

DEPARTMENT OF COMMUNITY SERVICES
LAND USE PLANNING DIVISION
MULTNOMAH COUNTY PLANNING COMMISSION

MINUTES OF APRIL 2, 2018

- I. **Call to Order:** Chair John Ingle called the meeting to order at 6:32 p.m. on Monday, April 2, 2018 at the Multnomah Building, Room 101, located at 501 SE Hawthorne Blvd., Portland, OR.
- II. **Roll Call:** Present – John Ingle, Katharina Lorenz, Victoria Purvine, Jim Kessinger, Alicia Denney, Tim Wood, Susan Silodor, Chris Foster and Bill Kabeiseman
- III. **Approval of Minutes: March 5, 2018.**
Motion by Foster; seconded by Silodor. Motion passed unanimously.
- IV. **Opportunity to Comment on Non-Agenda Items:** None.
- V. **Hearing - Ordinance Amending Marijuana Business Sound Amendments (PC-2017-9804)**
Adam Barber, Senior Planner introduced the staff report and explained that the scope of this amendment is a modification to the existing regulations that apply to the unincorporated portions of Multnomah County; specifically, how sound is managed for Marijuana Businesses. The current regulations were adopted in 2016; standards need to be amended after a couple of years practice to minimize the impact on the neighbors. At issue is the fact that the County's noise ordinance does not pertain to agricultural practices or industrial activities. Generators and other mechanical equipment are creating noise impacts beyond the property line. The current regulation are not equitable among all zoning districts. The goal of these amendments are to remove the reference to the County's Sound Control code and apply what is working well in the rural residential zone to the other zoning districts and clarify how these standards will be applied.

Barber shared proposed code language identified in the staff report.

Commissioner Silodor asked why we are changing the sound standards for only marijuana businesses and not for concerts and dog kennels.

Michael Cerbone, Planning Director commented that these amendments are located in the Marijuana Business ordinance and wouldn't apply to other sections of the code. The issue was the ability for the Sheriff to enforce the noise standards for these business and felt that this was the best way to address this problem.

Barber introduced several letters that he received as testimony into the record. H-1 was submitted by Neil and Kathleen Muller; and H-2 was submitted by Sarah and Dave Selden.

Commissioner Kessinger asked how this impacts existing businesses?

Cerbone stated that the changes would not be retroactive and that all businesses applying in the future would need to meet these standards. He went on to explain that there is a provision that any modification to the business would need to meet the new standards.

Commissioner Kabeiseman has concern with the standard that noise cannot be detected at or beyond the property line. EFU zones have noise impacts associated with agricultural practices; and asked if there was a way to more narrowly apply this standard.

Cerbone reminded the Commission that there is currently a 100 foot setback requirement which should help to buffer the noise generated from normal cultivation practices.

Commissioner Lorenz asked if staff have considered restrictions at night or weekends and give consideration to emergency situations.

Cerbone indicated that emergency situations were included in the other provisions of the code.

Klaus Heyne: provided testimony stating that he represents the Corbett Community Association and they support the amendments to the ordinance. He reminded the Commission of the previous noise fights that were engaged in during the permitting of a commercial quarry in the area. Creating seemingly objective standards with noise measurements is costly; in a rural area this is very difficult to do. Ambient noise is so low that sound can travel a half mile to a mile under normal weather conditions.

Kathleen Shelman: she lives a quarter mile from a proposed grow located in a basin. She enjoys gardening and being outside and has concern about the impact of generators running all day and night. She appreciates the effort to control this issue in the rural area.

Neil Muller: is the neighbor directly affected by the 24 hour a day generator previously discussed. He also has concerns about the exhaust which has not been addressed and has reservations about removing the Sheriff from the enforcement process.

Commissioner Purvine **moved** adoption of the staff report; Commissioner Wood **seconded** the motion.

Motion passed 8:0 with Silodor abstaining.

VI. Hearing – Affordable Housing Amendments (PC-2018-9900)

Adam Barber, Senior Planner introduced the staff report and provided background on the passage of Oregon Senate Bill 1051 that mandated local governments to adopt several practices with the goal to increase the housing supply inside urban growth boundaries in urban areas all across the State.

Staff determined that to meet this primary objective the County would need to make changes to several zoning designations to allow accessory dwelling unit (ADU's) on residentially zoned lands in the urban growth boundary. These are secondary dwellings on properties that already have a primary home, typically smaller dwelling units. The second objective was to clarify that Multnomah County has the ability to adopt reasonable siting and design standards for these ADU's; and the third objective was to clarify certain uses associated with places of worship that should be clearly stated in statute to allow housing provisions associated with these places of worship.

Barber referenced the map that was included in the notice to highlight the portions of the County that would qualify for these accessory dwelling unit provisions. He shared additional maps with

higher resolution for the Pleasant Valley neighborhood; the Springwater and a portion of the Orient area; Interlachen Lane, and one property off of NW Skyline Blvd. He estimates that roughly 600 properties would qualify of the estimated 9300 homes currently in our jurisdiction.

Barber stated that there are only two churches located in the project areas; Pleasant Valley Community Baptist Church and Household of Faith Community Church. All zones, except the Orient Rural Center zone, would allow a church and one detached housing unit as a Community Service use.

This proposal would amend the West Hills zoning regulations, the West of the Sandy River zoning regulations and the Urban Unincorporated code. It would add one new definition for an accessory dwelling unit as a dwelling type and nine new standards to define where an ADU can be situated on a site to encourage compact development for future urbanization. A size limit of 800 square feet of usable space or 75% of the floor area of the primary dwelling has also been added to the accessory structures provision to differentiate them from the primary residence. ADU's were added as an allowed use in the affected zoning districts. Short-term rentals are not allowed and a covenant is required to be recorded so that future owners are aware of the rules governing this use.

There is a new transportation standard that the ADU must share the same lawfully established driveway entrance to avoid potential traffic conflicts. Clarification was added to the Home Occupation provision stating that neither a type B or C home occupation would be allowed in the ADU.

Barber went on to introduce testimony that he received as exhibit H-1 and H-2 from Shawn Farrens and a letter from Susan Frashour as H-3.

Commissioner Purvine asked if these lots within the urban growth boundary will become divisible? Barber stated that when they become annexed into a city and their zoning districts and density standards would then be applied to the property.

Commissioner Silodor asked if ADU's will be required to be on separate utilities? Barber stated that staff had originally proposed that the ADU be on a shared septic system or drain field but that after conversations with the Sanitarian that requirement was removed due to cost and complexity. Cerbone stated that staff doesn't currently regulate power sources or water supply and will be left to the providers.

Commissioner Silodor goes on to express concern about the term "affordable" in the ordinance because there is no requirement that the rate being charge be affordable nor is there a definition of what affordable is. Cerbone stated that he instructed staff to use that term to draw attention of the underlying issue to the lawmakers and keep it in the forefront of their minds as they deliberated.

Commissioner Lorenz asked if the primary residence needs to be owner occupied; and asked where the issue of setbacks was located to address the potential of a two-story structure. Barber stated that there was no provision requiring the primary dwelling to be owner occupied and that the setback requirements for accessory structure and dwellings are listed in each zoning district. He went on to state that the County doesn't currently require that the single family dwelling be owner occupied so to meet the "fairness" standard it was decided not to impose a new regulation on someone building an ADU.

Commissioner Denney asked about parking requirements. Barber responded that the current code requires two parking spaces for every dwelling unit created but there is no special review required for the ADU. They would be required to meet the requirement of the Off Street Parking code.

Ron Frashour: shared his wife's concern as stated in exhibit H-3. He raised concern about the issue of the absentee landlord and the condition of properties owned by folks who don't live in the area. He also brought up the issue of the placement of new septic systems too close to existing wells and would like to see the County control their placement.

Edward Caswell: he lives on three acres in the Springwater area and has concern about the seven to twenty foot setback requirement from the primary dwelling and the plan to increase residential uses rather than the light industrial uses that this area was originally set aside for. Cerbone stated that this new ADU provision does not change the future zoning when they these areas are annexed into the city.

Commissioner Lorenz raised a concern about the disconnect between Gresham and the County on approved residential development in what will become a future light industrial zone. Cerbone responded that he has spoken with Gresham after he was made aware that the County was issuing permits for homes in an area that he knew would be annexed one day as light industrial. He proposed the idea to Gresham staff of a similar agreement as the County has with Portland to manage the development of the areas within the urban growth boundary that will one day be annexed to the City.

Commissioner Kessinger **moved** to adopt the staff report; Foster **seconded**.
Motion passed unanimously.

- VII. Director's Comments:** Michael Cerbone, Planning Director provided an update on the consolidated code. The County Attorney has been working to codify the language into an ordinance and should be ready to go to the Board of County Commissioners late summer or early fall. The May Planning Commission meeting has been cancelled. We had intended to bring the Metro North Tualatin Mountains public hearing but staff will not be ready to present the case by May but hope to be ready for the June hearing. He shared the web link for this project and encouraged the Commissioners to become familiar with the project prior to the June hearing. He reminded them about ex-parte contact and will forward them a memo regarding their rules and responsibilities in a quasi-judicial proceeding.

Meeting adjourned at 9:10 p.m.

The next Planning Commission meeting is scheduled for July 2, 2018.

Recorded by Stuart Farmer