

Portland Planning and Sustainability Commission

Tuesday, August 13, 2013

12:30 – 2:30 p.m.

Meeting Minutes

Commissioners Present: Andre' Baugh, Don Hanson, Mike Houck, Gary Oxman, Katherine Schultz, Howard Shapiro (arrived 12:40 p.m.), Chris Smith, Irma Valdez

Commissioners Absent: Karen Gray, Lai-Lani Ovalles, Michelle Rudd

BPS Staff Present: Susan Anderson, Sandra Wood, Morgan Tracy, Karl Lisle, Troy Doss, Julie Ocken

Chair Baugh called the meeting to order at 12:33 p.m. and provided an overview of the agenda.

Director's Report

Susan Anderson

- The Inner SE Station Area Plan charrette is scheduled for August 20-22 for looking at the OMSI, Clinton, Rhine and Holgate stations. Staff will share more information during the CC2035 presentation today.
- A timeline for the West Hayden Island plan to go to Council is being discussed. We will provide an update to PSC members as we know a more set schedule. This will likely include a worksession with Council in the fall.

Consent Agenda

- Consideration of Minutes from the July 9, 2013 PSC meeting.

Chair Baugh asked for any comments for the consent agenda. *Commissioner Houck* moved to approve. *Commissioner Valdez* seconded.

The Consent Agenda was approved with an *aye* vote.

(Y7 – Baugh, Hanson, Houck, Oxman, Schultz, Smith, Valdez)

RICAP 6 Workplan

Hearing / Decision: Sandra Wood, Morgan Tracy

Presentation

<http://efiles.portlandoregon.gov/webdrawer.dll/webdrawer/rec/5941075/>

Documents

- [RICAP 6 Proposed Workplan](#)
- [RICAP 6 Appendix](#)

Today's hearing is about the workplan for RICAP 6 (what will be included), not the code. The PSC is the decision-maker on the RICAP workplan as opposed to sending a recommendation to Council as the Commission does with most projects.

Sandra gave an overview about types of amendments that have been brought before the previous Planning Commission and PSC for RICAP projects.

RICAP projects are limited in scope, address a variety of topics and geographies, and are packaged together. They are usually on an annual, quick-response schedule. There hasn't been funding in the past few years for RICAP, but Council did include 2.3 FTE in the FY2013-14 budget for this work.

Amendment suggestions are entered into a database and are then sorted, evaluated and chosen by staff to bring before the PSC as part of a RICAP workplan. More complex projects are sent through a different legislative process. Selection criteria are applied to technical and minor policy requests (all listed in the Appendix to RICAP 6, which includes all 282 items in the database).

For RICAP 6, parameters staff used to cull the database include:

1. Technical and minor policy issues.
2. Issues that won't be addressed during the Comprehensive Plan Implementation Phase.
3. Items already in the database.
4. Use "Regulatory Improvement" selection criteria.

Selection criteria include:

1. Variety of stakeholders
2. Geographic applicability
3. Degree of impact
4. Room to improve the clarity or effectiveness of the regulation

The proposed RICAP 6 workplan includes 42 items total:

- 19 minor policy changes
 - Three "bundles" (11 items)
 - Eight miscellaneous items
- 23 technical and clarification items

The 3 bundles are to work on code clarification and edits relating to:

- Short-term rentals.
- Home-based business issues with storage and use of rights-of-way.
- Temporary uses: fairs, homeless/warming centers, temporary filming, construction staging and parking, etc.

Other minor policy items proposed in RICAP 6 include:

- Radio frequency (wireless) sites to respond to FCC-revised guidelines and a LUBA appeal.
- Convenience store requirements.
- Front yard fence heights.

Technical/Clarification items:

- Do not alter adopted policy
- Do not require significant resources or specialized outreach
- Generally added automatically, but too many for single RICAP this year

RICAP 6 next steps:

- Summer - Fall 2013: Staff analysis of issues and development of code amendment proposals.
- Winter 2014: Public outreach and discussion.
- Spring 2014: PSC hearing on code amendments.
- June 2014: City Council hearing on code amendments.

Commissioner Shapiro asked about the convenience store update.

- There is currently confusion about requirements when there is a change of ownership of a convenience store. The code interchangeably uses terms like "owner", "applicant" and "operator" with regard to who is responsible for carrying the good-neighbor plan forward.

Commissioner Schultz: As you're culling the list, do you modify what has gone through and what is consistently approved in the permit center and/or at Design Commission? There are a number of items that staff see that may not hit Design Commission that are often granted. Is that part of the analysis?

- Yes, in working with BDS staff, we understand how often a regulation is running into a question or request for adjustment.
- We haven't gone to the Design Commission. There has been a lot of discussion about design standards in the Comprehensive Plan process. Design Commission only sees things that have the design ("d") overlay, so they only see special district projects.
- An example is the loading item from RICAP 5 that was included because of what the Design Commission had been experiencing, but it is still an issue to work on.

Commissioner Smith was on the Planning Commission at the end of RICAP 5. I'm curious about natural bundles I see around Community Design Standards and neighborhood contact requirements.

- Many items in the database have to do with Community Design Standards (CDS) were written for the Albina Community Plan area and are not responsive to the design needs of other areas. For this packet, there is an obvious bundle, but it's larger than a RICAP project. Staff would like to take on a more comprehensive approach to design, whether it be in the base zones, through the 'd' overlay, conservation or historic districts. Part of this will happen in a mixed-use project that's coming up in the Comprehensive Plan Implementation phase.
- Neighborhood contact ranked rather high in the database. The item is to clarify expectations around what the meeting's purpose and opportunities are. However, changes to this requirement would need a significant amount of outreach resources. The contact requirement is working, but we understand there is room for improvement, but it's not a full obstacle for implementing the code and thus not time-sensitive right now.

Chair Baugh clarified the PSC's role today, which is to confirm the list of projects that staff has proposed. If we think about adding projects, we also have to think about what may need to come off based on staff resources and funding constraints.

Testimony

1. Yvonne Allen: bought home in North Portland 5 years ago. 2 years ago neighbors decided to start a metal recycling business with a few trucks. She has worked 1.5 years with the City to try to resolve the problem, and if something can't be done to protect the property, she will walk away from her home and rent it. She can't sell the house with the garbage trucks around, and she's had a number of flat tires because of the scrap metal. The suggested solution in the database says to limit the number of vehicles on site or in the ROW to one. She would further suggest to include a distinction about the type of vehicle permitted. She suggested an action to remain as is but to include public ROW with amendment to include "residential in appearance" for the vehicles.
2. Bob Low: Former short-term rental owner. Has met with City Commissioners' offices who have shared their support to change the short-term rental codes. There were 282 short-term rentals just 2 years ago. Now over 1500 people are advertising on rentals on various websites. Out of these listed, only 20 are licensed in Portland. The regulations

and costs are prohibitively expensive to license, and short-term rentals are not allowed in residential zones without a Type 2 review. There is lots of confusion that needs to be addressed. The current code addresses B&B facilities, but a majority of the listings are residential, single-family homes, not B&Bs.

3. Sue Carter-Low: There is a huge revenue loss of not licensing, and the hotel tax is lost to the City. The figure is possibly close to \$2M/year in hotel taxes compared to if there were a more simple process for people to comply. Permits for vacation homes are being allowed by the State, but people don't know they need to be paying to the City as well. In San Francisco and Austin, about 90 percent of short-term rentals are not in the "hotel crowd". People want to be in neighborhoods, which is a good thing because it provides income to neighborhoods, but the City is still losing out on revenue.
4. Steven Unger, Lion and the Rose B&B: Supports the proposed amendment to provide safe, well-supervised short-term rentals to visitors. We need multiple levels of licensing, based on the number of guests and if owners are present during guests' stay. Higher fees and more stringent rules should be charged if the owner is not residing in the house when guests are. It's important to distinguish between B&Bs and vacation rentals with an absent landlord.
5. Sunny Simpkins and Duncan Brown, Multnomah County Drainage District: The Drainage Districts support item 25 in RICAP 6 to repair and provide regular maintenance to exclude "ordinary high water" in the code. It will clarify the districts' role and work with BDS. The Drainage Districts provide stormwater management for much of the Columbia Corridor in areas that are protected in the City's E Zone. Maintenance operations are ongoing and reparative over time. The MOU has worked well over time, but confusion is beginning with recent plan adoptions and changes. We should revisit the MOU to incorporate into the development code. This is likely too much for a RICAP project, but would like to offer to meet with the City to further discuss replacing the MOU with specific code language to address the issues the MOU covers.
 - *Commissioner Houck* recognized the work and environmental zoning done by Duncan Brown. He noted he red flagged this item as a change to the environmental code. But today we're only acting on the package that will be addressed. I'm a little uncomfortable with including the MOU in this package, but there may be more appropriate avenues to and a broader analysis to do.
 - Sandra: When we added this to the workplan, we were thinking it was a small technical amendment to clarify work above and below high-water mark. There is a bigger issue about codifying the provisions of the MOU. It's a bigger fix than a RICAP project and we'd need to work with BPS' environmental team and BES for a bigger fix.
6. Jason Fayen: The existing conditional use for B&Bs is good. For short-term rentals, there is a need for some work to be done, however the market and community forces can mitigate problems directly. A key issue is the inequitable financial advantage for non-complying rental properties. There are significant lost revenues for the City. I urge the City to address this initially by requiring online lodging sites to provide direct contact information for property owners and make this information available to the Revenue Bureau as a prerequisite to offering properties in the city. Short-term rentals are a reality, and many are able to avoid scrutiny under the umbrella of the online sites.
7. Ken Lyons, Busch Law Firm representing AT&T: Support radio frequency amendments. There are currently inconsistent provisions in the code, and this will update those inconsistencies and will bring them into compliance with the FCC. Original regulations were set years ago, and so much has changed. In the near future, 70 percent of

Portland residents will not have a home (land-line) phone. One request would be to see the package be approved sooner than next summer.

8. Will Elder: Agrees with what's been stated about the B&B issue. He was paying occupancy tax when he ran a short-term rental but didn't know he had to have a conditional use to function as a B&B. The conditional use review was costly and required additional costs for conducting a parking study and support from neighbors. He subsequently discovered that the number of rooms listed on the county records was not consistent with the number of rooms in his house, and bringing rooms up to code, to address engineering requirements would have been about \$40k.
9. Ellen Burr, Land Use Chair, SMILE: Commented on the density transfer provisions in the Johnson Creek Drainage District, which were added in early 2013 because SMILE had raised the issue in appeals to the Design Commission and to LUBA. The Plan District regulations supersede regulations in overlay and base zones. We need to consider the impact of increasing densities adjacent to Johnson Creek.
 - Concerns will be addressed in the process and code updates that would go forward.
10. Paul Scarlett, Director, BDS: We are pleased to partner with BPS to identify the list for RICAP 6. We recognize that some of the changes are overdue. I support the process and thank Commissioner Fritz and Mayor Hales for funding the RICAP for this fiscal year.
 - *Commissioner Schultz*: Was there work/discussion around the sign code?
 - Yes, people in the sign industry have met with staff during the permitting process. BDS is looking at sign code and will work with the Design Commission on historic structures, districts.

Written Testimony

- Doug Klotz
- Drainage Districts
- Drainage Districts #2
- Comments from Short-Term Rental Participants
- Bob and Sue Low
- Joe Bradford
- Ellen Burr
- Yvonne Allen
- Steve Unger

Chair Baugh closed testimony.

Discussion

Commissioner Valdez was struck by the testimony about the trucks in North Portland. However, people are trying to make ends meet, so I want to double-check and clarify things will be studied before any changes to the code are made.

- Yes. This also begs the question of our equity framework and how proposed regulations may have different impacts to people from different economic backgrounds.

Today's purpose is to approve a workplan. Then staff will work with the community, do research and put a package together with a draft for public review, open houses, feedback, etc before creating a proposed draft for the PSC next spring.

Commissioner Smith used a lens about active transportation in reviewing the project list. One item not selected, even with a high score, was #27 in the appendix: requirements for a detached garage. A detached garage can be located in the side and rear setback. With a

smaller structure, it can't be located there. I would like to the remove fence item and include #27.

- Side and rear setbacks are 5 feet in R5 and R7 zones. We know this is small. Our policy is that all development should be outside this, and then we have a number of exceptions. Recently we have allowed for detached garages to be in the setback. We don't disagree, but the project is a bigger workplan about accessory structures more generally. Outreach for this amendment would be significant. As we're currently scoping the Comprehensive Plan implementation phase, this could be included in the scope of that work.
- *Chair Baugh* agreed that it would be better to have a larger, more deliberate workplan for this project.

Commissioner Schultz asked about why the fence issue rose to the top.

- Incidents of adjustments have dropped a bit in the recent past. It does still come up with regular occurrence and this has been hanging on for about 15 years. We want to address it and move on.

Chair Baugh commented on some things that seem technical and straight-forward that may not need lots of outreach. Can these pieces be done on a quicker timeline as some testifiers have requested?

- Susan noted she'd like to come back with a timeline to see if there is an opportunity to address the smaller pieces and do them more quickly. None that require extensive outreach would be included here, but we'd consider if there is a way to address the smaller changes more quickly.

Commissioner Smith moved an Amendment to remove #28, 29 and 30 and replace with #27. *Commissioner Houck* seconded.

Commissioner Hanson noted that in this swap, we'd be trading something simplistic with something that is much more complicated. Setbacks and garage use is not straight-forward. I agree with wanting more clarity, but getting to clarity will not be simple.

Staff is scoping what the residential compatibility work will be, which could include the accessory structure review. It's likely this would be included in this work.

Commissioner Smith amended his amendment to simply strike items #28, 29 and 30. *Commissioner Shapiro* seconded.

Commissioner Schultz noted the fence height change would be an issue if, for example, you have a large dog. She noted that including the item only means that it will be up for study and further analysis. The study should still be included in this RICAP work.

Commissioners votes on *Commissioner Smith's* amendment to strike items #28, 29 and 30. (N5 – Baugh, Hanson, Houck, Oxman, Schultz, Shapiro, Smith, Valdez; Y3 – Oxman, Shapiro, Smith)

Commissioner Smith asked about the density transfer of Moreland Station. We want to be assured this is included not simply to address the LUBA decision.

- Correct; this is a research project like the other components of RICAP 6.

Commissioner Oxman noted the proposal calls for amendments to go through regular legislative process and asked when the PSC would next have chances to weigh in on the items.

- A proposed draft to the PSC will be presented with research, options and the staff proposal that are mostly fleshed out. There will then be another public hearing. Staff

- had not planned to return to the PSC to discuss what concepts would move forward more quickly than other pieces, but that is an option.
- It would be advisable to bring the more controversial ideas to the PSC before staff's recommendation.

Chair Baugh noted that the B&B work is a code change, but there is still a tax code issue. The Revenue Bureau will review that portion, yes?

- There is already a hotel tax that applies to short-term rentals, but the conversation with the Revenue Bureau will be about enforcement. The Revenue Code is not being amended.

Decision

Commissioner Hanson moved to approve the RICAP 6 Proposed Workplan, dated July 24, 2013. *Commissioner Houck* seconded.

Chair Baugh restated the motion, and the motion passed.
(Y8 – Baugh, Hanson, Houck, Oxman, Schultz, Shapiro, Smith, Valdez)

Central City 2035 Plan: West and East Quadrant Plans

Briefing: Karl Lisle, Troy Doss

Presentation

<http://efiles.portlandoregon.gov/webdrawer.dll/webdrawer/rec/5947948/>

Today staff is providing an update on the general process for both the West and Central Eastside quadrant plans. The West Quadrant plan is about half way through its process; SE is just getting started.

The CC2035 Concept Plan included big goals, policies, objectives. The quadrant plans are where the work on details and specifics are included. Staff hopes to finish the quadrant plans by mid/late 2014 to be followed in 2015 by the final CC2035 plan that will bring the Concept plan and the quadrant plans together in a single coordinated package and begin implementing their recommendations, for example through zoning map and code changes.

Many areas since the adopted 1988 plan have not been updated.

CC2035 Concept Plan was adopted by City Council by resolution and provided the overall guidance for quadrant plans in three parts:

- Strategic direction
- Policy framework
- Urban design

The policy framework included an integrated approach relating to the central city:

- Regional Center: Economy and Innovation
- Housing and Neighborhoods
- Willamette River
- Urban Design
- Health and the Environment

For the SE Quadrant, the initial step is the SE Station Area Plan. The first four station areas are OMSI, Clinton, Rhine and Holgate. Most of the work has been about concept development around what E-TOD is in these areas.

Working on parallel paths: concepts for Rhine and Holgate are at the forefront, and preliminary work for OMSI and Clinton will come in early fall. The Brooklyn area stations will then fold into the Comprehensive Plan work. The OMSI and Clinton areas have more issues and stakeholders. We are currently forming a SAC for this quadrant to start in early fall.

Much of the project is focused on industrial lands: what is transit station development in an industrial zone? There are examples of E-TOD throughout the country, but many are to an office-type industrial sanctuary. This area is heavy industrial, so there are differences that will influence the outcomes.

Early input to the scope SE Quad work includes:

- What is role of Central City industrial lands? industrial sanctuary? Industrial office/flex? What will be the state of industry in 2035?
- Transportation items including freight mobility, multi-modal management, parking supply.
- Mixed-use corridors including housing, retail and commercial office.

Commissioner Houck commented about industrial land supply and noted he assumes we're not looking at conversion from industrial land in SE. We need to be serious about maintaining the industrial land base to meet the State-mandated industrial land supply.

- Correct. We are not entering the process thinking about proposing zone changes. We are also looking at how to increase employment densities in industrial and employment zoned lands.
- That said, there maybe some station areas outside Central Eastside where it may be appropriate to consider changes. We are also considering how the entire alignment might support E-TOD rather than taking a cookie-cutter approach whereby we propose the same solutions at all four stations.
- Overall, as we begin talking to stakeholders we hear there is interest in maintaining industrial zoning but there is also interest in adding more flexibility and in some areas allowing a greater mix of uses.

Commissioner Hanson: This is about evaluating the use for today and the future. It's smart that we're looking at differences between the stations. We can update a 1970's policy about what industrial land means and increase density of industrial space.

Chair Baugh: better use of industrial land in a modern sense may be more vertical, etc. Putting more jobs in the same space is critical.

Commissioner Smith noted he worked in this area with the streetcar project. Much of the area is for jobs that don't fit into cubicles but that are still Central City space. This might not include the software industry, which could be more in the Pearl or downtown-type setting. We do have a mixed-use corridor on MLK/Grand, where we should promote density, not in the jobs area.

Wrapping up station area work:

- Charrette week of August 19
- Working Group #3 on September 18

The West Quadrant is mid-way through the SAC process. *Commissioner Schultz* is a co-chair of this committee.

The group identified issues in the spring, culminating in a week-long charrette in June. They are now in transition phase from gathering information to making concept (September/October), then staff will draft plan language and policies in early 2014.

The focus of the charrette was about whole West Quadrant. Prior sessions had a more targeted discussion about Old Town/Chinatown and Goose Hollow.

Karl shared a number of maps from the charrette which included a few big ideas:

- Focus on the river: opportunity by the urban waterfront is huge and untapped.
- Green loop: provide a recreation- and transportation-focused, vibrant connection through the heart of the city... possibly along Park Blocks, through Lloyd and Central Eastside.
- Freeway capping in targeted areas and for specific reasons.
- Retail core shifts.
- Create a cutting-edge, urban waterfront. Improve access to the water, increase number of experiences at the waterfront.
- Take advantage of the development potential within 2-3 blocks of the river to create river-oriented communities.

Commissioner Houck asked about restoration opportunities on the riverfront.

- Yes, there are a number of recreational and habitat opportunities. We've seen exciting examples in other cities e.g. Paris.

Stormwater and rainwater use. Increasing tree canopy. District energy systems. These are all new concepts that have been thought about and implemented in other areas from when the 1988 Central City plan was developed.

Other concepts that arose from the charrette include:

- Looking at changes to maximum building heights e.g. higher at bridgeheads.
- Intention about the way development relates to streets. This is similar to the N/NE Quadrant approach to Broadway/Weidler.

Commissioner Smith noted we can't put retail everywhere. What's the point of putting retail on the ground floor if it's not being used?

- "Active use" doesn't require retail, but it's what we've seen. We need to encourage the right type of ground floor active spaces.
- We don't want to turn from retail on the first floor, but it needs to be balanced and looked at to make sure there are opportunities.

West Quadrant next steps

- TAC meeting on September 5
- Open house in early October
- Draft WQ plan in January 2014
- Draft plan to the PSC and Council in Spring/early Summer 2014
- Adopt plan summer 2014
- Implementation in 2015

PDC is looking at where the next development opportunities may be. We may want to think about a joint informal worksession with the PDC commission to give best ideas.

Commissioner Shapiro asked that in thinking about successful projects 25 years out, what do we plan for? There are intriguing walking street ideas to reduce the reliance on the car. Urban accessibility is key to inner-city development.

Commissioner Houck highlighted the need to think about incorporating green space, unlike, for example, in Barcelona.

Commissioner Valdez: Old Town/Chinatown is core to our city. I'm excited to see it as a proposed area for reinvestment and development. It's adjacent to downtown, and Burnside is the heart of the area. We could be creative about what goes there.

Commissioner Smith commented on citizen involvement. Is the week-long charrette format exclusive?

- Most people can't come for the whole thing, but that is part of staff's assumption in planning the sessions. We have stretched it out for a week to accommodate different people's schedules and availability. People can come and go; the sessions are open and organic about what gets reviewed and worked on each day. It has been successful to get lots of information quickly and to get people talking to others they may not talk to otherwise.

Chair Baugh: Looking at height restrictions, we have concentrated lots of services by the waterfront and Old Town/Chinatown. Is that being readdressed? Or are we continuing to put more housing there as well as high buildings?

- We would like to talk with PDC at the same time because they are considering similar issues. They are not just land use; safety and other considerations are all linked together.
- Old Town has a long history of community-based planning. The main thing there is agreement that this area doesn't need more social services. We need other amenities there. What we propose in Old Town needs to not displace those activities but needs more market-rate housing and other things.

A joint worksession with PDC will be discussed. A first session can be just about the West Side, then we could meet again to discuss the Eastside in a few months.

Adjourn

Chair Baugh adjourned the meeting at 3:03 p.m.