

# Portland Planning and Sustainability Commission

September 27, 2022

5:00 p.m.

Meeting Minutes

**PSC Commissioners Present:** Jeff Bachrach, Jessie Gittemeier, Katie Larsell, Oriana Magnera, Steph Routh, Eli Spevak, Erica Thompson

**PSC Commissioners Absent:** Johnell Bell, Gabe Sheoships

**City Staff Presenting:** Nicholas Starin (BPS), Lisa Abauf (Prosper Portland), Matt Tschabold (PHB), Jeff Caudill (BPS), Sallie Edmunds (BPS)

**Others Presenting:** Vivian Satterfield (Verde), Maria Grzanka (Cully Association of Neighbors)

Documents and Presentations for today's meeting can be found [here](#).

*Chair Routh* called the meeting to order at 5:04 p.m.

*Chair Routh:* In keeping with the Oregon Public Meetings law, Statutory land use hearing requirements, and Title 33 of the Portland City Code, the Portland Planning and Sustainability Commission is hybrid, which provides for both virtually and in-person attendance for commissioners, staff, and the public.

- Members of the PSC will elect to attend remotely or in-person. The public may watch the livestream or attend in person at 1900 SW 4<sup>th</sup> Ave, Suite 2500.
- Public testimony for projects that have a hearing at the PSC will be taken both in-person and by electronic means.
- The PSC is taking these steps as a result of the COVID-19 pandemic and the need to limit in-person contact and promote social distancing. The pandemic is an emergency that threatens the public health, safety and welfare which requires us to meet remotely by electronic communications.
- Thank you all for your patience, humor, flexibility and understanding as we manage through this difficult situation to do the City's business.

## Items of Interest from Commissioners

*Commissioner Thompson:* Provided and update on the PSC workgroups that are looking into the roles and responsibilities of the future Planning Commission and into culture and engagement.

## Director's Report

*Chief Planner Patricia Diefenderfer* gave the report, updating the PSC on the Community Involvement Committee recruitment and their upcoming meeting in 10/11.

## Consent Agenda

Consideration of:

- Minutes from the September 13, 2022, PSC meeting
- RW9251: Proposed Vacation of NE 24th Avenue, south of NE Columbia Boulevard
- RW9266: Proposed Vacation of N Kerby Avenue south of N Halleck Street

*Commissioner Thompson* **moved** to adopt the minutes and *Commissioner Gittemeier* **seconded** the motion. *Commissioner Bachrach* abstained from the vote on the minutes.

Y6 - Gittemeier, Larsell, Magnera, Routh, Spevak, Thompson | Abstention 1 – Bachrach

*Commissioner Bachrach* **moved** to adopt the right-of-way items and *Commissioner Thompson* **seconded** the motion.

Y7- Bachrach, Gittemeier, Larsell, Magnera, Routh, Spevak, Thompson

## Cully TIF Project

*Hearing/Recommendation: Nicholas Starin (BPS), Lisa Abauf (Prosper Portland), Matthew Tschabold (PHB), Vivian Satterfield (Verde), Maria Grzanka (Cully Association of Neighbors)*

### Presentation

*Nicholas Starin* introduced the Cully Tax-Increment Finance (TIF) District Project aka urban renewal. The plan was developed through a community-driven process to create a new 1,600 acre urban renewal/TIF district in NE Portland that would generate approximately \$320 million in revenue over the 20-year life of the plan for housing and economic development projects.

Urban Renewal/TIF Background:

- Urban Renewal Authority found in ORS 457
- TIF District Plan is proposed and managed by the local Urban Renewal Agency, which is Prosper Portland
- Must be in compliance with the City's Comprehensive Plan
- BPS staff have reviewed the Cully TIF Plan and believe it meets Comp Plan policies for:
  - Guiding Principles on Equity and Economic Development
  - Chapter 2: Community Involvement
  - Chapter 5: Housing
  - Chapter 6: Economic Development

Requested PSC Action and Next Steps

- Find that the Cully TIF Plan conforms to the City of Portland Comprehensive Plan; and
- Recommend that City Council adopt the Cully TIF District Plan and Report.

*Lisa Abauf* with Prosper and *Matthew Tschabold* of PHB presented the project along with two community partners, *Vivian Satterfield* with Verde and *Maria Grzanka*, Chair of the Cully Association of Neighbors. *Abauf* stated that this project represents a new way of doing creating a TIF plan that is grounded in co-creation with the community.

- Why a new TIF District in Cully?
  - 50% decrease in black population in Cully over 10 years
  - 24% lower household income than citywide
  - 33% increase in multifamily lease rates
  - Pressure on businesses costs as well
- Vulnerability and Displacement-Risk Mapping
  - High vulnerabilities in Cully
- Cully TIF Exploration Process: building on neighborhood prosperity network capacity partnerships and successes
- Cully partners
  - Cully Blvd Alliance
  - Habitat
  - Verde
  - Hacienda
  - 42<sup>nd</sup> Ave
  - NAYA
  - Cully Association of Neighbors
- Community Led Process
  - Community partners requested TIF exploration to help stabilize community
  - This was an idea brought to Prosper, not the other way around
  - History of community development and relationships within the district
  - Preliminary Report Findings
    - Rising investment pressures
    - Sparse commercial development
    - Poor walkability
    - Scarce transit
    - Brownfields
    - Lack of open/space/recreational opportunities
  - Co-created Draft Plan, Report, and Governance Charter
- Community Engagement
  - Broad: Place-based engagement – Prosper and PHB led
    - Neighborhood associations
    - Open houses
    - Employers
  - Deep: Community-based engagement – ELC Subcommittee led
    - Latino community
    - Mobile home park residents
    - Low-income homeowners
    - Houseless people
    - Indigenous and tribal communities
- Community priorities:
  - Community spaces for recreation, education, and connection
  - Buy and bank land
  - Remove opportunity barriers

- The Vision: *The community's long term vision is to transform Cully into a place that provides a sense of belonging for its residents, particularly for priority communities. This means that Cully will have plentiful safe, affordable housing, thriving BIPOC-owned businesses, rewarding employment opportunities, safe and accessible transportation options, parks and open spaces, a clean and healthy environment, climate resiliency, with places and programs that reflect the cultural diversity of BIPOC individuals.*
- Comprehensive Plan Alignment
  - Chapter 2: Community Involvement
    - Involvement as partnership
    - Social justice and equity
    - Value community wisdom
    - Accessible and effective participation
    - Representation
    - Community capacity building
    - Community analysis
    - Early involvement
    - Culturally appropriate processes
- Proposed Boundary; See map
  - Roughly NE 42<sup>nd</sup> to NE 82<sup>nd</sup> and NE Fremont to Columbia Slough
  - 1,623 Acres
  - 56% residential
- Priority Communities
  - Refers to the intended beneficiaries of the Cully TIF District: African American and Black persons, indigenous and Native American persons; persons of color; immigrants and refugees of legal status; renters; mobile home residents; persons with disabilities; low-income people; houseless people; and other populations groups that are systemically vulnerable to exclusion from Cully due to gentrification and displacement.
- District Goals
  - Prevent displacement
  - Preserve existing opportunities for affordable housing and economic prosperity
  - Ensure that current residents benefit
  - Ensure those most affected play lead roles
  - Develop and inspire a new model for TIF
- Eligible Projects List
  - Affordable housing, homeownership, and home repairs
  - Business support, property acquisition and development and renovation,
  - Arts, culture, signage
  - Land acquisition and land banking
  - Recreational improvements
  - Infrastructure improvements – related to housing affordability and business/cultural stabilization

- Comprehensive Plan Alignment
  - Chapter 5 – Housing
    - Housing diversity
    - Equitable housing access
    - Homeownership retention
    - High-performance housing
  - Chapter 6 – Economic Development
    - Economic prosperity
    - Business district vitality
    - Diverse, expanding economy
    - Disparity reduction
    - TIF plans benefit existing residents and businesses
- Implementation and Governance
- Governance Charter: Community Leadership Committee
  - Purpose: Advise decision makers on different types of decisions, provide essential guidance, recommendations, and oversight regarding implementation of the TIF plan
  - Membership: All community members must either live, work, worship, have children enrolled in school, or have been displaced from within the Cully TIF District
  - Accountability: Governance structure details escalation paths; annual report to City Council.
  - Support: Community based and City staff
- Roles and Responsibilities
  - Co-created recommendations
    - Committee
    - City
    - City Council/Prosper Board
- Legislative Process, Opportunities for
- Video statement from Tracee Wells-Bryant, ELC Member

### **PSC Disclosures**

- *Commissioner Magnera* – I did not participate in the project, but I work with Vivian at Verde.
- *Commissioner Spevak* – I am a Cully resident and though not involved, many of my neighbors have been.

Invited Testimony:

- *David Sweet*: Testified in support of the Cully TIF Project

*Chair Routh* closed Oral and Written Testimony at 5:58 pm

*Commissioner Bachrach*: What I see missing from this plan compared to other TIF plans is that there is not a detailed project list – in the past this has been included so that the public knew

how their money was going to be spent. Where is the accountability for how the \$320 million being diverted from the General Fund is spent effectively to achieve the goals that you've laid out in the plans? What are the benchmarks? How is this going to work?

*Abauf:* Not all TIF plans have specific project lists, though they usually do have specific sites and then there are categories similar to what you see with this plan. What's different is the lack of specific sites and the centering of priority communities. Stewardship rests with our investment and grant guidelines.

*Tschabold:* I'd add that this is the next step in the evolution of TIF. When Mayor Hales granted \$20 million for the N/NE Housing Strategy, there was no specific project list. It was a similar approach and this was eventually expanded to \$80 million.

*Commissioner Magnera:* I would like to better understand what the accountability to the community that co-created this plan is – what if City Council tries to fund something that the community is in opposition to?

*Tschabold:* We grappled with this, but it has been clear all along that final decision-making rests with the Prosper Board and City Council. We set up a framework with a community governance body that will co-create the 5-year project plans with the agencies. We tried to address this in the governance structure, but we recognize that the City Council is the final decision maker.

*Satterfield:* This was a point of consternation with community members. In the end, there is a lot of trust in the approach of having a community governance body that can set the 5-year plans.

*Abauf:* I would encourage you to read the governance charter because we tried to think through what a healthy relationship of council vis-à-vis the community leadership community would look like.

*Commissioner Larsell:* I am still unclear on whether the City Council could overrule the local governance. I was also wondering whether this plan introduces a competition for resources. Does it impact funding for projects in other part of the city e.g., West Portland Town Center?

*Tschabold:* To answer your first question, Council can overrule the community or the bureau recommendations. As to your second question, TIF funds can only be spent within the TIF district, and they are funds that would not be raised otherwise to be spent in similar ways in other areas of the city.

*Diefenderfer:* I want to address your question about the WPTC specifically. A TIF was something that came up in conversation during the WPTC process, but the idea was dropped. While there is not direct competition, here is some competition since there are limits to how much of the city can be in a TIF district.

*Spevak:* I would like to hear more about the recommendation for the fee split that the funds would be directed to 55% to economic development and 45% to affordable housing. I would have expected a different spending ratio based on what the needs are. It seems that investments in housing would be more of a lasting investment.

*Maria:* That was primarily based on feedback from the priority community groups. While they wanted to see new housing, they also wanted to have enough funding for economic development.

*Abauf:* We've actually committed to 45% for economic development, 45% for housing, and 10% to float between the two based on need. This is how we've been presenting the community's recommendations.

*Spevak:* I appreciate that intent. But Table 11 in the document currently shows 55% for economic development and 45% for housing. Could this table be updated to match what you just described, before it goes to city council?

*Abauf:* We'll be sure to make that clearer in the future.

*Commissioner Spevak* made a **motion** to:

- Find that the Cully TIF Plan conforms to the City of Portland Comprehensive Plan; and
- Recommend that City Council adopt the Cully TIF District Plan and Report.

*Spevak:* I also suggest that we include in our transmittal letter a recommendation, suggested by invited testifier David Sweet, that funding be provided for community-based staff (not just bureau staff) to help with TIF implementation.

*Commissioner Gittemeier* seconded the motion.

Y7 – Bachrach, Gittemeier, Larsell, Magnera, Routh, Spevak, Thompson

**Motion passed.**

## Floodplain Resilience Plan

*Hearing: Jeff Caudill and Sallie Edmunds (BPS)*

### Presentation

Jeff Caudill, Project Manager, introduced the project. This follows up on the briefing of two weeks ago.

Background:

- FEMA Compliance deadline expected in 2027
- City engaged in work since 2016
- Supported by many Comp Plan policies and goals

- City's multi-step work plan aligns with FEMA compliance
- BiOp inter-bureau team meets periodically with FEMA

#### Portland's Combined Flood Hazard: *See Map in Proposed Draft*

- Includes:
  - FEMA 100-year floodplain
  - Metro 1996 Flood Inundation Area
  - New Modeled Willamette River 1996 Flood Extent (will be added with adoption of Floodplain Resilience Plan)

#### Zoning Code Updates:

- Add riparian buffer area to Willamette River Central Reach
- Apply environmental zoning to all undeveloped floodplains
- Update tree and vegetation requirements in floodplains
- Technical amendments

#### Stakeholder Engagement on the Proposed Draft

- 50 calls and 15 emails
- Mostly clarification on proposals
- Concern about the potential implications of building code updates
- Questions about riparian buffer area requirements

#### Testimony to Date

- Written Testimony: 28 pieces via MapApp
- Support for plan
- Questions/concerns about the timing of the Title 24 project
- Urgency on applying requirements to industrial lands and EOA

#### Mitigation and Banks

- Mitigation Requirements
  - Avoid-minimize-mitigate
  - On-site mitigation prioritized
- Mitigation Banks
  - No available habitat mitigation banks
  - Potential future bank at OMSI/Eastbank Crescent
  - Flood storage capacity mitigation key for building coder project

#### Proposed PSC Recommendation

City Council adopt proposed Zoning Code amendments and the official zoning map

- Key updates for
  - 33.430, Environmental zones
  - 33.510, Central City Plan District
  - 33.851, South Waterfront Greenway
  - 33.865, River Review
  - 33.910, Definitions
- Adoption of a resolution for Floodplain Resilience Plan Action Plan

#### Schedule

- Proposed Draft
  - Sept 27 PSC public hearing
  - October 25 PSC work session



- November 22 PSC work session/recommendation
- Recommended Draft
  - Spring 2023 at City Council

*Commissioner Gittemeier:* Some of the comments were concerned about this plan's compatibility with the Endangered Species Act (ESA)? Can you explain how this plan will or will not comply with the ESA?

*Caudill:* Without getting too technical, the BiOp is a document communicating between two federal agencies. The document states that the National Flood Insurance Program is not compatible with the ESA. The BiOp contains recommendations from the National Marine Fisheries Service for what is needed to come into compliance with the ESA, long term. The changes we're trying to implement would better bring us into compliance with the ESA.

*Gittemeier:* Is there risk that this could harm endangered species?

*Caudill:* This would move us more into compliance with the ESA because we are taking the recommendations from the NMFS and incorporating them into our project.

*Magnera:* How did you consider future potential river levels relative to future conditions due to climate change?

*Caudill:* The new model is trying to recognize the limitations of the FEMA 100-year floodplain and the Metro 1996 Flood Inundation Map. The new modeling does try to incorporate climate change into the model. In the future we could do more to account for climate change, including developing additional climate change-focused flooding models (similar to the work completed to develop the Modeled Willamette River 1996 Flood Extent).

*Larsell:* Why is the testimony saying don't remove the Title 24 amendments? Does this project do that?

*Caudill:* We had proposed Title 24 changes with Title 33 changes with the Discussion Draft. We decided to separate the work of the Title 24 into a different process. The large majority of the floodplain will remain subject to the Title 24 "balanced cut/fill" requirements.

*Larsell:* Does this mean that in the future as a Planning Commission we'll only be seeing a small piece of a plan?

*Diefenderfer:* I want to clarify that this is a multi-bureau, multi-phase action plan. We're not separating them out, it's just that the Title 24 building code regulations are technical codes related to cut and fill and the process to amend that code is different. It is part of the action process – it is not disconnected but each is taking its own path.

*Caudill:* To be clear, the Floodplain Resilience Plan is the City's overall workplan. It was an agreement between eight bureau directors that the city act to meet the requirements of the BiOp. Each bureau is taking on the pieces within its own purview.

## **Testimony**

*Cassie Cohen:* Executive Director of Portland Harbor Community Coalition. This plan is very high level and hard to understand – we weren't even able to engage our community members on this. This affects the Superfund site and that is what we work on. I'm disappointed to see that BPS is delaying some of the work that was included in the Discussion Draft. I think this plan needs to be strengthened and have concerns as written. I don't think that this process was done in a way that helps community members understand. It seems like there is pressure coming from industry and that is driving this. Blaming other agencies on lack of progress isn't a valid excuse. I worry that this will continue to harm fish and wildlife by not making the necessary changes fast enough. What's the harm of having Title 24 wrapped into this process?

*Sarah Taylor:* I live in the Linnton Neighborhood and am advocating for the children of the North Reach. I am seriously concerned with the what's happening in the lower Willamette River. I want to see the Heavy Industrial zoning removed altogether. Also, the order of operations for the Floodplain Project and the EOA are reversed in process. I want you to pass this, but I also want you to look at the North Reach.

*Travis Williams:* ED for Willamette Riverkeeper. I support the previous testifier's concerns. In our view, the plan is an important part of having a safe, equitable, accessible river. The concerns we have relate to the slow pace to the City has taken with this work and breaking it off into smaller pieces and leaving out key portions such as the North Reach. It seems like at the very last moment the most important components in Title 24 were removed. We believe you are able to keep that in.

*Renee France:* I am a land use attorney and represent the Zidell family, who own a large site in South Waterfront. Most of our concerns have to do with the Title 24 package. The South Waterfront is exempt from balanced cut and fill because Metro recognized the area's role as a dense, urban neighborhood. The Title 24 amendments would change this, and if the cut and fill is included, then completion of the development of Zidell Yard and other necessary infrastructure may not be possible. We oppose those changes.

*Indigo Namkoong:* I am the coalition manager at 350PDX. The City has a clear commitment in the 2020 Climate Emergency Declaration to protect and restore floodplains. We urgently need a floodplain plan that follows through on that commitment. Climate modeling predicts warmer, wetter winters and we need to prepare for this. This plan has the potential to make Portland a leader in this response, but it won't happen if capitulate to business interests that perceive the risks the same way. When floodwaters recede, who foots the bill? The City should advance the plan, including the Title 24 amendments.

*Bob Sallinger:* Conservation Director for Audubon Society of Portland. We brought the lawsuit in 2009 that started this process. We want to be here to support this plan, but we are very disappointed with the gutting of the plan by removing the Title 24 piece. We also are disappointed by the claim that there are not mitigation banks when there are in fact other mitigation banks. We also have been hearing for over a decade that we can't advance environmental regulations in industrial areas because of the lack of an updated EOA. We need the EOA. We urge you to move forward with the full plan and advance it holistically.

*Dan Rolfe:* I am a faculty member at Lewis and Clark College and am cofounder of Earth Rise Law Council which is the environmental law clinic at Lewis and Clark College. I want to talk about the legal implications about decisions that you are making or not making. In terms of the ESA, it doesn't matter how you slice and dice your process. The NMFS has issued a jeopardy biological opinion – which is a rare and serious directive. The City of Portland and FEMA are at legal risk of not complying with the BiOp and the ESA.

*Chair Routh* closed oral testimony at 7:28. Written testimony will remain open until September 30 at 5 p.m.

*Thompson:* Thanks to the testifiers and your input. There seems to be some themes that were not included in staff's testimony summary. I am concerned that the community engagement piece and that the technical nature of this project were not adequately communicated and there was not an adequate way for the community to provide meaningful feedback. I'm also hearing concern not just about the delays, but also the sense that some of the key pieces are being cut out. Finally, I hear concerns that we have a floodplain plan that doesn't address key parts of the floodplain.

*Spevak:* To clarify, the PSC is not a recommending body on Title 24, but in many projects when there is work across multiple titles, then the work is coordinated to go to Council at the same time. I am concerned that the City is making decisions based on legal risk and not on equitably moving forward. I'm concerned about the process and the timing.

*Larsell:* I'm not clear on how the Title 24 amendments fit into this. And I'm also not clear why South Waterfront was exempt.

*Magnera:* I want to echo the concerns I've heard about the process. It seems to be a problem that we're this far into the process and there is still a lot of confusion. I'd like to try and work on a course correction – how can we as a body help get this right? Perhaps there is a way to make this more tangible through a tour or the like. Also, I think it would be helpful to hear about the Title 24 pieces, so we are looking at this holistically.

I'm concerned that the consequences of not getting this right could have far-reaching consequences. Finally, I'd like to know if there has been any tribal outreach for this plan.

*Routh:* I love the concept of incubation and working on this with a more collaborative approach as we did with previous projects e.g., the Design Overlay Zone Amendments with the Design Commission. How do we make this a welcoming process with the community?

*Spevak:* I think there is a challenge with the Title 24 collaboration since there is no commission for Title 24.

*Sallie Edmunds:* As for Title 24, there is no commission – it goes straight from staff to City Council. BDS staff are starting their scoping process and we will provide contact info for those staff.

*Caudill:* To address the questions about cut and a fill - to be clear, we are not removing the cut and fill requirement, and in most of the city there is a 1:1 cut and fill requirement. There are recommendations from FEMA to sometimes increase those, but the intent is for 1:1.

*Larsell:* I think I understand that better, but I still think the PSC should be looking at the whole plan so that there is a holistic understanding.

*Caudill:* Related to the outreach to the tribes. We reached out to decision makers at the tribes and we offered to meet with them prior to the release of the Discussion Draft. They did not take us up on that offer. After the Discussion Draft, we reached out again at the staff level, but again no one took us up on that. We also did three focus groups, including one BIPOC focus group, one with the Urban Native Community, and one with environmental groups that also included BIPOC representation.

*Edmunds:* We also discussed our outreach plan with the CIC. We had extensive outreach to tribal groups for the South Reach Plan, so there may have been some redundancy with that.

*Magnera:* I think at a minimum, we need to hear from BDS staff to talk about the Title 24 work, but this body could also help to be a public space to discuss all these issues so that it is a more complete package when it gets to Council.

*Jason Butler-Brown (BDS):* I manage the Site Development Team at BDS, and we implement Title 24. We are bringing in staff to work on the code changes. At BDS we are looking into what our public engagement will be. I appreciate the offer for coordination with the PSC and BPS and the Title 24 work.

*Commissioner Routh:* We will continue this discussion at our October 25 Work Session.

## **Adjourn**

*Chair Routh:* Adjourned the meeting at 8:03 pm.

Submitted by JP McNeil