



SCAPPOOSE PLANNING COMMISSION
Council Chambers at City Hall
33568 E. Columbia Avenue

THURSDAY, JUNE 14, 2012 at 7:00 p.m.

CALL TO ORDER

Chair Negelspach called the Scappoose Planning Commission meeting to order at 7:07 p.m.

ROLL CALL

The regular meeting of the Scappoose Planning Commission was held June 14, 2012 at 7:00 p.m. in the Council Chambers located at City Hall at 33568 East Columbia Avenue in Scappoose, Oregon with the following present:

Planning Commission:

Chris Negelspach	Chair
Ron Cairns	Vice Chair
Don Dackins	Commissioner
Mike McGarry	Commissioner
Carmen Kulp	Commissioner
Barb Hayden	Commissioner

Staff:

Brian Varricchione	City Planner
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Excused: Planning Commissioner Bill Blank, Planning Commissioner Anne Frenz and City Recorder Susan Reeves

APPROVAL OF MINUTES ~ April 12, 2012

Commissioner Hayden moved and Vice Chair Cairns seconded the motion to approve the Planning Commission meeting minutes from April 12, 2012 as amended. Motion passed (6-0). Chair Negelspach, aye; Vice Chair Cairns, aye; Commissioner Dackins, aye; Commissioner McGarry, aye; Commissioner Kulp, aye and Commissioner Hayden, aye.

CITIZEN INPUT

None

NEW BUSINESS

Discussion of potential Development Code updates for public notice radius, setback standards, flag lot widths, and floodplain development regulations

Chair Negelspach explained City Planner Brian Varricchione has provided a memorandum regarding the public notice requirements date July 1, 2010 and then the other items are contained in a separate memorandum dated June 6, 2012.

City Planner Brian Varricchione explained the first item, the public notice requirements, as Chair Negelspach pointed out this memo is about 2 years old. What happened when this was on the agenda of July 2010 there were only a few people at the meeting so the discussion was deferred. Then the UGB discussion/hearings came up and so here we are. He explained the question that came up a couple of years ago was in response to a Type II Home Occupation permit application. It was for a hair salon in a residence and as our Development Code requires we mailed out notice to everyone within 200 feet of the site. At the Planning Commission hearing and when it was appealed to the City Council there were other residents who complained that they had not heard about this except through their neighbors and the staff response, which they didn't really like, was they live farther away than what the City's code requires. Then the question came up should we change the code and the answer is you can. He explained under State Law basically what it says is if you are within the Urban Growth Boundary and he is assuming that also means that if you are within the City, you have to send notice within 100 feet and that is about it. The State does have a model code that they put out for small cities and they suggest a 100 foot radius but basically the City can pick whatever number they want as long as it 100 or more; you couldn't do less than 100. Currently we split stuff up into two categories; one is the limited land use decisions which we use 100 foot radius and the other type is the quasi judicial decisions and for those we use 200 feet. He explained other cities use different notice standards.

Chair Negelspach explained certainly you are covering the adjoining properties in most cases especially if it is residential for the processes that get mailing within 100 feet but nothing really probably beyond immediate adjacent properties.

Chair Negelspach asked if the City has ever taken any discretionary measures to say we know we are going to impact these other lots nearby so we will go ahead and notice them anyway even though they are outside 100 feet or would you just stick to the 100 feet?

City Planner Brian Varricchione replied usually he sticks to the 100 feet, once in a while he will go a little beyond for one reason or another.

Chair Negelspach explained he could see where there might be utility work where somebody might be doing a subdivision they are going to have to put sewer all the way down the street for them so you are digging up a whole street, where you would want to let them know there is going to be this development coming down your street. He doesn't think we could ever capture that completely with these radiuses but perhaps we bump these numbers up and then say that there is some discretionary part of this where if you think there's an impact you should certainly give us some notice because he thinks that's just fair.

City Planner Brian Varricchione replied piggybacking on that you could say you've got your number, so many feet, plus any adjoining properties on streets where there will be off site improvements or something.

Vice Chair Cairns asked besides the hair salon incident, any other complaints from citizens about this.

City Planner Brian Varricchione replied occasionally.

Commissioner Hayden asked City Planner Brian Varricchione out of the complaints he has received would they have been within the 200 foot mark.

City Planner Brian Varricchione replied some.

Commissioner Kulp asked would they have been further out.

City Planner Brian Varricchione replied some. He explained it is kind of hit and miss who complains. He is sure some are unhappy because they don't get the notice, they don't necessarily tell him about their unhappiness, but some people do. He stated unfortunately when you pick a number there is always going to be one more round of people that didn't get it.

Commissioner Hayden asked what about the people outside the City limits like on North Road and Bird Road and in that area; does that work the same for them.

City Planner Brian Varricchione replied yes, if they are within that radius we still give them notice.

Vice Chair Cairns stated mailing would be the only other cost associated with this, which wouldn't really be a lot of money.

City Planner Brian Varricchione replied yes. He explained when somebody submits an application we charge them and some of that money is meant to cover postage and photocopies.

Chair Negelspach stated he would like to see a more transparent process because he hates to see all the sudden something just pop up overnight and you were out of town and you come back, he wouldn't be happy. He doesn't know what a good number is though.

Commissioner Hayden asked if we move it to like 200 or 250 with the caveat that if the sewer line is going to go clear down the road those people also get notified would that be doable?

City Planner Brian Varricchione replied yes, he could come up with some language like that.

Chair Negelspach stated maybe we bumped them up 100 feet.

City Planner Brian Varricchione replied 200 and 300 plus the offsite construction.

Chair Negelspach explained he thinks that's the approach especially since St. Helens is doing the

same thing.

Commissioner Dackins thinks 300 feet would be a good radius to have.

City Planner Brian Varricchione summarized that it sounded as though the Planning Commission would like a 200-foot radius for Limited Land Use Decisions and a 300-foot radius for Quasi-Judicial Decisions, plus those owners along the corridor of off-site improvements. There were no objections.

Chair Negelspach asked City Planner Brian Varricchione to introduce the next topic. City Planner Brian Varricchione said that the second item on the memo is side setbacks for accessory structures on residential properties. Staff has observed that residents get very confused about side setbacks when they want to build a shed or similar accessory building, especially if it is in the back yard. The setback rules require one setback of at least 10 feet and one of 5 feet but it would be simpler if they could both be 5 feet for accessory structures, as long as they were a certain distance away from the street.

Chair Negelspach asked if the rules only apply to structures needing building permits. City Planner Brian Varricchione stated they apply even if the building didn't need a permit. Commissioner Dackins observed that having a 10-foot setback was good for houses.

Chair Negelspach said that he was not sure about the proposal to have the rule apply if the building is 40 or 50 feet behind the property line. In some cases, such as at his house, that could still be in the front yard. He asked if the language should say the accessory structure should be behind the rear plane of the house? Commissioner Hayden suggested that it say behind the house. City Planner Brian Varricchione responded that he would have to brainstorm the language. The commissioners agreed that a 5-foot side setback was appropriate for accessory buildings behind the house.

Chair Negelspach moved to the next topic, setbacks for decks and porches. City Planner Brian Varricchione stated there is an exception to the setback rules for low decks and porches without a roof that can go up to three feet from a rear or side yard if it is screened. Staff recommended allowing covered decks and porches to also extend into the setbacks. Chair Negelspach commented that it would be nice to allow something closer to the property line than currently. City Planner Brian Varricchione indicated that if three feet were too close, they could use another number such as five feet. Chair Negelspach stated that a roof could concentrate rainfall near the property line and wash onto a neighbor's property.

City Planner Brian Varricchione talked about construction methods have to change and life gets very challenging and if you are three feet or more then it's kind of anything goes.

Chair Negelspach replied but that presumes that you don't have any landscaping right?

City Planner Brian Varricchione replied no.

Chair Negelspach asked isn't that three feet kind of clear zone for fire access.

City Planner Brian Varricchione replied no. He explained if you are building a house close to the property line, if you are less than three feet you can't have any windows you've got to have fire rated construction, roof overhang have to be fireproofed, etc. He explained if you are three foot, one inch now you can have windows. So it's that sort of thing. So he would not recommend anything less than three feet here for that reason.

Commissioner Kulp stated so five would be better.

City Planner Brian Varricchione replied five would be better than three for that reason.

Chair Negelspach stated well if you put landscaping in there then you virtually take up all of that room. You basically build a deck and then you have landscaping and there is no room to do anything, you've got no room to even walk around it at some point.

City Planner Brian Varricchione replied potentially.

Chair Negelspach stated he would hate to require anybody to screen a deck they put up, in some cases they might want to but he almost thinks you might want to leave at the discretion of the owner.

City Planner Brian Varricchione replied he would agree with that. He stated it is getting a little bit nitpicky. If you are not getting along well with your neighbor you are going to put something up anyway.

Commissioner Kulp stated if they want privacy they'll put something up.

Commissioner Hayden asked what about a balcony.

City Planner Brian Varricchione replied they way it is written it does talk about balconies. Personally he wouldn't want a balcony that close because then you are looking down into yards. He stated if you are going to allow covered porches and covered decks he might just take this code and strike out the part about balconies. He stated it is just him personally if his neighbor had a balcony he would rather it be that close to the house and not perched way out over the yard so they can see everything that is going on.

Chair Negelspach replied he likes that suggestion. So what he thinks he is hearing from everyone is we like five feet of setback versus three and we leave the screening up to the discretion of the property owner.

City Planner Brian Varricchione explained the way it stands now you could have a patio built almost to your back fence and you could sit out there and put up an umbrella. It would kind of just allow them to have a nicer deck or nicer facility for the neighbor to look at instead of an umbrella or one of those little popup canopy things you buy.

City Planner Brian Varricchione explained he heard five foot instead of three foot and leave screening up to the owners. Nobody objected to his suggestion to change the height 36 to 30 inches and striking balconies from there so the balconies don't end up five feet from the property line.

Chair Negelspach stated moving on to item number 4 ~ Lot widths for flag lots.

City Planner Brian Varricchione explained the Development Code says if you are going to have a flag lot, they do require a variance from the Planning Commission but they don't actually talk about how wide the flag pole section needs to be to accommodate your driveway. He explained we have been using at least 20 feet and that is based on feedback from the Fire Department. If it is a single family home they usually like at least a 12 foot paved driveway and then kind of 4 foot clear space on each side so they can open the doors and get out and that sort of thing. If it were a multi family flag lot they typically want the whole 20 feet paved. He stated so we say 20 feet and where that width kind of can turn into a problem in some instances the Planning Commission says you know what we want a fence between you and your neighbors because their house is close by, well if you only have 20 feet, how do you fit 20 foot wide plus the width of the fence, etc. so maybe a number bigger than 20 would be appropriate. It would be helpful to define the minimum width in the code so there is no question. He stated you could use 20 but he would recommend slightly larger than 20 just in case there's a fence. He put in the memo 25 feet but that might be a little bit more than you actually need.

Chair Negelspach replied so the 25 feet that's suggested would allow for screening or fencing and allow the 20 foot clear zone. He asked if perhaps it was a multi family and you know you didn't necessarily need to screen it would they be able to get a variance to go down to 20?

City Planner Brian Varricchione replied possibly. They would already be requesting a variance from the flag lot so they could request something a little smaller. He explained the Planning Commission always has the discretion under the current code language for these flag lots do you want the fence or don't you.

Chair Negelspach asked so screening is discretionary?

City Planner Brian Varricchione replied yes. All he is saying is it would be helpful if there were at least a little space in there to fit the screening if it were needed.

Chair Negelspach replied then we could find ourselves in a variance then for a number of hearings if there were a case where they didn't feel like they wanted screening and we could be reducing it back to 20.

City Planner Brian Varricchione replied potentially. He stated maybe 21 feet, maybe 22. There is kind of the balancing thing.

Chair Negelspach replied he likes 25. He asked how easy is it to get the variance to get to 20.

City Planner Brian Varricchione replied that would be up to you as the Planning Commission.

Chair Negelspach stated he thought there is certain requirements for the variance that the Planning Commission has no control of and that is what he is meaning.

City Planner Brian Varricchione replied right. He feels more comfortable with just a number and sticking with it most of the time unless there are compelling reasons not to and maybe that's why

it's not defined in the code now.

Chair Negelspace explained you could set it up in the code to be more conservative because you don't know what's going on there.

Commissioner Kulp stated you could just say for the R-1 go make it 22 and for the multi family go with the 25 or 30.

Chair Negelspace replied these are minimums. He explained if it was single family he would still stay, if they think they can have 20 feet, let them still have the option to do 20 feet, if they want more then they can take more.

City Planner Brian Varricchione replied then it still leaves us with the question of if you require screening for that where does it go. So 22 that might be a reasonable number for R1.

Commissioner Dackins explained he likes the 25 feet where 5 feet is for screening. He likes the idea of 25 feet minimum.

Chair Negelspace replied he thinks that's reasonable to use 25 as the minimum.

City Planner Brian Varricchione explained if we put in the number, people always ask for exceptions if they can make a good case then you can grant the variance.

Chair Negelspace stated we are set on 25 feet then.

Chair Negelspace recessed for a break at 8:10 p.m.

City Planner Brian Varricchione explained floodplain regulations are a continuing source of light. He feels like he is always coming in front of the Planning Commission with floodplain changes. He explained basically there's what called the National Flood Insurance Program (NFIP) and that spells out minimum standards that the City has to adopt by law and we meet all those minimums. Every now and then we kind of get a little audit from FEMA or some of the other folks that work with them to make sure everything's ok and we are all fine with that. Then there is the opportunity for cities to go above and beyond that if they feel like and the City of Scappoose has done that in a few areas and some of what he is going to suggest to the Planning Commission tonight is maybe the City went a little too far in their enthusiasm and picked some numbers without recognizing the full impacts of what that might mean.

City Planner Brian Varricchione explained the first one is definition of "Substantial improvement" and it's a phrase that by itself doesn't mean a whole lot so he will try to give it a little context. He explained if you have property in the floodplain and you want to buy a new building or new house for instance the City has a whole list of those requirements that you have to elevate your floor at least a foot above the floodplain elevation, you have to provide openings in your foundation so if flood water comes up it can flow in and then it can flow out, you have to anchor your house so it doesn't float away, you have to raise your equipment in the garage above the water elevation and put your duct work up high. All these things that are very easy to do when you are starting from scratch and you're building from a bare piece of land because you just

plan for it and you do it and it's not a big deal. He explained there are times that the City could make an existing home be retrofitted and have to meet all these rules. So the substantial improvement is the threshold, it's the line at which the floodplain rules kick in. So the FEMA requirements under the National Flood Insurance Program they say if the improvements cost at least 50% of the value of your house then you are really doing a lot to your house so you should really bring that house up to code and make sure it's protected and that kind of makes sense to him. The City uses a number of 25%, which on the face of it doesn't seem like a big deal. For several years he felt that meant we were being more protective of the community because if you are doing a little bit of work on your house then you have to meet today's codes but lately we have been kind of having some second thoughts about that. He gave a couple of examples. He explained staff's thought was maybe we should just fall back on what FEMA recommends 50%, they have obviously thought this through. He would like to hear the Planning Commission's thoughts on that. He explained if you are in the floodplain and your house gets damaged, regardless of how it gets damaged, then the 25% would apply.

Commissioner McGarry asked there is no exception with FEMA if it's a fire or a tree falling on the house.

City Planner Brian Varricchione replied no and he thinks that is why they set it at 50%.

Chair Negelspach explained he agrees with FEMA's number of 50%. He stated hopefully with it being at 50% it would eliminate those cases that City Planner Brian Varricchione just mentioned like having a tree fall into the house.

Commissioner Hayden asked if this differentiates between a stick built house and a manufactured house.

City Planner Brian Varricchione replied no. The 50% number is across the board, even for commercial it would be the same percentage.

Chair Negelspach stated it sounds like everyone is in agreement on the 50%.

City Planner Brian Varricchione replied ok. He explained the next one is about openings in your foundations. So most houses are built on crawl spaces around here and so FEMA rules say they don't want the crawl space to just fill up with water and turn into problems so they say you have to have openings in at least two of the walls and they specify how much opening. They use this rule of thumb for every square foot of enclosed floor space you need one square inch of opening so it is pretty easy to do the math on how much you need. He explained the openings need to be close enough to the ground that they actually do some good. He explained the City's rules double how much openings you need, basically for every square foot of enclosed area you need two square inches and we are not real sure why or where that number came from. It potentially could pose some challenges, not so much on the new houses as if we have to make somebody do an upgrade to their house because of that substantial improvement rule. He explained we recently faced an issue, which didn't turn into anything, but we were looking at a situation where people were going to have to potentially add vents to their existing house and they would have had more vents than they had physical space to put them in and there would be nothing to hold the house up anymore and the reason for that was the flood elevation was only a couple of inches and in

order to get enough vents you have to spread it wide and you spread it wide you have no more wall. So that doesn't make sense. It didn't turn into that but it kind of put the point on that matter that why are we picking two square inches instead of one when FEMA says one is the national standard.

Chair Negelspach asked is there any discussion on the one square inch per square foot versus two square inches per square foot. He asked should we take FEMA's requirements over our own.

City Planner Brian Varricchione stated there don't seem to be any objections from the Planning Commission to changing that.

Chair Negelspach replied no I don't think we have any objections to it.

Commissioner Dackins stated he doesn't see any sense in making our regulations any more stringent then the FEMA regulations.

City Planner Brian Varricchione explained the State Building Code also follows FEMA so this will bring us more into line on that.

City Planner Brian Varricchione explained the last one on page four is engineer certification. There is a diagram on that page that shows the floodplain and it's got a few different components; the stream channel that's where the stream flows when it's not flooding. The floodway is kind of the deeper area of the flood. FEMA really restricts any obstructions in the floodway because any obstruction you put in the floodway is going to push more water off onto the neighbors. He explained beyond that you have the floodway fringe which is shallower water, hopefully standing water instead of flowing. He explained where these definitions come in to play FEMA requires "no rise certification" if you want to put something in the floodway. He explained the City rules require that not just in the floodway but anywhere in the floodplain which seems just to us kind of overboard because by definition the floodway fringe is not as critical as the floodway proper and we have rules already that say if you are filling in the floodplain you have to balance that by removing an equal or greater amount of material. That is also something we do more than FEMA and he thinks it is worth keeping. He explained we just don't see a lot of value in this engineer certification and to be honest we have not required it constantly. His thought is let's just get rid of the requirement for the fringe and keep it for the floodway since that is kind of a National requirement. He explained to get one of these certifications you need an engineer to do some flood modeling for you and then it can then turn into a big deal.

Commissioner Dackins replied again he doesn't see a reason to be anymore restrictive than NFIP or FEMA because it says here the modeling that would be required would exceed anybody's budget.

Chair Negelspach replied yes it would, he agrees with that. He said the modeling is typically not required in the floodway fringe in other jurisdictions.

Chair Negelspach stated to City Planner Brian Varricchione he thinks we are good with the way he has it.

City Planner Brian Varricchione replied he wants to thank the Planning Commission for looking this over.

Chair Negelspach thanked City Planner Brian Varricchione for bringing this the Planning Commission's attention.

Chair Negelspach explained one thing that he was talking to Mayor Burge about the other day that he wanted to explore was, and he tends to agree, is our requirements for, and let's use the case on Keys Drive as an example, was that you have a home owner who wanted to develop a lot, and so he came to the Planning Commission and as requirements he had to do a half street improvement and as a part of that he had to provide storm water treatment for the half street. As a consequence of that he has two concrete boxes in the yard. Since he partitioned it he has a concrete box on each lot. So the water that would run into the new street from the center line to the curb to the extent of the property he's got to treat that storm water and it ends up that there is no storm water system on that end of the road so there is no place to take the storm water so he has to bring it into his lot, treated it and then it's released and then it infiltrates. There are adjoining properties that some day when they redevelop they'll do a half street, they'll do new sidewalks and they'll take care of their little sliver of the road. So you have these little piecemill, like every lot essentially that you do not see curb and gutter and storm drain inlets and you could end up in a situation where you end up with these structures. He thinks Mayor Burge didn't like it, it wasn't appealing to him and he agrees. He thinks homeowners should take care of their impact or their development and businesses should do the same but is there a better way to do it. He thinks the City should consider doing some sort of a fee in lieu of for residential or some smaller projects would be a simple solution for that. He explained how that process would work.

City Planner Brian Varricchione explained it is a neat idea and if you could figure out a way to do it because these little piecemeal street improvements don't work so good.

Chair Negelspach explained the City of Happy Valley thought and planned ahead and purchased property that would work for a storm drainage site. He explained it takes planning and money for forward thinking.

COMMUNICATIONS

Calendar Check

City Planner Brian Varricchione explained the next scheduled meeting is in two weeks but there is nothing for the agenda.

Commission Comments

There were none.

Staff Comments

City Planner Brian Varricchione explained today we got an application for a new building at the airport for Oregon Aero. So the meeting in July will be to evaluate their application.

He explained also today the Department of Land Conservation and Development approved, with no changes, the City's UGB amendment. He explained this does not mean it's done. There is a three week appeal period that starts today and if somebody appeals it then it would go to the Land Conservation and Development Commission, which is an appointed group of volunteers. He fully expects that it will be appealed in which case it would place this approval on hold and then there would be a hearing by the Commission probably sometime this fall.

He explained the other thing is that ODOT is giving us money to update our Transportation System Plan. They estimate that the report will take probably a year and half with all the public meetings. They are allocating \$80,000 for this fiscal year and then can match that again for next fiscal year. They say a typical number for these is about \$150,000. He explained the County is updating theirs at the same time. They had a kickoff meeting a couple weeks ago with the consultant.

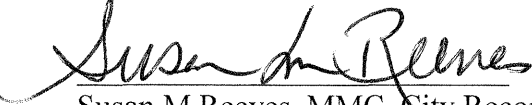
Commissioner Hayden asked if this study is going to include the UGB?

City Planner Brian Varricchione replied yes.

The Planning Commission thanked City Planner Brian Varricchione.

ADJOURNMENT

Chair Negelspach adjourned the meeting at 9:10 p.m.


Susan M Reeves, MMC, City Recorder


Chair Negelspach