



PLANNING COMMISSION MEETING

Tuesday, September 10, 2013

6:30 p.m.

Council Chambers

2nd Floor City Hall

1300 NE Village Street

MEETING AGENDA

1. **CALL TO ORDER:** 6:30 p.m.
2. **WORK SESSION – CITY COUNCIL**
 - River Front Development Discussion
3. **ADJOURNMENT**

NEXT PLANNING COMMISSION MEETING IS TBD.

Planning Commission hearings are broadcast live on Comcast Cable Channel 22 and Frontier Cable Channel 33. Replays of the hearing are shown on Comcast Channel 22 and Frontier Channel 33 Saturday at 12:00pm and Monday at 2:00pm, and Comcast Channel 30 and Frontier Channel 39 Wednesday at 7:00pm. Further information is available on our web page at www.fairvieworegon.gov or by calling Devree Leymaster, City Recorder, 503-674-6224.

The meeting location is wheelchair accessible. A request for an interpreter for the hearing impaired or for other accommodations for person with disabilities should be made at least 48 hours before the meeting to: Devree Leymaster, 503-674-6224.



PLANNING COMMISSION / CITY COUNCIL JOINT MEETING STAFF REPORT

TO: Fairview Planning Commission / City Council
FROM: Allan Berry, Public Works Director
DATE: September 10, 2013
SUBJECT: Joint Planning Commission / City Council
Discussion re Riverfront Development

ACTION REQUESTED

Research and identify an effective strategy to develop code language for riverfront properties in Fairview which may desire to re-develop to promote economic development.

BACKGROUND INFORMATION

In June 2012, an application was received from Columbia Edgewater LLC to create a riverfront mixed use district (RMU), and to re-zone the LandCo property from General Industrial to the proposed RMU. A letter of “Determination of Completeness” was sent to the applicant on June 19th 2012. No response was received from the applicant, and the application was deemed incomplete, with written notice sent on September 27, 2012. Copies of these letters are attached to this staff report.

A Riverfront Development Feasibility Meeting was convened on December 14, 2012 to evaluate the riverfront concept. Attendees included Multnomah County Transportation, Port of Portland, and the Multnomah County Drainage District. Minutes are attached to this staff report.

Pursuant to questions posed at City Council, staff raised the riverfront development at Planning Commission meetings as follows:

- February 26, 2013 - the concept of the rezone of the properties was identified as being on the staff work plan for 2013. (annotated version attached)
- March 26, 2013 – the properties being considered for inclusion in the riverfront rezone were presented, and planning commission held a brainstorming session on the type of development they would like to see included in the plan. It was stated that the Mayor’s Visioning Committee would be providing information solicited from the public process involved in that committee’s work.(annotated version attached)
- May 14, 2013 – Planning Commission feedback was that the Comprehensive Plan should be further developed. (annotated version attached)
- May 28, 2013 – Staff reported that a meeting had been scheduled with the Leland Consulting Group regarding an economic development strategy for the riverfront and to use that information in the creation of the master plan. (annotated version attached)
- June 11, 2013 – staff reported to the commission that the meeting had been held with the Leland Consulting Group and that recommendations for a study approach would be provided.

- June 25, 2013 – staff reported that the Leland Consulting Group recommended the development of a master plan. Staff recommended that a discussion of the riverfront development at a joint Planning Commission / City Council meeting would be timely.

Staff has engaged the consultant and professional planner Carole Connell to perform a review of the comprehensive plan to identify requirements and conflicts associated with a riverfront development.

Staff has met with the City Attorney regarding the process necessary to further move the waterfront zone code forward. (memo attached)

Decision Making Process

Staff requests direction from the City Council and Planning Commission with regard to the riverfront zoning and planning future use.

Applicable Criteria

Amendments to the Fairview Municipal Code are subject to the following applicable criteria:

- Fairview Municipal Code 19.413.040 – Type IV Process
- Comprehensive Plan Chapter 2 Policy 7B

ATTACHMENTS

- June 1st 2012: Suggested code language received from Mr Garth Everhart
- June 19th 2012: Determination of Completeness letter
- September 27th 2012: Rejection of Application letter
- December 14th 2012: Riverfront Development Feasibility Meeting
- PC Minutes:
 - February 26th 2013
 - March 26th 2013
 - May 14th 2013
 - May 28th 2013
 - June 11th 2013
 - June 25th 2013
- City Attorney Memo

Chapter 19.50 RIVERFRONT MIXED USE DISTRICT

Sections:

- 19.50.010 Purpose.
- 19.50.020 Permitted land uses.
- 19.50.030 Development setbacks.
- 19.50.040 Lot coverage.
- 19.50.050 Development orientation.
- 19.50.060 Building height.
- 19.50.070 Special standards for certain uses.
- 19.50.080 Landscaping Requirements

19.50.010 Purpose.

This district is intended for a broad range of commercial, residential and public uses along the Columbia River. This chapter guides the orderly development of Columbia River waterfront areas based on the following principles:

- A. Provide a mix of commercial and residential developments above the 100 year flood elevation and Public uses including parks and moorages below the 100 year flood elevation;
- B. Provide for efficient use of land and public services; and implement the Comprehensive Plan;
- C. Provide pedestrian, bicycle and vehicular linkages between Chinook Landing, the 40-mile loop and a mix of residential and commercial activities within the District;
- D. Support the development of public use areas adjacent to Chinook Landing and the development of residential and commercial uses oriented towards the Columbia River;
- E. Encourage the expansion of the district through the conversion of industrial lands between Marine Drive and the Columbia River to this zoning.

19.50.020 Permitted land uses.

A. Permitted Uses. The land uses listed in Table 19.50.020.A are permitted in the Riverfront Mixed Use, subject to the provisions of this chapter. Only land uses which are specifically listed below, and land uses which are approved as "similar" to those listed below, may be permitted. The land uses identified with a "CU" in Table 19.50.020.A require conditional use permit approval prior to development or a change in use.

Table 19.50.020.A

Land Uses Types Permitted in the Riverfront Mixed Use

<p>1. Residential: a.Multifamily house b.Rowhouses c.Attached housing.</p> <p>2. Home occupations</p> <p>3. Bed and breakfast inns and vacation rentals</p> <p>4. Public and Institutional: a.Government Offices and facilities(administration, public safety, transportation, utilities, and similar uses. b.Libraries, museums, community centers, concert halls and other public use spaces c.Parking lots and garages d.Public & private utilities e-Community Services/Public Parks and recreational facilities f-Telecommunication equipment g-Uses similar to those listed above subject to applicable CU requirements</p>	<p>5. Commercial: a. Marina and all related marine activities including but not limited to docks, ramps, fuel depots and transient marine services b. Entertainment c. Hotels/motels d- Mixed use development e- Personal and professional services (e.g., catering/food services, salons, and other service providers. f- Retail up 10,000 SF total enclosed space g. Photography, art studio and related retail and supply stores h. General retail and gift shops i. Business or professional office (CU) j. Restaurant excluding drive in service k. Breweries and wineries with related retail operations l. Lounges, bars and taverns m. Similar uses to those listed above.</p> <p>6. Public use: a. Ship moorage b. Community space & parks c. bike and pedestrian paths d. riparian and natural resource areas</p>	
<p>Land uses marked with a CU shall require a conditional use permit.</p>		

B. Determination of Similar Land Use. Similar use determinations shall be made in conformance with the procedures in Chapter [19.480](#) FMC, Code Interpretations.

C. Land Uses Prohibited in Riverfront Mixed use. Only uses specifically listed in Table 19.20.020.A, and uses similar to those in Table 19.50.020.A, are permitted in this district. The determination of prohibited uses shall be made as narrowly as practicable so to foster a mix of uses to serve the needs of the public use and residents within the District.

19.50.030 Development setbacks.

Development setbacks provide separation between approved uses for fire protection/security, building maintenance, sunlight and air circulation, noise buffering, and visual separation.

A. Front, Side and Rear Setbacks.

1. None, except for riparian setbacks per FMC _____.
2. Setbacks for Insufficient Right-of-Way. Setbacks shall be established when a lot abuts a street having insufficient right-of-way width to serve the area. The necessary right-of-way widths and the setback requirements in such cases shall be based upon the Comprehensive Plan and applicable ordinances and standards.

B. Other Requirements.

1. Buffering. The city may require landscaping, walls or other buffering to mitigate adverse noise, light, glare, and aesthetic impacts to adjacent properties.
2. Neighborhood Access. Construction of pathway(s) within setbacks may be required to provide pedestrian connections to adjacent uses along the Columbia River and to the 40 mile loop.
3. Building and Fire Codes. All developments shall meet applicable fire and building code standards, which may require setbacks different from those listed above (e.g., combustible materials, etc.).
4. Groundwater Protection. All development shall meet the standards for the groundwater protection area. (Ord. 6-2001 § 1)

19.50.040 Lot coverage.

The maximum allowable lot coverage in the riverfront mixed use district is 90 percent. The maximum allowable lot coverage is computed by calculating the total area covered by buildings and impervious (paved) surfaces, including accessory structures. Compliance with other sections of this code may preclude development of the maximum lot coverage for some land uses. (Ord. 6-2001 § 1)

19.50.050 Development orientation.

Development within the district shall be oriented on the site towards the Columbia River.

19.50.060 Building height.

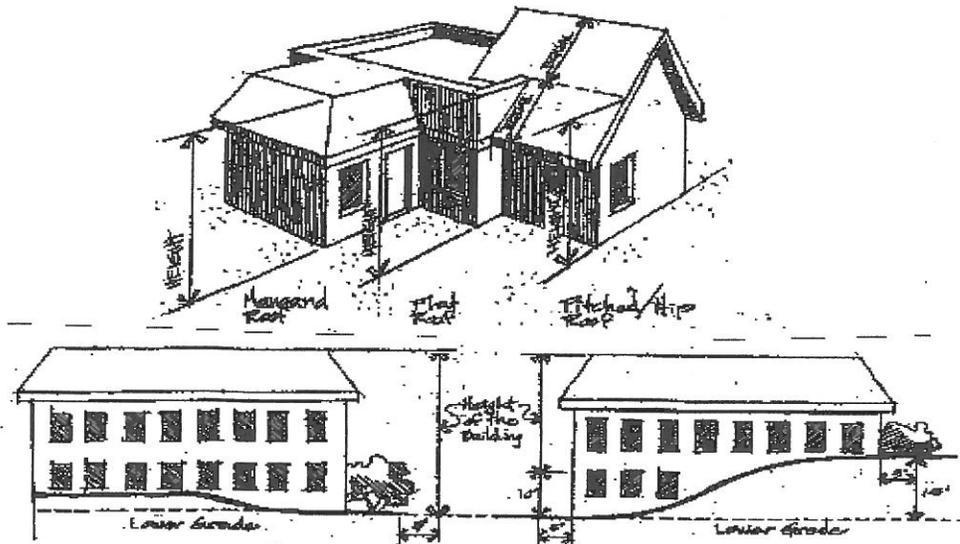
The following building height standards are intended to promote land use compatibility and flexibility for industrial development at an appropriate community scale:

- A. Base Requirement. Buildings shall be no more than 100 in height.

B. Method of Measurement. "Building height" is measured as the vertical distance above a reference datum measured to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the average height of the highest gable of a pitched or hipped roof. The reference datum shall be selected by either of the following, whichever yields a greater height of building:

1. The elevation of the highest adjoining sidewalk or ground surface within a five-foot horizontal distance of an exterior wall of the building when such sidewalk or ground surface is not more than 10 feet above the lowest grade;
2. An elevation 10 feet higher than the lowest grade when the sidewalk or ground surface described in subsection (C)(1) of this section is more than 10 feet above the lowest grade. The height of a stepped or terraced building is the maximum height of any segment of the building. Not included in the maximum height are: chimneys, bell towers, steeples, roof equipment, flagpoles, and similar features which are not for human occupancy. (Ord. 6-2001 § 1)
3. An elevation 10 higher than the floor level of any underground parking area under the building whether parking area is totally underground or partially submerged.

Figure 19.50.060
– Building Height Measurement (Composite of Several Roof Forms)



19.50.070 Special standards for certain uses.

A. Traffic. The city may require a traffic impact analysis prepared by a qualified professional prior to deeming a land use application complete, and determining whether the proposed use requires conditional use approval. Applicants may be required to provide a traffic analysis for review by Multnomah County or the ODOT for developments that increase traffic on county or state highways.

B. Wireless Communication Equipment. Wireless communication equipment includes radio (i.e., cellular), television and similar types of transmission and receiving facilities. The requirements for wireless communication equipment are provided in Chapter [19.245 FMC](#). Wireless communication equipment shall also comply with required setbacks, lot coverage and other applicable standards of the general industrial district.

C. Common Areas. All common areas (i.e., walkways, drives, courtyards, private alleys, parking courts, etc.) and building exteriors shall be maintained by a homeowners association or other legal entity. Copies of any applicable covenants, restrictions and conditions shall be recorded and provided to the city prior to building permit approval.

D. Sidewalk Displays. Sidewalk display of merchandise and vendors shall be limited to cards, plants, gardening/floral products, food, books, newspapers, bicycles, and similar small items for sale or rental to pedestrians (i.e., non-automobile oriented). A minimum clearance of four feet shall be maintained. Display of larger items, such as automobiles, trucks, motorcycles, buses, recreational vehicles/boats, construction equipment, building materials, and similar vehicles and equipment, is prohibited.

E. Parking, Garages, and Driveways. All off-street vehicle parking, including surface lots and garages, shall be oriented to alleys, placed underground, placed in structures above the ground floor, or located in parking areas located behind or to the side of the building; except that side yards facing a street (i.e., corner yards) shall not be used for surface parking. All garage entrances facing a street (e.g., underground or structured parking) shall be recessed behind the front building elevation by a minimum of five feet.

19.50.080 Landscaping

A. Not less than (10%) of the area will be landscaped.

B. Street trees will be planted at the average rate of 1 per 30 lineal feet along all public rights-of-way including the public walkways located adjacent to the Columbia River. Trees may be deciduous or evergreen. Deciduous trees at the time of planting must be fully branched, have a minimum diameter of two inches, measured five feet above the ground, and have a minimum height of 10 feet. Evergreen trees at the time of planting must be fully branched and be a minimum of six feet in height.

C. All vegetation in the riparian areas shall count towards the landscaping requirement.

19.50.085 Minimum required off-street parking requirements.

A. Residential.

1. One-, two- and three-unit dwelling structures: two space per dwelling unit.
2. Attached dwellings containing four or more dwelling units including dwelling units above retail uses: one and one-half spaces per dwelling unit.

B. Commercial.

1. a. General Retail and Office: one space per 500 square feet of floor area .
b. Services Providers: one space per 250 square feet of floor area.
c. Eating or drinking establishment: one space per 200 square feet of floor area open to public use.
d. Marina use: one space per moorage space

C. Park and Community Use Areas:

D. Joint Use. Off-street parking required by this code for any use shall be considered for shared use by others space where a joint use agreement exists in a form that includes provisions for enforcement to assure adequate parking. The intent to is minimize the amount of parking required by recognizing how parking is used by various uses in order to maximize the density of the project.

E. On-Street Parking. All on-street parking stalls shall apply toward satisfying the parking standards in this section.

19.140.090 Bicycle parking.

A. Number Required.

1. Multifamily dwelling: one space per unit (50% of requirement per unit if occupancy restricted to 55 years or older).
2. Commercial use classifications: five percent of the required automobile parking but not less than one stall per commercial space.

B. Bicycle Parking Space and Aisle Dimensions.

1. Uncovered spaces shall be at least six (6') feet long and one and a half (1.5') feet wide.

2. Covered spaces shall be at least six (6') feet long and one and a half (1.5') feet wide.

3. A five-foot-wide aisle is required adjacent to each row of bicycle parking.

C. Required bicycle parking racks shall be located no further than 50' beyond the closest automobile parking space from the major building entrance.

D. When more than ten bicycle parking spaces are required, 25 percent of the spaces shall be covered.

6.1.2012



June 19, 2012

COPY

Columbia Edgewater LLC
Attn: Garth Everhart
22001 NE Halsey Street
Fairview, OR 97024

Re: Determination of completeness for applications 2012-21-ZC/CPA/PD.

Dear Mr Everhart,

Please be advised that the above mentioned Zone Change, Zoning Text Amendment, Comprehensive Plan Text Amendment, and Planned Development applications have been deemed incomplete. Action on your applications is suspended pending submission of the items identified below:

1. Submission of a signed Site Plan Checklist and Submission Requirements Form.

Submission of a signed Site Plan Check List and Submission Requirements form is required, including the items listed on each form. A copy of these forms are provided as an attachment to this letter. Staff can waive items on the site plan checklist when deemed applicable.

The site plan checklist requests that all plans be drawn to scale and be of appropriate graphic quality. The checklist also informs that poor quality site plans and graphic quality may result in the application being declared incomplete.

The site plans are drawn to scale, however, given the site size and level of proposed activity on the site, the 8 ½ by 11 inch size site plan is difficult to read, scale, and interpret. Please submit site plans drawn to an appropriate scale on larger paper in order to provide a larger graphic. The larger site plans and drawings with the proposed site layout and land uses labeled will greatly help staff review the land use applications.

2. Application Fees

The required application fees of \$5,200 were not submitted with the application materials (\$2,000 Comprehensive Plan Text Amendment, \$2,000 Land Use District Map and Text Amendment, and \$1,200 Master Planned Development).

A letter addressed to the Public Works Director was included with the application materials requesting a fee waiver. The City Council has the authority to waive fees. If you wish to request a fee waiver, please submit your written request to the City Council. Staff cannot deem the application complete until the fee is paid or properly waived by the City Council.

3. The narrative is incomplete. Please revise the narrative to include a written response to the following sections of the Fairview Municipal Code (FMC).

- a. Zone Map Amendment and Zone Text Amendments are subject to Section 19.470- Land Use District Map and Text Amendments. Section 149.470.600(B) requires comprehensive plan and land use standards that significantly affect a transportation facility to assure that the allowed land uses proposed are consistent with the function,

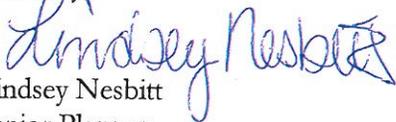
June 20, 2012

Section 19.450.160(A)(4) requires submission of a narrative demonstrating compliance with section 19.450.170 Overlay Zone and Concept Plan Approval Criteria. Revise the narrative to demonstrate compliance with criteria listed in this section. Item C in this section requires demonstration of compliance with Article II, which would be the development standards of the proposed code language, 19.50-Riverfront Mixed Use District.

4. The development site includes natural resource overlay designations. The City is currently in the process of amending the natural resource code and maps. The development site will still be affected by the final outcome of the code amendment process. Please revise the narrative to address how the natural resource overlays will be managed through and as part of the Master Plan development process.

Please be advised that action on your application has been suspended until the above mentioned items are submitted. If you feel we have made an error in our review, contact me at (503) 674-6230. Please also contact me with any questions

Sincerely,



Lindsey Nesbitt
Senior Planner

Copy:

File

Allan Berry, Public Works Director

Samantha Nelson, Interim City Administrator



September 27, 2012

Columbia Edgewater LLC
Attn: Garth Everhart
22001 NE Halsey Street
Fairview, OR 97024

FILE COPY

Re: Rejection of applications 2012-21-ZC/CPA/PD.

Dear Mr Everhart,

Please be advised that the above mentioned Zone Change, Zoning Text Amendment, Comprehensive Plan Text Amendment, and Planned Development applications have been returned to you for failure to take action on the Completeness Letter sent on June 19, 2012. Your application is being rejected by the City of Fairview for failure to submit the following items:

1. Submission of a signed Site Plan Checklist and Submission Requirements Form.

Submission of a signed Site Plan Check List and Submission Requirements form is required. The application materials must also include the items listed on each form.

The site plan checklist requests that all plans be drawn to scale and be of appropriate graphic quality. The checklist also informs applicants that poor quality site plans and graphic quality may result in the application being declared incomplete.

The site plans submitted were drawn to scale, however, given the site size and level of proposed activity on the site, the 8 ½ by 11 inch size site plan is difficult to read, scale, and interpret. Site plans drawn to an appropriate scale on larger paper providing a larger graphic were not provided.

2. Application Fees

The required application fees of \$5,200 were not submitted with the application materials (\$2,000 Comprehensive Plan Text Amendment, \$2,000 Land Use District Map and Text Amendment, and \$1,200 Master Planned Development).

A letter addressed to the Public Works Director was included with the application materials requesting a fee waiver. The City Council has the authority to waive fees. A written request to the City Council for the fee waiver was not provided. Staff could not deem the application complete without the fee payment or properly waived fee by the City Council.

3. The narrative is incomplete. The narrative has not been revised to include a written response to the following sections of the Fairview Municipal Code (FMC).

- a. Zone Map Amendment and Zone Text Amendments are subject to Section 19.470- Land Use District Map and Text Amendments. Section 149.470.600(B) requires comprehensive plan and land use standards that significantly affect a transportation facility to assure that the allowed land uses proposed are consistent with the function, capacity, and level of service of the facilities in the surrounding area.

In order to demonstrate the proposed uses can be accommodated by the existing

December 14, 2012
Riverfront Development Feasibility Meeting

Attendees:

Joanna Valencia, Multnomah County
Brian Vincent, Multnomah County
Reed Wagner, MCDD
Dave Hendricks, MCDD
Ken Anderton, Port of Portland
Brian Monberg, Metro
Allan Berry, Fairview
Lindsey Nesbitt, Fairview

Multnomah County Transportation:

A Traffic study will be required to determine potential impacts on the road system. If specific uses are not proposed, the County must assume the worse case scenario, which may trigger the need for mitigation of more impacts than those proportional to an actual development.

A zone change application sometimes can be conditioned to limit certain uses to help reduce required improvements. A traffic study must be done at time of the rezone; the County believes it would be extremely difficult to put the traffic study off until the TSP update takes place.

Some potential roadway improvements that were identified include: 223rd railroad underpass widening, look at access and egress ramps to Marine Drive, access and egress to the site (including GP property).

The traffic study will need to examine the current operation of roadway to determine level of service of existing uses (LN question- thought of while typing these notes: what was Metro required to do when the marina was installed? Did they pay a fee in lieu of for their traffic impacts? Were improvements required?)

Multnomah County cannot offer to fully partner with the City for the project because of staff and funding limitations, but will help when ever and where ever possible.

Port of Portland

Port of Portland expressed concerned with maintaining ability to provide access to "lot 12" of their development. Lot 12 is the lot located in Fairview of the TRP development.

The current zoning of lot 12 is Agricultural Holding (AH), and calls for a rezone to General Industrial (GI) when the site is developed. The site is a superfund site. The Port has indicated that lot 12 may be rezoned commercial, if brown field designation is removed. However, it is highly unlikely that lot 12 could be utilized for residential development.

The Port of Portland expressed that their two main concerns related to traffic and compatible uses. The Port does not want to see the adjacent rezone and developments to fully utilize the road capacity of 223rd Avenue and Marine Drive (this would not allow trips

for Lot 12 to utilized access from 223/Marine Drive). The Port is also concerned with residential uses that may be permitted on the waterfront rezone site. The Port will want to make sure the permitted uses are compatible with industrial uses that are permitted on Lot 12.

The Port suggested the city do an economic feasibility analysis to see what the monetary return to the city would be once the development is complete. Would the city get their initial investment back?

The Port also suggested that the City check out resources: state regional solutions team.

MCDD

Recommends the development is constructed for protection from the 500 or even 1,000 year flood because “one can never be sure to know if, when, and how regulations may change over time”.

Levee and utilities. MCDD suggested filling the site owned by Roy Moore to the height of the levee. This would omit the need for the levee. MCDD suggested the same should be done for the GP site for future developed. MCDD suggested to check to see if the GP site is in the flood plain. If the site is within the floodplain, then prior to filling the site the developer will need to obtain a no impact permit/conduct a no impact study.

A road can be constructed on the levee if it is constructed to corps. standards. Study will be required to review impacts to the pump station. MCDD indicated that it is likely that the pump station pipes will need to be relocated.



MINUTES
PLANNING COMMISSION MEETING
1300 NE Village Street
Fairview, OR 97024
Tuesday, February 26, 2013

PRESENT: Steve Kaufman, Vice-Chair
Keith Kudrna
Jack McGiffin
Ed Jones

ABSENT: Gary Stonewall, Chair
Jan Shearer
Julius Arceo

STAFF: Allan Berry, Public Works Director
Lindsey Nesbitt, Development Analyst
Devree Leymaster, City Recorder

1. CALL TO ORDER

Vice-Chair Kaufman called the meeting to order at 6:30pm.

2. CITIZENS WISHING TO SPEAK ON NON-AGENDA ITEMS

Vice-Chair Kaufman inquired if any person would like to speak on a non-agenda item, hearing none moved to review of minutes.

3. ELECTION OF CHAIR AND VICE CHAIR

Agreed by consensus to delay until more members were present.

4. REVIEW AND ADOPT MINUTES

October 9, 2012 minutes approved as written by consensus.

5. PUBLIC HEARING

a) File 13-4-NR

3600 Pelfrey Avenue

Natural resource review for construction of a boat home, dock and access drive.

Postponed to the March 26, 2013 Planning Commission meeting.

6. STAFF UPDATES

a) Waterfront Rezone:

Public Works Director Allan Beery stated 3 river front lots, with 2 property owners, were being considered for potential rezone. The rezone was part of the Public Works work plan and was scheduled to be completed over the next 5 months. The properties had development challenges: utility infrastructure, on-site storm water management, site access issues, the dyke, etc. which needed to be reviewed and evaluated. The extent of the City's investment was yet to be determined.

b) Driveway Access Discussion

Development Analyst Lindsey Nesbitt presented random samplings of residences in old town with multiple access points or over-sized access i.e. driveways and parking. The code currently permits one access drive per lot for lots less than 10,000 square feet. This issue will have to be resolved as the City secures CDBG funds to construct more sidewalks in the area.

Dennis Caudell, 20659 NE Lakeside Dr., Fairview, OR, a neighbor of Mr. Pelfrey, spoke in support of approving the application.

Vice-Chair Kaufman read into record an email received from Commissioner Stonewall. The Commission and applicant discussed Commissioner Stonewall's questions. Commission agreed the larger than normal boat house was proportionate to the home.

Commissioner Shearer moved to close the public hearing and Commissioner McGiffin seconded. The motion was approved unanimously and Vice-Chair Kaufman opened Commission discussion. Commissioner Jones commented fire and emergency requirements would be reviewed during the permitting process to ensure appropriate access.

Development Analyst Nesbitt recommended the Commission's motion replace Lot 12 in the conditions of approval with tax lot 1N3E28BA-04108.

Commissioner Jones moved to approve application 13-4-NR as conditioned and replacing Lot 12 with tax lot 1N3E28BA-04108 in the conditions of approval, and Commissioner Shearer seconded. The motion passed unanimously.

Ayes: 5

Noes: 0

Abstained: 0

6. STAFF UPDATES

a) **Sign Code Amendments:** Development Analyst Nesbitt stated the sign code amendment adoption process had been scheduled. These amendments were minor and focused on only removing content based material.

b) **River Oriented Use Code Development:** Development Analyst Nesbitt reviewed the 3 properties being considered for preparing a draft River Oriented Use Zoning Code that would not be adopted, but would be available and ready to adopt if and when a rezone was requested.

Staff requested Commission input as to what type of developments they would like to see or not see. Types of uses discussed included:

- No Government related offices
- Restaurants
- Marina
- River access fueling station
- Walking paths with water access
- Family oriented recreational activities
- Residential – limited (i.e. mixed use)
- Hotels/Motels – transient, destination lodging
- River Tourism
- Retail – limit square footage
- Restrict/limit business and professional offices

Vice-Chair Kaufman commented the Mayor's Visioning Committee will hold public forums to solicit public comment for what types of uses citizens would like to see developed. Staff remarked design review criteria would be developed based on the types of uses.

rulings. Chair Kaufman agreed with Commissioner Kudrna and recommended a compromise of extending an additional 6 months. This would allow Mr. Murrell to begin working this summer.

Staff clarified to record a final plat with the county, any required public improvements had to be built or bonded prior to filing. Mr. Murrell stated he was working with Linda Hulme, Senior Engineering Tech. to bond the public improvements.

Commissioner McGiffin moved to support approval of a six month final plat extension and Vice Chair Shearer seconded. The motion passed by majority. Commissioner Jones voted no.

AYES: 4

NOES: 1

ABSTAINED: 0

5. CONTENT BASED SIGN CODE AMENDMENT WORK SESSION

Development Analyst Nesbitt stated the proposed revisions were at the advice of City Attorney Paul Elsner and focused on removing content based language. The integrity and intent of the code would not be changed. City Attorney Elsner would present the revisions for adoption at the May 28 public hearing. Staff clarified the Commission knowingly adopted some content based language at minimal risk; however, the city attorney conducting the legal review of the sign code prior to adoption did not identify the language issues being recommended for revision.

Commissioner Jones commented he supported the proposed revisions to eliminate content based language and correct grammatical errors, but some of the eliminated language was not content based. Staff responded the criteria to determine if language is content based is not just the language itself, but if you have to read the sign to apply the code. If so, then the code language is content based.

Vice Chair Shearer inquired if the Realtor community had been notified. Staff responded, yes.

6. RIVERFRONT ZONE CHANGE

Development Analyst Nesbitt requested Commission feedback regarding the draft riverfront Mixed Use Code presented in the staff report.

Items discussed and the direction provided included:

- Properties north of Marine Drive extending to the river should be included in the River Oriented Use zone.
- Multi-family housing should be well defined, strategically located, secondary to commercial use, and not impact the ambience and connectedness of the development.
- Limit building height to 100 feet.
- More comfortable with 70% max lot coverage; draft identified 90%. Staff would research and present options at next meeting.
- Increase landscape requirement of not less than 10%; especially if max lot coverage decreased.
- Draft parking language too lax; increase parking per square foot.

- City does not have river front riparian buffer regulations; continue to defer to other state and federal agencies. These environmental protection regulations are stringent and protect the river as a whole. Don't add an additional layer of regulations for a developer to comply with.

Development Analyst Nesbitt inquired what the ultimate product of the project should be and presented four options for consideration.

1. Further develop the Comp Plan. Defines basic development frame work and documents the intent.
2. Develop code language, but do not adopt. Maintains and protects current GI zones; not non-conforming.
3. Develop riverfront holding zone. Current zone would apply, when sell or develop the riverfront zone would apply.
4. Wait for an applicant to submit a development proposal that includes code language.

Commission agreed unanimously option 4 was no. The city and its citizens should develop the vision of the water front should be. Commissioner Kudrna and Commissioner Jones supported option 1; creating a frame work of what we want that the code would then follow. This would allow the code structure to meet the needs of a developer while maintaining the vision and goals of the City and its citizens. Commission agreed to proceed with option 1.

7. FAIRVIEW LAKE RESOURCE PROTECTION DISCUSSION

Development Analyst Nesbitt stated the recently adopted natural resource code did not include Fairview Lake and presented the history of development history around the lake. Prior to subdivisions being built the area was used for farming and was highly degraded at the time of development. The 35-foot buffer comprises the majority or all of a property owner's back yard. To create usable backyard space while protecting the buffer a zone I/zone II option was created. Zone I included 20 feet of buffer from the high water mark and required extensive riparian plantings; zone II permitted the remaining 15 feet to have an eco-lawn with limited mowing options. The zone I/zone II code was never adopted by ordinance, but the city issued 20 permits based on the code. The north side of the lake is regulated by Multnomah County, with most properties developed to the water's edge.

Development Analyst Nesbitt presented the below policy options for Commission consideration and feedback.

1. Remove the buffer.
2. Adopt 35 foot buffer to align with subdivision plats.
3. Adopt Zone 1 and Zone 2.
4. Research other options.

Commissioner McGiffin inquired which option would impact residents the least. Staff responded option 1. Depending on the final policy many homes could be in violation. Code enforcement is another aspect to consider.

Commissioner Shearer supported formally adopting zone I/zone II regulations and granting property owners a time period to voluntarily comply. The zone I/zone II policy option created a balance between protecting the buffer and creating usable backyard space; and honored the permits issued already issued. Not fair to change the rules again. Commissioner Kudrna and Chair Kaufman agreed.

Development Analyst Nesbitt noted DEQ is preparing a compliance report for Fairview Lake that the City intends to comply with. She will present the information once it is received. Staff will begin reviewing and researching the zone I/zone II policies and code language.

Commissioner Kudrna moved to approve 13-11-ZC replacing “permitted” with “allowed” in section 19.170.110 and 19.170.110(c) and Commissioner Jones seconded. The motion passed unanimously.

AYES: 4

NOES: 0

ABSTAINED: 0

5. STAFF UPDATES

Mr. Murrell presented his request for a final plat filing extension at the May 15 City Council Meeting. City Council supported a six month final plat filing extension. Public Hearing for the extension is scheduled for the June 11, 2013 Planning Commission meeting.

Staff is scheduled to meet with Leland Consulting regarding an economic development strategy for the river front development project. The strategy would be incorporated into the river front master plan.

Staff received an initial inquiry for a potential project to re-locate creeks on two commercial properties owned by Townsend Farms Inc. on the south side of Sandy Boulevard east of 223rd Avenue. The potential for development of the properties is hindered by the mapped resource protection area running through the properties. At the request of the property owner, the City is going to hire a consultant to assess the natural resource value of the creeks in order to determine if there are options to re-route and restore the creek in order to maintain the integrity of the city’s natural resources while also making the commercial properties more attractive for future development.

6. COMMISSION UPDATES

Commissioner Kudrna stated Friends of Fairview is coordinating a trash pick-up and graffiti removal clean-up day in June at Salish Ponds Park. Additional information and volunteer registration is available via the Friends of Fairview website.

7. TENTATIVE AGENDA: JUNE 11, 2013

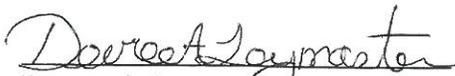
Public Hearing: 13-20-CPA

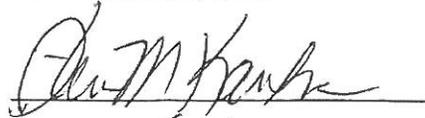
Comprehensive Plan Map Amendment to correct scrivener's error from a 2001 city wide rezone project.

8. ADJOURNMENT

Meeting adjourned by consensus at 7:00PM.

Steve Kaufman, Chair


Devree A. Leymaster
City Recorder


Date: 6/11/2013

then designated A-1-B. The LID program began assessing the property at an A-1-B rate. Mr. MacDonald believed the property to have a residential designation. When a potential buyer contacted the City regarding development options he discovered the property had a commercial designation. The sale fell through and Development Director John Gessner directed Development Analyst Lindsey Nesbitt to research the property's zoning history.

Commissioner Jones reiterated the amendment is not for a zoning re-designation, but to correct an error that was not corrected between 2001 and 2004 with other property errors. The request is to correct an improper comp plan map designation. The property owner has never submitted a requested for a rezone and the current zone does allow for mixed use development.

Mr. MacDonald responded he has never applied for a rezone, but he never requested the original rezone. The zone change was made by City Council.

Commissioner Arceo inquired what action is needed to initiate a rezone. Staff responded the property owner needs to submit an application for a rezone.

Commissioner Jones moved to close the public hearing and Commissioner Stonewall seconded. The motion passed unanimously.

Commissioner Jones proposed not forwarding a recommendation to City Council until more research could be done and presented. Vice Chair Shearer agreed.

Commissioner McGiffin inquired what the process is to approve a rezone. Staff responded the property owner's application for a rezone would be reviewed by Planning Commission and City Council for consistency with the applicable code for a rezone. Vice Chair Shearer commented a comp plan amendment may also be necessary. The current comp plan identifies the property as medium density residential. Any zoning change other than medium density residential would require the comp plan designation be changed.

Commissioner Stonewall moved to refer the matter back to staff for additional research and Commissioner Jones seconded. Chair Kaufman requested a roll call. The motion passed unanimously.

Mr. File requested the Fairview Terrace Homeowners Association (HOA) be notified of future meetings. Staff responded the HOA would be notified, as well as, any attendee who signed in and provided a mailing address on the public attendance record.

5. STAFF UPDATES

At the request of the land owner (Townsend), staff is looking at the feasibility and options to relocate the creek that runs through the property on the south side of Sandy, east of 223rd Ave. The creek and correlating natural resource protection area make the property less than desirable for commercial development. Staff is researching if the property's marketability and usability can be increased, while enhancing and restoring the natural resources.

Public Works Director Allan Berry reported staff had met with Leland Consulting Group regarding an economic feasibility study for the river front. Leland will provide recommendations for study approach and options.

As the Commission has no questions or comments; Commissioner Stonewall moved to refer a recommendation of approval for 13-21-ZC, ordinance 6-2013 to City Council and Commissioner McGiffin seconded. The motion passed unanimously.

AYES: 4

NOES: 0

ABSTAINED: 0

5. STAFF UPDATES

a) Staffing: Development Analyst Fitzgerald's scheduled leave begins next week; with her returning September 23, 2013. Interviews for the vacant Development Analyst (previously Lindsey Nesbitt) position went well. Two candidates are being considered. An on-call planner is available to assist with planning decisions and reviews in the interim of filling the vacant Development Analyst position and Development Analyst Fitzgerald's leave.

b) Street Trees/Sidewalks: Councilor Prom, Chair of the Council Sidewalk Subcommittee, presented the subcommittee recommendations at the June 19 City Council and directed staff to prepare an ordinance to implement the recommendations. Staff is preparing a staff report for the next meeting to outline the ordinance process.

The proposal included encouraging, but not mandating, street trees; allowing non-standard sidewalk widths to accommodate existing trees; and implementing a cost share program i.e. 50/50, property owner/city. The current program is complaint driven and the adjacent property owner is responsible for sidewalk repairs.

Chair Kaufman stated street trees are important. They provide a buffer between pedestrians and vehicle traffic, increasing safety.

Commissioner McGiffin inquired if there had been any public outreach. Director Berry responded no, not yet.

Vice Chair Shearer inquired if street trees were to be optional, could sidewalks then be optional.

Director Berry proposed the street tree/sidewalk discussion as a topic for a joint work session with City Council. The Commission agreed.

c) Riverfront: Director Berry stated he had a productive meeting and conversation with Leland Consulting. He relayed the Commission's recommendation to create a master plan for the area. Leland recommended first working with stakeholders and property owners to clearly identify what is wanted prior to beginning a master plan process. An economic development study would be complicated, costly, and time intensive. Director Berry suggested the riverfront discussion as a topic for the joint work session. The Commission agreed.

d) Comprehensive Plan Amendment i.e. MacDonald property: Director Berry stated City Attorney Paul Elsner has been in conversation with Mr. MacDonald's attorney, William Rasmussen. Commissioner McGiffin requested an explanation and definition of the current zone, corridor commercial, be provided in the packet prior to the next meeting regarding this application. Director Berry stated the information would be provided.

MEMORANDUM

TO: Allan Berry, Public Works Director, City of Fairview

CC: Heather Martin
Paul Elsner

FROM: David F. Doughman, City Attorney's Office *DFD*

SUBJECT: Process for Adding a Zone to Fairview's Development Code

DATE: September 4, 2013

Following up from our meeting last week on the above topic, you asked me to outline the process for the city to consider and possibly amend its development code to add a new "Riverfront Mixed-Use District" zone.

1. The first thing the city should do is have a planner review the comprehensive plan to ensure that the proposed zone is consistent with relevant portions of the plan. This will specifically include analyzing whether the proposed zone is consistent with current comprehensive plan designations of "River-Oriented" and "Parks/Open Space" along the riverfront. This review should also analyze Metro's functional plan to confirm that the proposed zone is consistent with its terms.
 - To the extent inconsistencies exist, options for the city include amending the comprehensive plan or amending the proposed zone. Of course, any comprehensive plan changes would need to meet all applicable statutes, statewide planning goals and administrative rules implementing the goals, as well as any applicable Metro policies.
2. Assuming the city determines consistency with the comprehensive plan, staff and/or a consultant should also analyze what state or regional regulations will be implicated by the proposed zone. For instance, the transportation planning rule ("TPR") at OAR Chapter 660, division 12 will require the city to determine whether the new zone, if adopted, will "significantly affect" transportation facilities in Fairview. Because of the mixed uses the zone would permit, other possibilities include "needed housing" regulations under ORS 197.307 *et seq.* and OAR Chapter 660, division 8 and compliance with "economic

opportunity” regulations under OAR Chapter 660, division 9. I can look at this issue in greater depth in the future assuming the city moves forward with the amendments.

3. If the city finds the proposed zone to be consistent with the comprehensive plan and is generally confident that the proposed zone will comply with all relevant state and regional regulations, the city may begin the process of adopting the zone into its development code. The city will need to provide notice to the Department of Land Conservation and Development (“DLCD”) of its intent to add the zone to the development code. State law details the notice requirements at ORS 197.610 and at OAR Chapter 660, division 18. Among other requirements, the city must give notice to DLCD no later than 35 days before the first hearing.
4. Once the city has given notice to DLCD, the city is required to follow a Type IV legislative process pursuant to FMC 19.413.040 in order to amend its development code to add the proposed zone. Among other requirements, “at least two hearings, one before the planning commission, and one before the city council, are required for all Type IV applications, except annexations where only a hearing by the city council is required.” FMC 19.413.040(B). The planning commission would forward a recommendation to the city council after holding its hearing. The city council would hold a hearing and then, assuming it wished to amend the development code to include the proposed zone, adopt an ordinance to that effect.
 - I understand some have suggested that only the council would need to hold a hearing on the proposed zone. As described above, this would be inconsistent with the city’s code, which requires at least two hearings with one of them before the city’s planning commission.
5. I generally recommend clients wait until all appeal periods have passed before applying the zone to any specific properties. The appeal period would begin on the date the city mails notice of the amendment pursuant to ORS 197.615 and would end 21 days later.
6. The city could choose to rezone properties itself or it could defer to individual property owners who may apply to rezone their specific properties. While it is ultimately a policy question for the city, generally our clients are hesitant to rezone properties without at least the consent of those property owners affected by the rezoning.
7. The city would process the zone changes according to the same Type IV procedure outlined above and described in detail at FMC 19.413.040. The city will also need to send notice to DLCD pursuant to ORS 197.610. In addition, because the city would be

September 4, 2013
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rezoning property at this stage, the city will need to send "Measure 56" notice in accordance with ORS 227.186.

8. Once the council enacted an ordinance rezoning the relevant properties to the mixed-use zone and all appeal periods had expired, the city would be able to accept and process applications for development.

I hope this summary is helpful. Paul Elsner will attend the joint meeting next Tuesday to assist staff, the planning commission and the council in addressing these procedural issues. In the meantime, please let me know if you have any questions.