

**LINCOLN CITY PLANNING COMMISSION
MINUTES
November 17, 2020**

1. CALL TO ORDER, PLEDGE OF ALLEGIANCE, & ROLL CALL

Attendee Name	Title	Status	Arrived
Marci Baker	Commissioner	Present	
Kim Blackerby	Commissioner	Present	
Joshua Brainerd	Commissioner	Excused	
Patti Kroen	Chair	Present	
Lenny Nelson	Commissioner	Present	
Miles Schlesinger	Commissioner	Present	
MacNeale Smith	Commissioner	Present	

2. AGENDA CHANGES OR REVISIONS

Commissioner Nelson asked about the final order for APP 2020-04, the Prince VRD license appeal, which was planned for review at this meeting. Preparation of the order was overlooked, and it will be brought to the next meeting. City Attorney Richard Appicello looked up the required timeline in the City's appeal process, and reported that decisions are required to be issued within 60 days of the close of the public hearing.

3. MINUTES

3.1. Planning Commission - Regular Meeting - Nov 3, 2020 6:00 PM

Planning Commissioner Chair, Patti Kroen, and Commissioner Blackerby both commented on the rough state of the November 3, 2020 meeting minutes that were included in the meeting packet, and said that they were not prepared to sign off on them until they have more work.

4. FINAL ORDERS, RESOLUTION, & WRITTEN COMMUNICATIONS

A final order for APP 2020-04 will be prepared and provided in the meeting packet for the December 1, 2020 meeting.

5. PUBLIC HEARINGS/DELIBERATIONS

6. OLD BUSINESS

1. Tree Ordinance Work

Chair Kroen asked Mr Appicello about the required process for inviting tree ordinance experts to talk to the Planning Commission. Mr Appicello responded that it becomes a legislative record issue in the case that eventual ordinance is appealed. He said that if the Planning Commissioner wants to have a work session and invite someone, the work session should be included in the record when the ordinance is adopted so that there is a complete land use record.

Chair Kroen said that the place to start the tree ordinance revision discussion is by defining the Planning Commission's goal. She referred to previous comments by Mr Appicello that the ordinance revision needs to be linked to the comprehensive plan, which is a series of sub-plans. Senior Planner Dave Mattison reviewed the few things that the Comprehensive Plan says about trees. Chair Kroen explained that this was the reason she created the draft community forest management plan that was included in the meeting packet - shifting away from looking at trees as landscaping and taking a more holistic approach, backing up the role of trees in mature landscapes. She suggested that the best pathway to working on the ordinance is determining what the Planning Commission wants it to look like, determining how to accomplish that, and then putting in place a management plan that can be adopted into the Comprehensive Plan.

Commissioner Blackerby thanked Chair Kroen for putting together the community forest document. He said that he thinks it is the direction that the Planning Commission needs to go in. He mentioned that we also have wildlife and wildfire issues to consider, so it is more than just a tree ordinance that is needed. He said that he had highlighted several things in the draft, but that it is a great place to start.

Commissioner Smith commented that the forest is an integral part of Lincoln City, and it gets back to identity, which is one of the things that Lincoln City really needs. We should focus on the trees, focus on heirloom trees, and focus on forested areas in the best way that we can. It is the thing that people come to Lincoln City for.

Mr Appicello made a distinction between the protection of native habitat, of which there isn't much left within the city and makes a lot of sense at the county level, and landscaping. To the extent that there is any native habitat left within the city, the Planning Commission can attempt to make the protections more substantive. He warned, however, that impacts to residential development on residential property are subject to Measure 49, which means that any time the city enacts a regulation that restricts the ability to do residential development on lands zoned for single-family residential use, the city has to pay compensation. There are things that the Planning Commission can do within setback areas without being subject to Measure 49. Mr Appicello also encouraged the commissioners to not be quick to toss out the existing ordinance, but to keep the parts that still work because they are protected from measure 49 claims due to the date of adoption of the ordinance. He said that Measure 49 does not apply to commercial uses, so it did not affect the revision of the VRD rules. Mr Appicello also encouraged the commissioners to look at tools to incentivize tree preservation. Most of the time, working in straight-up quasi judicial review, the Planning Commission has to apply the law and see how the facts match the law. There is nothing wrong with putting incentives into the code to try to get what you want.

City Manager Ron Chandler said that Chair Kroen's approach of beginning with the end in mind is appropriate and it is a great place and the right place to begin. He said that the other thing he would suggest is, when looking at the issue as planners, to not just look at subdivision development and lot development, but also at other ways to achieve the goal. The city did something years ago - it purchased open space so that there are forested spaces within the city. The tree ordinance is only one mechanism to get there, just like within the tree ordinance there may be multiple mechanisms to get the results you want rather than just create a subdivision ordinance that deals with trees.

Chair Kroen brought up partnerships - ways that others in the city who want to get involved can participate. She said that, going through the data behind the Imagine Lincoln City visioning process (and which were included in the meeting packet), there were not as many comments

about trees as she remembered, but when you talk about what we want the city to be, and then bring in economics, it is in the best interests of the city to figure out how to manage trees cost effectively.

Commissioner Nelson asked Mr Appicello if, when the Planning Commission is dealing with a proposed subdivision, that counts as a commercial use, because the developer proposing the subdivision is a business. Mr Appicello replied that Measure 49 applies when you are taking a legislative action, when that action impacts someone with single-family residential zoning and results in restrictions to single-family residential development. In a quasi-judicial process, Measure 49 doesn't apply because you are just applying the criteria in the law.

Mr Appicello added that you have a little bit more flexibility when talking about an annexation. He said that he had sent an annexation ordinance from the City of Ashland to previous planning directors. That ordinance has standards that have to meet in order for property to be annexed, including things like affordable housing requirements. Consistent with the conversation earlier about it possibly being too late to consider native habitat protection within the existing city limits, that might not be the case with land coming in from the county, and so the Planning Commission may consider having an annexation component to the revised ordinance.

Both Mr Appicello and Chair Kroen brought up the idea of mitigation banking as a possible tool in the ordinance. Chair Kroen asked about a reference to a tree preservation fund that was established in 1992. Mr Chandler replied that such a fund does not currently exist, and if there was money in it at some point, it was probably transferred to another fund. Chair Kroen suggested that was something to be cleaned up in the code.

Chair Kroen asked if any of the commissioners had an opportunity to go through the visioning process data that was provided in the meeting packet. Commissioners Nelson and Blackerby both said that there did not seem to be much mention of trees in the visioning data.

Commissioner Baker said that the few things she noticed referencing trees did not seem like things that the tree ordinance would directly affect, such as trees along Highway 101. Chair Kroen said that she noted a few comment about trees in public places, which can be a part of the overall plan

Mr Mattison said that tree ordinances in a lot of cities only focus on trees in the right of way. The Lincoln City ordinance goes further by focusing on more than those trees that are in the right of way.

Commissioner Blackerby mentioned maintenance of community forests. He said that as he has traveled around the city, one thing he has noted is the condition of vacant lots. There is no maintenance of the vacant lots. Branches have fallen. Vegetation has grown. He said that there should be some enforcement around vacant lots and what people are expected to do with their properties or whether they are maintained. While we maintain the forest, we also want to reduce wildfire risk. Unmaintained lots do not contain wildfires. Regarding lot maintenance, Chair Kroen mentioned the existing regulations on invasive plants, and that enforcement is complaint driven. There is not a code enforcement officer driving up and down the road looking for violations. The city does not have the manpower for that.

Chair Kroen asked Mr Appicello to resend the City of Ashland annexation ordinance to the commissioners.

Commissioner Nelson said that one of the things provided when the Planning Commission first started looking at the tree ordinance was a copy of the original environmental portion of the master plan for the Villages at Cascade Head, which was developed with the help of arborists and environmentalists. The master plan was completed and adopted prior to the City purchasing the land. The City also purchased the master plan approval, which is approximately 20 years old. Chair Kroen said that she would love to see the document. Mr Chandler said that staff would have to extract just those portions of the plan pertaining to conservation so as to not overwhelm the commissioners with large parts that are not related to the conversation. Commissioner Nelson said that the main virtue of the plan was that it was brought into being by a number of people who have expertise in the subject.

Chair Kroen said that she would like to see a chart with the restrictions in the different parts of the city.

Chair Kroen said that maybe the Planning Commission should step back and look at what they want the city to look like and where they want to go. She also asked whether there is value in cleaning up the community forest document into an approach to something that is more integral to the success that they want to see in the city. Commissioner Nelson said that she thought Chair Kroen's community forestry document was excellent, and that with some revision the first part could be used as the statement of purpose.

Chair Kroen asked the commissioners to provide written comments or feedback on the document. She also said that she is interested in reaching out to those in town who have worked on such an ordinance, as was discussed at the beginning of the conversation.

Commissioner Baker said that she thinks it would be beneficial to have some people with more expertise involved if the Planning Commission is going to go through the ordinance work-session style, as opposed to digging through the ordinance and then going back and digging through it again. She also said that she had some notes on the community forest document that could be used to fine-tune the language, but that she did not have a lot to add. She said that she had a few notes about the value of trees in a community. One role that trees can play is providing food. Some trees do, and food production is sustainability. It would be interesting to throw something like that into a tree ordinance. Chair Kroen said that she lived in a place where the developer of a small community of 25 houses ringed the development with fruit trees, which was a cool added benefit.

Chair Kroen asked people to send her their written comments on the draft community forest document, and she would continue working on it. She said that she wanted to talk to the people in the community that were identified previously as having experience working with a tree ordinance to come chat with the Planning Commission. Particularly about things they would have done differently. Mr Mattison will make contact with the person who was involved in the creation of the Cannon Beach tree ordinance and the member of the Parks Board who participated in the creation of the Portland tree ordinance.

The tree ordinance revision will be on the next several agendas - possibly only a check-in at the December 1, 2020 meeting because there are several public hearings.

7. NEW BUSINESS

None

8. PLANNING COMMISSION TRAINING

Joint training with the City Council is scheduled for the first Planning Commission meeting in February 2021. The City Council will attend the Planning Commission meeting.

Mr Chandler reported that the first set of interviews for the new Planning and Community Development Director will be held on Thursday, November 19th. They are trying to schedule a zoom open house on the next Tuesday following that, with a survey afterwards. Commissioner Schlesinger asked if the open house will be broadcast. Mr Chandler answered that it could be broadcast like a regular Planning Commission or City Council meeting. He added that the open house is not something that the City does with all department head positions, but that there are some that interact a lot with the public, and the open house gives a chance to see how candidates deal with the public (which is an important part of the interview process).

9. REPORTS & COMMENTS

Chair Kroen mentioned that there are a lot of volunteer opportunities open in the city. Many commissions and boards operate through volunteers, and there are two commission seats that are coming up this year.

Commissioner Smith asked about the process for filling the mayor's position, since the mayor was elected to the state senate. Mr Chandler answered that the filling of a vacancy on the City Council is outlined in the city charter and gives latitude to the Council. Once a vacancy is created, the Council can appoint someone, can take applications and make an appointment, or hold an election. In all three cases it would be an election or appointment to fill the vacant term. So when the mayor is ready to resign and declare a vacancy, the city council will move forward.

10. FUTURE AGENDA ITEMS & NEXT MEETINGS

None

11. ADJOURN

Respectfully submitted,

James White
Assistant Planner

Patti Kroen
Chair