

CITY OF BANKS, OREGON
Planning Commission Meeting
August 27, 2013
Banks City Hall, Banks, OR

Chairperson Ray Deeth called the meeting to order at 6:34 PM. The proceedings were recorded in digital format.

ROLL CALL & INTRODUCTION OF NEW PLANNING COMMISSION MEMBER

Present were Chairperson Ray Deeth, Rodney Jacobs, Gene Stout, and Melissa Aurand. Lisa McAllister, Michael Nelson, and Sam Van Dyke.

Attending: Angie Lanter, Interim City Recorder, Stacey Goldstein, City Planner

APPROVAL OF MINUTES:

1. Approval of minutes from the July 30, 2013 meeting
R. Jacobs moved to approve the Planning Commission minutes of July 30, 2013 as presented. M. Aurand seconded the motion, which passed unanimously.

PUBLIC COMMENT: None

BUILDING PERMIT REVIEWS – INFORMATION ONLY

2. Banks High School Bathroom Facilities (Bond Project) – Approved per prior BHS review. Stacey noted questions about the size of the water line were addresses and there were no issues.

WORK SESSION

3. Land Use Regulations (BMC 151 and 152) Update – Review and Discussion of Package 1.

Stacey stated that the subject package involved administrative items, while Packages 2 and 3 would address the design elements of the Code. She presented the proposed draft Code language, responding to clarifying questions from the Commission, and reviewing key issues and questions for the Planning Commission's consideration as identified in Staff's memorandum.

The Planning Commission consented to address Annexation Inquires under Verbal Staff Reports and Updates in consideration of the interested parties in the audience. The Commission then returned to the Work Session.

Key discussion items from the Planning Commission were addressed as follows with clarifications by Staff as noted:

- Several areas were noted where typos and renumbering would be addressed.
- Concerns were expressed about delegating decision making authority from the Planning Commission to the Planning Official or their designee. While expedient, public input is important and the Commission, being area residents, should have input. Such power should not be in one person's hands; checks and balances are important, and especially public input as to what goes on.
- Stacey assured the proposed Code language was a draft and that the Commission would decide who would retain decision making authority. Suggestions were made to streamline the process through a two-track system, where Staff could make an interpretation, but only if clear and objective standards exist. Any decisions where discretion is involved

- would come before the Commission.
- The Planning Official would be the City Manager, Jolynn Becker. Staff would ensure “Planning Official,” as well as “his/her designee” is clearly defined.
- Staff could give the Commission a report of the decisions made by the Planning Official to show what has been reviewed each month and keep the Commission in the loop.
- Municipal Code 151.006 Code Interpretations. Subsection A discusses the authorization of similar uses.
 - The Planning Commission agreed that the Commission should retain the ability to make Code interpretations.
 - “Significant” needs to be defined regarding interpretation requests with “significant” citywide policy implications that the Commission may refer to City Council.
 - The fee structure for interpretations versus legislative and quasi-judicial review was debated. No changes were made at this time.
 - The last number in Item 3 on Page 18 of the draft should be “151-200”.
- 151.007 Lot of Record and Legal Lot Determination was an entirely new proposed section; nothing about lot of record exists in the current Code.
 - The Planning Official can determine whether a lot of record exists based on the information provided; it either is or is not, no discretion is involved.
 - The reference to 151.100 in 151.007 was a note to the reader. A lot of record determination does not authorize a use or development. Once a legal lot is established, then an application for development can be submitted that must follow the appropriate process. The language is not saying any variance is accepted or approved.
 - A lot of record is transferable with the sale, but the burden of proof is on the applicant to show that it is, in fact, a lot of record.
 - The County Surveyor would know whether a lot could be converted to a legal lot.
- 151.095 Nonconforming Situations replaces the existing Chapter 151.095 in its entirety.
 - A nonconforming use would not have to conform to the theme codes when adopted as long as the expansion was within the allowed percentage.
 - Language would be added so applicants would know they can apply for a variance if their project exceeds the allowable limits. Such expansions would also come before the Commission.
 - The percentage should not be too low or too high; the City should not be overburdened with variance requests. However, with a variance, the Commission could be conservative on the percentage.
 - Having a variance option provides opportunity to established businesses and promotes economic vitality.
 - The Code could be modified in the future if it was not working.
 - Following discussion the Commission agreed to allow for the limited expansion of nonconforming uses, but would consider the percentage or allowance for the increase when Staff returned with the second draft.
 - Staff would research other cities’ thresholds.
- 151.095[subsection?] Item 3 Discontinuation or Abandonment of a Nonconforming Use. Not sure how to format.
 - The Commission consented to a 12-month time limit, which would create an urgency and incentive for a business to rebuild. The variance process would allow applicants to plead their case and keep them engaged.
 - Staff would verify why fires and catastrophes were excluded in the current Code.
 - In Subsection B, remove the language starting with “For example” and beyond to eliminate confusion.

Chair Deeth called for a brief recess at 8:00 p.m. and reconvened the meeting at approximately

8:10 p.m.

The Commission continued reviewing and providing input on new and amended Code sections as follows:

- 151.095.C Nonconforming Development
 - 151.095.C(1) The Commission determined that a nonconforming use can be enlarged if the alteration moved the development toward or did not decrease the conformity, and the expansion did not exceed 20 percent of the building or development area.
- 151.095.C(3) Destruction. The Commission agreed that any nonconforming development destroyed by any means to an extent more than 50 percent of its current value as assessed by Washington County Assessor, must be reconstructed in full conformity with the Code.
 - Other jurisdictions also used a 50 percent threshold.
 - If 50 percent of a development is destroyed, only the part destroyed would have to be reconstructed to comply with the Code.
- Roadway Access. City engineers are working on a definition of driveway approach, which does not currently exist in the Code.
- 151.102 Adjustments, Standards and Approval Criteria. This section is completely new.
 - Following discussion, the Commission agreed that the Planning Commission would retain the authority to review adjustments and minor modifications. This way, applicants who are denied a request would appeal to City Council, giving citizens the opportunity to make the decision. The Code can be changed in the future.
 - The Commission decided to retain the current, existing Code language such that any requested adjustments would fall under the variance criteria and process, as opposed to having an adjustments category.
 - Since the Commission will be reviewing the variances, no percentage needs to be identified to limit any adjustment.
- 151.180.C under Zoning Clearance on Page 15 would be amended to state, “the Planning Official ~~may~~ **shall** refer a request for zoning clearance to the Planning Commission” to be consistent with the change made in 151.006 Code Interpretations
- On Page 16, Noticing Requirements would remain at 100 ft for administrative land use decisions and 300 ft for quasi-judicial decisions. Discussion regarded the number of people potentially noticed in a development versus those in rural areas with generally larger parcels. The notification process is part of State law and requires that notice also be published in local newspapers and posted at various places in town.
- New Code language on Page 26 addressed Private Family Burial Grounds. An email was circulated amongst the cities after an Indian family wanted to bury a family member on their property according to their tribal traditions. Not a lot could be found regarding how other jurisdictions regulate the burial of human remains. A specific State Code section addresses cremation and the proper disposal of ashes. The proposed Code did not apply to pets.
- The Commission agreed that private family burial grounds should not be allowed within the city limits.
 - Staff would verify how the Union Cemetery is zoned and whether the State requires municipalities to provide for private family burial grounds.

PUBLIC HEARINGS: (None)

VERBAL STAFF REPORTS AND UPDATES

4. Banks Elementary School Emergency Access Drive, follow-up on Planning Commission Code Interpretation of July 30th, 2013.

Angie stated that Ms. Becker sent the school a memorandum regarding the Planning Commission's direction. The City Engineer confirmed the proposed design was acceptable. Copies of the memorandum would be provided to the Commission via email.

5. Annexation Inquiries — Pre-application request from Cliff VanDyke, received August 5th, 2013, tentatively scheduled for the first week in September. This item was addressed prior to the completion of the work session.

Angie stated Cliff Van Dyke's pre-application request was received on August 5th and distributed to the appropriate agencies. The pre-application meeting was tentatively scheduled for the first week in September. Stacey and Tim Schauer mann have discussed a potential annexation application for Quail Valley, who just submitted for a pre-application conference.

Tim Schauer mann, representing Quail Valley, stated he was present to see if the Commission had any questions. He described the three things that Quail Valley could offer if annexed into the City: sharing its water with the City; using its railroad crossing easement as a bargaining chip with the State; and providing an eastern outlet for the city to Aerts Rd. He assured Quail Valley had no intention to change the golf course whatsoever. Quail Valley did a transportation study, as requested by ODOT that discusses some of the issues, all of which were in the pre-application packet.

Stacey stated that the effort could be a coordinated effort on the annexation of both properties. The applicants would need to determine if that is how they wish to proceed. She clarified that separate pre-application conferences would be held for the two applications, which could then be combined at some point.

Chair Deeth confirmed the process would not be completed in time for this November's general election. Stacey agreed to review the Code to determine which elections allow for annexations.

The Commission returned to the work session at this time.

6. TGM Grant applications: Bike and Pedestrian Master Plan and Main Street Revitalization

Stacey stated the Main Street Revitalization Project is moving forward. Staff is working with the State TGM staff on the scope of the project, as well as the timing for outreach and choosing the consultant. Ms. Lanter added The City is waiting on final draft plan, which Ms. Becker expected the first part of October. Staff would get more information about the Cool Cities, Old Buildings, and New Attitude Conference being held October 2nd to 4th in Astoria. Having a Planning Commissioner and City Councilor attend would be beneficial considering the timing of the Main Street project.

OTHER BUSINESS

7. Need for Floodplain Ordinance, per current FEMA requirements – Stacey [2:18:27] explained that with the property added in the UGB expansion, the City is required to have a flood plain ordinance. Staff hopes to obtain a grant to have the City ordinance written, which would enable residents to purchase flood insurance.
8. Briefing to City Council on Planning Commission Work Plan – progress update. Chair Deeth reported on the action and discussion items of the August City Council meeting. Ms. Lanter stated the City was advertising vacant positions on the Planning Commission, Parks Recreation and Tree Board as well as the Library Board, now that Michael Nelson was appointed to City Council. The Commission

discussed the potential countywide Motor Vehicle Registration Fee. Ms. Lanter confirmed she would be the permanent City Recorder now that Jolynn Becker has been made the permanent City Manager.

9. Standards or Guidelines for Planting Strips – Ms. Lanter stated Staff was developing the design standards for sidewalks and driveway approaches and sought input about standards for planting strips.
10. Planning Commission Training, October 19th or October 26th (All Day Training)
The Commission agreed to hold the training on October 19th.
11. Boards, Commissions and Committees Guidelines – Ms. Lanter stated that Staff sought feedback about the guidelines from everyone serving on the various boards.

G. Stout would serve as the City Council liaison at the September 10th City Council meeting.

ADJOURNMENT: The Planning Commission meeting adjourned at 9:05 p.m.

Submitted by: _____
Scot Siegel, City Planner