

Al Burns

#332181 | November 9, 2022

Testimony to the Planning and Sustainability Commission on the Planning Commission Code Amendments, Proposed Draft

Dear Commissioners. Thank you for the opportunity to testify yesterday and for leaving the record open so that I may provide some follow-up impressions of the hearing. 1. It is necessary to narrow the present commission's scope in order to effectively focus on both very important and sometime mundane land use matters, but I agree with some of the thoughts expressed that the proposed narrowing has gone too far. 2. It really is part of the commission's job to occasionally meddle in someone other bureau's business. Not all bureaus are as committed to the open, participatory and collaborative decision making that is part and parcel of commission's practice. When a bureau has a role in carrying out the comprehensive plan, and does so with clandestine method's or toward an inequitable outcome, the commission should have a role in calling that out. Yes, that will make the other mad, and yes it may have been done at the direction of their commissioner in charge, but that is the wrong reaction. The correct reaction is to admit error and do better next time. 3.

Comprehensive plan implementation involves far more than just fiddling with the zoning code, so the commission should be empowered to have a role in the other aspects of plan implementation. This would not always involve a hearing before the commission, and while it would be imprudent for the commission testify in quasi-judicial land use decisions, it would be fully appropriate for the commission to comment on the legislative decisions of other bureaus to the extent those decisions would affect plan implementation. 4. The purpose and powers code sections seem to be muddled. It would be better to more carefully distinguish what the commission does from the explanation of why it does what it does. 5. In the "why the commission does what it does" section please avoid reinventing the wheel. The comp plan already has "Guiding Principles," pages I-7 through I-37 at this link: https://www.portland.gov/sites/default/files/2019-08/comp_plan_intro.pdf and social justice and equity policies in Goal 2 of the plan at: https://www.portland.gov/sites/default/files/2019-08/02_community-involvement_0.pdf. I don't see why citing the guiding principles would not suffice. Respectfully Submitted, Al Burns.

Testimony is presented without formatting.

Al Burns

#332191 | November 8, 2022

Testimony to the **Planning and Sustainability Commission** on the **Planning Commission Code Amendments, Proposed Draft**

See video

Testimony is presented without formatting.

Chris Smith

#332180 | November 8, 2022

Testimony to the Planning and Sustainability Commission on the Planning Commission Code Amendments, Proposed Draft

I have the unique perspective of being the last person appointed as a Planning Commissioner before the merger of the two commissions, then serving for 11 years on the Planning and Sustainability Commission. I believe that during the creation of the Portland Plan and then the Comprehensive Plan (and its Title 33 implementation), the perspective of sustainability was invaluable in combination with the more traditional land use and transportation planning perspective. My experience is that during the initial years after the merger the Commission was effectively involved in reviewing and making recommendations on many of the City's climate and sustainability initiatives. In the later years of my service staff appeared to have less appetite to bring climate and sustainability issues to the Commission. If we proceed with separating the functions again, it is vital that a community oversight body for climate and sustainability issues be established quickly and that it be empowered to be effective in its role.

Testimony is presented without formatting.

Al Burns

#332176 | November 2, 2022

Testimony to the Planning and Sustainability Commission on the Planning Commission Code Amendments, Proposed Draft

November 2, 2022 To: Members of the Planning and Sustainability Commission From: Al Burns
Subject: Comments on the Planning Commission Code Project Dear Commission Chair and Members of the Commission, Thank you for the opportunity to provide this testimony for some small but important changes to various titles of the Portland City Code. I agree with both the proposed amendments and the reasons stated in the staff report for making them. I write to offer what I believe to be two improvements on the code language proposed by staff, one general and one more particular. The global improvement concerns what the name of the commission should be. On December 26, 1918, the Portland City Council adopted Ordinance No 34870. This is the ordinance that first established a “City Planning Commission.” I propose retuning to the original name “City Planning Commission” rather than just “Planning Commission.” Unlike other municipal boards, committees, and commissions, which may advise only one department or bureau, Oregon land use law empowers, and in some cases requires, planning commissions to advise councils on a wide variety of matters concerning the development and redevelopment of a city without regard to how municipal governance may be organized. So, to emphasize that the commission exercises city-wide competence, and is not an appendage to just one bureau, I recommend the name “City Planning Commission.” The other improvement is particular to the special relationship between the commission and the comprehensive plan, and how this relationship might be better described in the proposed amendments to Portland City Code 33.710.040 A. While I have no objection to the removal of the word “stewardship” in the staff’s proposal, the absence of a reference to the commission’s role in periodic plan updates is a serious omission. Plan maintenance and update are not the same. Maintenance addresses minor and usually unanticipated issues that might arise during course plan administration, like changing the name of the commission. Plan update involves revisiting the assumptions upon which a comprehensive plan is based, and if deemed necessary and prudent, changing course. Since Oregon comprehensive plans have three parts, a set of policies stating official intent, a map depicting a desired future settlement pattern, and list of significant public works projects deemed necessary to support the type and intensity of settlement depicted on the map and described in policy. A plan update may address any or all of these three components. Both the original Code 33.710.040 A and the proposed amendments fail to sufficient distinguish between plan itself, plan supporting documents, and plan implementing measures. City adoption of a plan supporting document as recommended by the commission is a land use decision, and these documents remain as the factual basis of a comprehensive plan until they are replaced by a

subsequent land use decision. Employment of arguably newer facts or better assumptions than those contained in acknowledged comprehensive plan supporting documents can lead to the unravelling of important decisions. Such unfortunate circumstances are probably best described in an Oregon Court of Appeals holding that reversed a decision of the Oregon Department of Transportation to build a highway bypass. The court stopped the highway from being built because the agency's decision relied on a new city inventory of buildable lands that had not been recommended by the city's planning commission and adopted by the city council as land use decision. The court found that the city's last acknowledged buildable lands inventory, even though that inventory was 15 years old, was still the controlling document. In concluding, the court stated: The comprehensive plan is the fundamental document that governs land use planning. Citizens must be able to rely on the fact that the acknowledged comprehensive plan and information integrated in that plan will serve as the basis for land use decisions, rather than running the risk of being "sandbagged" by government's reliance on new data that is inconsistent with the information on which the comprehensive plan was based. 1000 Friends of Oregon v City of Dundee, 203 Or. App. 207, 124 P.3d 1249 (2005) As an aside, the proposed reference to the City's core values in 33.710.040 A commits an error similar to the one described in the case above. The referenced values were adopted by council resolution as binding city policy, but did not benefit from a recommendation from the commission or adoption by council ordinance as a land use decision. Upholding these values would place the commission in an unfortunate double bind. It would obligate the commission to make findings of fact demonstrating how the core values were upheld by its recommendations, but in doing so the commission would introduce error into city land use decisions by considering equity and community involvement objectives different from those included in the comprehensive plan. To the extent that the core values say something more or better than very similar statements already in the comprehensive plan, they should be amended into the plan. So, getting back on track, it is important to periodically review and make needed updates to comprehensive plan supporting documents. A non-exhaustive list of supporting documents that have been recommend by the commission and adopted by the Portland City Council would include an inventory of buildable residential land, an inventory of buildable employment land, a natural resource inventory, a city-wide systems plan, and a transportation systems plan. The proposed code should make reference to the commission's responsibility for not only the comprehensive plan but also the supporting documents that contain the facts and reasons upon which the plan is based. The proposed code language could also do better at distinguishing the comprehensive plan itself from the plan's implementing measures. The comprehensive plan is city policy, the zoning code is only one of several ways the plan is carried out. There are a variety of projects and programs that carry out the plan that do not involve the application of land use regulations. In summary, I recommend placing the word "City" before each occurrence of "Planning Commission." I also recommend rephrasing 33.710.040 A to read "Purpose. The City Planning Commission advises City Council on land use planning policies, programs, and regulations. In making recommendations and decisions, it considers the economic, environmental, and social well-being of the city in an integrated fashion. The Commission has specific responsibility for the development, maintenance, and update of the City's Comprehensive

Plan, Comprehensive Plan supporting documents, and Comprehensive Plan implementing measures, particularly the City Zoning Code.” It may also be advisable to place some of the reasoning above in the report commentary. Again, thank you for the opportunity to provide this testimony.

Testimony is presented without formatting.

Mark Linehan

#332175 | November 1, 2022

Testimony to the Planning and Sustainability Commission on the Planning Commission Code Amendments, Proposed Draft

The proposal removes the term "Sustainability" from the Commission's name and from its charge. It says that "Sustainability does not need to be listed separately". I think this is implicitly a proposition that the Sustainability is no longer something that Portland and Portlanders care about. I think that proposition is clearly wrong and that the Commission should not be discharged of this duty. The proposal also removes the climate action plan from the Commission's purview. I am convinced that the citizens of Portland want more attention paid to climate issues, not less. The background section says that "A future project will amend City code to create a separate body focused on sustainability and climate. I believe both climate issues and Sustainability are a fundamental part of Planning and should not be separated from it. In any case, the Planning Commission should continue to fulfill this responsibility until another "body" is created to take it over. Otherwise these concerns will not receive a attention from any city agency.

Testimony is presented without formatting.