



SCAPPOOSE PLANNING COMMISSION
Council Chambers at City Hall
33568 East Columbia Avenue

THURSDAY, OCTOBER 11, 2012 at 7:00 p.m.

CALL TO ORDER

Chair Negelspach called the Scappoose Planning Commission meeting to order at 7:01 p.m.

ROLL CALL

The regular meeting of the Scappoose Planning Commission was held October 11, 2012 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
Anne Frenz	Commissioners
Bill Blank	Commissioner
Mike McGarry	Commissioner
Carmen Kulp	Commissioner

Staff:

Brian Varricchione	City Planner
Susan Reeves	City Recorder

In the audience is Planning Commissioner Barb Hayden.

APPROVAL OF MINUTES ~ August 9, 2012

Commissioner Blank moved and Commissioner Dackins seconded the motion to approve the August 9, 2012 Planning Commission meeting minutes as amended. Motion passed (7-0). Chair Negelspach, aye; Vice Chair Cairns, aye; Commissioner Dackins, aye; Commissioner Frenz, aye; Commissioner Blank, aye; Commissioner McGarry, aye and Commissioner Kulp, aye.

CITIZEN INPUT

Barb Hayden explained she is running for City Council.

OLD BUSINESS

Discussion on Potential Development Code Updates

City Planner Brian Varricchione explained at the last two meetings Planning Commissioners have discussed general concepts that he has put in front of them for areas that he saw for improvement but he doesn't think he put language in front of them in the past so he promised to bring some back. He explained there is some draft language and he would like to get the Planning Commissions feedback, any changes they might like to see. He explained after he gets feedback he'll probably try to package this together with some other updates as well and then start the Legislative amendment process. He explained he laid out the proposed changes in numerical order. He explained he will step through each chapter and give background on where the changes came from.

Chapter 17.26 ~ Definitions

City Planner Brian Varricchione explained he is just proposing to add a sentence to accessory buildings to add a little more explanation. He explained it is really not critical if that language is in there or not. He explained the general public doesn't necessarily use the word accessory building when they want to do something.

City Planner Brian Varricchione explained as he discovered reading the code, the definition of accessory dwelling unit says that it does not contain a kitchen but about 10 years ago a new chapter was added to code specifically about accessory dwellings stating that they would contain a kitchen and nobody updated the definition so he is just proposing to make sure everything agrees with each other stating it would contain a kitchen.

City Planner Brian Varricchione explained the definition for "Day care home" would change the definition from twelve children from sixteen children. There was a State law passed a few years ago that changed that number so we would just be matching the State law.

Chair Negelspach asked about accessory buildings, if you read further in the code referring to another section where it actually defines what a building is, it talks about a certain square foot or a height requirement. He stated it shows up but he thinks it is somewhat misleading perhaps that you would have to meet certain requirements. He doesn't want someone to get the impression that they have to meet all these code requirements if they are building a shed smaller than the definition for a building. So he just wanted to get City Planner Brian Varricchione thoughts on that.

City Planner Brian Varricchione read the definition of building "Building is any structure greater than 120 square feet or 10 feet in height". He explained that setbacks apply to all structures, not just buildings.

Commissioner Blank explained it's his understanding was that they increased that square footage for storage units, is that correct?

City Planner Brian Varricchione explained the building code has definitions of what is exempt from a permit and it varies depending on which code you are looking at. He explained for commercial structures it's 120 square feet and for a residential structure it's 200 square feet. He

is not sure why those don't match each other.

Chair Negelspach stated you basically want to regulate anything over 120 square feet or 10 feet in height in some way right?

City Planner Brian Varricchione replied certainly that does need regulation, you need a threshold to where you start and where you stop. He stated what they tell people when they want to build a shed is they still need to meet setback requirements. He asked do you want setbacks to apply to sheds and whatnot or not? He stated philosophically what is meant to be achieved by the setbacks; is it just for the house or is it for all the structures on the lot.

Chair Negelspach stated he assumes the five foot setback concept is in place so that if it is more of a permanent structure that you couldn't necessarily move easily and you have enough room to get around it to do maintenance, etc. or to screen it. He stated if it was a dog house or woodshed maybe you would need to maintain it in the same way or it is the same obtrusive structure that it wouldn't matter if it was closer to the property line.

Commissioner Cairns thinks even if the structure is smaller the setback should still apply to it.

City Planner Brian Varricchione stated he is not sure which way the Planning Commission is leaning on this so maybe they'll talk about it more in the future.

Commissioner Frenz talked about regulating the canopies that people use.

City Planner Brian Varricchione replied the way he reads the code, the canopies should meet setbacks.

Chair Negelspach stated he thinks what they are trying to regulate is something that is bigger and not really movable.

City Planner Brian Varricchione stated so maybe for the sentence that he added for accessory building maybe it should have just a little bit of clarifying language. He could say "accessory buildings may include barns, etc., if they are over the threshold of the building size". He stated he can work on language. He explained what he doesn't want to create is a situation where they say that every shed is considered an accessory building if it's not even considered a building.

Chair Negelspach replied he thinks that is what they are trying to tell him, that they don't want to regulate every dog house in town.

Chapter 17.44 ~ R-1 Low Density Residential

City Planner Varricchione explained the two changes here. The first was defining a minimum width for a flag lot, and you will see this repeated in other zones as well. He explained the discussion a couple months ago was that twenty-five feet would provide room for a twenty foot driveway plus a little bit of room on each side and be a consistent number that is actually defined in the code. He explained the changes to number 3 the language on side setbacks is just clarifying a bit such that for the house you would have one setback at least ten feet and one that's five feet

and further saying that if it's a corner lot you would want the ten foot side facing the side street. Then there was the discussion about did it make sense for those setbacks to apply to the accessory buildings once you're in the back yard and the Planning Commission's feelings were to just make it five feet on either side if it's behind the house so that is what he proposed there. Chair Negelspach replied he thought it was clear and he didn't have any comments on that. Neither did any other Planning Commissioners.

City Planner Varricchione explained the same changes are listed for Chapter 17.50 R-4 Zone, Chapter 17.54 MH Zone and Chapter 17.56 A-1 Zone, he is proposing to make all the language identical.

Chapter 17.50 ~ R-4 Moderate Density Residential

Chapter 17.54 ~ MH Manufactured Housing

Chapter 17.56 ~ A-1 High Density Residential

Chair Negelspach explained he thinks the Planning Commission agrees with all those changes. He thinks it's good to have it be consistent for each condition.

Chapter 17.84 ~ Sensitive Lands ~ Flooding

City Planner Brian Varricchione explained Flooding Chapter 17.84 that is kind of a big one. He explained the main thrust of what's being proposed here is to have the City's rules match the National Flood Insurance Program rules. He explained currently we have some rules that are stricter than theirs and frankly could cause some hardships. He gave an example of if your house is in the floodplain and you have a fire and the cost of repairs is more than 25% of the house cost, then you have to suddenly bring your whole house up to the floodplain standard which might involve elevating and re-anchoring and so on and that seemed like kind of a low threshold because it doesn't take much when it's a repair job to hit the 25% threshold. He explained the FEMA standard is 50% so we are proposing to match that. He explained also he inserted the definition of substantial damage; he took that from the FEMA language. He explained it is a definition that used to be in the code and then somewhere along the line it was deleted at one of our floodplain regulation updates because he didn't see the phrase used anywhere in our code but he has since learned that whether or not it is used in our code, it is a significant term to FEMA so he is putting it back in.

Vice Chair Cairns stated with FEMA being at 50% and if we stayed at 25% would we open ourselves up for lawsuits.

City Planner Brian Varricchione replied he doesn't think so because they've been on the books for awhile. He stated when you tighten regulations up, he doesn't know about lawsuits but certainly push back. He explained a comment he received from FEMA when they were reviewing the City code was that the 25% threshold might be hard to enforce.

City Planner Brian Varricchione explained looking in the part 17.84.140 that section of the flood opening requirements currently we require twice as much openings as FEMA and we are

proposing to match the FEMA standards. He explained part of the thought process behind that is that at a certain point you start requiring so much opening that you could potentially affect the structural capacity of your building.

Commissioner Blank explained he thinks when they did some of that they were also thinking back to the 1996 floods and how much water was passing underneath, the rush of water and all the stuff they were getting larger is better than smaller.

City Planner Brian Varricchione replied it certainly is to a point.

Chair Negelspach asked if we have always exceeded the FEMA requirement for that.

City Planner Brian Varricchione replied it has been that way for ten or fifteen years at least.

Commissioner Blank stated a minimum would just simply match what FEMA has, which makes sense.

City Planner Brian Varricchione replied yes and that can kind of come into play when there's an addition to an existing house.

City Planner Brian Varricchione explained the next one 17.84.170 Regulations pertaining to fill, here is a spot where the City is more strict than FEMA. He explained what we say is if you are going to bring fill into a floodplain site then you also need to do some excavation so that you don't diminish the flood storage capacity. So he added the phrase "certified by a registered professional engineer" because we don't necessarily want the homeowner just telling us "yeah, I brought in three truck loads of fill and I took out three truck loads, I'm good", we want something a little bit more reliable that we can count on. He explained he did strike the sentence about following the special permit requirements 17.84.200, which basically require not just a quantification of the fill but a "no rise analysis" which is pretty complicated. He explained it is the sort of thing you would do if you were putting a road or a bridge in but you certainly wouldn't need to do it if you're just adding on to your house. So that is why in the next section why he crossed off item "B".

Chair Negelspach explained if you looked at it in total volume it is different than looking at it in a foot-per-foot capacity at certain elevations. He doesn't know if you want to consider that the City Engineer would look at it in those terms versus just looking at it in a total volume within the floodway fringe area because there is a difference there. He explained some cities actually spell it out that they want no net rise at every elevation.

City Planner Brian Varricchione explained to get at your statement there, the way the language is written and would be implemented would be just a volume comparison. He explained if you would like to see the foot-by-foot that to him is starting to sound more like a no net rise which is required in the floodway but only for encroachments in the floodway. He explained he could look at the Beaverton language. He explained his intent in clarifying the language was to step away from some of that because what we are requiring already is more than FEMA. He stated it is kind of a level of effort question.

Chair Negelspach replied it certainly is and he thinks to an extent it's certainly discretionary and depends a lot on what water body you are talking about and what development is near it. He maybe for the floodway fringe it doesn't need to be that specific. He stated he thinks since we are not actually approving this language he will research a little more and look and see if there is anything City Planner Brian Varricchione should consider. He stated perhaps probably this is the right language but it would be worth looking at anyway.

City Planner Brian Varricchione replied yes and maybe in terms of the engineer there is a threshold if you are doing a subdivision or something that you have to do a more sophisticated analysis than someone adding 200 square feet on their house.

City Planner Brian Varricchione explained so the last one in this section is for the application submission requirements stating that the no net rise certification would only be required for development in the floodway rather than current language which says it is required everywhere.

Chair Negelspach stated that sounds fine to him.

Chapter 17.96 ~ Lots—Exceptions and Additional Setbacks

City Planner Brian Varricchione explained in this chapter is Lots, Exceptions and Additional Setbacks, as the building code changes the planning code changes on its own schedule and every now and then it is good to synchronize them. He explained the intent of this language in paragraph C is if you have a porch or deck regardless of whether it has a roof or canopy that it could be in your rear or side setback as long as you maintain at least five feet from the property line and the he added the language the porches or decks without a roof or canopy can also go into the front yard. He wanted to get the Planning Commissions thoughts on that.

Chapter 17.100 ~ Landscaping, Screening and Fencing

City Planner Brian Varricchione explained he had asked the Planning Commission for feedback on the screening provisions in the landscape code and there was a suggestion to ensure that loading areas be better screened then the current code which basically requires a certain number of trees spaced so many feet apart and a few bushes and shrubs which really don't screen it. He explained he proposes in the language "loading areas and outside storage shall be screened from public view, from public streets and adjacent properties". He would like the guidance from the Planning Commission on how tall do you think the wall or hedge should be, keeping in mind if it goes over eight feet they would need the Planning Commission approval, if it's a fence.

Chair Negelspach talked about all the things to consider, what you want to screen, what the loading activity is, the height of the adjoining public space or street, etc. He stated he thinks this is challenging. He stated they could shoot for six feet in general and then if there is public opposition then they could respond to that specifically.

Commissioner Blank stated if you just left it more loosely phrased maybe you could determine that on a case by case basis.

Chair Negelspach read some of the Scappoose Municipal Code. He stated essentially what we

have in our old code is five feet. He asked City Planner Brian Varricchione if we have been challenged on this issue in the past.

City Planner Brian Varricchione replied no.

Commissioner Blank explained at one time there was a two foot wall and then they had a six foot fence on top of it because the purpose was they were looking into their bedroom so they felt that wasn't an unreasonable request.

Commissioner Frenz explained these things come in front of the Planning Commission and then we sort of work them out so hopefully everybody is happy.

Chair Negelspace replied he thinks that's a great comment. He thinks that if it says "shall be screened from public view and adjacent property" then the minimum height is somewhat irrelevant because you have to show by some sight line that it's obscured at whatever it takes to do that. He stated it is somewhat safeguarded by not having an adequate number in there to begin with. He stated we could say five feet and if it's not high enough to be site obscuring then they would have to make it seven perhaps.

Commissioner McGarry stated or if by your definition you make it six feet, minimum of six feet it might also be required to be higher because of that definition.

Chair Negelspace stated he is probably not opposed to stating minimum height of five feet or six feet.

Commissioner Frenz replied she agrees.

City Planner Varricchione replied he will ponder a little and see if maybe he can think of a way to say it because he can see both sides. He explained the danger of putting a number in there is people design to that number. So even if it should be nine feet depending on the site location if it says minimum height of six feet they are going to put a six foot hedge.

Chair Negelspace talked about landscape requirements not being done or kept up like they should. He has concerns with landscaping being done and it meets the code but then it dies in a year or two years.

Commissioner Blank asked if you have minimum height as designated by the Planner or whatever could you work that out somehow?

City Planner replied from a practical point working it out sounds good and that's usually how it will play out but with a limited land use decision such as site development review all the standards are supposed to be clear and objective so how can they demonstrate that they have met something if it is wishy washy. He stated if it was a conditional use then you would have a little leverage.

Commissioner McGarry stated what if you change it shall be screen from a public view, from public street or adjacent property by means of a wall or fence.

Chair Negelspach replied he thinks that is a great suggestion because they could then, if they don't like that look they could screen that with landscaping which is typically what you would do.

Commissioner McGarry replied he sees way too much dead landscaping.

Commissioner Frenz replied what you have to do is write a letter and explain it's very offensive to you. She explained you will find that they take notice.

City Planner Brian Varricchione replied this will come before the Planning Commission again.

Chapter 17.134 ~ Variance

City Planner Brian Varricchione explained this is one the Planning Commission hasn't talked about. He explained there are two classes of variance; one is a minor variance that the planner can rule on and basically that is for a deviation of 10% or less. He explained the other group is a major variance which is everything that is not minor and those all come to the Planning Commission. He explained the issue that he sees with those is the approval criteria are the same whether it is major or minor so if someone is really going to go to the effort to apply for a variance and the burden of proof is the same they might just ask for more. He stated what he suggesting is drawing a distinction so there is different approval criteria. He explained he has stricken some of the language about the administration of how to process a variance application, it really doesn't need to be the variance chapter because we have a whole chapter on procedures that's in 17.162. He explained currently there are five criteria, A – E and he is proposing to re-order them slightly and to say that only A, B and C would apply for minor variances whereas A – E would apply for major variances. He explained the main difference is that if it were written this way a major variance would kick in if your property was unusual, there's something totally unique about your site and it has nothing to do with what you may have done to create the situation and for a major variance that language makes sense but for a minor variance it kind of seems a little bit like overkill. He wanted to see what the Planning Commissions thoughts and questions were on that.

Commissioner Blank stated for purposes of clarity under 17.134.20 he would take "a" and break that away under the line. He stated he thinks it looks fine because it clarifies what variances are and whose authority is what.

City Planner Brian Varricchione explained he looked at variance criteria from a few other jurisdiction that has similar to use, two categories, and he did observe that in one of the communities they kind of broke it out like this where major variance you have to prove your case and minor not so much.

Chair Negelspach stated the language is fine as it stands.

Chapter 17.141 ~ Heritage Trees

City Planner Brian Varricchione explained this is one he put before the Planning Commission last time but asked to defer the conversation. He explained heritage trees are those that are old,

important, recognized by the community and they have certain protections associated with them. He explained the selection of a tree is supposed to be based on the recommendation of the Urban Forestry Advisory Board and this group hasn't met in upwards of ten years or so. He explained it is time to update the code so he is proposing to delete all the references to the Urban Forestry Advisory Board both for designating heritage trees as well as removing that designation and allowing the city manager to make that determination. He explained it could also be something that the Planning Commission may wish to take on. He just proposed the city manager because the city manager was listed in there already.

Chair Negelspach explained if the city manager is entitled to provide that designation then he would just have to keep in mind that he would be aware of impending applications, road improvements or other such development which may cause the tree to be impacted and he'd be aware that he would be designating a tree as a heritage tree that might be impacted by right-of-way, additional right-of-way or other such improvements which would cause you to have to go to the city and have it delisted.

City Planner Brian Varricchione replied at our current size he doesn't deem that as being a problem.

Commissioner Blank asked if there is a form that the city manager would send off to staff and says is there something going on here and it has to meet a certain criteria so it is double checked so you don't encounter that problem.

City Planner Brian Varricchione replied there is no form.

Chair Negelspach took a five minute break at 8:32 p.m. and reconvened at 8:37 p.m.

City Planner Brian Varricchione explained under 17.141.050 Removal of hazardous heritage tree; if a property owner did have a heritage tree and it was in bad shape and they wanted to take it down they could apply through the public land tree removal process.

Chair Negelspach feels we have the bases covered now.

Commissioner Blank stated there is no appeal process in this at all so once he makes that decision it's a decision right?

Chair Negelspach replied yes, but that is a good point. He stated perhaps you are designating a heritage tree on your property that over hangs your neighbor's property and the neighbor wants the tree down.

City Planner Brian Varricchione replied he doesn't know about that. He explained there is a sentence about the City can give advice about proper maintenance of heritage trees, which suggest maintenance is allowed and they are not supposed to be ignored.

City Planner Brian Varricchione stated one thought that occurs to him right now is for that section .050 perhaps the name of that should just be the removal of heritage trees as opposed to removal of "hazardous" heritage trees.

Chapter 17.152 ~ Land Division—Major and Minor Land Partitions and Property Line Adjustments

City Planner Brian Varricchione explained these are procedural statements. The Chapter has language about how property line adjustments should be processed. He explained again kind of similar to the variance discussion he had earlier, we have chapters about process and procedures. He proposes to just refer to those chapters and strike the language from the property line adjustment itself. He explained everything he crossed out is procedure and then he refers to Chapter 17.164 which is for the limited land use decisions.

Chair Negelspach asked the Planning Commission if they had any comments. He stated hearing none he thinks everyone is in agreement with his edits.

Chapter 17.162 ~ Procedures for Decision Making – Quasi-Judicial

City Planner Brian Varricchione explained under item H (application process) we list certain things that need to be turned in and one of them is the names of property owners within a certain distance. We used to make people go to the assessor's office, get a list and turn it into us but now we all get that information electronically so there is no need to make people do that. We just get the data directly from the County.

City Planner Brian Varricchione the next part, the noticing requirement, the discussion at prior meetings was to expand the radius of people who would get notice. He explained currently for quasi-judicial it is two hundred feet from the site and you proposed three hundred feet plus if there is any offsite improvement, new water line or sewer line or something off site that people along that corridor would also get notice as well they may be more than the current radius away from the development but certainly it will affect them when someone starts digging in front of their house. He explained he is striking some of the language if it's outside the Urban Growth Boundary and not within a farm or forest zone. He stated obviously somebody copied that from State law but it's really not germane here because everything in the City is in the UGB and we don't need to talk to about whether it is outside the UGB. He explained in the next section, Notice of decision by the Planner, he changed the number there from two hundred to three hundred. Also he crossed out lot line adjustments because those are actually defined elsewhere as limited land use decisions, they shouldn't be in this chapter of quasi-judicial.

Chair Negelspach asked the Planning Commission if they had any comments. He stated seeing none they will move on to Chapter 17.164.

Chapter 17.164 ~ Procedures for Decision Making – Limited Land Use Decisions

City Planner Brian Varricchione explained these would be the same types as mentioned in the last chapter; expanding the radius. He explained the current radius is one hundred feet and the Planning Commission had stated they would like to see two hundred feet plus the properties abutting offsite improvements.

Chair Negelspach stated to City Planner Brian Varricchione we appreciate your efforts cleaning this up because it's not an easy thing to do and it takes a lot of research.

City Planner Brian Varricchione explained you will see all of this again but before that happens he will bring some other items back to the Planning Commission.

COMMUNICATIONS

Calendar Check

Next Planning Commission will be on November 8, 2012

Commissioner Blank explained there will be a Veterans Town Hall on October 25.

Vice Chair Cairns cannot be here on November 8. He explained he has a very strong opinion on food carts, he just doesn't like them. He explained he is ok with the "Roach Coach" where they go on site and leave.

The Planning Commission had a brief discussion on food carts.

Commission Comments

Chair Negelspach talked about midblock cross walks particularly near schools. He stated we don't have any sort of visual clearance areas for the crosswalks and the problem with that is it kind of violates what you are doing with visual clearance areas. He feels there are "No parking" signs all over the City where he has never seen anybody park, which should be taken out of those areas and reallocated to areas designated "No parking" areas where there's actually crosswalks where people should not park, where they do now. He explained those should be on EM Watts and perhaps along High School Way. He thinks that is something that should be added to a code section.

City Planner Brian Varricchione explained it sounds to him that's probably more of an issue to address with the police department.

Barb Hayden explained she had a question from the Chamber regarding the store along Highway 30 and all the stuff they have on the sidewalk.

The Planning Commission talked about the iron stains on the new ball field fence and the school building.

City Planner Brian Varricchione explained it is from the School District's well water.

Vice Chair Cairns talked about the tall grass issue over by Fultano's.

Commissioner Dackins and Commissioner Blank explained they attended the Planning Commission training in Salem.

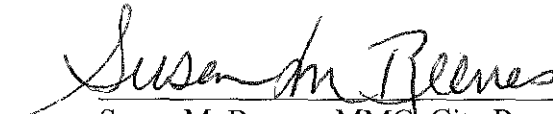
Staff Comments

City Planner Brian Varricchione gave an update on the proposed Urban Growth Boundary. He

also gave an update on the bridge replacement on JP West Road.

ADJOURNMENT

Chair Negelspach adjourned the meeting at 9:22 p.m.


Susan M. Reeves, MMC, City Recorder


Chair Chris Negelspach