

Portland Planning and Sustainability Commission

September 13, 2022

12:30 p.m.

Meeting Minutes

PSC Commissioners Present: Jessica Gittemeier, Oriana Magnera, Steph Routh, Gabe Sheoships, Eli Spevak, Erica Thompson; 1 open position

PSC Commissioners Absent: Jeff Bachrach, Johnell Bell, Katie Larsell, Valeria McWilliams

City Staff Presenting: Patricia Diefenderfer, Sandra Wood, Phil Nameny, Ingrid Fish, Sallie Edmunds, Jeff Caudill

Documents and Presentations for today's meeting

Chair Routh called the meeting to order at 12:45 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 holding hybrid meetings, which provides for both virtual and in-person attendance for Commissioners, staff, and the public.

- Members of the PSC will elect to attend in person or remotely by video and teleconference.
- The public may watch the live stream or attend in person in the Commission room at 1900 SW 4th 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 continued need to limit in-person contact and promote physical distancing when warranted. The pandemic is an emergency that threatens the public's health, safety, and welfare.
- Thank you all for your patience, humor, flexibility and understanding as we navigate this situation to do the City's business.

Items of Interest from Commissioners

- *Chair Routh* noted the passing of Bob Stacy, a giant in land use policy in Oregon. He was a humble and thoughtful listener and a huge legacy in policy planning.

We have had the benefit of *Commissioner Bachrach* as the PSC's DRAC representative. So we need a new PSC liaison, and *Commissioner Spevak* has expressed a willingness to step into this role. I'd like to nominate *Commissioner Spevak* to this position. *Commissioner Gittemeier* seconded. The PSC nominated *Commissioner Spevak* as its representative.

Director's Report

Patricia Diefenderfer

- Nothing to report specifically. Director Oliveira is at a Climate conference in Seattle today.

Consent Agenda

- Consideration of Minutes from the July 26, 2022 PSC meeting.

Commissioner Spevak moved to approve the Consent Agenda. *Commissioner Gittemeier* seconded.

The consent agenda passed.

(Y6 – Gittemeier, Magnera, Routh, Sheoships, Spevak, Thompson)

Electric Vehicle (EV) Ready Code

Briefing/Hearing: Sandra Wood, Phil Nameny, Ingrid Fish

Presentation

Testimony Received

Sandra introduced the project and team. We are talking about electric vehicles – staff has a 20-minute presentation followed by public testimony, and then commissioners will have an opportunity to do a round-robin and ask questions.

Ingrid Fish (project lead), Phil Nameny (code lead), and Marty Stockton had started this project but has moved to the Parks bureau recently.

The purpose of the briefing and hearing is to enable you to ultimately make a recommendation to the City Council requesting they:

Adopt the report with your recommendation, and Amend the Zoning Code, Title 33 to require new multi-dwelling and mixed-use development with five or more dwelling units to provide the EV-ready charging infrastructure at rates higher than the state rules when accessory parking is provided for these developments. This recommendation also includes development standards that apply to EV charging stations.

Ingrid provided background on the project (slide 4) to ground the discussion. The City's EV Ready Code Project brings Portland's Zoning Code into alignment with new state regulations, while adopting higher local ratios. It is generally expected among sustainability professionals, that establishing EV-Ready requirements is a foundational action needed to support our net zero energy goals and the transition to a clean transportation system. Portland is actually behind the curve on this work, compared to most progressive US Cities, due to our previous preemption at the State level. Adopting these code changes will bring us into alignment with many other cities.

Outreach and engagement heavily informed the proposal (slide 5). Equity considerations well-informed the proposal (slide 6). Specifically:

- Due to displacement and affordability issues, low-income people often live in areas of the city where they are unable to realistically access reliable and frequent public transit, walking and biking options to get their needs met.
- In order to meet our climate goals, EVs need to be available to those who need to drive.
- EVs were once rare, but EV adoption & manufacturing of EVs has increased exponentially over the last decade resulting in more EVs available on the **used** market.
- Many states (at least 10) are committing to phase out the sale of Internal Combustion Engine (ICE) vehicles
- Generous state and federal incentives are now available.
- Price of a used EV could be as low as \$1000 in OR after applying incentives.
- PCEF is also supporting a Metropolitan Family Services low-interest loan program for used EVs enabling the discounted cost to be spread out over time and split into smaller low-interest payments.
- EVs are cheaper to own than ICE vehicles due to less expensive fuel and maintenance costs. Modeling shows that EV owners save an average of \$6,000 over the vehicle's lifetime.
- Due to the amount of savings associated with owning an EV, low-income Portlanders can really benefit from owning an EV rather than an older gas vehicle. However, it is unrealistic to use an EV without convenient and affordable access to EV charging.
- EVs are an important clean transportation technology that need to be available to all income levels.
- Due to inequitable investments in charging stations that favor higher income neighborhood investments, there is a very real risk of leaving BIPOC and low-income communities behind.
- EV Charging infrastructure systems take years to buildout, charging systems must be equitably distributed. Each new multi-dwelling & mixed-use building that is currently being built, is a missed opportunity to equitably include enough infrastructure, such as conduit, which is significantly more expensive to put in after the building is constructed.

There was also quite a bit of coordination with the state on this project as noted on slide 7.

Phil outlined the state mandates (slides 8-10). House bill 2180, passed by the legislature in 2021, directed that the state building code be amended to require 20% of parking spaces have provisions to enable electric charger hookups now or in the future. This applies to new privately owned commercial buildings and for mixed use and multi-dwelling buildings with five or more dwelling units. The bill included a provision to allow municipalities to exceed that percentage through a local land use process. The state building code was amended effective July 1 of this year, so permits received since that time need to include this in their plans.

State and local regulations use the term "EV-ready" in many instances, so we wanted to provide a synopsis of what that means. The building code dictates what EV-ready means. That definition requires the installation of conduit to go from the parking spaces to a designated space within the building, or on-site, to locate current or future electrical service capacity to support at least a level 2 charger at each space that has the conduit access. While the capacity may not be required immediately, the conduit paths are required.

During the similar time frame, the Department of Land Conservation and Development (DLCD for short) began developing their Climate Friendly and Equitable Communities rulemaking. This came from an executive order from Governor Brown in 2020. The rulemaking also addressed thresholds for EV-ready

parking spaces, increasing the minimum threshold for parking for sites with at least 5 dwelling units to 40%. The EV standard is one of many standards that were adopted by the Land Conservation and Development Commission in July 2022. These new rules will impact City land use regulations in the future.

This project has a handful of amendments, but a couple of these amendments have more of an impact than others. The first amendment augments the DLCD requirement for 40% EV-ready spaces for residential and mixed-use projects.

1. Require developments with five or more new dwelling units, when including parking spaces, to provide electric vehicle-ready infrastructure for:
 - 50% of parking spaces for larger accessory parking provided for the dwellings; or
 - 100% of parking spaces when six or fewer spaces are provided for the dwellings.

It should be noted that commercial only developments will be subject to the state building code requirement for 20% of parking to be EV-ready. We are not proposing to augment that ratio.

2. Add development standards

The development standards provide guidance for where EV chargers and the related equipment are installed. They would limit the impact of this infrastructure on parking lot landscaping areas which are intended to shade parking lots, provide stormwater benefits and visual screening. Note that they could go into interior landscaping areas, as long as the lot still meets minimum interior landscaping standards, but they are not allowed in the minimum perimeter landscaping. Other standards guide the location of chargers with single dwelling/RIP type of development.

3. Clarify how EV-ready installations are categorized

4. Target certain incentives to include EV charging

5. Exclude the cost of EV improvements from the value of the site's improvements for non-conforming upgrades.

With all the recent state legislative and regulatory work, we now find our code project subject to deadlines to ensure compliance with the EV component of DLCD's Climate Friendly and Equitable Communities rulemaking. That requires us to have regulations in effect by March 31, 2023, or use the state requirements directly. So, our goal is for this project to be approved by City Council, and effective by next March.

Ingrid walked through the timeline for the project (slide 15).

To prepare for upcoming demand and to facilitate the transition to zero emission vehicles there needs to be charging available on public land and in the ROW, as well as on private land. PBOT is doing a number of projects to prepare for this. The utility companies are also working and providing incentives for charging stations.

Commissioner Thompson clarified the written testimony. I see 17 entries in the Map App, but I am understanding some of those comments are from a previous version?

- Ingrid: Yes, most of the testimony is about the Discussion Draft. The testimony after August 9 is specific to the Proposed Draft.

Commissioner Spevak: Are building code staff available after public comment?

- Sandra: Yes, Brian Crise will be on after our public testimony.

Testimony

1. Sara Wright (Oregon Environmental Council): We encourage you to recommend the EV Code Project to Council as something we must do – it is a straight-forward easy step to make change to help us meet our climate goals. We need to make it easier for more people to make changes.
2. Chris Smith: Today I'm speaking on behalf of the steering committee that recommended the bicycle master plan. I advocate for this plan, but we need to do more and include e-bikes (and other charging devices) to further our environmental goals in this package. In terms of making e-bikes, they are far better bets than cars. I am proposing that in commercial and mixed-use buildings we should have a conduit to the bike parking areas. I hope you'll consider this and staff will work on language to include this. I ask also that you hold the written open until this Friday.
3. Noelani Derrickson (Tesla): Tesla is generally very supportive about EV-ready building codes and of the amendments to be an approved use within the city. Most EV charging is at home or in a workplace. But older homes are difficult to install charging stations. Tesla has fast-charging stations that we're hoping to open up to non-Tesla soon too. One specific concern is about the challenge to find sites to build additional stations within the city. We understand maintaining landscaping is important, but we would like to either remove or find a flexible compliance approach/solution to add room for EV charging stations.

Chair Routh closed oral testimony. We will keep the written testimony open until this Friday, September 16, at 5 p.m.

PSC members are asked to send their comments/questions/issues to staff by Wednesday, September 21, to give staff time to prepare for the September 29 PSC officer meeting and the October 11 PSC work session.

Discussion

Commissioner Gitemeier: This is just changing the electric code standards as opposed to building the stations after the code is updated. There are concerns about charging aspects and such, but that seems something later or outside the scope of this.

- Ingrid: Yes, this is the conduit for showing a path to electrical capacity for the future and to have it not be super expensive after a building is constructed. It is up to the building owner to put in an EV charger, outlet, and have the amount of necessary electrical capacity to support it.
- Phil: The building code allows us to change, and potentially as chargers become more uniform, we might get there to have chargers with multiple types of vehicles.

Commissioner Spevak: Thank you to staff for continuing to put this together with continuing shifting priorities and requirements from the state. I have a couple technical questions that can be responded to later. I'm interested in allowing some charging infrastructure in landscape buffers. I am also interested in parity for charging stations.

I've done conduit for stations, and I don't know if pole cords are required. I also assume the conduit has to be inspected. If there is conduit capacity, can we do one every-other parking spot? And if there is anything we can do to put conduits under the public (not just private) land, that would be helpful.

- Brian: About the number of sweeps, this is a standard conduit installation with inspection and same standards. There is nothing mentioned in the building code – some contractors do this, and some don't.
- Ingrid: Putting this under the sidewalk is outside Title 33, and that belongs with PBOT. There are some liability issues if private citizens are putting their own conduits under City ROW in terms of maintenance, crossing wires, etc.

Commissioner Thompson: I am supportive of options to have EV chargers within the setback or landscape buffer zone. I also want to be sure we are providing consistency and fairness within the code for EV ready and the demise of parking minimums – so there is an interim provision for people falling within that window to let people claim a parking minimum reduction for EV ready. And to the extent that we can ensure EV infrastructure is accessible, that is important. I am curious about the 50% and 100% increment about going beyond and how we situate that with other investments that are expected. Is 50% the right number? And for non-conforming upgrades, I'm curious about an incentive that people could use EV infrastructure as a non-conforming upgrade option?

Patricia: I wanted to clarify that this proposal does not place any parking minimums. It simply imposes the requirement that if you are providing parking, 50% is EV-ready.

Chair Routh: I share the input about the bike parity and the opportunity for us to accommodate e-bike charge-readiness in this work. I recognize there is work with PBOT to continuing this conversation and if there is an amendment to be written.

The project will be continued at our October 11 PSC meeting for our work session.

Floodplain Resilience Plan

Briefing: Sallie Edmunds, Jeff Caudill

Presentation

Jeff introduced the project and the recent release of the Proposed Draft.

At a very basic level, floodplains are simply areas where we expect that future flooding will occur. Understanding the likely areas of future flooding is important for preparing for future floods and reducing flood risk for people, buildings, fish and wildlife.

As identified in the slide, floodplains provide a wide range of benefits, including slowing and storing flood waters, reducing runoff into waterways and providing areas of refuge for fish. The steps we are taking in the Floodplain Resilience Plan will contribute to climate resilience throughout the city.

The City of Portland currently regulates two floodplain areas, the FEMA 100-year floodplain and Metro's 1996 Flood Inundation Area:

- The FEMA floodplain, which people are generally most familiar with, is based on a model that identifies areas along rivers and streams that are estimated to have a 1% chance of flooding in any given year. Properties within this area must have flood insurance under certain circumstances.

- 1996 Flood Inundation Area is the actual area that was underwater based on aerial photos taken the morning after the height of the February 1996 flood. Most of this extent is on Metro's Title 3 Water Quality and Flood Management map and is therefore regulated by the building code.

FEMA provides flood insurance through its National Flood Insurance Program, or NFIP. This insurance is required for any federally backed mortgage or loan in the FEMA 100-year floodplain. As a part of the NFIP, communities must implement minimum floodplain development requirements. NFIP communities may take additional steps beyond the minimum requirements to improve their rating in FEMA's Community Rating System program and receive a discount. As a result of Portland's rating, Portlanders currently receive a 25% discount on their premiums.

In 2016, the National Marine Fisheries Service released a Biological Opinion on the National Flood Insurance program. The Biological Opinion concluded that the NFIP harms 16 salmon and steelhead species by increasing floodplain development and, consequently, reducing floodplain habitat. Since the release of the BiOp, FEMA has coordinated with Oregon jurisdictions to develop its BiOp implementation guidance. FEMA released its proposed implementation plan in October 2021.

A National Environmental Policy Act (NEPA) review of the Implementation Plan is underway and some changes to FEMA's proposed approach are expected based on that review. It is hoped that NEPA review will be complete by early 2023.

Once the Implementation Plan has been finalized, FEMA expects full compliance to be required in late-2026 / early-2027.

In response to the Biological Opinion, City staff got organized and developed a workplan. In 2019, the directors of 8 bureaus signed the Floodplain Management Update Implementation Agreement, which laid out a multi-faceted approach to ensuring the City's compliance with the FEMA BiOp. In the workplan there were 3 important task areas that this plan contributes to: updates to regulations, increasing floodplain restoration efforts, and working to expand mitigation banks as an option for off-site mitigation.

Jeff provided background about public engagement (slide 10) relative to this project and work including the release of the Discussion Draft and changes to the plan since that phase (slide 11).

Overview of the plan's components (slides 13-24).

The high hazard area is the area closest to the waterway and includes what is called the floodway and the 10-year flood interval. The floodway is the estimated area that will accommodate a 100-year storm. The 10-year flood interval has a 10% chance of flooding in any given year. The riparian buffer area includes all floodplains within 170 feet of the waterway. If the floodplain does not extend 170 feet, the riparian buffer area ends at the boundary of the floodplain.

There are two key proposals for floodplains in the Central Reach of the Willamette River. First is the adoption of a riparian buffer area, similar to what has already been adopted in the South Reach. This area, which includes floodplains within 170 feet of waterway, is identified the Biological Opinion as especially important for the survival of endangered and threatened fish species. Similar to elsewhere in the River Environmental, development is allowed but impacts to natural resources must be fully mitigated and an improvement to floodplain function along the riverbank must be demonstrated.

If the floodplain doesn't extend to 170 feet, the riparian buffer is less than the 170 feet. Additionally, an expansion of the River Environmental overlay zone is proposed so that all of the riparian buffer area and any remaining undeveloped floodplain is within the overlay zone.

The map on slide 18 shows the proposed River Environmental overlay zone in light green. As you can see, the primary areas of expansion are in the Central Eastside and at the waterfront at the northern end of the Pearl District. These areas were flooded in 1996. The application of the River Environmental will ensure that development impacts in these areas are mitigated and floodplain habitat is preserved. For developed tax lots, this change will have little effect, except for some updates to when trees and vegetation can be removed and what is needed to replace them.

There are three primary updates proposed for the South Waterfront, which is a part of the Central City Plan District. New tree and vegetation requirements in South Waterfront. Specifically, a tree replacement standard is proposed for the Greenway overlay zone. Minor updates to exterior lighting standards in the Greenway overlay zone to be consistent with the requirements in the Central and South reaches.

Elsewhere in the City, we are expanding environmental overlay zones to non-industrial properties in the Columbia Corridor and to the Fanno and Tryon creek floodplains. In those areas, and in the South Waterfront, we are updating tree and vegetation management requirements similar to those included in the River Environmental overlay zone, which is proposed for some portions of the Central Eastside.

Within the FEMA 100-year floodplain and 1996 Flood Inundation Area, the building code currently requires that placement of fill (soil) be offset by an equal amount of excavation or cut. A key proposal included in the Biological Opinion is to expand the requirement for excavation to include any structures placed below the base flood elevation, in addition to fill. This change would apply to all areas of the floodplain. The Plan also proposes to increase the excavation ratios in some parts of the floodplain, including nearest the river (in the high hazard area) and in the riparian buffer area and undeveloped floodplain.

To provide additional an off-site option for mitigating floodplain impacts, the Bureau of Environmental Services has been evaluating options for supporting or establishing mitigation banks. Our plan is to allow for mitigation bank credits to be used to mitigate development impacts on both habitat and flood storage. This option will be critical given the increases in compensatory excavation proposed in the Plan.

Upcoming meetings and schedule:

- Sept 27, 2022 – PSC Hearing
- Oct 25, 2022 – PSC Work session
- Nov 22, 2022 (tentative) – PSC Work session/ Recommendation
- Spring 2023 – Recommended Draft and City Council

Commissioner Gittemeier: Can you talk about mitigation banking versus on-site?

- Jeff: There will still be a hierarchy – where practicable, it should be onsite mitigation. In terms of having a mitigation bank, you can get bigger sites, and you have an infrastructure to maintain them over time, so we can be sure they are achieving what we are aiming to achieve.

Commissioner Spevak: Flood insurance is an interesting question. By having better management policies, we are giving people reduced rates – but are they then developing more in the floodplain? I’m curious about this when we’re reducing cost by policy. What is the balance for this incentive?

- Jeff: One is that FEMA has updated their pricing approach to better represent flood risk (flood rating 2.0), which they weren’t doing in the past. So the cost of insurance is now closer to what a private insurer would be charging. In terms of the role of different areas, particularly nearest to the waterway, if development is there, we have significant mitigation requirements. And in terms of equity, people in the floodplain may be under-represented groups. BES has programs for incentives for low-income folks, for example. We want responsible development in the floodplain. With environmental protections, you have to show a reduction in impacts, and we have to believe in this process to try to put development outside the floodplain as best as possible.
- Patricia: The benefits of this project are about floodplain and wetlands protection to ensure responsible development in these areas.
- Sallie: What this project also does is allows the City to fund in the event of a disaster.

Commissioner Thompson: How many parcels will be impacted by the code changes? Do you have a sense of the break down between different zones? For a new development that maxes out zoning, I’m curious to understand the off-site mitigation – is there a fund or what does it look like to realize some off-site solutions?

- Jeff: There are about 1500 parcels that are affected – from very little to lots of their flood hazard area on their property. Most e-zones are in generally lower-density areas; most of the Central City is in higher-density, but we aren’t making changes to industrial areas. It’s spread throughout the city, but again, mostly in lower-density zones. In terms of habitat, we don’t have off-site mitigation banks along the Willamette. If they are unable to do on-site, they would have to either own the property or have access/control of the off-site mitigation, so it would be limited. We did include this allowance in the South Reach (off-set habitat impacts), and there are some other banks specific to the superfund site (not accessible to off-set other City requirements), but we are continuing to work on this to expand the availability. For mitigation banking, there isn’t a fee-in-lieu option right now. The expectation of mitigation is to be in the same area if you can’t mitigate on-site. For habitat, this has been efforts around flood storage, which will be a bigger challenge if this moves forward.

Chair Routh: Is the 1996 flood the extent we have? Is that the bar?

- Jeff: To do something more about climate change, we use this as a proxy. FEMA will be updating the 100-year floodplain (ours is very out-of-date) to better depict flood risk. This model is a way for us to be a bit more pro-active about where we think the risk really is. This is probably a 5-year process at least from now.

Commissioner Spevak: Does this bear on the rules / fill for Ross Island?

- Jeff: No.

For the hearing on September 27: We have heard from some people, but most of our conversations are to clarify the work and the proposal.

Commissioner Thompson: You mentioned some of the heavy industrial sites that would be covered under the EOA. Are there other in the city that for some reason are not included in the scope of this plan?

- Jeff: The North Reach of the Willamette River has a heavy industrial area, so that's a similar situation. The only other area is in the Johnson Creek area since it has its own issues, plan district, and how cut-and-fill is handled there. So that will be part of a future update process.

The hearing for the Floodplain Resilience Project will be on September 27. The Map App is open for written testimony.

Adjourn

Chair Routh adjourned the meeting at 2:52 p.m.

Submitted by Julie Ocken