

# Portland Planning and Sustainability Commission

September 28, 2021

5:00 p.m.

Meeting Minutes

**PSC Commissioners Present:** Jeff Bachrach (left at 6:30 p.m.), Johnell Bell, Jessica Gittemeier, Katie Larsell, Oriana Magnera, Valeria McWilliams, Steph Routh, Gabe Sheoships, Eli Spevak, Erica Thompson

**Design Commissioners Present:** Julie Livingston, Brian McCarter, Don Vallaster, Sam Rodriguez, Jessica Molinar, Chandra Robinson, Zari Santer

**City Staff Presenting:** Eric Engstrom, Joan Fredrickson, Cassie Ballew, Tom Armstrong, Mindy Brooks, Daniel Soebbing

## Documents and Presentations for today's meeting

*Chair Spevak* called the meeting to order at 5:01 p.m.

*Chair Spevak:* 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 holding this meeting virtually.

- All members of the PSC are attending remotely, and the City has made several avenues available for the public to watch the broadcast of this meeting.
- 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 Routh:* We're reaching the end of September, a monthlong event put on by Oregon Walks. At a recent event we learned about heat islands in Lents.

## **Director's Report**

Director Andrea Durbin welcomed everyone to the PSC meeting.

## **Introductions**

Seeing as this was a joint PSC/Design Commission Meeting, the members of both commissions introduced themselves.

## **Consent Agenda**

Consideration of Minutes from the September 14, 2021, PSC meeting.

*Commissioner Bachrach* moved to adopt the minutes and *Commissioner Thompson* seconded the motion. The motion passed unanimously.

## **West Portland Town Center Hearing**

Eric Engstrom, Joan Fredrickson, Cassie Ballew

This is the second of two hearings on this project and is part of a new process for a joint PSC and Design Commission (DC) hearing to meet new code requirements added with the DOZA project.

Cassie Ballew gave a brief overview of character statements, which are meant to distill down current character of the area and lay out the desired future character and how development can respond to that.

## **Testimony**

*Don Baack*: I live in Hillsdale and founded SW Trails in 1995. The plan in front of you does not reflect the SW Trails Plan. I am concerned about the bridge across I-5 to Markham School. Please see my written testimony. I would ask you to move that bridge up as a priority, along with the one to the TriMet parking facility. Another thing I ask is that you study adding a new onramp at SW 26<sup>th</sup> Ave, since the onramp to 1-5 southbound is a major problem – half the traffic on Barbur goes onto this ramp. My other ask is for sidewalks on SW Pomona west of Capital Highway.

## **Discussion**

*Julie Livingston*: We had a very thorough briefing with Cassie and Joan earlier this month and I don't want to reiterate all of this. Our purview is around the character statement. We had a lot of feedback on the desired character of the area.

*Brian McCarter (DC)*: As a backdrop to this work, the loss of SW Corridor Light Rail Project (the scope of which went well beyond the WPTC) hopefully won't be permanent and I expect that in the future, when it is more politically viable, we will revisit that. I see the infrastructure in the

WPTC as largely dysfunctional and there is a need for it to be comprehensively addressed to help transform the area.

*Don Vallaster (DC):* I would echo the last comment. It seems that the infrastructure isn't there to really promote this area as a town center. It seems that a lot of the infrastructure constraints need to be addressed to make it a suitably inviting area.

*Zari Santner (DC):* My concern is similar to the other DC members, that it is a little concerning seeing this plan moving forward without the SW Corridor investments. It just highlights how important the bicycle and pedestrian infrastructure is for this area. As far as the character statement goes, I appreciate the work that staff has done to remain cognizant of the cultural heritage of the area; however, I am concerned that community desires are not fully reflected in the WPTC and that the community does not truly understand what is before them.

*Jeff Bachrach:* The Design Commissioners mentioned placemaking, which is something that this area really needs. Do you see a role for the DC to help develop that? Is it premature for the DC to dive into the character statements? Is there a role for the DC in placemaking with the WPTC?

*Julie Livingston:* The feedback we gave is very aligned with your question. In the character statement, the community character is pretty well-explained. The architecture and urban design piece is comprised of principles that could be applied anywhere, largely because there isn't a lot to respond in the WPTC. What is more specific to the area is around natural and scenic resources.

I agree that design review for this area is a long way off and most of it will be at the staff level, So, most of the character statement work is to help guide staff at that stage. As for the question to what DC can do for placemaking, that is a larger conversation we could have.

*Commissioner McCarter (DC):* The DC's charge with the WPTC is to focus in on the character statement, but in my background as an urban design, we are typically taking a more holistic approach, which is what should be happening here with a framework plan. We need to go beyond a character statement and zoning changes and we need to push public actors (e.g. ODOT) to invest more to help with placemaking. We can set forth ideas, but we don't have all the bones of framework plan to really direct those changes.

*Commissioner Larsell:* I'm very familiar with this area – I grew up on the other side of the freeway from the WPTC and I rode my bike on the unopened freeway when I-5 was under construction! My concern is that there are a LOT of agency partners mentioned in the plan but I want to know that they are really going to do the work here. I know that one thing community wants in the area is affordable housing. I wonder if PHB can do more to prioritize housing in the area. I'd also like to know more about the bonus trading market component of the plan. What are the expected impacts or potential drawbacks to that approach?

*Commissioner Bachrach:* One great thing we get out of this planning effort is deep community engagement that really helps us understand what the needs and desires of the community are. Sadly, when the light rail measure failed, I think that slowed some of the momentum. I think there's a missing piece between community needs and the zoning proposals – I don't think the zoning code is the right tool to really get at those community needs. Like Brian said, I think that what is needed is a framework plan, in which it sharpens the design vision and it also helps us lay out some next steps, such as the transportation infrastructure. I'd also like to know what the catalytic infrastructure projects are absent the light SW Corridor investments.

*Commissioner Thompson:* I want to echo some of what I've heard, especially around the character statement and concerns that it reflects the community. I find myself wondering how well the character statement speaks to this area – it felt generic and maybe better suited to other, more developed areas of the City. An example is the call for woonerfs in the area. I understand the desire to be visionary, but it seems more appropriate to be focusing on ways to provide safe bike and ped infrastructure in the area before talking about mixing them in with vehicles. I also want to echo the sentiment that the zoning code may not be the best tool to bring the needed changes. We've been out in the community talking about affordable housing, but the zoning code can only try and incent private developers to do that. There's no guarantee that zoning will do that and it feels disingenuous to be out in the community talking about affordable housing when we don't know that it will materialize. Finally, I am grappling with the inadequacy of the sewer and stormwater system and what we can expect to defer to private developers and how this works with BES' needs for better infrastructure.

*Commissioner McWilliams:* First off, I'm very impressed with the level of community engagement staff put into this plan. There was a lot of mention in the plan about anti-displacement and I agree with what I've already heard about the zoning code not being the best tool for addressing that, my line of questioning is about what other strategies are available to address that. Specifically, are there culturally appropriate organizations that can help property owners in foreclosure or seniors on fixed incomes? I also have concerns about the transportation infrastructure in the area and, like Jeff, would like to hear more about what the catalytic investments in the area may be.

*Commissioner Routh:* I echo much of what has been said. A lot of the concern is about phasing and when/how the infrastructure improvements will be implemented. Sometimes these plans seem circular in terms of matching community support with funding. I would love to see how we take all the work and energy that's gone into previous planning efforts and put that into a center of gravity to move things forward.

*Zari Santner:* I want to follow up on the points raised about zoning alone being an effective tool at placemaking and catalytic change. As a reminder, 25 years ago there were zoning changes in Lents, but planners had to drag PDC into the mix to help develop a framework plan with implementation and funding opportunities. It's taken 25 years but there have been a lot of changes. This highlights the need for BPS getting other agencies involved.

*Chair Spevak:* I do feel that there is a tension between the vision/dream for the area and the implementation and what it could mean for housing costs. There's a saying in the development world: You can't build a building if you can't get the rents. The point being that it's hard enough to get this sort of development in flourishing parts of the city and it seems that if the market does move to develop in this area, it will be because it is financially attractive in a way that is in tension with the desire to keep the area affordable for the existing residents. There are a lot of additional zoning development standards that may lead to some unintended consequences.

I was refreshed to see that the SWEC has free appeals for this project, to see more balance between community and neighborhood groups.

*Commissioner Larsell:* The community engagement with this project was great. But when doing this engagement before the project is adopted, there is a lot of optimism and a desire to be involved, but often after the fact things can fizzle. I would like to see something in the plan that wraps in that follow-up.

*Commissioner Magnera:* I want to echo what Commissioner Larsell said – good community engagement is a promise to the community, and it is something that needs to be followed-up on. I've been very involved in this project as part of the PSC and in my professional life, and I've seen great, visionary participation from the community and I hope that staff recognize that and harness it. There is so much possibility for this neighborhood and I hope we, as a body, can help set this project up for success.

*Commissioner Bachrach:* To me this plan is too all over the place and is too reliant on zoning to make changes that I don't think will work. What can we put into the plan to show visible success and show the community that things are happening? How can we help set up for short term success to show the community some progress and set the stage for more successes down the road?

*Commissioner Magnera:* I think you raise a good point about setting milestones on the way to success. I'm not a member of the community, so I don't want to try and speak for them, but I would like for us to pose the question to the community as to where the plan helps them and where there are barriers that we could help to remove. I do think that safety is a major priority for the community, so maybe it's something to do with that. Or something that highlights the culturally specific work, such as wayfinding in multiple languages. But I'd rather hear more from the community rather than try to guess based on my previous engagement with the community.

*Chair Spevak:* Continued the project until the October 26 work session at PSC and a work session at the DC on November 4. Oral testimony is closed, at least for now. If there was any sort of technical glitch, then oral testimony can be reopened for those people affected by the glitch. Written testimony will be accepted until October 29 at 5pm.

## **Fossil Fuels Remand Briefing**

### Presentation

Tom Armstrong leads the Fossil Fuels Project and presented background and updates on the remand.

### **Background:**

Portland Harbor is a critical energy infrastructure hub with 10 petroleum terminals that provide about 90% of the liquid fossil fuels to Oregon and SW Washington and one LNG terminal. All told this is about 75% of all fossil fuels used in Oregon.

### **Public and Environmental Risk:**

- Most storage tanks built prior to 1993 adoption of seismic building codes
- Terminals located in High Probability Liquefaction Zone
- Currently the risk is being studied through a joint City/County project

### **Fossil Fuel Terminal Zoning Amendments:**

- **Define** Bulk Fossil Fuels as regulated land use
- **Prohibit** Bulk Fossil Fuel Terminals in all base zones
- Existing Bulk Fossil Fuel Terminals become **limited uses** that can continue to operate but not add new fossil fuel storage tanks.

### **Fossil Fuel Terminal Zoning Amendments:**

- **Adopted** 2016
- **Appealed** to Oregon Supreme Court on US Constitution Interstate Commerce Clause issues (prevailed)
- **Remanded** for additional local policy findings
- **Re-Adopted** 2019
- **Appealed** to LUBA
- **Remanded** for additional local policy findings
- **Reconsideration** by City Council Fall 2021

### **Other Actions:**

- Zenith LUCS – City denied and has been appealed to LUBA
- City Renewable Fuel Standard update
- City/County Cascadia Subduction Zone Event Risk Assessment
- State Legislature
- Additional Comprehensive Plan policy and Zoning Code changes – coming back to the PSC to explore other options we have to strengthen our footing for regulating fossil fuel terminals

### **State Legislative Actions:**

- LUBA appeal reforms

- State building code for storage tanks
- Seismic vulnerability assessments
- DEQ regulations for above-ground tanks
- Prohibit storage near Willamette River

## **Discussion**

*Commissioner Gittemeier:* Is there any update on the timeline of when this policy might come back into effect?

*Tom Armstrong:* For the storage tank decision, they will be in effect when Council readopts them and will be in effect while they're on appeal until LUBA makes a decision and then it depends in what LUBA decides. In the meantime, we just need to finish working on the findings to address LUBA's remand concerns and then it could be readopted. We hope to bring it back to Council by the end of this year.

*Commissioner Larsell:* What about the existing tanks and the danger they pose? What is being done about that?

*Armstrong:* That's the focus of our state legislative initiatives. Most of the tanks were built back in the 1940's/50's and the most recent seismic standards were added in 2004, but because of the way the codes are set up, property owners don't have to upgrade nonconforming development. The state legislation would either be to require the seismic upgrades or to do it through risk bonding.

*Commissioner McCarter (DC):* Even if we are able to move towards cleaner liquid fuels, isn't it still a long-term goal to move these fuels away from the river and for these sorts of tanks to go away?

*Armstrong:* Yes, long term. But it's beyond the time horizon of what we're looking at today. For now, without radical change, we're still forecasting a need for liquid fuels into the foreseeable future, even with hoped for reductions. And unfortunately, this is the most efficient location for these types of fuel terminals since that is where it's where all of the infrastructure comes together. The hope for this legislation is that it pushes them to either move their facilities to safer ground or to strengthen them seismically. From a risk-management perspective, state studies have shown that the best thing to do is to diversify that risk and have some move to safer locations and some remain.

*Commissioner Thompson:* Is there something that we can learn from this remand and appeal process to help shore up future legislation? Also, can the appeal lead us into some sort of doom loop appeal process?

*Armstrong:* Yes, we're running into some problems with the LUBA process where already litigated issues are trying to be brought back up. It's a challenge because it's a moving target. And I say only half-jokingly that we need fewer Comp Plan policies – let me tell you what a

challenge it is to have to go back and make findings to Comp Plan policies that are completely not relevant to zoning. It was a good idea to try and capture these statements, but looking back it may not be the best place for these statements.

*Commissioner Magnera:* I would like to know how environmental justice plays into its assessment of these zoning opportunities, especially if we're talking about trying to get these terminals to move elsewhere. Many of the potential locations are adjacent to more vulnerable communities e.g. Cully, so is there a way for zoning to address those potential future inequities? Also, is there anything the city can do through zoning to address the oil trains themselves?

*Armstrong:* The City doesn't have any power over the oil trains – it's a federal issue. Even at the state level, laws that have tried to do ban them have been tossed out in federal court. Where we've tried to address that is by prohibiting new, large facilities and not dig the hole any deeper.

As to the first question about environmental justice and the location of these facilities, it's the legacy of our older land use patterns and to some degree we're stuck with what we've got for now. We're trying to stop the expansion of these facilities, while still recognizing that there is still a need for liquid fuel, and by working with DEQ and the state to improve our air quality standards.

*Commissioner Gittemeier:* Can you explain how the Oregon Renewables law interacts with this work considering that 90% of fossil fuels come through these facilities.

*Armstrong:* This isn't my area of expertise, but my understanding is that the 100% Renewable Energy standard applies to electric power generation. There's the Oregon Clean Fuels Program that regulates liquid transportation fuels, and for those types of fuels the target is (I believe) 25% renewable by 2030. So the 100% renewable standard for electricity doesn't come into play with these liquid fuels.

*Commissioner Magnera:* That's right - because these facilities are liquid fuels and aren't part of the natural gas pipe infrastructure that feeds power generation they aren't covered under that act. Nevertheless, the issues related to leakage from natural gas infrastructure is a major issue that the City could get take measures to address.

*Armstrong:* There are quite a few pipelines but again they are covered by a litany of other jurisdictions and authorities, so it is a fraught issue.

*Commissioner Magnera:* Can you say if there is an issue of aboveground vs. underground storage that could be a loophole?

*Armstrong:* That would get to the definition of whether that storage facility is a tank. As it's written, the regulations apply to tanks.

*Commissioner Magnera:* What about compressor stations? Are they tanks?



*Armstrong:* Back when we started this, we got into a similar discussion. And for now, we've determined that the tank is the storage area, and other infrastructures don't count as "storage". There could be a follow up project to address that.

*Commissioner Routh:* Related to some of the statutory fixes mentioned, are there any potential fixes that are on the list for state rulemaking?

*Armstrong:* The Climate Friendly and Equitable Community rulemaking and the Every Mile Counts initiative get to the demand side of the equation, which is good since we need to look at that side of the equation. Land use plans can lead us to better patterns with transit and ped/bike facilities to reduce the number of auto trips and turn the dial on the demand side.

*Commissioner Routh:* Is the storage of jet fuel going to increase to accommodate the projected growth in air traffic?

*Armstrong:* Jet fuel is all coming down the Olympic Pipeline from the Puget Sound, though there has been some contracts for storing some here to meet the desired three day fuel reserve. A future policy could look at limiting fossil fuel storage to that which meets regional demand, but of all the types of liquid fuels, jet fuel is the only one that is projected to increase in the coming years, though there is a hope for development of renewable jet fuels.

*Chair Spevak:* There is the hope that we could slow the growth and not dig the hole any deeper, but even by limiting the number of tanks, it doesn't necessarily restrict the amount of throughput that goes through the hub area, so there can still be growth.

Also, can the City require insurance on the throughput and the oil trains? Is that stuff insurable? I love the idea that, if there's a catastrophic event, they would be responsible for that.

*Armstrong:* That's beyond my area of expertise but I think some of that will be worked on in the City/County Risk Assessment.

*Chair Spevak:* I think this may be a great case for state preemption of local zoning. There's a role for the state to support us in what we're doing.

*Commissioner Thompson:* Are there nonconforming upgrade requirements that would require seismic upgrades?

*Armstrong:* Those kinds of upgrades typically only apply when there's a change of use.

*Commissioner Thompson:* Is there a timeline on the City/County Risk Assessment?

*Armstrong:* I'm not sure but I would expect in the next few months.

## **Ezones Map Correction Project**

Mindy Brooks, Sallie Edmunds, Daniel Soebbing, Emma Kohlsmith

### Presentation

PSC Involvement from July 14, 2020 to now:

- Three briefings
- Five work sessions
- Three hearings

What we've done:

- Map Amendments
  - Feature map corrections
  - Overlay zone amendments
- Code/Policy Amendments
  - Wildfire risk and vegetation management
  - Trails
  - Septic systems
  - Flood control facilities
  - Scenic corridors
  - Wetland policy
- 200+ site visits
- 200+ wetland determinations

Sept 15<sup>th</sup> PSC Memo

- General info – acres of change
- Demographics – vulnerability and relation to ezones
- Wildfire – vegetation management
- Wetlands – definitions, mapping protocols, and timelines
- Smoothing – overlay zone boundaries
- Map error corrections – after the Ezone Project is over
- Site by site analysis – impacts of ezones

Response Memo to Commissioner Bachrach

- Title 13 ESEE vs Goal 5 ESEE - Following Title 13 for riparian areas
- Feature mapping – maintain 2012 NRI methodologies
- Wetlands – can be removed from NRI based on additional science
- Site specific – OHSU, Audubon amendments to correct GIS modeled results

Amendments:

- A. Site visit feature map changes to streams and forest canopy
- B. Methodology clarification

C. Two corrections to the document so that the mapping

*Commissioner Routh* made the motion to approve Amendments A through C in the decision table. *Commissioner McWilliams* seconded the motion.

(Y9 – Bell, Gittemeier, Larsell, Magnera, McWilliams, Routh, Sheoships, Spevak, Thompson)

The motion passed unanimously.

### **Discussion and Deliberation**

*Chair Spevak*: Now is the time for discussion and deliberation, but if there's no discussion, someone can make a motion to adopt the package.

*Commissioner Gittemeier* made the motion to adopt the package. *Commissioner Larsell* seconded the motion.

(Y9 – Bell, Gittemeier, Larsell, Magnera, McWilliams, Routh, Sheoships, Spevak, Thompson)

The motion passed unanimously.

*Chair Spevak*: I want to say thanks to everyone involved and staff from BES, PP&R, PF&R, BDS and especially to Matt Vesh, Marl Peters and Mark Smith who did all of the on-the-ground work to correct the feature maps.

This will go to City Council next. We will be writing a transmission letter to City Council. If anyone has thoughts, you can bring those up now or send them to me later.

*Commissioner Thompson*: I think staff did a very thorough and rigorous job on this and I want to make sure we capture that in the memo.

*Commissioner McWilliams*: I want to second Erica that staff did a fantastic job and there was great follow-up. This is great example of the kind of community engagement we would like to see.

### **Adjourn**

*Commissioner Spevak*: Adjourned the meeting at 7:33 p.m.

Submitted by JP McNeil