

MINUTES

Lane County Planning Commission
Board of Commissioners Conference Room—125 East 8th Avenue
Eugene, Oregon

July 20, 2010
5:30 p.m.

PRESENT: Tony McCown, Vice Chair; George Goldstein, Nancy Nichols, Jozef Siekiel-Zdzienicki John Sullivan, Lane County Planning Commissioners; Kent Howe, Matt Laird, Kier Miller, Jeremy Sherer, Deanna Wright, Lane County Land Management Division; Karl Morgenstern, guests.

ABSENT: Robert Noble, Chair; Steve Dignam, Lisa Arkin, Dennis Sandow, Commissioners.

Mr. McCown convened the Lane County Planning Commission (LCPC) at 5:30 p.m.

Mr. Howe noted consensus to defer the Planning Commissioner training to a future meeting.

Ms. Arkin had received a letter from 1000 Friends of Oregon dated July 5, 2010. Prior to that date, she had been asked by Mia Nelson if Ms. Arkin would support Lane County establishing an area commission on transportation (ACT). She had signed the letter as a private citizen, although she had indicated she was a member of the Lane County Planning Commission.

Mr. Howe stated a member of the Metropolitan Planning Organization Citizen Advisory Committee (MPO CAC) was also a signatory on the letter. The MPO CAC had discussed the topic and given direction which was different than the 100 Friends letter. The MPO CAC subsequently sent a letter to the Board of County Commissioners (BCC) to clarify that the signatory on the letter did not represent the CAC's position. He said commissioners could sign letters of support as private citizens but such actions became problematic when an organization the signer belonged to was identified. He suggested that the Planning Commission should have a presentation on the issue before it decided whether or not it should take a position on the issue.

Mr. McCown observed there was no interest in drafting a letter to the BCC at the present regarding Ms. Arkin signing the document.

WORK SESSION

1. Continued Discussion—Proposed Amendments to the Floodplain Combining Zone (LC 10.271, LC 16.244)

Mr. Miller offered the staff report. He reviewed the history of the project noting Land Management Division staff had provided a general overview of proposed changes to the Planning Commission related to Lane County's floodplain ordinance on July 6. He said information from that meeting would be added to the division's website. He directed commissioners to the July 8, 2010 memorandum to commissioners and Attachments A and B of the document.

Mr. Howe noted this was the second in a series of joint Planning Commission meetings with the BCC. He said the commission's meeting schedule was ambitious to enable the BCC to take action by the end of the year.

Mr. Miller reviewed the Proposed Changes in the memorandum, noting proposed changes 1-6 were Federal Emergency Management Agency (FEMA) requirements that would allow Lane County to remain in the National Flood Insurance Program (NFIP). He said there were many code changes throughout the code that addressed regulation of manufactured homes. Existing FEMA requirements were less stringent for development in existing manufactured home parks. Oregon specialty building codes did not recognize did not recognize the federal distinction between existing and new parks. The State required compliance with specialty building codes for elevating replacement structures. Lane County had included the State standards in its building code.

Ms. Arkin recalled some people had been opposed to Lane County participating in the NFIP because it encouraged development in the floodplain.

Mr. Miller replied in the event of a major disaster, the County would not be eligible for post-disaster recovery money if it did not participate in the NFIP.

In response to a question from Ms. Nichols, Mr. Miller confirmed a travel trailer placed in a mobile home park would be required to meet FEMA requirements for elevation and tie downs.

Responding to Mr. Sullivan, Ms. Wright said modular homes should be treated as stick built homes.

Mr. Miller reviewed **proposed change 7**, *Update substantial improvement definition to limit/discourage incremental development in the floodplain. (A.K.A. cumulative improvement clause.)* Homeowners were allowed to do improvements up to 50 percent of the assessed value of their homes before FEMA regulations were enforced. The proposed change would increase the allowed improvement to 25 percent. FEMA encouraged communities to adopt the cumulative improvement clause to prevent incremental development that exceeded 25 percent. If the State or County regulations conflicted with federal regulations, the federal regulations would take precedence.

Mr. Sullivan supported the proposed change, noting code requirements were frequently ignored along the McKenzie River which was the water source for 300,000 people.

Mr. Miller reviewed **proposed change 9**, *Require critical facilities to be sited outside the FP.* Staff was proposing siting of critical facilities, including schools, hospitals, police stations, wastewater treatment facilities and major industrial facilities that would pose detrimental impacts from release of toxics in the event of a flood, outside of the 500 year floodplain. He noted this applied only in rural Lane County.

Mr. Siekiel-Zdzienicki observed that Sacred Heart Medical Center at RiverBend could not have been built under this proposed change.

In response to a question from Ms. Arkin, Mr. Miller said the document did not address commercial structures and related outfall pipes into the river. The flood ordinance was about protecting structures in the floodplain and did not address environmental issues. Environmental issues would be reviewed when the drinking ordinance was reviewed.

Responding to a question from Mr. Siekiel-Zdzienicki, Mr. Miller said the ordinance would be enforced through issuance of a FEMA elevation certificate through the Building staff.

Mr. Miller reviewed **proposed change 10**, *Prohibited development within the floodway for most uses unless this standard would deny any reasonable use of the property—then minimize development*. Mr. Miller explained channel migration was a big issue that the County was not addressing through the current process due to time constraints to complete the project by the end of the year. FEMA regulations did not address this issue.

Mr. Sullivan opined proposed change 10 would be the most controversial of the group. He asked if the commission needed to give any input on defensibility of the proposal. He noted the term floodway was more difficult to define than floodplain because of migration and how the channel had changed over the last 50 years. He asked if the proposed interpretation of the floodway would prevent a property owner from increasing the size of a structure located in the floodway, and if it was, would it be defensible against a claim that there had not been water in the general location of the structure for decades.

Mr. Miller directed commissioners to Attachment A, page 16-446, which prohibited new construction. He added the proposed change would be defensible in that it was about the values placed on the floodway and allowing it to remain as open as possible.

Mr. Miller reviewed **proposed change 12**, *Prohibit land divisions and property line adjustments in the floodway unless a development site is identified outside of the floodway on the newly proposed/reconfigured parcel(s)*. The new requirement would require development outside of the floodway. It would curtail creating a sliver of land outside of the floodway and subsequent division of that site for development. In a future version of the code, the requirement to have the parking area outside the floodway would be removed.

Mr. Miller reviewed **proposed change 13**, *Prohibit new fencing in the floodway unless it is built to breakaway or pass through standards*. This proposed change did not apply to agricultural fencing. Fencing could create an obstruction in the floodway and FEMA encouraged communities to require breakaway or pass through fencing.

Mr. Miller reviewed **proposed change 15**, *Require secondary containment for hazardous materials stored within the SFHA*. He directed commissioners to Attachment A, page 16-454, *Wet Flood Proofing of Accessory Structures*. He said hazardous household chemicals were typically stored in garages that were often built in the floodway, creating the potential for release of those chemicals in the event of a flood. The proposed language would require secondary containment standards mandating storage of all chemicals elevated above the base flood elevation.

Mr. Sullivan stated that farmers had fuel tanks which fell into the secondary containment for hazardous materials. He asked what would happen when the floodway provision was implemented. He asked if the farmers would be exempted because they worked in agriculture or if they would have to move their fuel facilities and other chemicals.

Mr. Miller said if the structure was permitted as a wet flood proof structure, property owners would be required to build new structures to meet the standard of requiring storage of chemicals above the based flood elevation regardless of the use. He added a large public education outreach effort would be developed to inform the public.

In response to a question from Ms. Arkin, Mr. Miller said businesses devoted to non-agricultural application or sale of hazardous materials would not be prohibited in the floodway under the language of proposed change 15. He added staff had considered modifying the language to prohibit that use.

Mr. Siekiel-Zdzienicki emphasized the importance of protecting drinking water by prohibiting storage of large amounts of hazardous materials in the floodway.

Ms. Arkin thought it unfair to regulate structures related to housing while not placing the same burden upon industrial and commercial sites.

Responding to a question from Ms. Nichols, Mr. Miller stated he had not found any codes through his research that required businesses to store their goods above a specific level.

Mr. Miller reviewed **proposed change 16**, *Include additional freeboard requirements* for elevation standards for new structures or substantially improved structures. Current code required that structures in the “E” zone be built to one foot above the zone. FEMA recommended that communities go beyond that height, which would help further reduce flood insurance premiums.

Mr. Miller reviewed **proposed change 17**, *Require septic systems to be setback from the FP where feasible*. The proposed language would require septic systems be set back a minimum of 25 feet from the floodplain.

In response to Ms. Nichols, Mr. Miller explained septic systems needed to meet Department of Environmental Quality (DEQ) requirements of a 100 foot setback from the river. The proposed language addressed erosion issues and provided an extra margin of safety.

Mr. Siekiel-Zdzienicki suggest including language that would allow property owners to seek an easement from adjacent property owners for siting septic systems on the adjacent owner’s property if a suitable location could not be identified on the owner’s property.

Mr. Miller reviewed **proposed change 18**, *Update soil pressure foundation requirement from 1000 psf to 1500 psf*, noting it addressed soil compaction standards.

Mr. Miller reviewed **proposed change 19**, *Require the location of the floodplain to be shown on all recorded final plat documents for land divisions*, noting monumenting floodplain boundaries on final plat documents would accomplish this.

Mr. Miller reviewed **proposed change 20**, *Add standards for the “wet flood-proofing” of accessory structures* was discussed under proposed change 15.

Mr. Miller reviewed **proposed change 21**, *Add standards for the placement and use of fill in the FP*. Currently there was minimal regulation of fill in the floodplain and the proposed language would include language related to compensatory storage that would require removal of an amount of fill equal to that placed in the floodplain to maintain the capacity of the drainage basin in a flood event.

Responding to a question from Ms. Arkin, Mr. Miller said this provision would apply to sand and gravel operations.

Mr. Miller reviewed **proposed change 22**, *Add standards for the alteration of a watercourse (including provisions for bridges and culverts)*. Mr. Miller said the current code contained no standards related to

culvert replacement and other related issues. The proposed language would incorporated required FEMA had standards into the code.

Mr. Goldstein left at 7:35 p.m.

Mr. Miller reviewed **proposed change 23**, *Modify variance standard to eliminate option for a variance in the floodway for residential purposes.*

Mr. Miller reviewed **proposed change 24**, *Add/modify definitions for: Area of Special Flood Hazard, Bankfull Stage, Breakaway Wall, Development, Critical Facility, Datum, Digital FIRM, Encroachment, Flood Hazard Determination, Floodway, Flood Protection Elevation, Freeboard, Hazardous Materials, Highest Adjacent Grade, Letter of Map Change, Lowest Floor, Manufactured Dwelling, market Value, Mean Sea Level, Natural Elevation, New Construction, Secondary Containment, Start of Construction, Substantial Damage.*

Ms. Nichols questioned the use of 1929 data for defining sea level.

Mr. Miller said all of the maps were based on 1929 data and commonly used.

The meeting adjourned at 7:45 p.m.

(Recorded by Linda Henry)