



**PLANNING COMMISSION MEETING
April 30, 2019 at 6:30 pm
Banks City Hall, Banks, OR
MEETING MINUTES**

Chair Bench called the meeting to order at 6:30 pm. The proceedings were recorded in digital format.

ROLL CALL

Present were: Philip Darrah, Katherine Brown, Jeremy Bench, Tammie Buck, Chris Zechmann, Sam Van Dyke (via phone)

Attending: Jolynn Becker, City Manager; Stacey Goldstein, City Planner

APPROVAL OF MINUTES

1. Approval of minutes from the March 26, 2019 meeting.

Commissioner Darrah moved to approve the Planning Commission minutes from March 26, 2019 as presented. Commissioner Zechmann seconded the motion, which passed unanimously.

PUBLIC COMMENT – There was none.

PUBLIC HEARINGS – Continuation from March 26, 2019

Commissioner Van Dyke joined the meeting by phone at this time.

2. CPA 19-01. Comprehensive Plan Amendment to Change the Plan Designation of the Property from Low Density Single-Family Residential (R-5) to Multi-Family Residential (R-2.5)

ZC 19-01. Zoning Map Amendment to Change the Zoning of the Property from Single-Family Residential (R-5) to Multi-Family Residential (R-2.5)

City Planner Goldstein stated a request had been made during public testimony at the March 26, 2019 Planning Commission meeting to leave the record open to allow for submittal of additional evidence for a seven-day period, followed by another seven-day period to allow for the Applicant's rebuttal. An outline of what was submitted was included in the revised Staff report.

- Because the hearing was closed, any additional testimony would need to be presented at the next City Council meeting. She explained the City's obligations under the 120-day land use clock, noting the continuance had used up much of that time.
- Many opinions and thoughtful considerations were provided in the letters of testimony submitted by the public, and she and the City Attorney had reviewed them and concluded no new evidence had been submitted.

- In response to a question from the audience, she clarified the public could no longer submit additional evidence or testimony to the Commission before the Commission made its recommendation to City Council.
- In reply to a member of the audience who said she had not known of the Planning Commission meetings until she saw a posting on the Banks Community Bulletin Board, City Planner Goldstein stated the City had complied with legal noticing requirements and had provided notice by mail to those residents who lived within 300 ft of the subject property. The notice had also been published in the newspaper and on the City's Facebook page, and additional notice had been provided for the meeting tonight.
- In response to further concerns, she reiterated another opportunity for public testimony would be available at the next City Council meeting.

Chair Bench called for disclosure of any ex parte contacts, conflicts of interest, or bias from the Commissioners. There were none.

Commissioner Darrah clarified the Commission's responsibilities for the audience members, noting the Commission did not make decisions to approve a request, but made sure the Code requirements were met before giving a recommendation to Council, which would vote to approve the request or not.

City Planner Goldstein clarified the Commission was making a decision on whether to recommend a Comprehensive Plan amendment and a zone change and would not discuss the specifics of site development review. She briefly reviewed the Commission's responsibilities with regard to its decision-making.

Commissioner Brown noted she had read about the compatibility of the proposed zone change in the Staff report [in there] and asked if compatibility would be part of the Commission's recommendation and not just the legality of the zone change.

City Planner Goldstein confirmed the Commission would deliberate on the compatibility of the zone change to the subject area, which was part of the criteria, adding it was a legal question where the Planning Commission would be reviewing criteria that had discretion. Staff could not review land use matters that required discretion; that was the Planning Commission's role to sit as judges. The Commission would review the evidence provided by the Applicant and via public testimony and provide a recommendation.

- She presented the Staff Report Addendum, highlighting the public testimony received in Exhibits 1-3 as well as Staff's responses, and noting the Applicant's rebuttal in Exhibit 4. Her additional comments and responses to questions from the Commission were as follows:
 - The question of compatibility was addressed on page 2 of the Staff report. The Applicant had provided testimony on the variety of uses in the area, and a finding was made that the area had more than one set of land uses, not only on the ground currently, but also in the future plan map.
- City Council would receive the packets from the Planning Commission meetings, including the letters of testimony and the Commission's meeting minutes.
- The Planning Commission would determine whether adjoining uses included the nearby trail, gas station, and retail uses, or only the uses directly adjacent to the Applicant's property. She reiterated the amendment would be a Zoning Map change from one residential type to another, not to an entirely different use. It was unknown whether any future development would be rental only or dwellings for purchase, such as condos. Tonight, the Commission was only considering a Zoning Map change and a Comprehensive Plan Map change.

In response to concerns stated by an audience member about the accuracy of what was in the Staff report and therefore the accuracy of the information on which the Commission would make their decision, City Planner Goldstein stated the concerns could be taken up at the City Council meeting. The same audience member stated the public needed to know what was planned on the

Applicant's property, noting the proposed zone change would allow multi-family units in an area with single-family homes.

City Planner Goldstein asked Chair Bench to call for order at this time because the interruptions were not making for a productive meeting. She reiterated the proper process had been followed and any concerns from the public could be brought up at the City Council level, adding that it was not appropriate for members in the audience to be speaking out of turn because hearing processes must be followed.

Chair Bench clarified the record was closed to public comment seven days after the last Commission meeting.

The same audience member interjected that they were not made aware of that and that was why they were at the meeting tonight.

The audience member agreed and said that was why she asked to hear the opinion City Planner Goldstein had given to the Commission to be voted on tonight. Upon hearing that the information had been made public, she stated she did not have a copy of any of it, had not heard anything about it, and asked if City Planner Goldstein's opinion was for the Commission to push forward on this issue.

Chair Bench replied the Commission met on the last Tuesday of every month, as needed. He briefly explained City Planner Goldstein's role in bringing matters to the Commission, noting some administrative matters were handled directly by City Staff. The Staff report noted the amendments met the requirements, and City Planner Goldstein's recommendation was to move the amendments forward to City Council for review.

Commissioner Darrah understood the Commission would determine if the laws and other requirements were followed in the application for the zone change request and focus only on the specific matters regarding that decision. She confirmed compatibility of the zone change would also be considered tonight.

Chair Bench called for the Commission's deliberation. He clarified the Commission would not be considering some of the new evidence provided, such as images of the traffic patterns, because they were not relevant to the Commission's decision tonight.

Commissioner Darrah added those considerations would come later when an actual project was presented to the Commission. At that time, the public would have the opportunity to testify.

Commissioner Van Dyke confirmed he was still interested in getting answers to the questions he raised at the last Commission meeting about whether system development charges (SDCs) would be received for each unit in a multi-family development and the amount that would be received. City Planner Goldstein responded the question was not relevant at this time because a development was not being considered at this hearing. The zone change would allow any number of units up to 30 units based on the water usage, but she did not want the Commission to get hung up on a certain number of units, because the matter under consideration regarded a zone change.

Commissioner Van Dyke replied that made sense to him.

Commissioner Brown stated she was confused on what to ask and what the Commission should be talking about. She wanted to be clear that the Commission should not discuss the compatibility and other issues and focus just on the legal matters.

Commissioner Darrah noted an application for a zoning change had been presented and the Commission's role was to determine if the Applicant followed the rules. Changing from one

residential zone to another was not really changing the usage of the land, just the density. No discussion had taken place yet on the design of what would be built there.

City Planner Goldstein noted that for a future development application, the Applicant would be required to produce a traffic study based on the number of units, as well as stormwater calculations and the full gamut of engineering studies. She believed some of the questions raised tonight were probably under that umbrella.

Commissioner Brown understood that issues on the sufficiency of parking or the lack of it and all other issues would be discussed down the road, along with the concerns raised in the letters of testimony, including those about compatibility, were not part of what the Commission was to use their discretion in considering tonight.

City Planner Goldstein replied that when evidence and letters were submitted to the record, the evidence was to be filtered through the approval criteria. It was a little difficult unless someone wrote specifically about criteria that were not met, for example, and they provided the applicable Code sections and reasons. Letters of testimony should be read through the lens of applicability to the criteria and to take from them what was fact and what was sufficient evidence versus what was opinion. The Commission's job was to determine if a request met Code criteria which were essentially the legal rules of the City.

City Planner Goldstein asked the Commission to deliberate into the microphones so the audience could hear.

Discussion included confirming the Applicant's comments about the lack of undeveloped properties in the city and that no other R-2.5 zones existed in the city currently. Staff clarified an amendment to the R-5 zone could be requested if an applicant could demonstrate a need for that type of zoning and land in the city, and the application met the applicable criteria approved by City Council.

Commissioner Bench said he understood from most of the comments that people were surprised that growth would occur in the proposed area rather than on the perimeter of the city.

Commissioner Zechmann moved to recommend approval of CPA 19-01 to the Banks City Council based on the findings and subject to the conditions of approval contained in the Staff report and addendum. Commissioner Darrah seconded the motion, which passed 5-1 with Commissioner Brown opposed.

Commissioner Zechmann moved to recommend approval ZC 19-01 to the Banks City Council based on the findings and subject to the conditions of approval contained in the Staff report and addendum [as amended](#), Commissioner Darrah seconded the motion, which passed 5-1 with Commissioner Brown opposed.

City Planner Goldstein stated for the audience that the matter would be heard by City Council at its May 14th meeting where another public hearing would be held.

Public hearing closed.

WORK SESSION

3. Code Audit Discussion – Land Use Review processes

City Planner Goldstein stated tonight's Code audit discussion would be brief since the topic was scheduled for the Commission's May 28th meeting. She would send the Code audit report, which would include a summary of Code concepts to be considered for future Code change work. Also included would be the actual Zoning Development Code and her comments regarding what should be considered to update and change the Code. Currently, the way the Code was written was somewhat out of compliance with State law regarding land use process related to housing.

Each City was required to have a clear and objective path for reviewing housing projects, as well as a discretionary path, where projects would be reviewed by the Commission versus Staff. She directed the Commission to the Executive Summary and comment boxes as they reviewed the Code, and highlighted the process regarding the Code project, which should get underway close to July 1st and was anticipated to take a year. The City had received more than \$100,000 of grant funding from the State for the Code project.

An audience member expressed concern that Code was out of compliance with the State law land use review process and asked how it applied to tonight's hearing. City Planner Goldstein answered that it did not apply but had to do with some other type of land use process, site plan review.

The audience member interjected to say City Planner Goldstein had just listed a whole litany of things that were out of compliance. City Planner Goldstein replied that was not what she had said, adding there was a misunderstanding. She clarified the way the Code was written today was that the City was out of compliance with allowing a land use applicant to come through a clear and objective review for a multi-family housing project, for example. Currently, an application to develop an apartment building would go to the Planning Commission, but the City was not providing another avenue for review as required by the State.

Chair Bench clarified that as much as possible, the Code would be simplified so the developer did not have to wait months to go through review. A lot of interest existed in making the process faster and more consistent. He confirmed the changes would also apply to smaller-scale development, such as property owners who were building their own house.

City Planner Goldstein reiterated the Code that was out of State compliance did not affect tonight's process. The audience member noted it was concerning to hear about such compliance issues after the hearing that took place over the last couple months.

Another audience member confirmed that the Commission's recommendation tonight to change the zoning would go to City Council for a decision and if the Council approved the zone change, it would become final and the developer could build any number of units up to 30 units whether or not adequate water or parking existed. He noted the developer was not upgrading the facilities, but just tying into the existing facilities. He asked if the zone could be changed back to R-5 in the future.

Staff explained that many steps were involved in the process for the Applicant's land to be developed, including various permits and public notice requirements. A similar hearing process would be involved for the specific development application where all the details would be considered.

The audience member went on to describe rental properties he lived next to that was dilapidated, had overdue taxes, and was visited by the police every few months. He did not have a lot of recourse and he did not want other people to have to deal with the same issues. Adequate safeguards for rental properties did not exist in Banks. If he had known of the problems, he would never have purchased a home in the city. The City appeared to have no Code compliance because he had made complaints. He was frustrated with how the application tonight was heard first during spring break, which people had complained about, and now the public was told they could not comment.

Chair Bench reiterated how the continuance allowed seven additional days for comments to be received.

The audience member responded that the written testimony was disallowed because they were from Forest Grove, even though it showed clearly that a parking problem existed with putting 30 units on .98 acres.

Members of the Commission reminded that a development was not yet being considered and when the Applicant submitted a plan to build, he would have to address those concerns. Tonight's hearing concerned a zoning change, not the construction of an apartment building. Also, the Commission could not hold a developer responsible for the dilapidation of some other owner's property. Rules should exist to prevent buildings from become dilapidated, but that was not under consideration tonight.

- Also clarified was that "single-family" was defined in the housing statutes as being one home, not split into separate living units; it did not mean that only a specified number of people could live there.
- More concern was expressed by an audience member about changing the zone from allowing a residential single-family home to a multi-family structure.

City Manager Becker offered to speak with concerned citizens following the meeting. She said she would print out and deliver the Code portion to be addressed by the audit to the Commissioners' homes. It might also be included in the meeting packets.

Chair Bench noted the Commission had just started chipping away at the Code with the signage discussion last year and that everything else still remained to be discussed.

City Planner Goldstein stated the Commission would be heavily involved with the Code audit work which would encompass a complete rewrite and overhaul. Some sections of Code contained language from the 1980s. She confirmed plans were to complete the audit project in one year and reviewed the typical process to include revisions, public input, and work sessions with Council. The result would be a brand-new, cohesive Code.

Commissioner Van Dyke ended his phone connection, leaving the meeting at this time.

BUILDING PERMIT REVIEWS –INFORMATION ONLY- None

VERBAL STAFF REPORTS AND UPDATES

5. Planning Project Updates

City Planner Goldstein noted feather signs had been prohibited in the city. However, several requests had been received from business owners to use feather signs because the signs were cheap and effective. The concern was that multiple feather signs would detract from the city's small-town character especially on Main St and would be distracting to drivers if located in school zones. No time limit was placed on how long feather signs could be displayed.

Business owners had been encouraged by Staff to talk with the Planning Commission as citizens about concerns over feather signs. A brief discussion took place about the appearance and size of feather signs with a point made that the Commission could not control the signs' content. It was noted the Commission had decided that temporary signage did not fit within the style and goals of the city.

City Planner Goldstein stated signage would be weighed with the goals of the City's planning documents, especially the Vision 2037 Plan that called for increasing the old town feel on the north end of town. She recommended the Commission review the Vision 2037 Plan because it told a good story about what the community would like to see for Banks in terms of planning and design. She confirmed the new Commissioners had received the Plan earlier this year.

Chair Bench said he would adjourn the meeting then any concerns by members of the audience could be addressed off the record.

OTHER BUSINESS – None

ADJOURN: The Planning Commission meeting adjourned at 7:39 pm.

Submitted by: Angie Lantz for Stacey Goldstein
Stacey Goldstein, City Planner