



MINUTES  
PLANNING COMMISSION MEETING  
1300 NE Village Street  
Fairview, OR 97024  
Tuesday, July 24, 2012

PRESENT: Gary Stonewall, Chair  
Steve Kaufman, Vice-Chair  
Julius Arceo  
Keith Kudrna  
Jack McGiffin  
Jan Shearer

ABSENT: Ed Jones

STAFF: Allan Berry, Public Works Director  
Lindsey Nesbitt, Development Analyst  
Devree Leymaster, Admin. Program Coordinator

**1. CALL TO ORDER**

Chair Stonewall called the meeting to order at 6:30pm.

**2. CITIZENS WISHING TO SPEAK ON NON-AGENDA ITEMS**

Ms. Mitchell spoke regarding tree removal on her neighbor's private property at 205<sup>th</sup> Avenue and Wistful Vista. Ms. Mitchell did not state her address for the record and did not sign the public attendance record. Ms. Mitchell stated the current code provided tree preservation through the current natural resource overlay and was concerned changes to the natural resource code could remove the protection. Staff responded the current code and map did not identify the trees as a protected resource. Through the Title 13 process the lack of tree preservation within the code was clarified and the Commission had directed to staff to research and develop tree preservation code after completion of the Title 13 Natural Resource Code Amendments.

**3. REVIEW AND ADOPT MINUTES**

June 26, 2012 minutes approved as written by consensus.

**4. PUBLIC HEARING**

**a) File 12-17-ZC  
Final Plat Filing Extension  
Ordinance 5-2012**

Chair Stonewall cited the legislative hearing statement and as there were no objections Development Analyst Lindsey Nesbitt presented the staff report. The requested 1 year filing extension was for three outstanding final plat extensions, City Council supported the extension request during a work session, and the decision making criteria that had been omitted by error in 2009 was being reestablished in the code.

As there was no testimony and no Commissioner comments, Vice Chair Kaufman moved to close the hearing and Commissioner Kudrna seconded. The public hearing was closed by unanimous vote.

Commissioner Shearer moved to refer a recommendation of approval for ordinance 5-2012 to City Council and Commissioner Kudrna seconded. The motion passed unanimously.

Ayes: 6  
Noes: 0  
Abstained: 0

**b) File 9-32-ZC**  
**Natural Resource Code Amendments: Title 13**  
**Ordinance 3-2012**

*Continued from June 12*

Development Analyst Lindsey Nesbitt summarized proposed changes in response to Commission direction and questions at the June 26 Planning Commission meeting. Items included:

- Staff researched the Oregon Revised Statutes (ORS) concerning non-conforming rights and per the ORS restoration or replacement was to commence within one year. The city attorney supported the Commissions direction to be less for replacement within 5 years when structure was at a 75% or greater loss.
- Public Works Director was the authorized authority regarding mitigation banks. In the event the applicant and PW Director did not agree the applicant could appeal to the Planning Commission at no charge.
- Staff supported reducing the protection area of Osburn Creek to 35 feet from center line.
- Draft language for riverside development was provided in response to public comment. Metro does allow for water oriented uses to be exempted from resource protection standards. The current river front protection buffer was 50 feet. Staff recommended deferring code review for riverside protection until development occurs.
- Protection area for mapped wetlands was 50 feet. Development was allowed within the buffer but was subject to mitigation and development within the wetland was subject to state and federal requirements.
- City attorney advised to keep development standards within the code. If there were no development standards then discretion must be used and that would require all land use applications be a type III and would go to Planning Commission.
- City attorney advised maintaining language that when there were conflicts within the code the more restrictive code be adhered to. This protects the city and ensures the code is uniformly applied.

Chair Stonewall acknowledged for the record the letter received by the Fairview Business Association (FBA) and opened the public testimony portion of the hearing for those who wished to speak in favor, opposition, or neutrally of the proposed amendments.

Garth Everhart, 945 Clear Creek Way, Fairview, Oregon reviewed and commented on the items identified in the FBA letter and requested the water oriented uses exception be included in the amendments and not be deferred till time of development.

Lonnie Dicus, Senior Advisor USS Ranger Foundation requested the Commission not defer the river front development exemption until the time development occurs, but include it in the current amendments so as to not impede development when it occurs.

Dean Hurford, 335 NE Le Mesa Ct., Gresham, Oregon requested the river front development exemption be included and not deferred. Mr. Hurford stated he did not agree with the addition of 5 feet to the buffer when measuring from center line. He did not believe adding the 5 feet was a requirement of Metro. The loss of 5 feet was a loss of developable land and a cost to the land owner. Mr. Hurford requested the hearing be kept open and details fine-tuned prior to moving forward to Council.

Dawn Greenwell, 183 Crestwood St., Fairview, Oregon requested the mapped 55 foot buffer to Smith Memorial Church be extended to Devine Mocha. Staff responded the request had already been discussed and staff supported the 55 foot buffer extension to Divine Mocha. The map presented did not indicate the change. Staff would correct the map and code to reflect the change.

Roy Moore, SE Topler Drive, Vancouver, Washington requested the river front exemption be included in the amendments.

As there was no other testimony and no Commissioner comments, Commissioner Kudrna moved to close the hearing and Commissioner Shearer seconded. The public hearing was closed by unanimous vote.

Commissioner Kudrna and Vice Chair Kaufman agreed the river front exception should be included in the amendments. This would defer resource protection regulations to other organizations, exempt the city, and foster, not hinder, potential river front development. Staff requested the exception be for 3 specific parcels along the river front and the Commission agreed.

Commissioner Kudrna commented 5 years to allow for a rebuild of a non-conforming structure that was destroyed by 75% or more was more than lenient and anything beyond that should be subject to current code standards.

Commissioner Kudrna moved to refer a recommendation of approval to City Council for Ordinance 3-2012 with buffer measurement to be from center line of each water way, a 55 foot protection buffer extending beyond Smith Memorial Church to Divine Mocha, a 35 foot buffer for Osburn Creek, and a river front development exception for 3 river front parcels (1N3E2200504, 1N3E2200503, and 1N3E2100100) and Vice Chair Kaufman seconded. Chair Stonewall requested a roll call. The motion passed unanimously.

Ayes: 6  
Noes: 0  
Abstained: 0

## 5. STAFF UPDATES

a) Hannah's Tract Design Review – staff reviewed the conditions of approval and compliance with the conditions as outlined in a written format that was presented to the Commission and made available to the public.

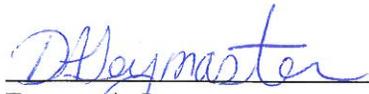
b) Parks – PRAC was forwarding a recommendation to City Council to move forward with Salish Ponds Improvement Project and beginning July 1, 2012 PRAC meetings would be scheduled ad hoc.

**6. TENTATIVE AGENDA**

USS Ranger presentation at the second meeting in September.

**7. ADJOURNMENT**

Meeting adjourned by consensus at 8:15PM.

  
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Devree A. Leymaster  
Administrative Program Coordinator  
Public Works Department

Gary Stonewall, Chair

  
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Date: 10-9-12