



City of Oregon City

625 Center Street
Oregon City, OR 97045
503-657-0891

Meeting Agenda Planning Commission

Monday, January 14, 2013

7:00 PM

Commission Chambers

1. **Call To Order**

2. **Approval of the Minutes**

- a. Approval of Planning Commission Minutes for September 10, 2012.

Staff: Community Development Director Tony Konkol and Pete Walter

Attachments: [PC Draft Minutes 09.10.2012](#)

3. **Public Comments**

4. **Public Hearing**

- a CP 12-01 and DP 12-01

Staff: Community Development Director Tony Konkol

Attachments: [Commission Report](#)
[Request for Continuance](#)

5. **Planning Commissioner Training**

6. **Communications**

7. **Adjournment**



City of Oregon City

625 Center Street
Oregon City, OR 97045
503-657-0891

Staff Report

File Number: 13-063

Agenda Date: 1/14/2013

Status: Agenda Ready

To: Planning Commission

Agenda #: a.

From: Community Development Director Tony Konkol and Pete
.....

File Type: Minutes

Approval of Planning Commission Minutes for September 10, 2012.

DRAFT

**CITY OF OREGON CITY
PLANNING COMMISSION HEARING**

September 10, 2012, 7:00 P.M.
City Commission Chambers - City Hall

1. Call To Order

Chair Kidwell called the meeting to order at 7:02 PM.

Roll Call:

Paul Espe
Zachary Henkin
Charles Kidwell
Damon Mabee
Denyse McGriff
Robert Mahoney

Staff Present:

Tony Konkol, Community
Development Director
Pete Walter, Associate Planner

2. Public Comment on Items Not Listed on Agenda

There was no public comment on items not listed on the agenda.

3. Adoption of Planning Commission Minutes

**a 12-099 Adoption of Planning Commission Minutes for February 27th, 2012,
March 12th, 2012 and June 11th, 2012.**

Draft PC Minutes 2.27.2012

Draft PC Minutes 3.12.2012

Draft PC Minutes 6.11.2012

Motion by Denyse McGriff, second by Paul Espe to to approve the minutes of the February 27, 2012, Planning Commission meeting.

A roll call was taken and the motion passed with Paul Espe, Zachary Henkin, Charles Kidwell, Damon Mabee, Denyse McGriff, Robert Mahoney voting aye. [6:0:0]

Motion by Damon Mabee, second by Denyse McGriff to to approve the minutes of the March 12, 2012, Planning Commission meeting.

A roll call was taken and the motion passed with Paul Espe, Zachary Henkin, Charles Kidwell, Denyse McGriff, Robert Mahoney voting aye and Damon Mabee abstained. [5:0:1]

Motion by Robert Mahoney, second by Zachary Henkin to to approve the minutes of the June 11, 2012, Planning Commission meeting.

A roll call was taken and the motion passed with Paul Espe, Zachary Henkin, Charles Kidwell, Denyse McGriff, Robert Mahoney voting aye and Damon Mabee abstained. [5:0:1]

4. Public Hearing

a PC 12-017 Request for Continuance of Public Hearing for VR 12-03, MD 12-01 (TP 90-05), and MD 12-02 (SP 9-11)

Staff Report

Request for continuance, Benchmade

Pete Walter, Associate Planner, explained the applicant requested the public hearing be continued to December 10, 2012, to allow time for a Traffic Engineer to evaluate the proposal. The applicant granted an extension of the 120 day deadline to January 26, 2013.

Chair Kidwell read the hearing statement describing the hearing format and correct process for participation. He asked if the Commission had any ex parte contact, conflict of interest, bias, or statements to declare. There was none. Commissioner McGriff was familiar with the site, Commissioner Henkin visited the site, Commissioner Espe had been by the site, and Chair Kidwell visited the site.

Chair Kidwell opened the public hearing.

Graham Peterson, resident of Oregon City, was representing Craig Danielson and the Danielson Hilltop Mall. They were neither for or against the application so long as it did not jeopardize a previous agreement with the City from August 28, 1991, which allowed the Center a future right of a third curb cut on Beavercreek.

Chair Kidwell closed the public hearing.

Motion by Denyse McGriff, second by Damon Mabee to to continue VR 12-03, MD

12-01, and MD 12-02 to December 10, 2012.

A roll call was taken and the motion passed with Paul Espe, Zachary Henkin, Charles Kidwell, Damon Mabee, Denyse McGriff, Robert Mahoney voting aye. [6:0:0]

Tony Konkol, Community Development Director, gave updates on the South End Concept Plan including upcoming meetings and website. He also reported on the Blue Heron site and Transportation System Plan update.

Chair Kidwell adjourned the meeting at 7:32 PM.

5. Worksession

Chair Kidwell called the Work Session to order at 7:46 PM.

a PC 12-018 Worksession to discuss concerns of the Barclay Hills Neighborhood Association

Staff Report

BCNA Zoning Concern Letter

Holmes Mountain View Cedar Ln R-2 Developer Memo

BCNA Traffic Email Correspondence

Catherine Pieslewicz, representing Barclay Hills Neighborhood Association, discussed the concern that the Barclay Hills neighborhood had more R2 zoning than any of the adjacent neighborhoods. She then discussed how possible development would exacerbate the traffic and parking issues in the neighborhood and would affect the natural resources of Singer Park. Her immediate concern was traffic on the intersection of Molalla and Mountain View. She also discussed traffic on Pleasant Avenue and Holmes Lane as well as concern that future development may add additional traffic. Delivery vehicles were illegally blocking the roads and that posed problems as well.

Chair Kidwell encouraged her to get involved in the Transportation System Plan update for solutions to the intersection at Molalla and Mountain View.

Ms. Pieslewicz asked the Planning Commission to consider if the current R2 zoning along Mountain View and Cedar Lane made sense.

Mr. Konkol explained it would need to be a property owner initiated request for a change.

Commissioner McGriff thought some downzoning would be appropriate.

Code Enforcement would look into the delivery trucks issue.

6. Communications

7. Adjourn

Chair Kidwell adjourned the meeting at 8:54 PM.



City of Oregon City

625 Center Street
Oregon City, OR 97045
503-657-0891

Staff Report

File Number: PC 13-001

Agenda Date: 1/14/2013

Status: Agenda Ready

To: Planning Commission

Agenda #: 4a

From: Community Development Director Tony Konkol

File Type: Land Use Item

SUBJECT:

CP 12-01 and DP 12-01

RECOMMENDED ACTION (Motion):

Staff recommends that the Planning Commission take testimony from any member of the public present who wishes to testify regarding this item, then continue the public hearing for files CP 12-01 and DP 12-01 to the regular Planning Commission meeting of January 28th, 2013.

BACKGROUND:

The applicant requested the Planning Commission continue Planning files CP 12-01 and DP 12-01 to January 28th, 2013. The continuance would provide time to assemble information requested by the Planning Commission. The applicant granted an extension of the decision deadline for this application to March 31st, 2013.

BUDGET IMPACT:

Amount: N/A

FY(s):

Funding Source:

27 December 2012



Laura Terway, AICP
Planner, Planning Division
PO Box 3040
221 Molalla Avenue, Suite 200
Oregon City, Oregon 97045
Phone: 503.496.1553
Fax: 503.722.3880
lterway@orc.org

Re: Red Soils Master Plan, Amendment to include Silver Oak Building
SERA Project No.: 10035
CP 12-01: Master Plan and DP 12-01: Detailed Development Plan

Laura:

Given the holiday closure of our landscape consultant's and SERA's office we will be unable to meet the December 31st, 2012 deadline to submit material for the January 14th, 2013 hearing date. We are writing to request a continuance to a January 28th, 2013 hearing date, and as a precaution an extension to the 120 review period, which would conclude at the end of January 2013, to until March 31, 2013. Please confirm the acceptance of a new hearing date and the time extension.

Sincerely,

SERA Architects

A handwritten signature in blue ink, appearing to read 'Rebecca Epstein', is positioned below the text 'SERA Architects'.

Rebecca Epstein, LEED AP, BD+C
SERA Architects
Project Manager

attachments: none

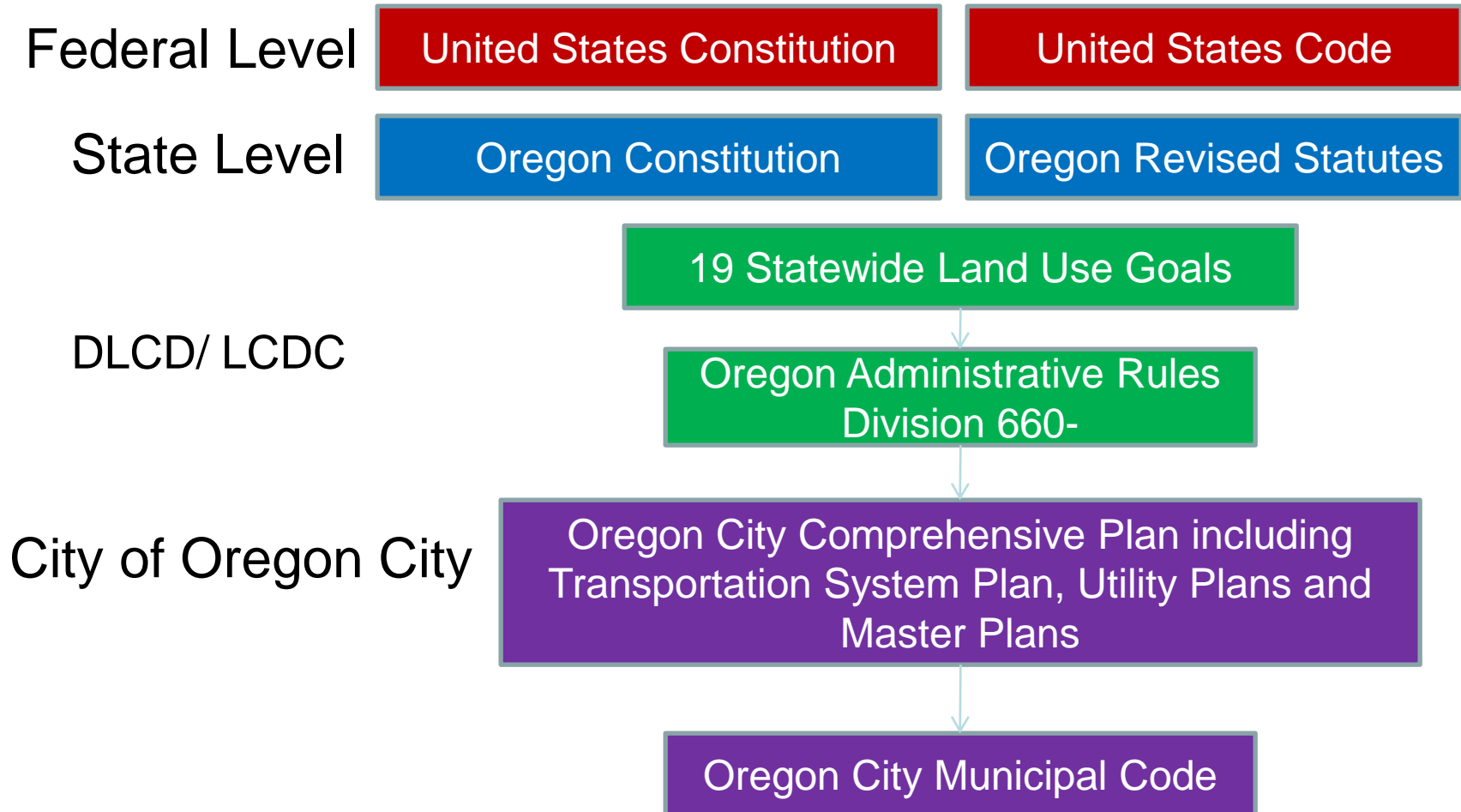
cc: file, Don Eggleston, Marc Gonzales, Jeff Jorgensen, Lane Miller

City of Oregon City Planning Commission Training

January 14, 2013



Legal Limitations on Decision-Making



Types of Land Use Review in Oregon City

Administrative Decisions

- Type I – No discretionary decision-making and no notice, hearing or appeal.

Quasi-Judicial Decisions

- Type II – Limited discretion in decision-making. Notice to neighbors, written comment, Director decision, and appeal rights to the City Commission.
- Type III – Discretionary review to determine compliance with criteria. Notice, public hearing by Planning Commission or Historic Review Board, and appeal rights to the City Commission.

Legislative Decisions

- Type IV – Typically, plan amendments and zone changes. Notice, public hearing by Planning Commission with recommendation and final decision by the City Commission.

Quasi-Judicial vs Legislative Decision-Making

Quasi-Judicial

- Adjudicative: Application of the criteria to the facts
- ORS 197.763: opportunity to present and rebut evidence.
- Impartial Tribunal
- Raise it or Waive It
- Commission review of appeals on the record.
- Adequate Findings and Conclusions
- Decision must be made 120 days after application is complete.

Legislative

- Making policy
- No legal formalities in terms of hearing disclosures
- Decision-makers are expected to communicate with interested parties as part of making policy.
- Commission review of recommended amendments on the record.
- No decision-making timeline.

Quasi-Judicial Hearing Disclosures

- A list of the applicable criteria is provided.
- Staff report prepared 7 days in advance and is available.
- Testimony must be directed to the criteria.

Quasi-Judicial Hearing Disclosures

- Failure to raise an issue precludes raising it before LUBA.
- Failure to raise constitutional issues precludes an action for damages in circuit court.
- Right to an impartial tribunal.

Impartial Tribunal

Decisions must be based on the testimony and evidence that is part of the record:

- Disclose ex parte contacts on the record giving the public an opportunity to question decision-maker further.
- Ex parte contacts are facts gleaned outside the record from newspaper articles or site visits, for example.
- An objection must be made in order to preserve a challenge at LUBA on that basis.

Decisions must be free of actual bias:

- A predisposition rendering it impossible to make a decision based on the evidence and argument presented.
- No actual conflict of interest - If the decision is likely to have a direct pecuniary benefit or detriment to the decision-maker or a family member of the decision-maker, the decision-maker may not participate.
- Potential conflict of interest – Announce and determine whether to participate.

Public Hearing Procedures

- Staff Report – Available 7 days before initial hearing
- Applicant's Presentation
- Testimony by Interested Parties – Proponents and opponents
- Applicant Rebuttal
- At any time during the initial hearing, a party requests a continuance, the Planning Commission must hold off in making a decision at that meeting. The Planning Commission may:
 - Continue the meeting to a date certain and resume the proceedings where the Commission left off allowing additional testimony with rebuttal.
 - Leave the record open for at least 7 days for all parties, an additional 7 days for all parties to respond to the evidence and finally an additional 7 days for the applicant to submit final written argument (not new evidence).

The Hearing Record – Be clear about what is in and what is out.

Public Meetings and Records Requirements

“Public Meeting” – Majority or a quorum – may include meeting substitutes such as conference calls or emails.

- General rule is that they are open to the public
- Notice and minutes
- Enforcement

“Public Records” – Almost any writing, data storage or other record.

- General rule is that they are available to the public
- Enforcement

Deliberation and the Decision

DETERMINATION WHETHER THE STANDARDS ARE MET INCLUDES:

Interpreting the Applicable Criteria – Apply meaning to ambiguous standards in the purpose or policy of the provision. Focus on the plain meaning of terms taken in context.

Adequate findings – An explanation of how the facts satisfy the criteria.

- Findings must explain why and should not amount to mere conclusions.
- Findings should resolve conflicts in facts and explain why one fact was deemed more reliable than another.
- Findings must address all of the applicable criteria. If the criteria is not applicable, the findings should explain why this is the case.

Based on Substantial Evidence – Is there evidence in the record to support the conclusions identified in the findings.

- The decision-maker can weigh the evidence and make a choice when the evidence is in conflict.

Conditions of Approval – may be attached to ensure that all applicable approval standards are or can be met.