

DEPARTMENT OF COMMUNITY SERVICES  
LAND USE AND TRANSPORTATION PROGRAM  
MULTNOMAH COUNTY PLANNING COMMISSION

MINUTES OF AUGUST 1, 2011

- I. **Call to Order:** Chair John Ingle called the meeting to order at 6:35 p.m. on Monday, August 1, 2011 at the Multnomah Building, Room 101, located at 501 SE Hawthorne Blvd., Portland, OR.
- II. **Roll Call:** Present - Ingle, Chris Foster, Katharina Lorenz, John Rettig, Michelle Gregory  
Absent - Jim Kessinger, Julie Snelling, Bill Kabeiseman
- III. **Approval of Minutes: June 6, 2011.**  
Motion by Gregory; seconded by Lorenz.  
Motion passed unanimously.
- IV. **Opportunity to Comment on Non-Agenda Items:**  
None.
- V. **Work Session: Amendments to the Home Occupations Provisions in the Zoning Code. PC 2011-1398.**

Lisa Estrin, Multnomah County Land Use planner, presented the staff report to clarify two types of home occupation uses, Type A and Type B; and ensure adequate protections for adjacent properties that may be affected. The proposed uses that fall under home occupations are listed on page 2 of the staff report.

It is proposed to restructure the definition of home occupation by moving the Type A from the definition section to the permit section of the zoning code. The Type A Home Occupation allows residents to use their home as a place of business, allows one non-resident employee or customer on the premises at any one time, and must have frontage onto a public road. If the house does not have road frontage, the parcel does not qualify for a Type A.

Foster asked if it would be acceptable if there was an easement agreement. Estrin said staff could craft language to make a Type A acceptable, if all easement holders grant approval. Gregory thought that seemed like a fair option. It was determined that language should be crafted to include this option.

The next goal is to improve Type B's functionality, and incorporate case law. The Hearings Officers have advised that "home site" should be better defined. Staff's proposal states the "dwelling would be the home site for the place of work, and permitted, enclosed accessory buildings would have to be within 100 ft of the dwelling".

Foster thought because there is a foot number stated and there are always exceptions, adjustments or variances should be considered. Staff will look at that.

There was a discussion about whether to allow outside use in "enclosed accessory buildings within 100 ft of the dwelling". One option is to remove the word "enclosed" and allow outside use within 100 ft of the home to be part of the home occupation. The second would be to allow "incidental uses". Rettig said there were many factors to consider with outdoor use, such as type of activity, impacts to neighbors, noise, trespassing onto adjacent property, etc. Lorenz pointed out that a few

outdoor picnic tables for employees would be very different from an outdoor wedding with a band. Estrin said outdoor picnic tables could be considered under the "incidental uses" proposal. Ingle asked for the definition of "incidental uses". Estrin said the proposed language states "Incidental use of the surrounding lands for minor uses associated with the home occupation may be authorized". The commissioners thought that "incidental" should be a little better defined, with perhaps some examples.

Estrin said staff was not proposing to add outdoor hosted events at this time because of the potential for significant impact on the neighbors. Lorenz said the fact that there are a significant number of complaints associated with this activity should be taken into consideration.

Moving on to the technical changes in the language, Rettig thought describing automobiles as "internal combustion" engines is probably outdated, and should substitute it with a definition that is all encompassing.

The next issue is to delete references to the Small Business Section of the Department of Environmental Quality, since it no longer exists. Three options to replace this reference were presented. Option 1 states: "Type B Home Occupations must be in conformance with all other applicable state codes." This option would allow for future changes as well. Option 2 is from the City of Portland's code, which includes limiting hazardous substances to consumer quantities. The third option is based on Clackamas County's home occupation code, which relies on the Oregon Structure Specialty Code. PC members stated that Option 1 was the favored replacement.

The number one complaint to code compliance about Type B Home Occupations involves Dispatch Centers, such as a contractor storing equipment and dispatching employees from the site. The complaints include the number of vehicles and associated issues, employee congregation, noise, etc. Case law does not allow dispatch centers in the resource zones because predominate use must be the home; however, that is not binding in non resource zones. Foster thought that the issues would be the same in both, and should not be zone specific. Estrin asked if the commissioners thought dispatch centers should be excluded from Type B. Rettig felt it would be okay as long as they are clearly defined, and distinguished between communications and materials dispatch.

It was also discussed whether to continue with the Type B Home Occupation purpose statement. In the past, planning staff had looked to the purpose statement for guidance regarding the scope of the proposal, and the community being served. However, the county's Hearings Officers have rejected the use of the purpose statement as criteria or guidance in their reviews. If the commission believes it is part of the objective for a home occupation, criteria should be added.

Foster thought that with the limitations on a Type B's, the purpose statement currently reflects what we do. Ingle asked what the reason was for criteria. Estrin said criteria is developed to support the purpose statement when it has been established.

Ingle proposed that this work session be continued to the September 12 meeting.

## **VI. Work Session: Zoning Code Improvement - Definitions, Storm water and Fencing. PC-2011-1400**

Estrin presented a proposal for zoning code improvements that involve housekeeping items. The first would add an exemption for security fencing around utility facilities for the Significant Environmental Concern (SEC) wildlife habitat overlay. The proposal would add one criterion to

the fencing exemption for utility facilities, which would read "fencing standards do not apply where needed for security of utility facilities". That standard is presently in the West of Sandy River area, and staff would like to add it to chapters 33, 34 and 35 making it consistent throughout the county. Foster said that seemed reasonable.

The second addresses the creation of storm water management code language separate from the grading and erosion control (GEC) ordinance. At present, it is unclear when a storm water review is required if a project does not involve ground disturbance, since the trigger is currently contained in the GEC ordinance under the Minimal Impact section. In order to better implement Comprehensive Plan Policy 37 for Drainage, it is proposed to create a separate section for storm water, and create a second trigger for storm water review. Staff took current policy and language from the GEC regulations to craft a storm water ordinance, which includes a purpose statement and definitions for impervious surfaces. This differs slightly from GEC code, where gravel is not currently considered an impervious surface. During the recent Springdale and Burlington projects, gravel was determined to be impervious, so that finding would be included in the storm water review regulations.

Foster thought the definitions of impervious were too specific, which could prohibit changes in materials or design that render some listed materials pervious. Estrin said that a property owner could propose to use pervious versions of the listed materials, if an engineer certifies that the storm water would be correctly diverted. Due to the extra cost to the property owner, Foster was not comfortable with requiring the involvement of an engineer, and felt that listing specific materials as impervious is too restrictive. Estrin noted that aside from gravel, all of the other items are currently listed in the GEC as impervious surfaces, so this is not a new proposal.

Gregory shared concerns that listing specific materials may not take into account more modern approaches to using these materials, and thought that applying gravel standards for a right-of-way to private property may be too restrictive. Estrin said because gravel is so easily compacted, drainage needs to be addressed. A definition could be added which talks about pervious surfaces, and include pervious gravel, asphalt, concrete, etc., but if an engineer designs a pervious surface, there must be a system to divert storm water into a soakage trench, or something similar.

Foster asked if the Uniform Building Code (UBC) had current regulations regarding impervious surfaces. Estrin said there is a requirement for storm gutters on dwellings, and they look for a splash block system that is adequate for the soil types, a soakage trench or drainage system. Foster thought UBC regulations should be looked into to make sure this won't duplicate efforts. Estrin said she would check with the building department and include that in the next staff report.

Foster asked if it was possible to develop some standards that would not require engineer approval, like the City of Portland. Gregory thought if there are ways to provide innovative, prescribed approaches that can save the property owner money, perhaps that should be researched. Chuck Beasley, Senior Planner said the county does work towards streamlining costs to the customer, and has considered these issues in the past. Land Use Planning researched the feasibility of getting "off the shelf" storm water infiltration systems, and in the process discovered that because of varied soil type, amount of impervious surface being added, stability issues, and proper placement to avoid sanitation issues, these variables made it impractical for the county to offer a standard system.

The third proposal involves camp and campground definitions with modifications, and proposed time limits. There is presently a definition for Recreational Vehicle (RV) Park, but are lacking one

for camp and campground. Since changes under state law use the term Recreational Vehicle Park to define a manufactured/mobile park home, we would like to remove that term from our code. The use would be Camp & Campground, under Community Service Use. Staff would like to add definitions to Chapters 33, 34, 35 and 36 to clarify the terminology. Also, currently, the RV Park time limit is 30 days, with no parameters. We propose 30 days in a consecutive six month period, as stated in our resource zones, or 60 days in a twelve month period, which the National Scenic Area (NSA) code states. The NSA determined that camping at one location longer than 60 days becomes a dwelling. One campground facility requested a more liberal time period, such as 90 days, to accommodate snowbirds.

Gregory thought perhaps the commission should look at the activities of entrenchment that define residency rather than a timeframe. Estrin said a time period is easier to monitor and regulate. Rettig also thought that makes it easier for the campground to manage people as well. He also proposed regulating both the vehicle and the person(s), and accurately defining "family".

Rettig thought 90 days too long, and 30 too short; 60 days sounded about right. Most of the other commissioners concurred, and Foster pointed out they would have the option to change that at the hearing, if they choose.

The fourth proposal is to clarify access requirements to make it consistent with land use division code. The proposed changes are outlined in the staff report. The commissioners had no questions.

The fifth proposal clarifies code compliance and land use reviews/decisions, which in practice, current language is not clear. The proposed language changes are included in the staff report. Rettig questioned whether building permits included minor permits such as electrical and plumbing; Estrin said if there is a land division violation on the site, land use cannot approve a permit unless a Voluntary Compliance Agreement was signed.

## **VII. Director's Comments:**

Beasley presented director's comments, stating that in addition to coming back with PC-2011-1398 in September, LUP would like to conduct a rural design review work session. We will give an update on the outcome of the legislative process and how it affects land use planning. Legislative counsel, Jed Tomkins, plans to brief the commissioners on the Ethics and reporting requirements.

Between now and the end of the year, the plan is to bring the work program outline for 2012, discuss the GIS mapping project, consolidate planning authorities and update planning commission rules.

Also, since we did not get a good response for the residents of Sauvie Island planning commissioner recruitment, we may need to broaden the search area.

Meeting adjourned at 9:20 p.m.

**The next Planning Commission meeting will be September 12, 2011.**

Recording Secretary,

Kathy Fisher