



CITY OF
West Linn

PLANNING COMMISSION

WORK SESSION

Minutes of June 18, 2014

Members present: Chair Christine Steel, Vice Chair Russell Axelrod, Lorie Griffith,
Jesse Knight and Ryerson Schwark
Members absent: Nancy King and Robert Martin
Staff present: John Boyd, Planning Manager; and Sara Javoronok, Associate Planner

CALL TO ORDER

Chair Steel called the session to order in the Council Chambers of City Hall at 6:00 p.m.

PUBLIC COMMENT

► **Karie Oakes, 1125 Marylhurst Drive – with a request to evaluate the process used to change the CCI.**

Ms. Oakes read aloud her June 18 email sent to the Commission. She asserted her opinion that the Commission was still the CCI and asked them to evaluate the process the City Council was using to recompose the CCI and change the existing citizen involvement program. She noted it used surveys and social media and the Council had discussed a desire to eliminate neighborhood associations. She questioned that the new CCI had the authority to act as the CCI under Statewide Planning Goal 1: Citizen Involvement; related CDC code; and the Comprehensive Plan policy that called for supporting neighborhood associations as a forum for discussion and advice on issues relating to the community. She noted it was originally adopted in 1983 and has existed until 2008 as an independent body. Commissioner Schwark indicated he was interested in whether the legal process had been followed and would read the information she provided.

► **Alice Richmond, 3939 Parker Road – on the Fourth of July event.**

Ms. Richmond highlighted aspects of the event, including the fireworks.

ITEM OF INTEREST FROM THE PLANNING COMMISSION: PROPOSED CHANGES TO CCI

The Commissioners voted unanimously to change the agenda to hear about the proposed changes to the CCI next. Commissioner Griffith joined the meeting later in this discussion.

Chair Steel related what she had learned at the City Council meeting the previous Monday. There was limited guidance available about what CCI's were supposed to do. They had to have a CCI and it had to meet at least once a year. A draft resolution and draft bylaws had been prepared. The Council wanted people to understand the CCI was only a land use planning-related body. She thought what they envisioned was not 'lessons learned followed by recommendations to the City Council' but more of an evaluation exercise. She had asked for an opportunity for the Commissioners to offer their thoughts about it at the July 7 joint meeting with the Council. The Council planned to take up the resolution on July 14. The new CCI was proposed to be composed of five members of the City Council plus the chairs of the Planning Commission and HRB. She had suggested they consider adding a citizen at large and a business representative at large. She had shared that she thought the Planning Commission had been getting close to considering and recommending changes to the CCI before the Council took it on.

Mr. Boyd offered that under Oregon's land use process the City Council could act as the CCI or designate other bodies, such as the Planning Commission. He believed the Council would want to hear the Commissioners' comments and suggestions at the upcoming joint work session. He suggested they submit them in advance of the meeting. Vice Chair Axelrod questioned the City Council's ability to evaluate itself in regard to how it was addressing citizen concerns. He indicated that he felt the CCI needed to be somewhat independent; that the City was going in the direction of trimming participation in public involvement in City affairs; and that he was not clear why the Planning Commission could not work with the Council to help them craft a new CCI structure and objectives.

APPROVAL OF MINUTES

Commissioner Schwark **moved** to approve the Minutes of April 2, 2014 as edited by Vice Chair Axelrod. Commissioner Knight **seconded** the motion and it **passed** 5:0.

Commissioner Schwark **moved** to approve the Minutes of April 30, 2014 as modified by Vice Chair Axelrod. Commissioner Knight **seconded** the motion and it **passed** 5:0.

Commissioner Schwark **moved** to approve the Minutes of May 7, 2014 as amended by Vice Chair Axelrod. Commissioner Griffith **seconded** the motion and it **passed** 5:0.

40:13

BRIEFING

PUD/Infill draft code amendments, CDC-10-02 (Continued discussion)

Link to the June 13, 2014 staff report and draft amendments: <https://westlinnoregon.gov/planning/planning-commission-work-session-30>

Staff Report

Ms. Javoronok noted this was a discussion draft, not the public hearing draft. The Measure 56 notice packet was ready to distribute. A public open house was scheduled the next day. The three main components of the draft amendments were Flag lots, Planned Unit Development (PUD), and Alternative Development Standards (for Cluster Development, Cottage Housing and Zero Lot Line development). This draft also contained new Chapter 17.

Ms. Javoronok offered an overview of each component. At the Commissioners' request staff had added a density transfer calculation to PUD and the provision that RV areas had to be screened. As the staff report explained, there was now no minimum lot size requirement for a PUD. In regard to flag lots staff had changed the requirements in regard to height and setbacks. They had removed the requirements to step back the height for balconies and patios and for residences that might be taller than the properties they were near. New Chapter 17 was where they would place various standards that would modify the underlying zone; address home occupations, manufactured homes, accessory dwelling units and side yard transitions; and include additional sections related to Cluster Development, Cottage Housing and Zero Lot Line Development. In regard to Cluster Development in natural resource/constrained areas staff was working with the City Attorney on final language to the effect that the resource area was to be set aside in a manner acceptable to the City. Cluster Development could happen on multiple platted lots as long as a new lot was not created. Provisions in regard to density transfer to the least constrained portion of the site were similar to WRA code provisions. Cottage Housing was allowed in groups of 4-12 houses, which were each limited to 1,200 s.f. Staff provided a graphic to illustrate Zero Lot Line development.

Commission Discussion

Staff clarified that the Measure 56 packet containing the PC's draft amendments was modified further by staff and was already sent to the public with letters announcing the public open house. An indication of attendance was that 50-60 persons had contacted staff about it. The hearing was scheduled on July 2.

The Commission first discussed the three removals bulleted in the staff report and then Vice Chair Axelrod and Commissioner Schwark asked for discussion of additional items.

Elements the staff had removed from the draft based on internal staff discussions:

- *The requirement that a property was to be at least 3 acres to develop as a PUD.*
- *Permitting PUD and cluster development in a historic district (subject to historic design review).*
- *Additional height and setback requirements for flag lots.*

In regard to removing PUD minimum size

Ms. Javoronok and Mr. Boyd explained that they understood the Commission wanted the 3 acre minimum and there were a lot of properties less than 3 acres they hoped would not go through the PUD process. However, staff did not want to preclude that option because the applicant might be able to do a better job if they had that flexibility on challenging properties. They noted the process required analysis, was costly, and each application was subject to Commission review. The Commission was scheduled to hear a PUD on a less than 3 acre site the following month. Staff was dealing with process time constraints and needed to get a discussion draft out so the public could provide comments. They clarified there was no minimum size site in either the draft or existing PUD chapter. A PUD could be done in residential zones but not commercial or industrial zones. Staff suggested the Commission might want to consider whether they wanted to take PUD ability away from commercial/industrial properties.

Chair Steel recalled they had discussed the minimum size and then decided to keep the 3 acre minimum. Commissioner Schwark recalled asking how many properties it would affect. Commissioner Knight and Commissioner Griffith recalled they had quite a bit of discussion. He recalled the 3 acre size was kind of arbitrary; they were trying to get a handle on how many properties it might affect; they wanted to know how they had come up with 3 acres in the first place; they had consensus in regard to what they were trying to protect, but he did not know that they came to an understanding of how best to do that; and he thought it was still up for discussion. Chair Steel recalled they had discussed it and then decided they preferred to keep the 3 acre cutoff because they felt there were other alternatives of cottage housing and zero lot line development for smaller properties. They were still trying to understand the implications and ramifications. She indicated the fact that the Commissioners had put so much time and effort into it and then the staff had arbitrarily overruled what they had agreed on made her feel the Commission was disrespected. Commissioner Schwark said he wanted to know why the task force came up with it. If staff felt it was a bad idea, he would have loved to have heard that a lot earlier in the discussion because he was not hung up on 3 acres. Now was late in the game to have this conversation.

Mr. Boyd indicated no disrespect as intended. What went out with the Measure 56 notice was in substance primarily the same information with a few exceptions. It allowed the discussion to happen in a public setting with this option open.

In regard to the bulleted removed item: 'Permitting PUD and cluster development in a historic district (subject to historic design review).'

Ms. Javoronok clarified that this bullet was incorrect and there was no change from what the Commissioners had discussed at the last work session. What staff had actually removed was the

restriction on permitting them in a historic district so now they would be allowed. The task force draft had excluded them from historic districts. The Commissioners observed that those developments would have to also meet the standards of the historic districts, which would be a challenge do to.

In regard to staff removing additional height and setback requirements for flag lots.

Ms. Javoronok clarified that 'additional' meant beyond what was required by the underlying zone. The underlying zone allowed 35-foot height. Staff had questions about enforcing the extra restrictions, which had been a 28-foot height limit 18-20 feet back on property as well as a requirement for setbacks for balconies and patios over 9 feet high. Mr. Boyd noted by taking it out all residential use lots – including flag lot residential use lots – were going to be subject to the same standards. The additional requirements had been removed from the hearing draft, but the Commission could recommend putting them back in if they decided to after hearing public testimony at the public hearing.

The Commissioners offered their perspectives on staff's removal of the additional limitations from the draft. Comments included that they could have used the extra time they would have had at previously cancelled meetings to discuss this; they had debated this; they had discussed that development on a flag lot would likely impact neighbors negatively; there was some logic to not having a two-tiered system, but they needed to talk it through; it might not matter if the house was as high as the underlying zone allowed as long as it was not sitting on the neighbor's doorstep; flag lots were not just regular lots, they had to have an access road, for example; it was a concern that what would be presented at the open house and at the hearing would not be what the Commission actually recommended, such as the 28-foot height limit; the public would assume the Commission had vetted it; staff had railroaded the Commissioners; it was not good process for staff to make the changes after the Commission had reached general consensus on how it should be drafted; they could lose track of the issues; the document that had been sent to 1,900 people was not what the Commission agreed to; and flag lot development was not the same as other residential development: the Commissioners had heard about the situation of a flag lot featuring a high structure that ruined the neighbor's enjoyment of his property, causing him to move. Mr. Boyd offered an apology for upsetting Commissioners, indicating the intent was to ensure they followed a very technical process. As in the past, both the Commission and staff recommendations could be presented to the Council. Ms. Javoronok advised them they could pull out their last draft at the hearing and say they wanted to pull this section back in to the draft they moved forward.

Items highlighted for discussion by individual Commissioners

Vice Chair Axelrod detailed areas of concern: the word 'severe' was still in 'severe landslide hazard areas'; he was concerned the draft allowed Zero Lot Development as permitted use; he did not see the RV screening provision the Commissioners had agreed on; and he asked if 'significant' in 'significant natural areas' was defined.

In regard to 'severe' Ms. Javoronok explained she was hesitant to remove the word from the proposed amendments because 'Potentially severe landslide hazard areas' was a defined term in CDC Chapter 2. He explained his philosophical concern that this was going to bonus someone who owned very steep property by giving them additional ability to develop other land even though they did not deserve it because they had known all along that the landslide portion was dangerous and unbuildable. Staff explained the proposed and existing PUD chapter allowed them to transfer up to half of that density to another part of their site that was less constrained. They were allowing that because the City did not have a lot of land left to build on. Mr. Boyd suggested this right to develop if they met specific

standards was something to talk with the City Attorney about at the public hearing. He noted the applicant would not only have to meet CDC criteria, but also the Building Code in order to develop.

Ms. Javoronok asked Vice Chair Axelrod to provide his comments on the language 'Potentially severe landslide hazard areas' to staff to help them work out language if he wanted something different than was in the draft. He talked about severe and less severe hazard lands; that a certain amount of analysis helped to determine slope stability; and that as a professional in the business he was advising that there were more factors to consider in determining the severity of landslide potential, and that was why he was concerned about the language. He explained he wanted to protect the City and avoid potential conflict and legal problems that could come from defining up front what was 'severe' or not. He would just remove 'severe' and say 'Potential landslide hazard areas.' He agreed with staff's comment that they should get the Landslide Hazard Map, the definitions, and the code language to line up. Mr. Boyd said staff would take a look at that.

In regard to Zero Lot Line Development Commissioner Schwark recalled the Commissioners decided to wait for feedback. He indicated that he was inclined to allow it unless they got a lot of negative feedback because people purchased the property knowing what it was.

Ms. Javoronok pointed out she had added RV screening language as approval criteria related to Transitions and Buffers. She and Mr. Boyd advised that the Planning Commission would decide if a PUD deserved approval because the design appropriately addressed 'significant natural, cultural, or historic resources'. A subsection seemed to offer the guidance that the design promoted 'Publically accessible views, wildlife habitat and corridors'.

Vice Chair Axelrod then detailed additional areas of concern. One was that language in a previous version of the draft Site Design section that talked about 'respectful of views both into and out of the site' was no longer there. Ms. Javoronok offered to check on it, noting that it would be difficult to quantify a criterion such as 'respectful' and determine what the views should be. Vice Chair Axelrod referred to language under Sustainable Design Item 5 that said 'native vegetation or permeable pavement' and suggested it should say 'native vegetation and permeable pavement.' Staff clarified this was approval criteria. The applicant did not have to do every one of them, but could do any of them. Then it would be up to the Commission to determine if they were doing the things they should do to have sustainable elements.

Vice Chair Axelrod asked how the D.2. Density bonus on page 6 was applied. Ms. Javoronok and Mr. Boyd clarified that for every half acre the applicant could get up to 5% up to a maximum of 20%. Basically, 2 acres would be the maximum. Mr. Boyd clarified this was not a staff decision. The PUD applicant would apply, using the calculation, and Planning Commission would determine whether or not they met the standard.

Commissioner Schwark asked for more information from staff in regard to how many PUDs under 3 acres had been processed in the last few years. He explained he was concerned that 3 acres might set the bar too high. Ms. Javoronok advised there had not been many since the recession hit. She clarified that staff did not want to see a lot of small PUD's, but they did not want to prevent someone who wanted to go that route. Commissioner Schwark asked staff if they could look at whether other communities were creating separate code for flag lots. He indicated at this point he was open to changing his mind if there was data that gave him a different perspective. Ms. Javoronok related that she knew some had separate code and some did not allow any flag lots. Commissioner Knight observed the City was already treating flag lots differently – the question was how much differently did they need to be handled. Due to limited availability of staffing resources Mr. Boyd advised they could not take on

new research, but they could review their own files to look for research on flag lots in adjacent communities. They would have public testimony at the hearing. The Commission could recommend the additional requirements to the City Council.

Vice Chair Axelrod and Commissioner Griffith asked staff to make it clear that the 'Public Hearing Draft Release' was not the Commissioners' draft when it was presented at the open house. Mr. Boyd indicated if the issue of flag lots came up staff would articulate the Commissioners' concerns. Chair Steel and Commissioners King and Griffith had volunteered to be at the open house the next day.

2:08

ITEMS OF INTEREST FROM THE PLANNING COMMISSION

Vice Chair Axelrod expressed concern that when the Planning Commission recommended code amendments to the City Council what came out of the process was not what they recommended. He planned to put some thoughts together about that. Commissioner Schwark asked to read them as Vice Chair Axelrod's insight would be helpful.

ITEMS OF INTEREST FROM STAFF

Mr. Boyd advised that staff would propose some simple code amendments in the near future that were minor code fixes and clarifications or would reconcile City code with state and regional regulations. He hoped they could process reasonable-sized sets of such amendments efficiently. He clarified whether or not the City could fund a code audit was yet to be determined.

ADJOURNMENT

There being no other business, Chair Steel adjourned the meeting at approximately 8:16 p.m.

APPROVED:

Christine M Steel
Christine Steel, Chair

8-6-14
Date