

Portland Planning and Sustainability Commission

September 13, 2016

12:30 p.m.

Meeting Minutes

Commissioners Present: Jeff Bachrach (left at 3 p.m.), Andre' Baugh, Mike Houck, Katie Larsell, Gary Oxman (arrived 1:12 p.m.), Katherine Schultz (by phone; left at 2 p.m.), Chris Smith, Eli Spevak, Teresa St Martin, Maggie Tallmadge

Commissioners Absent: Michelle Rudd

City Staff Presenting: Susan Anderson, Joe Zehnder, Michael Armstrong, Tom Armstrong, Phil Nameny, Steve Kountz

Vice Chair Smith called the meeting to order at 12:31 p.m. and gave an overview of the agenda.

Documents and Presentations for today's meeting

Written testimony received

Director's Report

Susan Anderson

- The draft transmittal letter from the PSC to Council for the Comp Plan Task 5 projects will be shared at the officer meeting this Thursday. We had a work session this morning with Council on the Task 5 projects and will have another on Thursday. I will send an email update with further information.

Consent Agenda

Consideration of Minutes from the August 23, 2016 PSC meeting

Commissioner Bachrach moved to approve the Consent Agenda. *Commissioner Baugh* seconded.

The Consent Agenda was approved with an aye vote.

(Y9 – Bachrach, Baugh, Houck, Larsell, Schultz, Smith, Spevak, St Martin, Tallmadge)

Mass Shelters and Housing Zoning Code Update

Hearing / Recommendation: Joe Zehnder, Phil Nameny

Disclosures from PSC members

- none

Joe gave an overview and background about the project. We are all aware of the rising rents and values of housing in Portland, and their effect on people living or attempting to move here. During discussions at City Council about the state of housing in 2015, these listed issues were noted: increases in rents, low vacancy rates, increases in homeless counts and more people being newly homeless.

Council declared the housing emergency in October 2015. Council also directed the City and County to collaborate on housing programs which led to the creation of the joint office, A Home for Everyone. In March of this year, Council passed two other forms of legislation. The first was a resolution that directed the Bureau of Planning and Sustainability to amend Title 33 “to simplify regulations, remove regulatory obstacles and expedite processes for land use review and permits for affordable housing

projects, mass shelters and short-term housing”. This resolution requested to have staff present the council with the PSC’s recommendation by December 1 whether favorable or unfavorable. The second was an ordinance that created an alternative land use review process for design or historic reviews for affordable housing projects that met specific affordability standards

Phil reviewed the proposal that the PSC is hearing and considering today. He walked through what temporary housing includes as well as issues and concerns we’ve heard about from providers.

Several zones that allow mass shelters by right have strict limitations on the number of beds allowed within a wide radius of 1300 feet. If these thresholds are not met, the facility can go through a conditional use review to receive approval.

The amendments increase both the number of overall beds allowed by right in the zones and decrease the separation from 1300 to 600 feet which is closer to about 2.5 to 3 blocks. In many cases the number of beds allowed is proposed to be doubled.

In general, many providers feel that 200 beds is the maximum number that can be efficiently cared for. Other commercial zones are often found within neighborhoods, so the number is smaller to limit the impacts of a by-right facility.

To address a potential issue related to having to provide additional parking, we are proposing to waive any additional parking requirements if the mass shelter is provided on the site of an existing institutional use such as a church, school or other community service use.

Currently there is one conditional use approval process for building a new mass shelter. If they are subject to a CU, they must go through a Type III review which requires a pre-application conference, and a hearing. The timeline and fees can be fairly substantial.

The code amendments add flexibility for where a CU is required. If the shelter is provided in an existing building or on the site of an existing institution, the type of review is a Type II staff review that doesn’t require a pre-app and only has a hearing if appealed.

CU approval criteria are also amended for shelters within existing buildings so that the focus is less on traffic/service issues and more on livability issues.

Currently mass shelters are prohibited in EG zones, while all other community service uses including short-term housing is allowed by right. We are proposing that a mass shelter be subject to a conditional use review, so any proposal could have reviewed its impacts on the surrounding employment zone through the approval criteria on a case by case basis.

We are not expanding mass shelters in any other zone where they are currently prohibited such as open space and industrial zones, since there are strong city policies to protect these zones for open space and industrial users.

For short-term housing, there are fewer barriers to entry, especially if they are proposed in commercial or EX zones. However, to create a parallel review path, we are amending the code in situations where we would like the short-term housing requirements to mimic those for mass shelters. This includes similar changes to the Conditional Use review and criteria in certain situations and a similar waiver of parking requirements in situations where short term housing is allowed by right with an existing institution.

Religious institutions are currently allowed to host a temporary transitional household for up to 60 days. This does not need to be within a legal dwelling unit. We have heard that several religious institutions have been interested in hosting a larger number, and some of them have a concern that the 60-day limit does not provide enough time to find more permanent living arrangements. In addition,

the city council passed a resolution in 2011 that allowed a church to host up to 4 car camping vehicles without having any code compliance repercussions, but this has never been codified. Our proposal expands the allowance for a religious institution to host a transitional household from 1 to 4 households as an accessory use and extends the number of days from 60 to 180.

The last item that we are reviewing is in response to the Council's ordinance earlier this year to provide a review option to city subsidy affordable housing projects that go through design or historic review. Our proposal codifies the council provision, but expands equitably city wide instead of only applying it to the central city or gateway plan districts.

This option applies to City Subsidy projects that make at least 20 percent of its units available to people earning 60 percent or less median family income. They can choose one of two ways to review their design or historic review. They can either:

- Follow current procedure which, for projects above certain \$ thresholds, requires a pre-application conference and a Type III review with a hearing in front of the design or landmarks commission, or
- They can choose to go through a Type IIX staff level review, where only the appeal is heard in front of the respective commissions. However, this option does require the applicant to present their initial proposal through a design advice request in front of the commission. These requests are normally optional.

Phil noted the project has come down the line quite quickly. It is not the "be all, end all" to address our housing crisis. There are several other projects and conversations currently happening that also address affordability including the mixed use zoning project, the CC2035 Plan and inclusionary housing. Changes to the Zoning Code do not have a large effect on coordination, permitting and fee issues. Those need to be addressed by Council.

Discussion

Commissioner Baugh asked about the DLCD letter.

- We are aware of the requirements to protect industrial and employment lands. In EG, we have just taken the step to make it a conditional use.

Commissioner Tallmadge: We heard this code update doesn't facilitate permitting. We heard that it's not design review that's the most cumbersome but permitting for developers is.

- The permitting package is processed with BDS, PHB and PBOT for the post-land-use parts of the permit. The timing it takes to do all this is a big issue, and any time savings we can do is beneficial. But it's not a Zoning Code issue.
- What has to happen is that there are other steps Council has to look at, for example, waiving certain fees, to help facilitate this. Similarly, with some of the processing pieces, there could be a staff member as a process manager, so Council would have to dedicate fees for this. Again, we can't address this with the Zoning Code.

For the conditional use with EG, how long does the process take and how much does it cost?

- It's being placed in an existing building, which can take 8-10 weeks for that review process. Type II review is about \$4000. Type III conditional review (new building) requires a pre-app (\$5000) and hearing (3-4 months).

Commissioner Spevak: Religious institutions can have four units. What about people who could sleep in their vehicle? Also, if we go beyond 180 days, would the building department step in if they're buildings? What if people are living in their cars?

- We'll have to check on this. In a building, there needs to be adequate safety components in place. If it's a camping situation, there is a coordination between buildings and state code. The definition of household is a whole line of conditions plus up to five unrelated individuals. So the institution could state that cars with up to 6 people total constitute a household.

In Eugene, their car camping includes a 90-day limit to sleep in your car (they used to not have a limit).

Commissioner Bachrach: This is intended for short-term. Is there a potential for others than religious institutions to provide?

- We're talking about providing housing in an institution that is supportive of households through homelessness that arises through a situation that they face. Under an emergency, this is subject through a separate approach (e.g. winter larger-scale temporary cold-weather shelters). This project is more about seeing the Zoning Code that we've allowed religious institutions to house a family for 60 days, so this is looking to just expand that timeline.

Commissioner Tallmadge: Why don't we extend "religious institutions" in the code to more generally "institutions"?

- We can continue to look at this. Generally other institution provisions don't include this in their use.

Testimony

Ryan Diebert, A Home for Everyone: We are a joint City/County office looking at exactly what it would take to achieve having a home for everyone. Increased investments in affordable housing is the long-term solution. We've provided funding and volunteers to support 650 more beds than currently by the end of the year, but many of these are temporary. Smaller volunteer shelters have faced hurdles in the Zoning Code and onerous challenges getting through Type III land use reviews. I've worked closely with BPS and other bureau staff to develop this draft code update. The proposed changes go a long way to achieving the shared vision and address the concerns we've heard along the way. Staff has done great outreach. Our one recommendation to improve the proposal: providers can usually do 75-100 with greater efficiency than smaller shelters. So where it's allowed, we'd like to see these allowed by right.

Commissioner Baugh: Part of Type III review is community input, but there is less of that with a Type II review. How can we assure the neighborhoods that they'll still be involved? What about services and linking those to the beds?

- Even with a Type II process, there is ample testimony review from the community. Beyond that, we've had excellent opportunities to work with community groups through the siting process. The operation after being permitted is really dedicated by the non-profit partners, often through Good Neighbor Agreements and open dialogue with the community.

Commissioner Bachrach: Is changing from Type II to Type III review the issue?

- The full package and expansion of what's allowed by right helps to address the hurdles providers have faced.

Tad Savinar and Julie Livingston, Portland Design Commission: The reason things are taking so long is the sheer volume of projects coming through. DC has gone from 8 to 24 hours of meeting time in the last few months. The Type II process will increase the workload on BDS staff, which is already overloaded. Staff and DC usually see eye-to-eye on projects. The IIX process could dilute public trust. The buildings built to house low-income should be of a design and quality that make people living there feel good. The timeline in our letter is predicated by the Council. There are unintended consequences as proposed. *see written testimony*

Commissioner Baugh noted the Type III review is not the impediment. There are many elements to how much time it takes to develop in Portland, but the public investment projects are where the process has been streamlined.

Commissioner Tallmadge: You noted two projects in your letter, one a Type IIX and one a Type III.

- Only 2 affordable housing projects have come before the DC in the past months. Without IZ playing a role yet, it is a limited impact. With IZ, there will be more burden on the process.

Commissioner Houck noted the volume of permit applications. Could we expedite projects that involve affordable housing?

- Design Commission has specifically given this opportunity and approach to facilitate a quicker process for affordable housing projects.

Kristen Minor, Historic Landmarks Commission: We concur with the DC comments. We presented a letter to Council in March, and the points are still very salient. Staff was directed to remove obstacles to affordable housing. One is the cost of land use reviews. The PHLC concurs with lowering these fees, but we have strong concerns about reducing the process. Maintaining historic districts is our focus. Changing from a Type III to a Type II review reduces public input.

1. Peter Meijer, AIA: We provide advice to applicants going through Design Review as well as support to staff and the commission to provide initial review on projects. We are supportive of taking down the road blocks to building affordable housing. We are not in favor of the change in review process.
2. Jennifer Chang, PHB: Supports BPS' proposed zoning code update. We applaud the work BPS staff has taken that are responsive to our housing emergency. The proposed code changes increase access to safe options and provide links to support. The simpler review process is helpful.
3. Matthew Tschabold, PHB: PHB and Commissioner Saltzman support these code changes. This is one element of a number of actions being taken by the City. Increase URA funds to housing, homeless services dollars, new CET funds directly for affordable housing, dedication of short-term rental income to affordable housing are some of the other measures we're working on to address our housing and homelessness crisis. We are supportive of the proposed code changes.

Vice Chair Smith: The challenge we've heard is that Type III may be faster and given more certainty than IIx. Are you confident that IIx provides a faster timeline? What about cost?

We're still determining if that is the case. There are improvements being made and legitimate concerns about the review process. We should establish the Type IIx and give it a full year then evaluate what adjustments we might need to make going forward to ensure development standards and time to get projects built is efficient and effective. We have to design our buildings to last 60 years of affordability for any building we put financing into. Cost is some of the issue, but we're seeing improvements in both process and cost.

Commissioner Houck: It seems that what's allowed by right and doubling that will have a large impact on what we're trying to accomplish. Why couldn't you retain Type III in the next year instead of IIx?

We know that the code allows for increased capacity, but BPS has reached out to shelter providers to hear their concerns about the review process.

4. George Devendorf, Transition Projects: Supports the proposed revisions. We are the largest provider of mass shelters in the area. Current code places many restrictions on a difficult process of siting shelters. The revisions bring thoughtful flexibility to the process. We second Ryan Diebert's comments on lessening the restrictions.

5. Charles Johnson, Oregonians for Food, Shelter Plus: The scope of what we have before us is huge. Any type of human services institution should have the same rights as religious institutions. For a 14-story building, the type of review is not the issue. I don't think the type of review is a make-or-break issue. What matters is displacement of people on the Springwater Corridor and making sure people are not able to use the design code to keep people out of housing. Also be sure to think about balancing historic districts and if those have helped a neighborhood's diversity.
6. Mary Ann Schwab: Upset about what's happening to people. We need quality construction when we're building low-income and mass shelters to meet the needs of people.
7. Andrew Riley, 1000 Friends: Staff have done a good job about siting shelters, but we also have some comments and suggestions. Eliminate all parking minimums. Expand housing options for religious institutions. Allow shelters by right in EG zones. *see written testimony*

Vice Chair Smith closed testimony at 2:04 p.m.

Discussion

Joe: On page 17 of the staff report is a list of use categories in the Zoning Code. We'd like to proposed to amend the staff proposal to include community service, schools, colleges, medical centers and religious institutions.

Regarding Type IIx versus Type III: IIx and III reflected in the proposal is about the development of new affordable housing projects. Staff's proposal reflects you can go through IIx for an affordable housing project. This does not pre-empt choosing a Type III review. Type II has a staff review; on appeal it goes to DC. Type III goes to both staff and DC then can be appealed at Council (using the same criteria). Right now, objectively we don't know which type of review is better. Type IIx is not inherently reducing the quality of design. Type IIx is slightly faster and less expensive. Type III has a wider notification and it goes to a hearing; Type II has a smaller notification process and testimony would be written only.

Chair Schultz: It is a complex issue, but price and timing of the process isn't always consistently more for either a II or III review. Both are expensive because of the process, not necessarily because of fees. Design review can hang things up, and that becomes critical path for the project. So being able to shorten timelines is more at issue than the type of review process. I'm not convinced Type IIx is the right review. I'm almost inclined to side with not preceding with Type IIx.

Commissioner Baugh agrees on the Type II versus III review. Having a staff-level review in a historic district could be problematic.

Commissioner Larsell asked about shelter operators wanting to see the size increase for more efficiency. How would we influence this?

- We talked with providers about the numbers that, as a right, would be appropriate. All can be bigger through a conditional use process. The number may be from a concern about concentration of services in, for example, Old Town / Chinatown.

Commissioner Bachrach: The distinction between review types is minimal for affordable housing. Isn't IIx the resolution directive from Council? I would keep it in.

- Yes.

Commissioner Bachrach: Both Ryan and Transition Projects talked about 75-100 beds as an efficiency number. Are there some zones where they're asking to bump it up?

- Table on page 31 (shelter by right and max number of beds): They are suggesting more be available.

Commissioner Tallmadge: Didn't we say we want to avoid siting additional services in Old Town?

- We'd have to put in a separate provision for excluding this district.

Commissioner St Martin: I'm most concerned about unintended consequences. Type II versus Type III is a good example; maybe we need process help rather than changing the types of review process. I also support reducing parking requirements.

Commissioner Spevak: My frustration is the political leadership. I wish we had more of a chance to put something on the table to help our most in-need people.

I have a few amendments to propose:

- Go from 4 to 10 transitional units. Define a transitional housing unit as up to 3 people. (see page 51).
- 100 days to 365 days.
- Density standard for group living to drop. Not limit the number of people who are living in a structure.
- Drop the definition of household.
- Remove parking minimums for all mass shelters.
- 400 from 600 feet on the siting distance reference.

Vice Chair Smith continued the work session and decision to the September 27 PSC meeting. Commissioners should send in any amendments to staff, and we'll compile these and get through a recommendation at that meeting.

The written record will remain open until this Friday, September 16 at 5 p.m.

Fossil Fuel Infrastructure Code Changes

Hearing: Michael Armstrong, Tom Armstrong, Steve Kountz

Tom and Steve presented an overview of the project.

The *proposed amendments:*

- Define Bulk Fossil Fuel Terminals as a regulated land use.
- Prohibit Bulk Fossil Fuel Terminals in all base zones.
- Existing Bulk Fossil Fuel Terminals would become legal, non-conforming uses that can continue to operate.

We propose a *new land use category*, Bulk Fossil Fuel Terminals:

- Marine, railroad, or pipeline transport access; and
- Transloading facilities (such as train-to-ship) or storage capacity exceeding 5 million gallons.

exclusions:

- Distributors with access exclusively by truck;
- End-user facilities, including filling stations and firms that store fossil fuels for use as an input;
- Recovery or reprocessing used petroleum

Definition

Fossil fuels are petroleum products (such as crude oil and gasoline), coal, and gaseous fuels (such as natural gas, methanol, and propane) that are made from decayed plants and animals that lived millions of years ago and are used as a source of energy.

exclusions: Denatured ethanol and similar fuel additives and biodiesel/renewable diesel with less than 5 percent fossil fuel content are not fossil fuels.

Regarding a restricted expansion of existing terminals, we have three options as ways to proceed:

- As proposed, existing terminals become non-conforming uses. It would be difficult to approve any sort of expansion under current standards.
- Limited use with expansion not exceed 10 percent of the total terminal capacity as of adoption.
- Conditional use that would allow expansion greater than 10 percent through a land use review with special criteria for emergency backup capacity, seismic upgrades, GHG emissions and clean and renewable fuels.

In terms of seismic upgrades to existing tanks, we've recommended additional guidance in the Council ordinance for PBEM and BDS to take on a process similar to what they're doing with unreinforced masonry buildings; depending on the risk and the area, you have a certain timeline to bring the tank up to code. We're also recommending as part of the next Climate Action Plan update is a study of market dynamics around compliance to state codes and make adjustments to these standards as part of that update in 2020. We want to make sure we're not keeping companies from not doing necessary seismic upgrades or to clean, renewable fuels.

Commissioner Bachrach: The proposal to make it a non-conforming use makes it impossible (pretty much) to expand. If the Comp Plan direction is to limit, we are implicitly saying there is no greater need or expansion to meet local demand for the next 20 years.

Commissioner Houck: It would be helpful to know projections for expansions local companies may be looking at.

Commissioner Baugh: What region do the current facilities serve today? How far does that product go? What about growth capacity outside of the Portland region?

- It varies by product. 90 percent petroleum in state is housed in Portland. Some serve a wider area, including all on the west coast. As we define bulk fossil fuels in the Zoning Code we want with numerical standards as a regional.
- The declining trend is statewide. The Portland facilities serve the state, and trends state-wide are flat and declining. Also for natural gas. There is more variety, but it is largely flat.

Disclosures from PSC members

- none

Testimony

1. Arlene Burns, Mayor of Mosier, OR: Supports the proposal. We had a derailment in Mosier and are still dealing with the consequences from it, even though we dodged a large bullet. Infrastructure expansion that could happen would make the Columbia River Gorge into a fossil fuel super highway. All we can do until federal regulations change is to stop expansion. Thank you for addressing the seismic concerns as well.
2. Peter Cornelison, Hood River Councilmember: Supportive of the proposal. Hood River passed a resolution opposing all oil by rail shipments through the Gorge.
3. Joana Kirchhoff, Raging Grannies: Terminals are bad for the climate. Don't renege on Portland's promise. 500 million gallons for storage barrels is too large.
4. Daphne Wysham, PDX350: Spoke to sections 2 and 3 of the memo. Revisions to original proposal should be removed. Revisions give preferential treatment to one industry (bulk fossil fuels). 10 percent expansion option is arbitrary. 5M gallon is also arbitrary. *see written testimony*
5. Marilee Dea, Cully NA: Cully has been told by Multnomah County that it's in the crude oil evacuation zone. The Union Pacific rail line runs through our neighborhood. We are concerned about these trains and were pleased that we have a ban on all new fossil fuel infrastructure.

Don't backtrack on what was passed before. We need to transition away from high-carbon fossil fuel.

6. Damon Motz-Storey: Move to Portland less than two weeks ago. Part of the reason I moved here was because of the beauty of the Pacific Northwest. Don't backtrack on the 2015 Council resolution. I believe we can do better by closing loopholes.
7. Mark Darienzo, Climate Jobs PDX: We are working to transition to a clean work situation and have the labor movement understand the climate change crisis. A move to clean energy jobs should be explicitly supported.
8. Rick Brown, 350PDX: We have context versus specifics. Shared a quote from Mark Jacobson at Stanford about renewables and converting energy infrastructure in Oregon for all purposes by 2050 via wind and solar energy. Many jobs would be added, we'd eliminate emissions and stabilize the economy.
9. Sandy Polishuk, 350PDX: The Carbon 200 is a list of public companies holding most oil, coal and gas reserves. These resources must be kept in the ground and untapped. The resolution also recognizes the critical nature of the climate crisis. Cease investment in fossil fuel infrastructure as it will be abandoned as we move to using only renewable energy. There should be no exceptions on fossil fuel expansion or current terminals. Prevent any aggregate increase in capacity here. *see written testimony*
10. Dr Gregory Monahan, OR Sierra Club: Staff has been operating from a business-as-usual framework. We need to change this. If we wish to create the possibility for future generations, we need to stop the use of fossil fuels. The PSC should take a change perspective. Prohibit new terminals and disallow expansion of existing terminals.
11. Deborah Romerin: Climate change is here, and it is now. I was proud of the Council resolution banning all new fossil fuel infrastructure. PSC should uphold the intention of this and commit to a full ban of new fossil fuel infrastructure nor expansion of existing sites.
12. Patricia Bellamy: Think health and safety for now and the future. I'm concerned about health-related illnesses from climate change. Portland has been a national leader. Strengthen and codify a full ban and expansion. Prevent any new fossil fuel infrastructure building. Citizens and nurses will support you.
13. Sharon Miller: Take this opportunity to make Portland a leader in the climate justice movement. I support a full ban on new fossil fuel terminals; stronger restrictions on expansion of current terminals; and don't allow any aggregate increases either.
14. Dr Rose Christopherson, Care of Creation Ministry: Heard the plans of Union Pacific expansion traffic near Mosier. We've seen that the needs for fossil fuels in Oregon are decreasing. Of course we want to upgrade seismically. But if needs are going down, it seems like we don't want a 10 percent increase allowed. Why not cap it and have the seismic upgrades happen under the limitation?
15. Dr Patrick O'Herron, OPSR: Thank you for the work that's already been done. The best way to honor the resolution is to prohibit terminals and make current ones legal non-conforming uses. Existing fossil fuel infrastructure is already a huge liability. Simplify this work and follow the resolution. *see written testimony*
16. Ragna Merrit on behalf of Dr Diana Rempe: Follow the resolution in its entirety, not whittled away by the code.

17. Bob Sallinger, Portland Audubon: Support the amendments that are being proposed. But you need to add criteria for non-conforming use review. Lower the threshold for new facilities down substantially from the 5 million gallons, which is way too much. Allowing existing facilities to increase 10 percent violates the resolution. I think non-conforming use mechanism is the right one, it sends the right message, and it gives the community a way to challenge the decisions the City makes. *see written testimony*
18. Shanna Brownstein, NW Natural: Local distribution company, provide natural gas directly to end users. Territory from northern Clark County south to Coos Bay, east to The Dalles. NWN owns an LNG tank in the harbor that holds 7 million gallons, which is quite small comparatively. We take safety and environmental stewardship very seriously. We are a state-regulated monopoly, and we must provide reliable service to our customers, which means we need to have backup supplies. This is what the LNG facility is for. *see written testimony*

Commissioner Houck asked about serving the need to address peak could be done somewhere outside of this liquefaction zone.

Part of the regulatory process is looking at where we can store gas. The Oregon Public Utilities Commission has found that this facility is necessary for our overall capacity.

19. Amy Monahan, on behalf of high school students: *see video*
20. Mia Reback, 350PDX: Supports lowering terminal threshold from 5 million gallons. Supports the proposal for the legal non-conforming use designation for current facilities. We should criteria in the proposal to specifically address climate and safety. We need to transition to 100 percent renewables now.
21. Nicholas Caleb, Center for Sustainable Economy: NW Natural has been a leader in community philanthropy, but it is still a dirty gas.
22. David van't Hof, Climate Solutions: Supports the process and leadership from the City. We also support the idea that we don't need new fossil fuel terminals. Regarding expansion and the region's need, we shouldn't be required to meet all the needs of the state. Any expansions should be looked at outside of liquefaction zones. Concern that with ethanol no be counted as a fossil fuel and then switch the use. Look carefully at how you can specify that the permit is only applicable if the energy facility use is only for that offered in the permitting process. *see written testimony*

Commissioner Houck: You noted the concern about aggregation of facilities. Do you have examples of smaller facilities aggregating to a larger overall capacity?

Examples are in BC. And also the Dakota Pipeline is multiple small projects.

23. Dr Theodora Tsongas: Changes to the proposed draft don't fulfill the resolution from 2015. Strengthen the regulations about existing terminals. Ban all new fossil fuel facilities including those smaller than 5 million gallons. Add language to disallow aggregation.
24. Byran Tenant, NECN: The proposal is moving in the right direction but could be strengthened to meet last year's resolution. A new facility could mean additional more trains traveling through our neighborhoods and adding additional risk to our neighborhoods.
25. Maya Jarrad, 350PDX: Terminal aggregation seems to be allowed in the current proposal. We should add language to limit projects that in aggregate are more than allowed by a single facility. *see written testimony*

26. Chris Turner: The proposed code change does not go far enough. Expansions should not be allowed at all. There is an issue with backup capacity and seismic upgrades, but these need appropriate approval criteria. Allow terminals to be upgraded, but not the capacity.
27. Amirah Field: Fossil fuels are toxic. We are adding work for the trees to combat climate changes. Please don't add to this.
28. Captain Peter Wilcox, Columbia Riverkeepers: Supports further steps to ensure the final zoning does not increase capacity for fossil fuels to come through or be stored in the area. It's important that new policies don't conflict with building new infrastructure for clean fuel storage such as biodiesel. *see written testimony*
29. Mike Litt: Why do you think that expansion of fossil fuels capacity may be necessary because of the clean fuels program? Why is it that there is a suspicion that expansion under 5 million gallons may be necessary? *see written testimony card*
30. Rob Lee, Linnton NA: No new or expanding, including height, of tank farm facilities. These should be moved to non-liquefiable lands. *see written testimony*
31. Denise Weller, Linnton NA: Zoning is about protecting people. Tank farms in Linnton are on liquefiable lands. *see written testimony*
32. Nancy Harrison: Thank you for the work you've done on this issue. I have a number of considerations about the amendments. Since we've seen that our use is going down, we shouldn't allow exemptions for new facilities of any size or 10 percent capacity increases. Seismic retrofits would be a good thing to allow.
33. Alona Steinke: What happened between the proposed code and what the Council resolution stated? We need to ban all new fossil fuel terminals as was the intent of the resolution.
34. Don Steinke: Local ports are seen as the fastest route to Asia. A number of west coast cities have banned or reduced capacity for the number of trains they're allowing through or crude oil terminals to be built. Portland is not on this list. The proposed code enables more trains to come through the Gorge to Portland.
35. Tom Sincic: We can't measure need by demand; we need less fossil fuels. Referenced a World Health Organization report on air quality.
36. Tori Cole, SEIU 503: Reject building of any and all new fossil fuel infrastructure in Portland. Transition to 100 percent renewables by 2050. Make deliberate choices for our future. Invest in renewable fuels infrastructure. Don't be divided by labor or environment... it's both or neither. *see written testimony*
37. Charles Johnson, Oregonians for Food, Shelter Plus: Council needs your help. they support the Standing Rock Sioux Tribe. Don't save stranded assets but save the future for the children. Don't make something easier for a fossil fuel terminal. Reduce the 5 million gallons to zero. Don't worry about saving old technology that is holding us back from safer, newer technology.
38. Edith Gillis: Supports a total ban on all new fossil fuel infrastructure. Ban anything larger than the existing truck stops. Oppose allowing the 5-million-gallon exception. Improve and add to permit review to save Portlanders money and risk.
39. Cody Tucker: The current policy draft is not enough to significantly combat climate change. We can't consider building any new facilities without upgrading our current ones for safety.

40. Julio Forges: Originally from Haiti. Our biggest problem at home today is environmental degradation. I'm here working with 350PDX. People in my country feel climate change and suffer the consequences. Beaches are disappearing into the ocean. Portland is a leader in the US and the world against fossil fuels.
41. Mukta Akter: From Bangladesh, one of the most climate change impacted countries in the world. I'm here working with 350PDX. It is mainly a low-elevation country, and that coupled with increasing storms have been devastating. Our country contributes extremely minimally to global carbon emissions but has experienced the effects of climate change more than most countries. Much more needs to be done. *see written testimony*
42. Julie Chapman, League of Women Voters: Global climate change is the largest issue. Any increase in expanding fossil fuels goes against our need to invest in renewable and clean energy industries. We need to shift rapidly to energy sources that don't emit GHGs. *see written testimony*
43. Dawn Smallman: Hold true to Council's resolution and a full ban on all new fossil fuel facilities. Portlanders don't want these dangerous shipments coming through the Gorge and along our waterways through the city. Regulate current terminals as non-conforming uses. Seismic upgrades should be required. Also require public safety and risk, risk to waterways, transit, and criteria that take climate change into consideration. *see written testimony*
44. Micah Meskel: NW Natural and staff have a fear about a non-conforming use designation could stall or eliminate seismic upgrades. Only one of the facilities are being upgraded annually. We should encourage the upgrades. At the current rate, we have a public safety and environmental risk.
45. Marcia Denison: Don't put more facilities (bombs) on our land. No more oil tanks on my river.
46. Ted Gleichman, OR Sierra Club: Pass the strongest ban possible on fossil fuel infrastructure and new facilities. *see written testimony*
47. Samantha Bailey: Children should not be responsible for having to deal with this and coming to testify. They are trying to fix their future, but that is our job.

Vice Chair Smith closed oral testimony at 4:52 p.m. Written testimony will remain open through Friday, September 16 at 5 p.m.

Discussion

In terms of the 5-million-gallon recommendation, Michael noted this allowance was responsive to the Council resolution. We want to oppose expansion but not hamper seismic upgrades. We need to accommodate regional demand, but people disagree about if demand is going down or up. The other piece is to enable blending of fuels. As we get new fuels coming in, you have to mix things in a tank. We don't know about the size of those tank requirements, so there is likely some need for infrastructure (tanks) to do this. To accommodate seismic upgrades, about one tank per year is being retrofitted. When they are retrofitted they are slightly larger. The question of the number is certainly worth discussing.

Commissioner Tallmadge: Why can't we require seismic upgrades to the current tanks?

- We could, but it's much bigger than that. It takes time and money, and there are issues around our ability versus state and national government.
- Seismic standards are embedded in the state building code. The City administers the code. In Oregon you have to comply with current codes, but there's little done about enforcing

retrofits. This is a barrier we've faced, and we'd need to go to the state to get the authority to preempt the state codes.

- Looking at the energy code, for example, Portland has wanted to have a stricter code than the state has allowed us to have. In this case, the way to do it is to build a coalition and go to the state level.

Commissioner Spevak noted the property maintenance code. Is there a way we could say you're built under codes from the past, but you need to conform to today's restrictions?

Staff is interested in working with BDS on non-conforming use as an option, but we wanted to list the other options as well. We can come up with standards around non-conforming versus a conditional use. In the end we have a higher bar under non-conforming because the presumption there is that these will go away in the future.

Vice Chair Smith: My guess is that some of these facilities are viable outside liquefaction zones. Could NW Natural store their gas elsewhere with pipelines and trucks to transfer it? Yes. But most of our industrial lands in Portland are in some sort of liquefaction- or other-impeded location.

Commissioner St Martin noted the energy corridor overlay zone concept. In light of the liquefaction zone, could that be an overlay that has some requirements about what can and can't be developed there? The transition to clean fuels is a safety question. Encouraging these in the liquefaction zone is also not a good idea.

Commissioner Oxman: Concerned about the seismic situation, which is huge health and safety issue. I like the non-conforming use strategy, but I'm not sure if it's realistic or that it makes sense. If we can allow for diminishing fuel use and seismic upgrades over about 20-30 years, that would be a good discussion. The issue of smaller facilities aggregating: you sited 130 small facilities that haven't been inventoried. Is there a huge hole in the policy by setting the limit at "x million"? We need to better understand the market and capacity. I don't think it makes sense to have ethanol on this list.

Commissioner Spevak: We have a role to incent improvements, but I'd like to hear more about the BDS side to require upgrades. Also, Council gave us direction to look at both storage and transport. I don't see any reference about throughput. By just regulating the size of tanks, the throughput could still continue to grow. Storage size is only an indirect way to address transport, so I'd like to see more direct information about quantity and time. It seems the code doesn't address if someone wants to build a pipe directly through Portland to a transfer facility elsewhere.

- Stand-alone pipelines were not part of this proposal.

Commissioner Houck: The document is pretty good. I do have concerns with the proposed changes and in reading it, it seems like lots of policy is being affected by BDS' concern about workload and expertise. I don't think that should drive this type of decision. We can address that separately. I'd like to get as much out of the liquefaction zone. I support non-conforming use, but if it inhibits retrofitting, that is a concern. If the big one hits, I am not sure if have confidence that seismic upgrades will do the job anyway. I did meet with NW Natural, and I heard their concerns about the non-conforming use option.

Commissioner St Martin: I noted my concerns about safety and expansion in the liquefaction zone. Also, if we have more frequent service (trucks and/or trains) to smaller tanks, that is a concern.

Commissioner Larsell: I'm concerned about unintended consequences. I don't want us to pass anything that would cause more transportation of fossil fuels coming through the Gorge. The worst issue in an earthquake are the tanks along the river. How many of the companies that have fuels in Portland are included in the OPUC?

- NW Natural and electric companies.

Commissioner Baugh: Throughput is a big deal. If the price is right, facilities can put a lot of product through without expanding or at least for very few dollars. There is the question of “regional”. We are regulating facilities that are broader than the city of Portland. There are a series of regulations from Homeland Security around use that we don’t want to take issue with.

Vice Chair Smith: Do we have an obligation for regional consultation with Metro? Have we sufficiently done an economic analysis as required in the resolution? There is an exception for recycled oil, but that is particularly dirty. What about language to cover the change in use loopholes? The Linnton question about the 400-foot buffer is a good one. If the quake does hit, how would we want these facilities rebuilt? A different pattern of development? Should we try to capture that in the code?

Commissioner Tallmadge: If we were to build a coalition and go to the state for new seismic standards, is it possible to build the concept so that it’s elective for any given jurisdiction?

- Lots of legislation is enabling to give local governments flexibility.

Staff will take these questions from Commissioners and put together a memo to the PSC. We will summarize additional written testimony we receive and will have proposals for your consideration on October 11. Also to note, there will be a Council work session on this topic next Tuesday at 10:30 a.m.

Adjourn

Vice Chair Smith adjourned the meeting at 5:24 p.m.

Submitted by Julie Ocken