2023**

Commissioners present: John Carr, Gary Walvatne, Charles Mathews, Joel Metlen, Bayley Boggess, and Tom Watton.
Consultants: Cathy Corliss, MIG and Mark Butorac, Kittelson & Associates
Staff present: Planning Manager Darren Wyss, Associate Planner John Floyd, and Administrative Assistant Lynn Schroder

The meeting video is available on the [City website](#).

1. Call To Order and Roll Call

Chair Carr called the meeting to order at 6:00 pm.

2. Public Comment Related To Land Use Items Not On The Agenda

Karie Oakes requested that the Planning Commission call up WAP-23-01/WRG-23-01/FMA-23-01, a Planning Manager Decision, for review by the City Council. She submitted a letter outlining her concerns.

3. Approval of Meeting Notes: 03.15.2023 and 04.05.2023

Commissioner Walvatne requested two changes to the 03.15.2023 meeting notes. Commissioner Boggess asked for clarification of her comment in the 03.15.2023 meeting notes. Walvatne moved to approve the meeting notes for 03.15.2023 and 04.05.2023, as amended. Mathews seconded. **Ayes: Boggess, Watton, Mathews, Walvatne, Metlen, and Carr. Nays: None. Abstentions: None. The motion passed 6-0-0.**

4. Work Session: Clear and Objective Standards Compliance Project

Associate Planner John Floyd presented the revisions to the draft text amendments for the Clear and Objective Code Compliance project. The primary objective is to make it easier for all parties to understand the rules and requirements for housing and to be able to show compliance to the approval authority objectively. Additionally, other mandatory legislation related to housing, including land division procedures, manufactured dwellings, and the definition of families, are addressed in the draft text amendments. Floyd reviewed the list of follow-up items from the Planning Commission and summarized the City Attorney's edits to the proposed changes.

Marc Butorac, Kittelson & Associates, presented the relationship of the Transportation Planning Rule (TPR), Transportation System Plan(TSP), and project-related Transportation Impact Analysis (TIA) to development applications. The TRP requires cities, counties, and the state to create transportation plans that account for all modes of transportation and provides specific guidance as to what must be included in local planning efforts for transportation. The TPR provides detailed directions on preparing a TSP that will provide multimodal transportation infrastructure to support growth consistent with the jurisdiction's adopted Comprehensive Plan over a 20-year time horizon. The TSP predicts the need for new or enhanced infrastructure based on a community-wide analysis of projected growth. TSP includes an inventory of existing needs, 20-year projections needs, a list of projects to meet the need, transportation policies, and a financial plan to fund projects over time.

TIAs measure the effect of a new land use development on the existing transportation system and consider planned transportation system changes that have been designed and fully funded for construction near

the proposed development. TIAs ensure that the access to/from proposed developments can operate safely and efficiently and related improvements comply with the TSP. When a traffic impact study is not required (based on anticipated trip generation being less than 250 daily trips or other code criteria), staff must ensure that the development complies with the TSP. A development that connects, widens, or extends streets consistent with the TSP does not require a traffic impact study, as these changes have already been identified, evaluated, and adopted into the TSP. TIAs may identify additional improvements to ensure the access and immediately surrounding transportation system can continue to operate acceptably. Regardless of whether a TIA is required, developments must comply with the TSP.

The Department of Land Conservation and Development (DLCD) updated the TPR in 2022 to reflect the Climate Friendly and Equitable Communities (CFEC) rulemaking. These rule changes will have an impact on the city's next TSP update is completed as it relates to how the multi-modal system is inventoried, how projects are prioritized, how the community is engaged, and how underserved populations are impacted.

Commissioners asked questions about SDC fees, trip generation criteria, when TIAs may be required if the connection is not identified in the TSP, the suitability of the TSP to evaluate the impacts of the I205 tolling proposal, TSP roundabout guidance and status, Willamette Falls Drive Concept Plan, TSP update timeline, cul-de-sacs on slopes, and rule adoption timeline.

Commissioner Mathews requested that the Planning Commission add an agenda item to discuss Karie Oakes' request for the Planning Commission to call up WAP-23-01/WRG-23-01/FMA-23-01 for City Council review by the City Council.

Commissioners agreed to move forward with legislative hearings for Clear and Objective code amendments as proposed.

5. Planning Commission Announcements

None.

6. Staff Announcements

Planning Manager Wyss reviewed the upcoming Planning Commission schedule.

7. Adjourn

Chair Carr adjourned the meeting at approximately 7:30 pm.

Karie Oakes

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April 19, 2023

RE: 1) PC authority to call up a Planning Manager Decision for review by City Council

2) Public Improvements to Willamette Falls DR

Dear Chair Carr, Vice Chair Metlen, Commissioners Walvatne, Matthews, Boggess, and Watton,

Thank you for this opportunity to speak to you in this public forum portion of your meeting, an important aspect of your advisory role to Council. I also thank you for your service. I greatly appreciate your oversight of development in our community.

I've had an interest in land-use planning since making my home here in 1998 and I've participated in many projects. Recently, while reviewing the CDC, I came across a role of the Planning Commission (PC) that I would like to comment on. 99.160(C)(2) gives the PC the authority to call up a decision by the Planning Director (Planning Manager) for City Council review. In this role, the PC acts to ensure that certain development projects receive full review at the City level.

The PC, with its expertise with our Comprehensive Plan and land use laws, is well qualified to determine if further review of the Planning Manager decision is warranted. The challenge and often an obstacle to calling up the decision is that it must be called up within 14 days of the date of mailing of the final decision- hardly sufficient time. The PC would have to be familiar with a project and call a meeting. It may need to be a special meeting since the PC generally holds monthly meetings.

So tonight, I would like to call your attention to the Willamette Falls DR (WFD) public improvements project (Project) proposing a roundabout, bike lane, sidewalk and parking that impact the Fields Bridge Park and the Tualatin wetlands, floodplain and habitat conservation areas. The Project requires a Water Resource Area Permit, a Tualatin River Protection Permit and a Floodplain Management Permit from the City. The standard is to avoid the protected water resources, and if unavoidable, to minimize the impacts to the water resources and habitat to the greatest extent possible.

The Project, identified as [WAP-23-01/WRG-23-01/FMA-23-01](#) also proposes reconstruction of the park entrances, an extension of the park path from Brandon Place, modifications to the existing stormwater treatment facility at the northwest corner of the new Brandon Place/Willamette Falls Drive intersection, and construction of a new stormwater treatment facility within a delineated wetland. The Project requires permits from the Oregon Department of State Lands and the Army Corps of Engineers for impacts to the wetland and cut and fill within the floodplain.

The Planning Manager is the approval authority for the permits and will decide any day now. The PC would have 14 days from the date of mailing the final decision to call up the decision to City Council.

Background

Without the WAP, WRG and FMA permits for the Project, the City went ahead and partnered through intergovernmental agreement (IGA) with the school district (District) to complete the project, piggy backed on the construction of the new Athey Creek School (School) and the required adjacent half-street improvements. The so-called horse before the cart situation received objections from community members at the [July 11, 2022 Council meeting for approval of the IGA](#).

However, IGA agreement 3. Land Use Approvals section 3.1 states, “The District and City have worked cooperatively to determine the necessary land use development approvals to be obtained and submitted. The City has expeditiously reviewed the submittals for completeness and made its recommendations accordingly to the respective approval bodies. The District shall obtain the necessary land use approvals and permits to develop the middle school and construct the City Improvements prior to the commencement of construction of the City Improvements.”

The PC conditionally approved the school application, and the decision was upheld on appeal to Council and to LUBA. The [Council final decision signed October 18, 2021](#) affirmed the PC conditions of approval. Condition of Approval (COA) 5 requires the District to complete specific half street improvements, but not a roundabout. COA 7 requires the District to construct appropriate marked pedestrian crossings at the “proposed roundabout” at Brandon Place and WFD. The proposed roundabout was not reviewed by the PC for environmental impacts because the environmental analysis submitted by the District was restricted to the school property, not off site. The PC did not review designs for the roundabout. The PC did not approve the roundabout,

After school approval, the District worked with City Engineering and submitted engineering drawings for “off-site public improvements associated with the school” on May 22, 2022. Assistant City Engineer Erich Lais approved them May 31, 2022. [The project is PI-21-01 Athey Creek Middle School Improvements](#). The drawings included improvements for the roundabout and full street improvements to WFD. City Engineer Lance Calvert refused to release preliminary drawings as the City worked with the District for months to develop 100% complete drawings. The public was not given an opportunity to provide input.

The [Pre-Application Conference for the Project was June 16, 2022](#). Erich Lais and another Engineering staffer attended as applicants. The Planning Manager and two associate planners told Engineering that the Project required WAP, WRG and FMA permits. WNA representative and two community members were present. One purpose of Pre-application Conferences to include affected neighborhood associations and interested members of the community early in the planning of development towards a better process and outcome. The 100% complete engineering drawings foretold it would be a perfunctory process.

Throughout the public hearings and meetings regarding the WFD Concept Plan, the School and the IGA, members of the community, me included, Willamette Neighborhood Association (WNA) and the Neighborhood Association Presidents (NAP) expressed various concerns about improper process, no opportunity for public to vet roundabout design, no City standards for roundabouts, safety of the Fields Bridge roundabout and environmental impacts. Early on staff said there would be opportunity for public input at the design phase but by the time of the IGA, Public Works Director-City Engineer Lance Calvert said the roundabout at Fields Bridge was approved. The Tidings parroted the statement in an article.

Gary Walvatne, speaking personally, as a member of the PC that approved the school application, [corrected the record in public comments to City Council on July 25, 2022](#). The Tidings didn't correct the misinformation.

A public project of this scale involving a major traffic corridor through West Linn and impacting water quality resources, habitat conservation areas and a public park deserves a thorough review by a public body in a public hearing. The disjointed, complicated and apparently improper processes to get the public improvements to WFD along the School and Fields Bridge Park, along with the misinformation and rejection of members of the community, WNA and NAP interested in participation, effectively discouraged but a few of us.

I urge members of the PC to familiarize themselves with the Project [WAP-23-01/WRG-23-01/FMA-23-01](#) and call a special meeting to consider exercising your authority to call up the PM decision for review by City Council.

Thank you for considering my comments. The relevant code follows.

Chapter 99

PROCEDURES FOR DECISION MAKING: QUASI-JUDICIAL

[99.240](#) AUTHORITY TO APPEAL OR SEEK REVIEW OF A DECISION – EXHAUSTION OF ADMINISTRATIVE REMEDIES

The Oregon Revised Statutes require that prior to filing an appeal at the State Land Use Board of Appeals (LUBA), an appellant must first utilize the appeal opportunities provided by the City. A case cannot be brought before LUBA unless an appeal or petition for review is first filed with the appropriate City review body. It is the purpose of this section to provide parties information about possible remedies prior to litigation. To that end, the filing of an appeal or petition for review is a condition precedent for further administrative or judicial review.

A. Any decision made by the Planning Director pursuant to CDC 99.160, or the Planning Commission or Historic Review Board (except for expedited land divisions) on a development application as provided by CDC 99.170, may be appealed to the City Council pursuant to CDC 99.160(C)(1) or 99.170(G)(1) or may be reviewed by the City Council pursuant to [CDC 99.160\(C\)\(2\)](#) or 99.170(G)(2).

99.160 DECISION BY DIRECTOR

C. A decision made by the Director shall be final as provided by CDC 99.230 unless:

1. A party to the action files a written appeal with the Director within 14 days of the final decision pursuant to CDC 99.240; or
2. A majority of the members of the Commission or the Council order a review within 14 days of the final decision pursuant to CDC 99.240.



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