COMMUNITY ADVISORY COMMITTEE MEETING
ROOM 126 MULTNOMAH BUILDING
501 SE HAWTHORNE BLVD. PORTLAND, OR
JULY 22, 2015 6:00 PM

MEETING SUMMARY

I. Welcome, Introductions and Announcements

In attendance:

CAC	Project Team
Aaron Blake	Rich Faith
Andrew Holtz	Kevin Cook
George Sowder	Rithy Khut
Linden Burk	Matt Hastie
Marcy Houle	Eryn Deeming Kehe
Martha Berndt	Allison Conkling
Paula Sauvageau	
Stephanie Nystrom	
Will Rasmussen	
John Ingle	
Karen Nashiwa	

Absent
Tim Larson, Chris Foster, Catherine Dishion, Sara Grigsby, Jerry Grossnickle, Kathy Taggart

Others in attendance: Carol Chesarek, Sandy Baker, Steve Baker

Rich Faith mentioned that a committee member, who was not here tonight, sent comments regarding the last meeting summary. Those comments were shared with the entire committee. The member disagreed with a conclusion made in the summary on page 4 under the first bullet which stated that it was not necessary to define the term “important natural landscape features”. That person thinks this term must mean something or must be tied to something. It should be defined or pointed out somewhere in the plan. We had discussion about this at the last meeting but no decision was reached.

Rich asked the person in the audience who raised this issue at the subcommittee level the significance of that wording and the person explained that it relates to a particular study that was done as part of the urban/rural reserves. It does have some precedence and meaning and for consistency this language was an important change. Rich thought everyone was in agreement no further action was needed on this but others believed we hadn’t brought it to closure; something else needs to be done to explain the use of this

term. Rich asked the committee if there is something else that needs to be done on this policy. It was suggested and agreed that this matter should be taken up with the committee member who had submitted the written comments and to work it out with that person. (Note: The CAC member showed up at the meeting after this discussion took place. In conversation with staff that occurred after the meeting, it was agreed to put this topic on the parking lot list for follow up.)

Rich referred to the list of parking lot items included in the meeting packet. He put together this table to provide a reminder of what the parking lot topics are and what their status is. Everyone liked this format.

II. Code Compliance Policy

Rich explained that this policy is recommended by the land use subcommittee. After they had decided on the policy language, it was reviewed by the assistant county attorney, Jed Tomkins, who has some desired changes. Jed's changes are included for comparison and are shown as the shaded text. Staff met with Jed to discuss his changes and agree with all of them except for the policy statement. Staff feels the words "in all cases of verifiable code violations" were important to the subcommittee and should remain at the end of the policy. Jed had no problem with leaving that language in. Staff also thought in strategy #3 where Jed's language talks about "an actual or alleged violation", this should be changed to "verifiable code violations" to be consistent with terminology in the policy statement.

Eryn asked if there were any questions or concerns with this policy and a member said that she was confused by some of the choices of words and how they relate. In strategy #2 for example, what is the intent of the word flexibility? That word confuses and weakens the policy. Rich says it could be a matter of degrees and that is why Jed added method and degree of enforcement to the strategy. Jed's language states that the concept of flexibility is built into the code, not placed on the shoulders of staff to figure out. That's a better way to approach flexibility. Other major comments about this policy were as follows:

- A preference was expressed for maintaining Jed's text "…an actual or alleged violation…" in strategy #3 over replacing it with "…verifiable code violations…". There was much discussion about the two options.
- If "flexibility" is a problem in the policy it could be eliminated. Delete the words "…the County with enough flexibility to utilize…" from Jed's version of strategy #2.
- Other liked use of the term "flexibility" or "discretion" in the stategy.
- The teeth in this policy are in the last strategy pertaining to fines.
- The policy has some weak, vague language.

After much debate the committee settled on the following policy language.

Policy: Jed's language with the inclusion of "…in all cases of verifiable code violations" at the end of the policy.

Strategy 1: Jed's language with no changes.

Strategy 2: Jed's language but deleting the words "…the County with enough flexibility to utilize…"

Strategy 3: Jed's language with no changes.

Strategy 4: The subcommittee's language as written.

There was comment from the public.

Action Taken - Committee approved. There were 2 yellow votes and 1 red vote on the policy. Eryn asked if any of the yellow and red votes felt strongly enough about their position that they wanted resolution before moving on. They did not, so the decision is final.

III. Nonconforming Use Policies

Rich reported that the land use subcommittee feels that not much needs to change with regards to nonconforming uses to strengthen or revise it in any major way. Jed Tomkins reviewed the subcommittee's proposed policy language and had some issues with it because it has been problematic in the past primarily because our code uses terminology that doesn't match statute which presents complications when arguing cases on nonconforming uses. Jed feels very strongly that we need to write policies that match language in the statute which does control, to a large extent, how nonconforming uses are addressed in county ordinances.

Jed is proposing to combine and revise policy 1 and 2 recommended by the land use subcommittee. He is using terms that are consistent with statute and he even cites those statutes that pertain to nonconforming uses. On the 3rd policy he has condensed it to remove terms not found in the statutes. Staff feels that he captured the essence of what the original policy intended to do.

A CAC member said he would like to leave in the word "addition" with clarification that it's part of "alterations". He also feels that Jed accidentally excluded structures as part of a nonconforming development in policy #3. He proposed that we keep Jed's language but add "or structure" after "nonconforming use" and add in parenthesis "(including additions)" after alteration to clarify that additions are an alteration.

Another member felt that Jed's proposed changes made the policy too permissive. Another thought that safety should be included among the impacts listed at the end of policy #3.

There was no comment from the public.

Action Taken – The Committee approved the suggested changes in policy #3 by adding "(including additions)", "or structures", "and safety" in the appropriate places. There was one yellow vote. Eryn asked the person who voted yellow whether she felt strongly enough on her position that she wanted resolution of the issue. She did not, so the decision is final.

IV. Forest Dwellings/Clustered Development in CFU Zones

A. Forest Dwellings

The farm, forest and rural economy subcommittee looked at options on allowing forest dwellings ranging from a policy that does not go beyond state minimum requirements to one that exceeds state minimums and stays with current zoning standards. The subcommittee decided that they want to support the current county standards which exceed state minimum requirements for dwellings in the commercial forest area zones. There are five policies being recommended by the subcommittee. Jed Tomkins reviewed these policies and had only one small change. In policy #5 he wants to replace the word prohibit in "prohibit parcelization" to "minimize".

A committee member wanted to know if the word "significant" in #2 had any particular meaning. The response was that the term is not defined but is taken straight out of the statute and it's better to leave it in. The following are some of the other comments on this policy:

Public Comment:

- Carol Chesarek expressed concern about replacing the word prohibit with minimize. Can the policy spell out the cases when parcelization is allowed so that it is clear about what is prohibited. She would like to get closer to the committees original intent while leaving Jed a legal loop hole.
- A CAC member suggested that they leave the prohibit language in and say "prohibit parcelization except as authorized by code". Others felt that might work but that text change should be run by the county attorney for confirmation.

Action Taken - The Committee unanimously approved the policy as recommended by the subcommittee with the inclusion of the words "except as authorized by code" after "prohibit parcelization" in policy #5. This change is subject to the county attorney's approval. If he does not approve, then replace "prohibit" with "minimize" as he suggested. (Note: Jed Tomkins is agreeable with this change but would also like the word "parcelization" replaced with "creation of new lots or parcels". This results in the policy #5 saying "… prohibit creation of new lots or parcels, except as authorized by code… ".

B. Clustering Development

Rithy Khut summarized this policy by stating that currently the County does not really have any restrictions about where on the property you can put a structure unless you are in one of the SEC overlays that deal with resource protections or views. The concern being addressed by this policy is those situations when someone wants to put a structure where additional tree cutting/clearing would be necessary. For example, they may want to put an accessory building on the other side of the property from where the house and other buildings are situated resulting in spreading out structures over a wider area, needing to cut more trees to be able to access the building site and having a greater impact on the environment with the removal of these trees.

Major comments from the committee about this policy were the following:

- It isn't clear what is the reasoning behind this policy is?
- I don't like this policy at all. It's too restrictive. Too costly for the property owner. It's government sticking its noise where it doesn't belong.
- I don't like the concept of clustering houses next to each other. It creates an urban type density when the whole point in living out in these rural areas is to be some distance from your neighbors. People should be allowed to site a house on their property where it is away from the neighbors.
- I don't want us to be like Colorado where houses in the country are scattered like buckshot all over the landscape. We need to speak for the wildlife that are affected by the development pattern.
- There have to be sacrifices when settling in the commercial forest areas. The CFU zone should be primarily for the wildlife; houses should be secondary. We need to cluster housing for the benefit of wildlife.
- "Public safety and infrastructure" should be included among the list of conflicts that clustering is trying to minimize in the first policy.

Public Comment:

- Carol Chesarek stated that the policy not only protects wildlife, it protects forestry which is also a primary purpose of the CFU zone. Also, there are confusing terms being used and it would be nice to have some kind of glossary of terms which might address some concerns about other topics that have come up.
- In response one CAC member said that if there is a relative term used and it is explained in the minutes, it becomes part of the legislative history should two attorneys go to court over something and need to research its intended meaning.
- Sandy Baker stated that she agrees with the committee member who said this policy is too restrictive.

Action Taken - The committee approved the policy with the addition of "public safety and infrastructure" at the end of the first sentence of policy #1. There was one yellow vote and one red vote. There was no need to work out a resolution since there was at least a 2/3 majority is support of the policy.

V. Wineries Policy

Kevin Cook summarized information from his memorandum about wineries. He said that the statutes on promotional events at wineries are more complex than those for farm stands. To be considered a basic winery you must have 15 acres planted with grapes, while to qualify as a large winery you must have at least 40 acres planted in grapes and produce at least 150 thousand gallons of wine annually. The farm, forest and rural economy subcommittee took the farm stand policies from the pending Sauvie Island Rural Area Plan, which is very prescriptive and atypical of a comp plan policy, and is proposing that it be applied countywide to wineries. The prescriptive standards are intended to stay in place until code is written. In analyzing what is allowed by the winery statutes, it appears that the County has the ability to apply similar standards in the interim until code is written to become the local standards around wineries. Even though the farm stand policy, which is serving as a model for the winery policy, has been written into the Sauvie Island plan, the county attorney has cautioned everyone that the courts might find it to be invalid.

A committee member asked if the winery policy includes cideries and breweries. Kevin said that the newer provisions for wineries are specific to grapes only and not other types of alcohol fermentation. He stated that cideries and breweries are agricultural processing facilities that are an allowed use in the EFU zone, but there is no allowance for agri-tourism related activities with these uses.

Action Taken - The committee unanimously approved the winery policy as written.

VI. Existing Farm and Forest Lands Policies

Rich mentioned that all of these are existing policies that come from the comprehensive plan or rural area plans. Most of the language is out of the comprehensive plan. The policies have been revised, as necessary, to update the language for clarity or countywide applicability. This committee reviewed and approved the policies pertaining to farm lands (EFU zone) at the last meeting. The farm, forest and rural economy subcommittee completed its review of existing policies pertaining to the MUA and CFU zones, so those are the ones now up for your review and approval.

Rich stated that like the other policies that the committee has considered tonight, Jed Tompkins has reviewed the revised existing policies on farm and forest lands and had only a few minor word changes, which are shown as highlighted text in the packet. When staff met with Jed last week to discuss his changes, he backed off of some changes and agreed that the language proposed in the subcommittee version was fine. That is the case on pages 22 and 23 in the packet where Jed originally wanted the word “primary” to be replaced by the word “favored”. Jed is OK with leaving “primary” in the policy. That leaves only one change, which is deleting the word “exclusive” in policy C on page 23. Staff agreed that this word in unnecessary and should be deleted.

A CAC member wanted to make sure that there is a policy about allowing the wildlife habitat tax referral in the MUA-20 zone. If not here, then somewhere else in the plan.

Staff replied that this policy has not yet been drafted, but they are aware of it and it will be among policies being considered by the air, land, water, wildlife and hazards subcommittee.

Public Comment:

- Carol Chesarek noted that under the MUA section there was previously a third strategy that has been excluded from the version in the packet. Has it been moved or was it taken out because it was redundant. It was located on page 15 of the last Farm, Forest Subcommittee packet. Rich responded that he shows that it was struck out but he doesn't recall why. Carol asked that when things are dropped out of earlier versions, a note or place holder be included the change is tracked. Staff will look into why it was dropped and get back with the answer.

Action Taken – The committee unanimously approved the existing MUA and CFU zone policies as recommended by the subcommittee. They also approved the existing EFU zone policies as recommended by the subcommittee with only one word change: delete the word "exclusive" in policy C.

VII. Goal 5 & 7 Policy Issue Identification and Prioritization

Rich said staff wanted to give the CAC brief introductions on policy issues related to statewide planning goals 5 and 7 that will be dealt with in future meetings and the air, land, water, wildlife and hazards subcommittee will also be dealing with in greater depth. The subcommittee met for the first time earlier today to discuss what policies should be crafted. Eryn asked that the members look at the three lists of issues that are posted on the board to see if any important issues are missing. The issues are listed by categories: Goal 5 resources such as wetlands, riparian corridors and wildlife habitat; natural hazards; and historic preservation. One member asked that the subcommittee look at what the FEMA floodplain requirements are.

Eryn instructed the committee members to take three dots and to vote by placing a dot on the one issue of highest priority on each of the three sheets (one dot per sheet).

VIII. Public Comment

Steve Baker wanted to know the why the CAC members and members of the public, when making comments, are not identified by name in the meeting summaries. Both he and Sandy Baker commented that they don't agree with leaving off the name of the person commenting because they feel that names help them remember what was said. Staff replied that it was agreed in the beginning that the meeting summaries would not attribute comments made at the meetings to the individual who made them. This same rule applies to members of the public who comment at the meetings.

Carol Chesarek commented that she thought leaving out names was strange at first but she has gotten used to it. She is fine with not identifying by name the person who made the comment.

Staff will revisit this position and will let the committee know how it should be handled in the future.

IX. Meeting Wrap up

The committee was reminded that there will not be a meeting in August. The next CAC meeting will be on September 2. There will also be a subcommittee meeting that day. The Transportation and Public Facilities subcommittee is meeting on August 24.

The committee was also informed about the community meetings coming up in September. The tentative dates are September 9 and 16. There will be more information about these at the next meeting.

X. Adjourn

The meeting adjourned at approximately 8:30 pm.

Parking Lot items

Defining specific terminology specifically "important natural landscape" in land use policies, community identity, #2.

Results of Votes on Environmental Quality issues

1. Goal 5 Resources
   - Riparian Corridors – 1
   - Wetland – 2
   - Wildlife Habitat – 5

2. Areas Subject to Natural Hazards
   - Landslide Hazards – 2
   - Flood hazards & Channel Migration – 2
   - Wildfire Hazards – 4
   - FEMA compliance requirements – 0

3. Preservation of Historic Structures & Places
   - An active historic preservation program – 1
   - Allowing uses to benefit historic preservation – 6