

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

MINUTES OF SEPTEMBER 11, 2023
Virtual Meeting/Zoom

This is not a full transcript. Time indicators reference the meeting recording, which is accessible at the following Dropbox link: <https://www.dropbox.com/sc/1fi/701gjnhtromzqrhsjnhfx/September-11-2023-Planning-Commission-Zoom-Recording.mp4?rlkey=05qs2viih816pzgp1u65khdo2&dl=0>

1. Call to Order

(00:00:01) Chair John Ingle calls the meeting to order at 6:33 p.m. on September 11, 2023.

2. Roll Call

(00:01:09) Chair Ingle conducts a role call and declares a quorum present.

- Present – John Ingle, Chris Foster, Stephanie Nystrom, Victoria Purvine, Barbara Alexander, Kari Egger, John Chen
- Absent – Tim Wood, Bill Kabeiseman

3. Approval of Meeting Minutes

(00:01:10) Minutes from the May 1, 2023 meeting are presented for adoption.

(00:02:10) A motion to approve is made by Commissioner Nystrom.

(00:02:20) The motion is seconded by Commissioner Foster.

(00:02:27) A roll call vote is held. The motion to approve minutes is passed unanimously.

4. Opportunity for Public Comment on Non-Agenda Items

(00:03:03) Chair Ingle asks to see if there is anyone from the public joining the meeting wanting to give public comment on non-agenda items. Scott Robison, Recording Secretary, lets him know that two members of the public have registered for the meeting, but neither are currently logged into the meeting.

5. Introduction – Welcome New Planning Commissioner John Chen

(00:03:57) Kevin Cook, Senior Planner, introduces John Chen, the newest member of the Planning Commission. Dr. Chen is a semi-retired physician who has interest in planning in the Metro area, and is a resident on the west side of the county.

(00:04:59) Dr. Chen thanks Kevin for the introduction, and says he has lived in the west hills for the last 30 years, up the street from Commissioner Foster. He is from Hawaii and is mostly retired as a physician, and has had a keen interest in community outside of the urban area, but that is still urban.

(00:05:56) Kevin Cook, Senior Planner, asks each of the commissioners and the staff at the meeting to introduce themselves, and talk about their role with the commission.

6. Hearing – (Case # PC-2022-15634) – Amending MCC Chapter 39 Relating to Commercial Forest Use Zones and the Exclusive Farm Use Zone to conform to State Statutes and to add flexibility for property line adjustments and to provide an option for land divisions for public parks and conservation lands.

(00:15:46) Chair Ingle introduces this legislative hearing for the purpose of considering whether to recommend to the Board of County Commissioners amendments to the county's land use regulations.

(00:019:25) Kevin Cook, Senior Planner, presents his staff report and says it represents a suite of helpful changes to the commercial farm use or CFU and Exclusive Farm Use or EFU zones. Specific explanations of those proposed changes are included in the staff notes throughout the staff report. Staff Note 2.1.1, the first set of changes are all related to the commercial forest use zone and related to new state statutes requiring some change to how the template test is applied in the CFU zone. Staff Notes 2.1.3, the amendments implement C4 from the work program, and those changes specify the conditions under which the parcels resulting from a property line adjustment may be permitted. Staff Notes 2.1.4 amendment address the work program, task B.61 by adding the ability to partition CFU zone lands by a provider of public parks or open space or nonprofit land conservation organizations. Proposed EFU amendment 3.1.1, clarifies the uses listed in ORS 215.283(1). Collectively, these amendments are meant to align EFU zoning with the statute and in some others just aligning the text to better align with the statute. Proposed amendment 3.1.9, implements items C.4 and B.33 from the work program, and the provisions are optional for counties. It provides flexibility for property line adjustments, and former Multnomah County Commissioner Peter Fry has asked for this amendment. Proposed amendment 4.1.1, updates the zoning codes table of contents. Proposed amendment 4.1.2, adds a reference to the existing CFU code provision for a replacement of a dwelling as a review use for a dwelling that is located more than 100 feet from an existing dwelling. Proposed amendment 4.1.3, implements item C.12 on the work program as well as House Bill 2611. That adds some flexibility to the use of an agricultural building.

(00:31:34) Chair Ingle opens the floor for questions from the commissioners.

(00:31:41) Commissioner Egger asked for some clarification in regards to Staff Note 3.1.9.

(00:32:55) Kevin Cook, Senior Planner, understands the language in the amendments can be confusing at times. A property line adjustment may not be used to decrease the size of lawfully established unit of land.

(00:35:50) Adam Barber, Deputy Planning Director, had similar confusion about the language as Commissioner Egger. He explains that the statute is proposed to be added to the county code verbatim and is closing potential loopholes that could be used in different scenarios, so that a property owner doesn't end up with an extra house that the code does not allow.

(00:37:31) David Blankfeld, County Attorney, adds that the goal is to be consistent with State law, and the best way of doing that is cutting and pasting because then you have the assumption built in that they're meant to be consistent. If you decide you want to change the language at all, there will be an assumption that you could have kept the language, but you altered it, and there's a reason for the alteration.

(00:37:31) Commissioner Foster asks if the staff see any downside to the property line adjustment change. He asks if there is any policy reason not to adopt it?

(00:40:09) Kevin Cook, Senior Planner, responds by laying out the pros and cons. Our code doesn't have a provision to divide land under 80 acres. If you want to keep resource lands, then you might not want to consider other options for allowing smaller than 80 acres minimum. Conversely, there are conservation organizations, government organizations, etc, and they sometimes find it difficult to purchase an entire 80 acres. He couldn't think of any negative consequences that would result from the adoption of the proposed amendments.

(00:47:18) Commissioner Foster says you can utilize an easement on a property to give you all the rights of ownership, and that's one way of solving the issue

(00:47:33) Adam Barber, Deputy Planning Director, explains that so often the property line adjustments are used to solve encroachment problems where a structure is too close to or built over a line. In this case, an easement would not solve it because we still have to honor the setbacks from the property lines. That's where this tool would be available, where it hasn't been available in the past.

(00:48:07) Commissioner Purvine notes that Terry (a fellow community member) had a similar issue where the lot line was too close, and they needed to move it. It took a lot of effort and money to find the person to give or sell him the property needed to get the easement. She doesn't see a downside to including this tool in the toolbox.

(00:49:05) Chair Ingle didn't hear on 39.4250 exceptions to lot size for specific uses. Metro had a condensed consolidated narrative, and he wasn't certain that was addressed.

(00:50:48) Kevin Cook, Senior Planner, says we went ahead and incorporated that in the staff report, and apologized for not addressing it earlier.

(00:55:22) Commissioner Purvine wonders if we will be encountering more problems down the line by allowing parcels to be cut in half.

(00:56:58) Kevin Cook, Senior Planner, explains that in terms of uses, the answer would be no. Regardless of property size, if it was a lot of record, you're not going to get penalized because you went down to 40 acres from 80 acres.

(00:58:35) Commissioner Chen wanted clarification if everything in red was copy and pasted from the statutes.

(00:58:47) Kevin Cook, Senior Planner, confirms that 99% copy and pasted, and occasionally word choice is changed to fit into the section.

(01:05:36) Commissioner Chen wanted to know what work program and on deck mean in the staff comments.

(01:05:49) Kevin Cook, Senior Planner, explains the work program is essentially a running list of amendments projects that we'd like to get to in any given year. The last list was covering a two year period. The on deck portion refers to a bigger list of items that we wouldn't get to in the short term, but we don't want to lose track of them.

(01:11:06) Chair Ingle moves to the public testimony portion of the hearing.

(01:11:19) Scott Robison, Recording Secretary, confirms that Peter Finley Fry has registered to give public testimony, and he goes through the public testimony directions.

(01:12:17) Peter Finley Fry testifies he wants to focus on the equal area provision that he is requesting to be eliminated. He believes it's an equity argument. Up to 1978, lots were defined by a deed that was recorded as long as they met the zoning. At the time of the recording of the deed, it became a lot. Many of the lots in his neighborhood are not actually based on farm practice or a conservation practice, but based on market demand for lots at the edge of the Portland urban area. He's trying to expand his farm to include 5 more acres of his neighbor's property. It's impossible to meet the equal area provision, so their lot and his lot are frozen in a market situation, not a restoration, because what he wants to do is restore it.

(01:18:05) Chair Ingle checks to see if anyone else would like to testify, but no one else has logged into the meeting. He concluded the public testimony portion of the hearing.

(01:19:29) Commissioner Foster selects the motion to adopt the package as proposed by staff, and Commissioner Nystrom seconds the motion.

(01:23:08) Scott Robison, Recording Secretary, does a roll call vote, and the package was passed unanimously. The Planning Commission will now forward a recommendation of approval in the form of a resolution to the Board of County Commissioners for final reconsideration.

7. Briefing – 2023 Legislative Session

(01:24:23) Kevin Cook, Senior Planner, puts links to the legislative recap in the chat so the commissioners can follow along as he goes through them. These are the 2023 land use bills of interest to our Land Use division. Bill 3197 is a requirement to provide clear and objective standards to residential developments in the county. It would apply those standards immediately to housing development within the urban growth boundary. Bill 3395 has a number of provisions in it, and staff will follow the rulemaking process, which is what is happening now. They will follow up any with any needed amendments to our zoning code and bring them to you as appropriate. Bill 2192 is for replacement dwellings on forest lands. It lines the criteria for alteration, restoration, or replacement of dwellings on lands, zoned for forest use to make it consistent with the rules for the same in EFU lands. Bill 2001 is a very big bill. This is the Governor's housing needs analysis bill that passed early in the session. This is requiring a housing needs analysis methodology housed with the state within the department administrative services and it charges them with projecting a statewide 20 year housing need and then allocating a proportional share to different cities and counties to the urban growth boundaries. Bill 1013 is about allowing recreational vehicles on certain rural properties. It's optional for counties, so we'd probably come back with a kind of work session to talk about the pros and cons. Bill 644 amends rural ADU rules relating to wildfire risk maps. Bill 85 is concentrated on animal feeding operation regulations, and says the state can use a county's buffering requirements. House Bill 3414 would create a housing accountability and production office. Two other pieces of that bill were controversial and ended up failing in the Senate. It would have created some mandatory variances or adjustments that local jurisdictions would have to grant for housing projects. It would have also created a new kind of process for expanding the urban growth boundary for housing, but outside the normal process.

8. Management and Schedule Updates

(01:42:45) Adam Barber, Deputy Planning Director, talks about the new online permitting system that the Land Use department has been developing will go live at the end of October. It will replace PRNav, which is fairly outdated at this point. The EP&L software is used by many jurisdictions, and many industries for all kinds of permitting work. This system should provide greater transparency for customers in seeing the status of their projects, and being able to apply for their cases and pay for their fees online. Another project in process is the digitizing of all of our records. Contractors have been hired and working through the archives to digitize everything. It will be fantastic to have access to all records in one place, and will make searching much easier. Next, Adam lets the commission know that we're still having virtual meetings, and there is no immediate plan to change that.

(01:52:17) Commissioner Egger asks about the code update project, and what the current status is.

(01:52:34) Adam Barber, Deputy Planning Director, says that the code update project was funded through a prior budget cycle, but we weren't able to get it up and running due to a number of unrelated factors. We will have to put in a new request for funding or look at grants and other opportunities that can help move the project forward.

(01:58:44) The meeting is adjourned at 8:31 p.m.

Recording Secretary,

Scott Robison