

## Portland Planning and Sustainability Commission

August 28, 2018

5:00 p.m.

### Meeting Minutes

**Commissioners Present:** Jeff Bachrach (arrived 6:07 p.m.), Mike Houck (by phone), Katie Larsell, Michelle Rudd, Katherine Schultz (arrived 5:08 p.m.; by phone), Chris Smith, Eli Spevak, Teresa St Martin

**Commissioners Absent:** André Baugh, Ben Bortolazzo, Andrés Oswill

**City Staff Presenting:** Sara Wright, Eric Engstrom, Sandra Wood, Joe Zehnder, Morgan Tracy; Staci Monroe (BDS); Kevin York (BTS)

*Vice Chair Rudd* called the meeting to order at 5:08 p.m. and gave an overview of the agenda.

### Documents and Presentations for today's meeting

#### **Director's Report**

Joe Zehnder

- Manufactured Dwelling Park project: Last Wednesday, the City Council passed unanimously the Manufactured Dwelling Park project via emergency ordinance. It was effective at the next day and is in place. One outcome was Commissioner Saltzman insisted on extending the zoning changes to the Fox Run Mobile Home Community – which is the one in the prime industrial area. So we will be bringing a map change proposal to you in October.

#### **Consent Agenda**

- Consideration of Minutes from the August 14, 2018 PSC meeting.

*Commissioner St Martin* moved to approve consent agenda. *Commissioner Smith* seconded.

(Y6 – Houck, Larsell, Rudd, Smith, Spevak, St Martin)

#### **Neighborhood Contact Code Update Project**

Work Session / Recommendation: Eric Engstrom, Sara Wright; Staci Monroe (BDS); Kevin York (BTS)

### Presentation

Sara reminded the PSC about the project and things the project addresses: reach of the notice, consistency and predictability, as well as the key elements of the proposal (slide 3).

Commissioners have a worksheet that includes a list of amendments that we'll be discussing today.

*Commissioner Smith* proposed an amendment that would revise the meeting requirements to:

- Include in the list of recipients of the notes from the meeting: business association and meeting attendees who provide an email or postal address.
- Specify that the meeting must be held within the boundary of the district neighborhood coalition.
- Add requirement that the meeting be scheduled at a time that does not conflict with a scheduled neighborhood association meeting unless held in conjunction with a neighborhood association meeting by agreement with the neighborhood association.

#### Staff Response

- Staff can support the first part of the amendment, though we prefer that the “who provide an e-mail or postal address” language be removed. It could create confusion over who provided an email or postal address that BDS would be unable to resolve.
- Staff can support the second part of the amendment.
- Staff do not support the third part of the amendment. It could create confusion over which neighborhood association counts, which meetings count, what “scheduled” means, and what “by agreement” means.

#### Choices

- A: Adopt the amendment to add specificity in code
- B: Encourage BDS to provide strong support to applicants and members of the public to make the meetings successful.
- C: No change

*Commissioner Smith*: Notification of changes I’ve proposed related to Comp Plan Policy 2.1... partnerships and coordinate land use engagement with “individual community members”. But the originally-proposed language doesn’t get to the individual members, so I’m trying to get to that in this amendment.

*Commissioner Spevak*: I generally support the first two of these, but I’m not so sure about the third. Although I get the intent of it, you could get this with other neighborhood groups. My instinct is to support the first two but not the third as staff has suggested.

*Commissioner Smith*: I move to add in the first paragraph: “any meeting attendees” but strike the “provided they provide”... *Commissioner St Martin* seconded.

*Vice Chair Rudd*: Is this notifying people who are requesting it? Or everyone?

*Commissioner Smith*: I will move my original language as shown on the worksheet. *Commissioner St Martin* seconded.

(Y6 – Houck, Larsell, Rudd, Smith, Spevak, St Martin)

*Commissioner Smith* moved 2b as in the worksheet. *Commissioner Larsell* seconded.

(Y6 – Houck, Larsell, Rudd, Smith, Spevak, St Martin)

*Commissioner Smith* moved 2c with the exclusion of “by agreement with the neighborhood association” *Commissioner Larsell* seconded.

(Y5 – Houck, Larsell, Rudd, Smith, St Martin; N1 – Spevak)

*Vice Chair Rudd* suggested item 3 (purpose) and provided explanation for it. *Commissioner Smith* seconded.

(Y5 – Larsell, Rudd, Smith, Spevak, St Martin)

Amendment 4. Sign Content: *Commissioner Spevak* proposed an amendment to require that the sign specify by right versus discretionary status of project.

Staff do not support the proposed amendment. The intent of the Neighborhood Contact requirement requires that it take place early enough in the development process that the applicant can reasonably consider making changes to the project in response to feedback. During this early period, the applicant may not know whether the project will require a discretionary review process, and the specificity is not appropriate.

*Commissioner Spevak*: *Commissioner Spevak*: I've become convinced that having this on a sign isn't going to make a difference, so I'm not going to keep championing this amendment. In other cities, most large projects go through discretionary processes. That Portland has so many that are done by-right is unusual. A general member of the public is unlikely to understand the distinction based on a sign. So I'm ok not pushing for this one.

- Sara: BDS shares this concern, and we want to ensure the process is clear in the sign.
- Eric: We agree with the idea to educate the public. If we can work it into the suggested materials and subsequent notices, that's preferable and workable.

*Vice Chair Rudd*: What happens if you get something wrong on the sign? What's the implication?

- Sara: That's up for interpretation still, but we could potentially address this via code.
- Eric: If the error caused a fundamental prejudice is the question. The project can change between the sign and when the permit is issued. In most instances, you wouldn't start the clock over again.

The amendment was pulled and not voted on.

Time Limit on Exemptions: *Commissioner Spevak* provided some background about his misunderstanding and pulled this proposed amendment.

Online Access to Information

*Commissioner Smith* feels strongly about having good online information is good for community involvement. That was lacking from the Proposed Draft, and I drafted my proposed language, then staff edited as shown in Choice B. I want to change one line, 3b and 4b to read:

"The Bureau of Development Services must make the information required by Subparagraph A.3.a available in an accessible online format and as an open data set. The bureau will also provide a way for community members to subscribe to get proactive notification of new information." *Commissioner Spevak* seconded.

Sara: The concern is that we don't think this should be in the Zoning Code. We want to retain flexibility for BDS to change their technology and not have that specificity in there.

*Commissioner Smith*: We're fine about saying where the physical sign needs to be, but not on the online language. I want the same specificity for both.

*Commissioner Spevak*: I agree with *Commissioner Smith*.

Staci Monroe, BDS: A [letter](#) was submitted from Jeff Baer at BTS. We currently don't have systems or resources to accept and disseminate this information yet. We're working on the POPS project, and we have to reprioritize if we need to get the resources to do this.

Kevin York, BTS: There will be a public portal, but we don't have details yet. We want to be thoughtful and deliberate about providing options to meet the needs and requirements are.

*Commissioner Smith:* I assume POPS is going to provide information in an accessible, online format, consistent with the City's open data requirement?

- Kevin: yes.

*Commissioner Smith:* How would a visually-impaired person benefit without the online option?

- Staci: I don't have a response yet.
- Eric: We could look at the effective date of this to get the resources to make it happen, but we don't have those resources yet. That would affect the implementation date for this project though.
- Kevin: There are solutions we could consider that other bureaus are using, but there hasn't been the element of review and assessment of what the best solutions are to meet this need.

*Commissioner Smith:* I think it's better to not implement this until we have a full solution before we deliver the right thing to the community.

*Commissioner Spevak:* Regarding the timing issues, what happens if City Council adopts this code update and the POPS system gets delayed?

- Eric: Assuming the PSC makes a recommendation today, this moves to City Council and could have an effective date in early 2019. There is a moratorium on making a bunch of computer changes until after the basic POPS system is done, which is likely mid-2019 for the release. New features could include this work, so that could push the effective date even to 2020.
- Sara: Choice C is staff's preferred way to get to this. We've added BDS to the list of entities that get the information and electronically publish it.

*Commissioner Larsell:* If we do this, you're saying there are timing implications for the whole project. But if we don't specify, does that mean it's up to the discretion of if it will actually take place?

*Commissioner Spevak:* Can we recommend the code update but the online access clause is effective when POPS is available?

- Jeff: Current POPS schedule is on track. As it is right now, we're looking at March for an initial release. There aren't schedule concerns at this point.
- Eric: Absent this code amendment, BPS and BDS had already been talking about this separately. We just know it may take longer than when this code project can take effect.
- Joe: There is the other approach to include in the recommendation that by resolution or another action they put it in the queue for POPS. That avoids having to create a separate effective date, but it loses the leverage of having it in the code.

*Commissioner St Martin:* I support *Commissioner Smith's* perspective about it being in the code. The letter can do this, but just for a few minutes before it's gone. Perhaps it needs its own setting.

*Commissioner Smith:* I move Choice B on page 3 of the worksheet, plus from Choice A the purpose statement language, "It makes the same information accessible online to interested community members." And within Choice B, 3 and 4 are replaced with less-technical language without the specific type of technology included.

(Y6 – Houck, Larsell, Rudd, Smith, Spevak, St Martin)

*Commissioner Spevak:* In our letter, I want to include that if the effective date drags beyond the middle of next year, we would like to know about it.

- Eric: It may be appropriate to give BDS an opportunity to speak to the PSC about the POPS system in early 2019.

Thresholds: We heard lots of testimony about the sign and meeting triggers are in question. Sara highlighted information on slide 11, which shows permits and when meetings and signs have been triggered.

*Commissioner Smith:* I see no reason to adjust the proposal thresholds.

Eric: *Commissioner Schultz* had asked about this with staff, and she may have an amendment.

*Commissioner Schultz:* I propose to limit meetings to occur only when discretionary review, but staff is concerned about describing what discretionary is. I'd like to limit them to Type III.

- Eric: We may not know about what type is. The whole purpose was to handle projects that didn't have hearings. So requiring this for projects that only have hearings already is a fundamental shift in the purpose of neighborhood contact.
- *Commissioner Schultz:* What's frustrating for both parties is that we have a meeting but nothing changes since this is allowed by right. I disagree with staff about the review process.
- *Commissioner Spevak:* I get there are situations when a meeting is not constructive, but we've had examples, even with by-right projects, that things do change. By not having a meeting requirement, we get rid of the opportunity where ideas might come up that ultimately get folded into the project. So I am ok requiring the meeting regardless, recognizing that there may be times when the meetings are less than constructive.
- *Commissioner Smith:* I concur with *Commissioner Spevak*.

*Commissioner Schultz:* I would add that we have lots of process, and this creates another hurdle and one more thing that detracts from developers wanting to build here.

*Commissioner Schultz:* I move to limit meetings required to being for Type III only (same threshold). There was no second, so the amendments was not voted on.

#### Staff Amendments

Sara: These are primarily corrections to be consistent with the language in the code and improving specificity.

*Commissioner Smith* moved the staff amendments as a package. *Commissioner Larsell* seconded.

(Y7 – Houck, Larsell, Rudd, Schultz, Smith, Spevak, St Martin)

## **Motion**

*Commissioner Smith:* I recommend the Neighborhood Contact Code Update proposal to Council as amended this evening. *Commissioner St Martin* seconded.

(Y6 – Houck, Larsell, Rudd, Smith, Spevak, St Martin; N1 – Schultz)

## **Residential Infill Project**

Work Session: Sandra Wood, Morgan Tracy

### Presentation

Morgan noted today's session is about Cottage Clusters with a few items to discuss prior to that conversation and *Commissioner Schultz'* proposed amendments. We'll start with small flag lots in the R5 zone; tree preservation exemptions; and driveway spacing standard.

*Commissioner Larsell:* I wanted to share that was impressed with the letter the PSC is sending about the SW Corridor Equitable Housing strategy. I felt like there were things in it that I so wish for East Portland. But I feel like the PSC could do more in terms of rolling out RIP in East Portland. I want an accountability report that would go with RIP to tell us the kinds of impact it's having.

- *Vice Chair Rudd:* There could be two letters we send to Council about RIP... one more streamlined about the project specifically, and one that addresses more of the broader issues, where this could fit.
- Joe: The list is of interest and potential needs that could benefit East Portland with or without RIP. It's in discussions with other projects as well. One difference is the broad-spread impact of RIP.

### *Small flag lots in R5 zone*

Sandra: This 11.4 on the worksheet. In our last discussion, we showed the two drawings where we were talking about the R2.5 zone, and all these configurations would be allowed. We proposed a small flag lot also be allowed as long as there is an existing house.

Since you are allowing the flag lot configuration in R2.5, do you also want to allow the same development rights in R5 zones?

*Commissioner Spevak:* In R5, you could bend the historic property line to create a flag lot, but the detached structure in the back would still capped by the height as it currently is for detached accessory structures. My intent is to allow exactly the same structure to be built as the base zone allows, but if you have a historic line, you could "bend the line" around the front house to save it. In R2.5 you could put another large house in the back. In R5, you can't do that since the base code requires a smaller one in the back. It would allow more flexibility for ownership options.

- *Vice Chair Rudd:* Is there anything that makes me keep the house in front?
- Morgan: You can't condition the property line, so there aren't restrictions.

Sandra: Do we want them to have the same development standards as 2.5?

- *Commissioner Spevak:* No, that's not what I intended with my amendment.

Sandra: Staff identified FAR on the front lot will frequently be exceeded. Staff recommends an exception to FAR for the existing house when applying for the Property Line Adjustment. Does the PSC agree?

*Commissioner Spevak:* I support staff's additional proposal of exempting the front house.

Morgan: Lot coverage will be a slight increase ... 45 percent up to potentially 50 percent on the front lot.

Amendment straw votes:

- Allow the flag lot through a PLA in R5? [7 yes]
- Exempt the front house from FAR for PLA purposes? [7 yes]

Staff will again consider and daylight when we come back with the final code language.

#### *Tree Preservation Exemption*

*Commissioner Houck* has provided an amendment for consideration: Remove the tree code exemption (at 11.50.040.A) on sites less than 5,000 square feet in area. Require all sites that are 2,500 square feet and larger to comply with the tree preservation standards.

Staff does not support this amendment. It is a substantial change that has not been evaluated or discussed with property owners or stakeholders. Of notable concern, on lots smaller than 5,000 square feet the ability to construct around and adequately protect trees 12 inches and larger becomes increasingly difficult. These sites are already subject to tree planting requirements, so in effect, this proposed change would largely not increase tree retention but rather result in payments to the Tree Fund and increase the cost to build: \$1200 per 12-20 inch tree; \$2400 per 21-35 inch tree; \$325/caliper inch per 36 inch+ tree (\$11,700 and up).

*Commissioner Houck*: I understand this is outside the scope, but I feel strongly that we maintain tree preservation standards regardless. I put my amendment forward as proposed. *Commissioner Spevak* seconded.

*Commissioner Spevak*: *Commissioner Spevak*: I know Council included direction to try to support tree canopy preservation as part of RIP. This amendment is one possible strategy, so I see this as one option. But we're lacking tools in residential zones to try to preserve existing trees. A huge percentage of the city is in lots 5000 square feet or less. But there are bad actors that will find a small site and take out a tree that doesn't need to be removed. So I am supporting this in a philosophical way, but I know it can still create costs on 'good actors' as well. My sense is to support it, but I wish Title 11 had more discretion in it for smaller properties.

*Commissioner Bachrach*: Title 11 is quite controversial. To throw this in at the last minute with RIP is one more instance where we're taking what's already a dramatic and controversial change and adding another potential controversial item in. We do need to enhance tree preservation on smaller lots, but this isn't necessarily where or how to do it.

*Vice Chair Rudd*: I have been wandering into small backyards, and I think this would be a challenge. I would like a more comprehensive look before we propose it.

*Commissioner Schultz* noted she is supportive of the comprehensive look about tree coverage and Title 11 as well.

Amendment straw votes: [3 yes]

Morgan noted there is a need to relook at Title 11, which staff understands.

Sandra: At the September 11 meeting, we will have a summary of the straw votes before we take it to go write the code, which we'll bring back this winter.

*Commissioners Schultz and Houck* would hope that at a minimum the PSC letter to Council will cover the tree preservation issue.

#### *Driveway Spacing Standard*

Morgan noted that driveway curb cut locations are regulated by Title 17 and the City Engineer: ...“to insure the safe and orderly flow of pedestrian, bicycles and vehicular traffic and preserve on-street parking.”

Title 33 previously included driveway criteria for land divisions but were removed in 2009.

Potential amendment: Require a minimum of 22 feet between driveways or alternatively, a maximum distance of 5 feet from the side lot line.

The Zoning Code can't apply discretion (outside of a land use review) so we have to default to specific numerical standards. So while these numbers work OK on these 50 foot wide lots, they start creating havoc when the lot widths differ, especially when they are narrower.

*Commissioner Smith* noted that he talked about “what are the neighbors afraid of with RIP? Buildings, people and cars.” This gets at privatizing parking, and the subcommittee was looking at ways to limit the effect. I'm persuaded that this was tried before and failed, so unless others object, I'm happy to skip pass this one.

- *Commissioner Spevak*: I'm fine having this pulled as well.

#### *Cottage Clusters*

*Commissioner Spevak* recused himself from this section of the conversation. I don't have a live cottage cluster project, but I may be in the future.

Morgan provided background on planned developments compared to land divisions. *Commissioner Schultz* has proposed this package of amendments basically to allow an equivalent number of units that would be allowed through a land division.

*Commissioner Schultz*: I'm just trying to level the playing field for large lots.

Requirements for Additional Units proposed amendment: When proposing more than 2 units per each equivalent land division lot, require than 1/3 of all the units be visitable.

*Since the 3<sup>rd</sup> unit on a divided lot would be required to be visitable, this provides greater parity in a planned development.*

Open Area potential amendment: *Original Proposal*: Require 50% of dwelling units to be oriented around a common open area. *Potential Amendment*: Delete this proposed requirement.

*The PD criteria currently require adequate open area but are less prescriptive, and thus allow greater flexibility.*

Review process proposed amendment:

#### *Current Rules*

Land Divisions – up to 10 lots may be processed as a Type IIx review.

Planned Developments – up to a duplex may be processed as a Type IIx review.

*Proposal*: Process up to 10 dwelling units (not counting ADUs) as a Type IIx.

Potential Amendment: Review PD as a Type IIx, when an equivalent number of units would be allowed through a Type IIx land division.



Building Coverage proposed amendment: No change to base zone building coverage standards. Allow a modification to the base zone building coverage standard as part of the PD process.

Building Coverage proposed amendment: Allow building coverage limits that would be more consistent with typical subdivided lot sizes in the zone. Cap building coverage at the greater of Table 110-4 or 35% of site area:

FAR proposal: The FAR of the base zone (where applicable) would apply to the site.

*With the PSCs introduction of graduated FARs by units on a lot, additional clarification of what FAR to apply is necessary.*

FAR potential amendment: Allow FAR to match the allowed FAR for an equivalent number of units on land division lots.

FAR potential amendment: Allow +0.1 bonus FAR when 25% of the units are affordable.

What the amendments do is make development the same across land divisions and planned developments. It's complicated but it makes things parallel.

*Commissioner Bachrach:* Did we previously straw vote in favor of the third unit on the lot?

- Morgan: Yes, and it was a close vote in both instances. But yes, visitability for the third unit was what we landed on. The fourth is by-right. The incentive is extra FAR if it's affordable.

There isn't a requirement that all "cottage cluster" units be detached. Now we're talking about numbers of units, which could take a number of different forms. It has to go through a discretionary review. 20 units on a 20,000 square foot lot is feasible, but highly unlikely unless you were to combine some of the structures that have multiple dwelling units in them.

*Commissioner St Martin:* About the building coverage allowance, it's all based on 5000 square foot lots?

- Morgan: It actually caps out at 7000 square feet. This is trying to add an element of simplicity.

*Commissioner Larsell:* If you have the ability to build 24 units, isn't the builder always going to want to put that many units on it?

- Sandra: It depends on location, market, and other things. When the economy is up, yes, we see lots of people building to capacity. In a down economy, it may not happen that way. Most R2.5 lots are still being built just with one structure. Many aren't building ADUs though they are allowed to.

*Commissioner St Martin:* Can you remind me about parking allowances or restrictions?

- Morgan: The PSC gave us direction to remove parking minimums in residential zones. There are requirements about where parking areas need to be located in planned developments, and there are limitations on paved areas and the street.

*Commissioner Schultz* moved all the planned development items as a package. *Commissioner Houck* seconded.

*Commissioner Bachrach* supports this "equivalency" as proposed. But I'm troubled by the very small FAR for a 5000 square foot lot. I think this is a mistake. Likewise in R7 where we're limiting house size to 2500 square feet, that may push me to vote against the whole package. Visitability requirements seem gratuitous to me. I think they're mistakes, but I support the concept of equivalency, at least to be drafted by staff.

[7 yes]

### *Next Steps*

- September 11: This is a work session to which staff will bring (and provide to commissioners beforehand) a revised 8-pager and the list of amendments as proposed (a mark-up of added/deleted, and a clean version). We'll talk with the PSC officers on Thursday about the flow and expected outcomes from this meeting. This will be the "final straw vote" for the PSC before staff writes the code.
- Late Fall 2018: Final PSC vote.
- *Commissioner Bachrach*: I won't be here for the September 11 meeting but hope to contribute before when staff has the 8-pager ready for review.

### **Adjourn**

*Vice Chair Rudd* adjourned the meeting at 7:27 p.m.

Submitted by Julie Ocken