



PLANNING COMMISSION MEETING

Tuesday, May 12, 2015

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. **CITIZENS WISHING TO SPEAK ON NON-AGENDA ITEMS**
3. **REVIEW AND ADOPT MINUTES:**
 - February 10, 2015
 - February 24, 2015
4. **DISCUSSION ITEMS:**
 - **Fairview Municipal Code changes to Title 19: Development Code**
 - **Chapter 19.106 Natural Resource Regulations**
 - ✓ **Section 19.106.060 Fairview Lake**
 - ✓ **Section 19.106.040(D) Exception process**
 - **Chapter 19.163 Landscaping, Street Trees, Fences and Walls**
 - ✓ **Electric fencing**
5. **STAFF UPDATES**
6. **COMMISSION UPDATES**
7. **TENTATIVE AGENDA**
8. **ADJOURNMENT**

NEXT PLANNING COMMISSION MEETING TUESDAY MAY 26, 2015

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.



MINUTES
PLANNING COMMISSION MEETING
1300 NE Village Street
Fairview, OR 97024
Tuesday, February 10, 2015

PRESENT: Ed Jones, Chair
Keith Kudrna, Vice Chair
Gary Stonewall
Jack McGiffin
Steve Kaufman
Greg Walczyk

ABSENT: Julius Arceo

STAFF: Allan Berry, Public Works Director
Erika Palmer, Development Analyst
Heather Martin, City Attorney
Devree Leymaster, City Recorder

1. CALL TO ORDER

Chair Jones called the meeting to order at 6:30 PM.

2. CITIZENS WISHING TO SPEAK ON NON-AGENDA ITEMS

Chair Jones inquired if any person would like to speak on a non-agenda item, hearing none moved to approval minutes.

3. REVIEW AND ADOPT MINUTES

Commissioner Stonewall moved to approve the January 27, 2015 minutes and Commissioner Kaufman seconded. The motion passed unanimously.

4. PUBLIC HEARING

2014-43-ZC Marijuana Facilities & Marijuana Retail Premises
(Continued from January 27, 2015)

Chair Jones opened the continued hearing from January 27, 2015. Development Analyst Palmer reviewed the added language (19.80.080D) to prohibit the production, processing, or sale of recreational marijuana and the distribution of medical marijuana at the same location.

Vice Chair Kudrna inquired about the Halsey Corridor for sales or distribution. Development Analyst Palmer reiterated staff's approach was to contain sales and distribution within a reasonable area, with a minimum 1,000 ft. buffer from any schools or parks (19.80.030B). The code language does not identify the Halsey Corridor but the Commission could direct Staff to revisit the issue. Commissioner Kaufman asked if there was anything that would prevent adding additional areas in the future. Development Analyst Palmer replied no, there isn't anything. Commissioner McGiffin clarified the location of any facility would have to come before the Commission for review. Development Analyst Palmer replied yes, all applications will be reviewed as a conditional use.

Vice Chair Kudrna moved to close the public hearing and Commissioner Stonewall seconded. Chair Jones closed the public hearing.

Vice Chair Kudrna commented the added code language makes sense for requiring different locations for medical and recreational.

Commissioner Stonewall moved to recommend approval of application 2014-43-ZC with the presented amendments to City Council and Vice Chair Kudrna seconded. The motion passed unanimously.

AYES: 6
NOES: 0
ABSTAINED: 0

5. STAFF UPDATES

Director Berry reported the Lakeshore Park survey has been mailed to local park residents and will be mailed to all Fairview residents in early March with utility bills. City Council did not approve additional funding for the Heslin House exterior stair project. Staff is contacting City County Insurance Services (CIS) regarding the risks associated with continued use of the interior stairs and alternatives to mitigate the risk.

6. COMMISSION UPDATES

Commissioner Stonewall noted he is unavailable, and will not attend, the February 24 meeting.

7. TENTATIVE AGENDA – February 24, 2015

- Work Session: Fairview Lake Natural Resource Buffer
- Major Modification Request: VA Clinic Remove an Entrance Door

8. ADJOURNMENT

Meeting adjourned by consensus at 6:43 PM.

Ed Jones, Chair

Devree A. Leymaster
City Recorder

Date: _____



MINUTES
PLANNING COMMISSION MEETING
1300 NE Village Street
Fairview, OR 97024
Tuesday, February 24, 2015

PRESENT: Ed Jones, Chair
Keith Kudrna, Vice Chair
Jack McGiffin
Steve Kaufman
Greg Walczyk
Julius Arceo

ABSENT: Gary Stonewall

STAFF: Allan Berry, Public Works Director
Erika Palmer, Development Analyst
Devree Leymaster, City Recorder

1. CALL TO ORDER

Chair Jones called the meeting to order at 6:30 PM.

2. CITIZENS WISHING TO SPEAK ON NON-AGENDA ITEMS

Chair Jones inquired if any person would like to speak on a non-agenda item, hearing none moved to approval minutes.

3. REVIEW AND ADOPT MINUTES

Vice Chair Kudrna moved to approve the February 10, 2015 minutes and Commissioner Kaufman seconded. The motion passed unanimously.

4. PUBLIC HEARING

2015-03-MOD

Request to consider a modification to an existing design review 2013-31-DR

Chair Jones read the Opening Statement for Quasi-Judicial Hearings. Development Analyst Palmer sited the applicable Fairview Municipal Code criteria. No ex parte contact or conflicts of interested were disclosed.

Development Analyst Palmer summarized the request is to eliminate an entrance facing NE Halsey Street that was required by a condition of approval in the design review application (2013-31-DR) for the Veterans Affairs (VA) medical clinic. A change to a condition of approval requires Planning Commission approval to amend or remove. The applicable criteria to review the request are 19.140.100: Blank wall standard, 19.150.030: Entries, 19.162.020: Access and circulation.

The applicant proposes a single, primary entrance facing Market Dr. off the parking lot. The applicant addresses the large expanse of wall facing NE Halsey by incorporating different shapes of windows, differing types of building materials and finishes, and landscaping. The amount of window glazing along the "wall" exceeds the required amount per code. To accommodate site access the applicant proposes an internal sidewalk from NE Halsey along the east side of the building for pedestrian, bicyclists, and transit riders.

Applicant Representative Lori Kellow, Ankrom Moisan Architects, Portland, OR remarked the request to have a more square vs. rectangle building incorporating a new prototype of modules was at the request of the tenant, Veteran's Affairs. For security purposes the building is designed to have patients on one side and staff on the other, with one patient entrance. Besides the one entrance/exit for patients off the parking lot facing Market Drive, there will be two exit only egresses leading into courtyards on each side of the building (Village Street and Market Drive). They incorporated Village design elements (brick and glazed windows) into the exterior design to help break up the large expanse of wall.

Commissioner McGiffin inquired about the walkway away from the bus stop and why it is not more direct. Ms. Kellow replied to keep the pathway flat and at less than a 2% grade they had to work with the contour of the site which resulted in a longer, but flat path.

Vice Chair Kudrna commented relocating the entrance could be detrimental to patients with mobility issues. Patients could also be exposed to extreme weather (wind, ice) coming around the east side of the building. It may only be an extra 150 feet or so, but coupled with these factors that can be significant.

Ms. Kellow answered the only patient check-in will be at the entrance of the patient area.

Vice Chair Kudrna proposed having a sign and button at the east side door that would allow patient access by escort. Ms. Kellow replied that could be worked out.

Commissioner Kaufman clarified all three egresses will be ADA accessible with level walk ways to Halsey or to the parking lot. Ms. Kellow replied yes.

Chair Jones inquired if any person would like to speak in favor of or opposition of the application. Hearing none, Commissioner Kaufman moved to close the public hearing and Vice Chair Kudrna seconded. Chair Jones closed the public hearing.

Commissioner Kaufman commented he is disturbed by and disappointed in the new plan design. Planning Commission approved the initial design with doors facing NE Halsey for a reason. He is not convinced the original approved plan would not work.

Development Analyst Palmer noted when the design review was approved in 2013 the VA did not have an interior floor plan.

Commissioner Kaufman asked if this decision could set a precedent affecting other developments on NE Halsey. Development Analyst Palmer answered the other lots are in the Town Center Commercial (TCC) zone and do require a lower level business component for development. Of the current businesses along NE Halsey only one has an entrance facing NE Halsey, the others have exit only egresses to NE Halsey.

Vice Chair Kudrna noted he too is disappointed in the applicants request to remove the NE Halsey Street access; however, he does understand the security component and appreciates the inclusion of design elements to break up the large expanse of wall. He would support the request if signage and a button at the east door are included to allow an escorted entrance for patients.

Vice Chair Kudrna moved to approve application 2015-03-MOD with the addition of signage and a button at the east egress to be a secured patient entrance into the building and Commissioner Kaufman seconded. The motion passed unanimously.

AYES: 6
NOES: 0
ABSTAINED: 0

5. STAFF UPDATES

Development Analyst Palmer summarized the upcoming Fairview Lake Buffer review and discussion. The properties were platted with a 35 foot buffer. The Fairview Municipal Code (FMC) identifies a 50 foot buffer. Staff will meet with some of the lake property owners to gain their perspective of the issues and review what the FMC states. This information will be presented to the Commission to begin the discussion of how to amend the code to benefit property owners and preserve the water quality and health of the lake.

Development Analyst Palmer reported the street trees along Village Street have been planted.

Director Berry reported staff has been in contact with the property owner and organization in charge of the collection box at Sandy and 223rd. They both recognize the issue of it becoming a dump site. The organization will increase their visits to a minimum of six times per month and the property owner is looking at options to secure the area i.e. fencing.

6. COMMISSION UPDATES

None.

7. TENTATIVE AGENDA – March 24, 2015

- Work Session: Fairview Lake Natural Resource Buffer

8. ADJOURNMENT

Meeting adjourned by consensus at 7:25 PM.

Ed Jones, Chair

Devree A. Leymaster
City Recorder

Date: _____



To: Planning Commission
From: Erika Palmer, Development Analyst
Date: May 4, 2015
Subject: Proposed Development Code Changes to Chapter 19.106: Natural Resources Regulations

Planning staff is seeking direction from the Planning Commission on proposed changes to the Development Code. The question before Planning Commission is: “should staff move forward to work on the general changes to the code as described below and start the public hearing process or not?”

Chapter 19.106 Natural Resources

19.106.080(A) Table: Riparian Resources

Resource Type	Protected Feature	Width of Resource Protection Area
Fairview Lake	Shoreline of Fairview Lake	<i>50 feet measured from top of the bank, or 50 feet from the annual mean high water level (11.4 feet NGVD) of the lake in those areas where there is no bank or significant break of slope along the shoreline. Includes the submerged lake bottom within city limits.</i>

Proposed Change: The Fairview Lake Property Owners Association (FLOPA) is requesting the city amend the existing width of the resource protection area on Fairview Lake. The current riparian buffer is 50 feet as measured from top of bank (see table above).

Depending upon the jurisdiction and the time of recorded subdivision plats, the riparian area around the lake varies from 0 to 50 ft. The majority of subdivisions within the city are platted and recorded with a 35 ft. riparian buffer except for five lots in Blue Lake Estates which have a 50 ft. canal drainage easement and Pelfrey South Shore Estates which is platted with a wetland tract along the lake.

Planning staff and property owners around the lake met to discuss the history of the riparian buffer and to identify issues within the Protection Area. Based upon the research and discussions with staff over the past couple of months, FLOPA is recommending a 35 ft. riparian buffer to be consistent with the riparian deed restrictions on the majority of the platted subdivisions. Allowable uses/activities within the riparian buffer would be defined in two zones based on a 10/25 ft. split. No permanent structures would be allowed in either zone with the

ten feet adjacent to the lake dominated in native plants. The 25 ft. area would have limited permitted uses that would not reduce the values and functions of the protection area.

19.106.040(B) Table Permitted and Prohibited Uses

D	Site Development/Alteration	35-foot RPA	40-foot RPA	55-foot RPA	80-foot RPA	50-foot Wetland Buffer	Upland Habitat
1	Activities prohibited by an easement.	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited
2	Earth disturbing activities not associated with an approved permit.	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited
3	Activities prohibited by Chapter 16.05 FMC, flood hazard overlay zone.	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited
4	Receiving areas for toxic or hazardous or sanitary waste fills and uncontained hazardous materials, as defined by DEQ.	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited
5	<i>Development of permitted structures allowed in the underlying zone within the resource protection area subject to FMC 19.106.040(D), Exception process.</i>	<i>Prohibited</i>	<i>Prohibited</i>	Type III	<i>Prohibited</i>	Type III	Type III

Proposed Change: Staff would like Planning Commission’s feedback changing “Prohibited” in under #5 in the table above to a Type III process and adding a Riparian Buffer Averaging process in the Exception process (FMC 106.040(D)). This would allow limited encroachment in the Riparian Buffer area but the overall riparian corridor must be consistent with the resource width.

For example: A stream on a property has a 40 ft. buffer on both sides of the stream that makes an 80 ft. riparian corridor. A property owner could use the riparian buffer averaging process set out in the exceptions process (Type III land use review through Planning Commission), and encroach into the 40 ft. area on one side of the stream but would have to make up the difference or more either on the same side of the stream or the opposite side of the stream, and then enhance the corridor with native plantings.

Other jurisdictions (i.e. Washington County’s Clean Water Services, City of Eugene) allow a process for “riparian buffer averaging”. Riparian buffer averaging can allow flexibility in site design, and increased values and functions of riparian corridors through mitigation on constrained properties.

See the following for more info:

<S:\NATURAL RESOURCES\BUFFER AVERAGING>

http://www.eli.org/sites/default/files/eli-pubs/d18_01.pdf (page 14)

<http://www.cleanwaterservices.org/Content/Permit/DAndC%20Chapters/Chapter%203%20DC%20Amendment%20RO%2008-28.pdf> (Page 20)

Here is an example of the Exceptions code language from City of Eugene:

9.4850 Exceptions. The planning director shall have authority to grant exceptions to the standard setback distances and permitted uses within /WB areas subject to site review approval and in accordance with the following provisions:

(1) Criteria. Exceptions shall be granted only if the applicant demonstrates in writing that at least one of the following exists:

- (a) Through a combination of buffer enhancements and site design alterations a smaller buffer setback distance can provide protection to the resource that is equal to or better than that provided by the standard buffers specified above, including, but not limited to meeting or exceeding EC 9.2530 Natural Resource Zone Development Standards (1) through (4).
- (b) No economically viable use allowed within the base zone or special area zone could occur as a result of the application of these setback and buffer provisions,

and that this circumstance is not purposefully brought about by any deliberate action of the owner or developer of the property.

An exception shall be granted by the planning director in these cases, and Type II buffers of less than 50 feet are permitted on high value wetlands and Type II buffers of less than 25 feet are permitted on moderate value wetlands. Setbacks around high value wetlands shall not be less than 25 feet in any case.

(2) Buffer Averaging. Wherever practical, reductions in buffer distance from the standard buffer setback distances due to approved exceptions shall be accomplished through averaging the buffer distance on a site. Averaging means that when the buffer setback is reduced in one location, it is expanded somewhere else in compensation so that the total buffer area remains the same.

- (a) Wherever practical, reductions in buffer distance due to approved exceptions shall occur adjacent to lower value or less sensitive areas within a given wetland site and expansion of the buffer in compensation shall occur adjacent to higher value or more sensitive areas within a given wetland site.
- (b) To the extent practicable, wherever buffers are reduced from the standard setbacks along channel sites or other linear sites, buffers shall be increased on the opposite bank of the channel across from the area where the reduction is allowed.

(3) Reductions to Other Standards. The planning director shall have authority to reduce other setbacks and landscape requirements contained in this land use code on properties where wetland buffer setbacks are required.

(4) Applicable Standards. All construction, vegetation removal and earth moving that takes place inside standard /WB setback areas as approved through this exception process shall conform to EC 9.2530 Natural Resource Zone Development Standards (2) through (19).

9.4860 /WB Miscellaneous Provisions.

(1) Type I buffer setbacks that are not enhanced by the owner or developer may be enhanced in cooperation with the owner(s) by government or other non-profit agencies or organizations as part of demonstration projects, habitat management or other programs that are consistent with adopted plans or policies.

(2) To the extent practicable, density transfers shall be used to offset restrictions on building within buffer setback areas in residential zones. A density transfer is an allowance within a given parcel or development site under one ownership to increase the density beyond the normal code limits, in compensation for a reduction elsewhere on the site required or caused by local regulations.