

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

MINUTES OF SEPTEMBER 13, 2010

- I. **Call to Order-** Chair John Ingle called the meeting to order at 6:30 p.m. on Monday, September 13, 2010, at the Multnomah Building, Room 101, located at 501 S.E. Hawthorne Blvd., Portland, OR.
- II. **Roll Call-** Present- John Ingle, Chris Foster, Pat Brothers, Katharina Lorenz, John Rettig, Michelle Gregory, Julie Cleveland, Bill Kabeiseman
Absent- Greg Strebin
- III. **Approval of Minutes of June 7, 2010.**
Motion was made by Gregory to adopt the minutes, with staff's correction. The last sentence in the third paragraph should read "*However, the Gorge Commission strongly suggested that there be a cap of no greater than the energy used on the property* in order to be very clear that it is residential and not industrial or commercial". Motion was seconded by Rettig, and passed unanimously.
- IV. **Opportunity to Comment on Non-Agenda Items.**
None.
- V. **Hearing: Zoning Code Amendments for Accessory Alternative Energy Systems PC-10-003**
Chuck Beasley, Multnomah County Senior Planner, asked that this agenda item be postponed. There is ongoing dialogue with Gorge Commission staff about whether the suggested approach will fit within the existing management plan framework. We would like to make these amendments apply Gorge-wide, so we also need concurrence from the Forest Services, who oversees the Special Management Area. We anticipate coming back with this in November.
- VI. **Work Session: Zoning Code Improvement, Amendments to Definitions, Consistency of Permit Expiration Provisions, Information Required on Subdivision Plats PC-10-005**
Kevin Cook, Multnomah County Staff Planner, presented his staff report explaining the five categories of code amendments being proposed. In looking at the definition of "Development" in the code, it was discovered that a word had been omitted. We propose adding the word "removal" after the word "vegetative". Brothers suggested that be changed to "vegetation".

Gregory said her initial assumption was this pertained to land removal, as well as vegetation. Is this encompassing enough to include that? Cook believes the Chapter 29 Grading and Erosion control section addresses land removal in more detail, but will make sure that is the case.

Kabeiseman thought it wise to clarify what the definition of "development" will define, and pointed out that the current definition of development appears to be somewhat circular. It says "a permit is required for development", then looking under development it states, "any act requiring a permit". That should be less ambiguous.

Regarding Final Plats, Cook said our code currently indicates if there is a flood plain boundary, or area of high water associated with a plat, it has to be delineated on the plat. However, under

current Survey laws, subdivision plats and partitions are only required to have basic information, and we cannot require more. We can require that a plat note and/or supplemental map delineating that line be submitted for the record. This would be filed with subdivision files for future reference.

Gregory wondered if it wouldn't be prudent to require a plat note and/or supplemental map for other fatal-flaw type hazards. Cook said although that would broaden the scope, it does sound reasonable to encompass other hazards, such as avalanche hazard, steep slopes, and slopes at risk-of-failure.

Part 4 includes the expiration and extension of Type II or III permits. We discovered that Chapter 37 and Chapter 38 have differences about when an approval is implemented, and when an application has expired. Chapter 37 distinguishes between resource and exception zones, such as EFU or CFU, while Chapter 38 differentiates between a land use only permit and one involving a structure. There are ORS statutes regarding these two issues, and we would like to try to standardize ours, while encompassing the state statutes.

Foster questioned if there needed to be a distinction between the resource zones and the exception zones. Cook said it might make sense to set the same time frame for both in order to minimize confusion. We'll check the statutes to ensure compliance if we change the exception zones to be more consistent with the resource zone.

Part 5 is related to Part 4, thus is subject to change if it's determined some of the language is irrelevant. But for now, we are proposing to add (A) to the criteria in Chapter 37 in order to clarify the definition. We hope to return in November with some code language.

VII. Work Session: Amendments to EFU Zone Provisions to Implement HB 3099 (2009) PC-10-006

Beasley presented his staff report regarding HB 3099, which made changes to state statutes pertaining to EFU land. One of the key points is moving a couple of uses from the "may allow but not required to allow" list to "uses that we can decide not to allow". This moved some uses the County is required to allow, but cannot add legislative criteria, to the list where we can add criteria. Those are the changes from Allowed to Review Uses to Conditional Uses.

The Conditional Use change puts limitations on the size of what determines an urban school, amends the school's description to differentiate between urban and rural schools, and limits allowable schools in the EFU to K-12.

Foster questioned if there is any farmland not considered high value. Beasley said there are pockets. Kabeiseman asked where in the rural areas we would want schools. Should we try to keep urban type facilities off high value farmland, yet acknowledge there will likely be development at some point? That could be a way to accommodate school districts' needs to plan for the future, and avoid high-value farmland. And Gregory said if this applies to both public and private schools, there should be a provision to ensure that preservation.

Kabeiseman asked for clarification on what staff is looking for. Beasley said in the past we had to allow expansion, but as a result of this legislative change, we can choose to not allow it at all, or

allow it with conditions. New schools on high-value farmland would still not be allowed without a goal exception.

Gregory asked if one of the issues is whether or not to use conditional use. Beasley strongly recommended they do. And do we want to add new schools listed as a use in the EFU as an allowable use, pursuant to these rules, or continue to not allow it.

Gregory thought new schools as a conditional use seems prudent. Foster pointed out that we are only talking about farmland; there will be exception areas and forest land to allow new schools. Kabeiseman said his general inclination is to allow schools on areas that aren't high value farmland. However, there's not much to warrant a code provision.

Cleveland would like to leave it as it is and not allow schools on any EFU land. Although it has been awhile since she read this bill, she believed it did not allow private schools on EFU land, but would like Beasley to double check that. Foster thought it would be useful to have some legislative history on how and why this change came about. Beasley will see if he can find something that would be helpful.

There were various questions and comments from the commissioners about how to verify the threshold for rural versus urban students, and what would happen when a school's use changes over time. Beasley said DLCD staff suggested using attendance area for verification. The other issue will take some thought, as it has an enforcement component as well.

Gregory asked if these adjustments are only for schools acquiring new land, or would it also apply to the expansion of schools on existing farmland. Beasley said an existing urban school allows for expansion onto a tax lot that is contiguous, either on the same parcel or an adjacent one. Expansion of an existing rural school appears to be more stringent. Foster said, from a planning standpoint, we should keep in mind that we do not want to encourage urban sprawl into the rural areas.

Beasley suggested bringing some language back to the Planning Commission to narrow the choices a bit. First, however, the commission needs to establish if these uses should only be in urban areas, unless they serve a rural population.

It appears that the language in our Community Service use approval criteria for the farm compatibility test is not compatible with the current state statute. Since schools are processed as Community Service uses, we recommend replacing the language with the criteria in the statute. Kabeiseman wants to make sure that (C) does not add an additional step, and asked Beasley to take a look at that.

On to temporary health hardship dwellings. We discovered that our code does not allow for three different dwelling types; there are limitations to farm use dwellings that are historic properties, and to casualty loss dwellings. Since a property owner would have gone through a conditional use process to get the health hardship permit, it does not make sense to not allow a hardship dwelling be replaced. The property would already be under a permit as a temporary dwelling.

Cleveland would like to add into the code that an RV or park model could also be considered a health hardship dwelling. State statute allows them, but we restrict them to manufactured homes, which can be a financial burden for some.

The final proposal is to make the use of dog kennels conform by removing the reference to greyhounds.

VIII. Director's Comments.

Although the upcoming fall agendas are still being solidified, we would like to have PC-10-003, PC-10-005 and PC-10-006 done by the end of the year. In October, we will begin a series of meetings regarding Springdale & Burlington. We plan to start with a combined work session, then schedule separate hearings in the next two months. And in November, we would like to start our Workprogram conversation for calendar year 2011.

Meeting adjourned at 8:10 p.m.

The next Planning Commission meeting will be October 4, 2010.

Recording Secretary,

Kathy Fisher