

The Junction City Planning Commission met in regular session on Tuesday, September 19, 2023, at 6:31 p.m. in the Council Chambers at City Hall, 680 Greenwood Street, Junction City Oregon and remotely via internet and phone.

PRESENT WERE Planning Commission Chair Jeff Haag, Commissioners, James Hukill (Vice-Chair), Jim Creech; Doug Easterday; Chris Miles; Jesse Newman; Alternate Albert Williams; and Alternate Vanessa Brown; Chloe Trifilio, Assistant Planner, Lane Council of Governments; City Attorney Armand Resto-Spotts; and Dawn Northey, Planning Commission Secretary.

ABSENT: None

1. Open Meeting

Chair Haag opened the meeting at 6:31 pm and said the Pledge of Allegiance.

2. Changes To The Agenda

Rolling Meadows Ph 5-6 Preliminary Subdivision (SUB-23-28) was moved to the October 17th Planning Commission Meeting. Commissioners decided to re-notice the meeting.

3. Public Comment (for Items Not Already on The Agenda)

No comments

4. PUBLIC HEARING: ROLLING MEADOWS PUD MAJOR MODIFICATION (PUD-23-24)

This agenda item was removed. Planner Trifilio made an announcement under changes to the agenda.

5. PLANNING COMMISSION AGENDA FORECASTER

The Commission reviewed the agenda forecaster.

6. COMMISSIONER COMMENTS

No comments

7. PLANNING COMMISSION ANNUAL TRAINING WITH COUNSEL AND STAFF

Chair Haag asked Attorney Resto-Spotts to conduct the training

The training was not comprehensive. Attorney Resto-Spotts focused on three aspects that were helpful as a primer if you were to be on any board, commission or counsel.

1. Public Meeting and what they are and what they are not.
2. Ethics – Conflicts, biases, Ex-parte contacts

3. Quasi-Judicial Proceedings – The most regular form of procedure that you would be dealing with, is acting as a Quasi-Judicial body. You are a decision-making body on development applications.

Land Use in Oregon – When we go through this hierarchy of how land use is regulated in Oregon we can view it like an Upside-down triangle with Planning Commission at the bottom of the triangle.

- Statutes – black letter law (top of upside-down pyramid), passed by the legislature. ORS92, land divisions 195, Local Government planning, 197 Comprehensive planning, 222 Annexations, and 227 City Planning
- 19 Statewide Planning Goals: They essentially express Oregon States policy on a myriad of topics. Topics like Citizen involvement, Comprehensive planning, Economic development, Housing, public facilities, transportation, preservation of national resources, coastal door preservation, these are goals LCDC (Land Conservation Development Commission) have adopted as statewide goals that all jurisdictions should abide by. How that was done was that local jurisdictions adopted comprehensive plans that were in compliance with those goals.
- Comprehensive Plan
 - Coordinated mapping and identification of policies that establish the City’s vision for development.
 - Implements Statewide Planning Goals
 - Statewide planning goals are pretty set in stone
- Local development regulations
 - Things that bind us here on the ground day to day in practice. Applications come in and are reviewed against criteria and code compliance
 - Planning Commission sits here
- Where does the Planning Commission sit in both substantive and procedural roles:
 - Planning Commission plays an important role on both sides of the equation
 - Planning Commissions big substantive role is to develop the Comprehensive Plan
 - Understand your boundaries – what you can and cannot do
 - Be familiar with what is permitted
 - Take pride in your role, have a good understanding of what comes before you
 - Be able to talk land use with people
 - Be courageous in your role, make decisions with confidence

- People will look to you for answers on planning questions
- People will look to you to be advocates for issues around the city
- The primary function of the Planning Commission is one of procedure. Their job is to develop, review, and implement the law of the city. You are safeguarding the land use review process

Public Meetings

- **What “meetings” are subject to law?**
 - Fundamental policy of the state is that the public be informed and aware of all deliberations and decisions of governing bodies in the state. Oregon public meetings law (ORS192) establishes rules and regulations under which governing bodies meet to make decisions or deliberate towards a decision. The overarching policy of our state is that decisions of governing bodies be arrived at openly. The planning Commission is a governing body. All meetings of a governing body must be open to the public and are subject to notice requirements and minutes requirements.
 - A meeting requires a Quorum of seated members (4 or more)
 - Purpose of the meeting – Deliberation or Decision-making
 - Includes recommendations to another body
 - Serial communication –
- **Practical Tips**
 - Avoid “reply all” to emails – this creates a public meeting
 - Avoid conversations between commissioners about business.
 - Avoid giving the impression that you are having a meeting about planning items

Land Use Procedures

Four Types of Land Use Decisions/Procedures

- *Legislative (Type IV)*
 - Policy decisions that apply to many and involve large amounts of land
 - involves going before the Planning Commission for recommendation and before City Council for decision
 - Examples of Type IV: Zoning changes, Annexations, Comprehensive plan review
- *Quasi-Judicial Actions (Type III)*

- Requires a public hearing
- Examples of Type III: Includes Conditional Use permits; Temporary use permits; Variances; and Planned unit development
- *Administrative Actions (Type II)*
 - Limited land use, noticing required, applicant or Planning Commission can request a public hearing
 - Planning Commission acts as an appeal body to Type II decisions
 - Examples of Type II: Preliminary partition plans, Preliminary subdivision plans, expedited land divisions
- *Ministerial / Non-discretionary (Type I)*
 - Staff level decisions
 - A public hearing or notice of action is not required
 - Examples of Type I: Building permits, minor modifications to non-conforming uses, sign permits, billboard permits, and lot line adjustments

Public Hearing Procedures – Quasi-Judicial Process

Type III Procedure – Quasi-Judicial (JCMC 17.150.070.A.3)

- Requires a public hearing before an impartial decision-making body
- Applicant-initiated application
- Notice to public
- Public Hearing - Record Development
 - May include post-hearing record submittals
- Written Decision and Findings
 - Based on findings of fact that address applicable criteria
- Appeal Notice to public
 - To City Council

Public Hearing Procedures – Bias, *Ex Parte* contacts, Conflicts

Impartial tribunal or decision-making body (JCMC 17.150.030.040)

Three types of Conflict:

- **No bias**
 - Incapable of basing decision on evidence and argument presented
 - Inability to be fair and impartial
 - Prior statements that have been made on the record at other hearings, or through public comments, or newspaper article interviews, or through a professional job can be used as evidence of pre-judgement bias
- **No conflicts of interest – Two Types - actual / potential**

- **Actual** – Does not participate in the meeting, walks out and does not participate in the meeting
- **Potential** – Put on record, but commissioner still participates
- An action, decision, or recommendation by a public official that will / could result in a financial benefit or detriment for the official or a relative or business associated with the official or relative
- *When in doubt, shout it out*
- State the nature of the conflict before voting or discussing matter, on the record, and every meeting that the matter is discussed
- Failure to disclose conflict is very serious and can invalidate decisions
- **No *ex parte* contacts (*Communications*)**
 - Communications: written (texts), verbal, visual (sending pictures) with someone involved in the matter that is not in the record (example: conversation with applicant outside the meeting)
 - Must disclose context and substance of meeting when public may respond and before record is closed
 - Examples of *ex parte* contacts – site visits or having a conversation with the applicant or developer. If a commissioner visits a site on their own they should let that be known.

Public Hearing Procedures – Staff Report, Record, Hearing

- **Staff Report**
 - The working document of the proposal
 - Prepared by staff
 - Available to public seven days before hearing
 - Lays out applicable criteria / proposed findings / particular issues that planning commission may discuss before decision is rendered
 - Will include all applicable site information, and application information needed
 - Your guidebook but is not the record alone. The record is more robust than just the staff report
- **Record:**
 - Available to public – Nothing should be hidden, if it is not in the record you cannot rely on it.
 - “Closed universe” – decisions can only be made using what is in the record, do not go outside the record
 - Distinction between “hearing” and “record” components
- **Hearing**
 - Chair has a script
 - On the record – meeting is recorded

- “Managing” and “controlling” the hearing
- **Practical Tips**
 - Always identify the speaker – “State your name for the record”
 - Always restate or clarify within the record whether there is an amendment, change, “hard to hear” statement – ask someone to repeat it and restate it yourself
- **Testimony (after Staff Report)**
 - Applicant testimony
 - Proponents – Neutral testimony – Opponents testimony
 - Applicant Rebuttal (the end all) – final say
 - Try to avoid “back and forth”
- **Post Testimony**
 - Staff comments and clarification only
 - Potential next steps
 - Continue hearing to specific date and time
 - Close hearing but leave record open for written testimony (re-open hearing & go back to applicant if something is brought up)
 - Close hearing and close record

Public Hearing Procedures – Deliberation and Findings

Deliberation / Findings

- Decision must be based on approval criteria (Code requirements, staff report. Do not go outside the code)
- Planning Commission may not consider factors outside of approval criteria, such as impact on property values
- Findings show why approval criteria are met or not met
- Each decision should include findings supporting the decision
- Address every argument made by participants
- Interpret any ambiguous criteria
- Choose between conflicting evidence (“substantial evidence” / “reasonable decision maker”)
- For each criterion:
 - List relevant facts
 - Apply facts to criteria
 - Determine whether criterion is satisfied or can be satisfied with a clear condition of approval.

Why are findings so important? Defensible decision

EXAMPLE

- **BAD**
 - The applicant will satisfy the criteria at the time of building permit.
- **BETTER**
 - JCMC 16.05.050.A.5. provides that the layout of streets shall give suitable recognition to surrounding topographical conditions, in accordance with the purpose of this chapter. The applicant has provided with its application an engineer's report that demonstrates how the proposed streets will give suitable recognition to surrounding topographical conditions. This criterion is satisfied.

9. ADJOURNMENT

MOTION: Commissioner Creech made a motion to adjourn the meeting. Commissioner Hukill seconded the motion.

VOTE: Passed by a vote of 7:0:0. Chair Haag, Vice-Chair Hukill, Commissioners, Creech, Easterday, Miles, Newman, and Alternate Albert Williams.

The meeting was adjourned at 8:15 PM

The next Standing Planning Commission meeting was scheduled for Tuesday October 17, 2023, at 6:30 p.m.

Respectfully Submitted,

Dawn Northey, Planning Commission Secretary

Jeff Haag, Planning Commission Chair