



# PLANNING COMMISSION MEETING MINUTES

May 8, 2024 at 6:00 PM

City Hall Council Chambers & Remote Video Conferencing

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*Draft PC Minutes were reviewed and approved as corrected at the June 12, 2024 PC Meeting.*

## CALL TO ORDER - ROLL CALL

A regular meeting of the Wilsonville Planning Commission was held at City Hall beginning at 6:00 p.m. on Wednesday, May 8, 2024. Chair Andrew Karr called the meeting to order at 6:00 p.m., followed by roll call. Those present:

Planning Commission: Andrew Karr, Ron Heberlein, Nicole Hendrix, Matt Constantine, Sam Scull, and Yana Semenova. Jennifer Willard was absent.

City Staff: Miranda Bateschell, Amanda Guile-Hinman, Daniel Pauly, and Mandi Simmons.

## PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

## CITIZEN INPUT

This is an opportunity for visitors to address the Planning Commission on items not on the agenda. There was none.

## ADMINISTRATIVE MATTERS

1. Consideration of the April 10, 2024 Planning Commission Minutes  
The April 10, 2024 Planning Commission Minutes were accepted as presented.

## WORK SESSION

2. Frog Pond East and South Implementation-Development Code (Pauly)

Daniel Pauly, Planning Manager, presented the Staff report via PowerPoint, providing the follow-up information requested by the Planning Commission on the Variety Standards, particularly with regard to thresholds for the number of mobility-ready units and size for small units. Staff continued to recommend a minimum 10 percent for mobile-friendly units, anticipating vertical mixed-use could lead to up to 15 percent, and setting 1,200 sq ft as the minimum threshold to ensure construction of smaller unit types.

- Referencing the meeting packet, he also reviewed the proposed Development Code Amendments....

Feedback from the Planning Commission and responses by Staff to Commissioner questions were as noted:

#### Mobility-Ready units

- Once adopted into Code, the 10% requirement would be final. However, construction in Frog Pond would not begin until the Boeckman Creek Sewer Interceptor was built, which was still a couple years away. The City was planning Residential Code updates to implement any recommendations from the Housing Production Strategy, especially if the Housing Our Future project identified specific needs or provided more data, which would be an opportunity to make any changes consistent with any findings from the project prior to any construction at Frog Pond.
- Given that exceeding the 10% requirement was realistic at buildout, the 10% Code minimum was acceptable.
- Being able to have enough mobility-ready units was everyone's concern. Mr. Pauly articulated some negatives as that percentage increased, and the economic feasibility of the units was also a consideration.

#### Small Unit Threshold

- The data analysis information was good to have and revealed the missing unit type. The Commission wanted to make homes more affordable, which was a challenge in Wilsonville. Staff's assessment and willingness to reassess their position was appreciated.
- Five percent of the units in Frog Pond East and South would equate to about 75 small unit-type homes.
- The lower 1200 sq ft threshold would provide the variety the Planning Commission wanted.

The Planning Commission supported Staff's recommendations for a 10 percent minimum for mobile-ready units and a small unit threshold of 1,200 sq ft.

#### Code Amendment Review

- Mr. Pauly explained many footnotes were important to policy, and while Footnote A for Table 6B, which established the minimum unit types, was long, it referred to the definition of detached duplex or cluster housing, allowing two detached units to be built on the same lot. (Page 34 of 80)
  - In Frog Pond West, on lots of 8,000 sq ft or larger, developers sometimes built two houses intended for 4,000 sq ft lots on a single lot through a middle land division process. To an observer, these homes appeared identical to any other detached homes. Footnote A addressed concerns about developers counting such units as middle housing, so that each unit would be a detached single-family home on its own lot.
  - To qualify as middle housing units, a unique configuration was required, such as not having street frontage, to distinguish cluster housing, for example, from detached single-family homes and meet the intent of the standards.
- A detached single-family home and a small home of 1,200 sq ft or less would not qualify as middle housing if both homes were facing the street. If one unit qualified as an Accessory Dwelling Unit

(ADU), then half of the parcel could count as another unit type. ADU sized units would count as middle housing, but a small home **would not**.

- Seeing previously discussed items coming to fruition in a document was appreciated as were the references to removing redundancies and cleaning up the document.
- Mr. Pauly explained the Urban Form section described the range of urban forms. If Form Types 1 and 3 were mentioned, one could assume something in between existed. Referencing Type 2 had made the document a bit long, but if mentioning Type 2 would provide more certainty and clarity, it could be added. (Page 5 of 80)
- The definition of “multi-family” was revised during the recent Middle Housing Code work was done. No changes to the definition were proposed because the section was more about defining the review process than defining “multi-family.” (Page 6 of 80)
- Mr. Pauly acknowledged Page 34 was complex, so he would try to reword it. He was having other Staff review the document as well, and he would ask for their feedback. (Page 34 of 80)
- Mr. Pauly was not sure why the notes about square pickets and the brick wall being six inches thick with a stucco cap were different on Pages 57 and 58. He suggested adding the language to Page 57 to ensure the wall appearance remained consistent.
- Use of the words “Board” or “Planning Director” covered every potential review process, making interchangeable use of the words “Board” and “City” acceptable. (Page 78 of 80)
- Section (D).2.c addressed concerns from the Fred Meyer development, where main entrances were required to be street-facing, but none of the actual business entrances faced the street, as all street-facing entrances were blocked off with no access. The amendment aimed to prevent this in Frog Pond by requiring the primary entrance to be street-facing, which was also consistent with the Master Plan’s requirements for dwellings. This was reinforced by similar language throughout the Zone and Residential Design Standards that mirror the idea of the main entrance facing the street. (Page 69 of 80)
  - At the Fred Meyer development, Boones Ferry Road’s design with no on-street parking and most pedestrian activity on the interior led to street entrances getting blocked off. In Frog Pond, Brisband St had on-street parking and was designed to have more pedestrian traffic. Additionally, the street-facing requirement was only for the side facing Brisband St, so some tenant spaces might not go all the way through the building and have a back hallway.
  - The risk for street-facing entrances being blocked off was not as high in Frog Pond as Fred Meyer, and the requirement was consistent for all development types to orient toward the street rather than parking.
- The requirement in Section (D).7.b.i for 60 percent of the ground floor wall area to be windows aimed to create the appearance of a store front, making the building look like a commercial business rather than a residential building. While this requirement would provide light into the unit, its primary intent was to provide a streetscape, urban design element, contributing to the look and feel of the pedestrian and commercial area. (Page 70 of 80)
  - Miranda Bateschell, Planning Director added part of the reason for the requirement was Brisband St was a main street. The glazing on the windows created interaction between the interior frontages and sidewalk activity in the pedestrian realm. The glazing standards, particularly for the ground story facing SW Brisband Street was adapted from the Town Center Code, which would also apply to the main street in Town Center.
  - Glazing standards for Old Town Square, which included the Fred Meyer development, were intended to prevent street-facing windows from having film or other blocking features, but

enforcement was difficult due to the orientation of the tenant spaces. For example, bathrooms at the back of tenant spaces required window tinting. Although these Standards did not go into such detail, generally, window tinting could be applied to the interior but not the exterior, similar to how interiors signs were exempt from sign regulations. Even with tinting regulated, the reflectivity of windows would remain consistent, maintaining a uniform look. However, businesses could still apply similar film on the inside, compromising visibility from both sides.

- Mr. Pauly noted the question was how much the City should regulate. Staff had been aiming to be consistent with similar development elsewhere. If the City had such a requirement, consistency would be recommended, but even in Town Center, interior windows were not regulated.
- Ms. Bateschell clarified any glazing requirements would be limited to commercial storefronts, providing more flexibility and privacy for residential or live-work units, especially during non-business hours. If the Planning Commission wanted to consider amending this section, Staff could double-check the provisions, especially in relation to the main street of Town Center, as the regulation may have been in the design standards table but not carried over to the window façades table.
  - As far as live-work units, Town Center was very unique, depending on the sub-district. Retail on the ground floor of every building or even every street was not required. The only location requiring an active ground floor frontage was on the main street itself, so in certain areas of the Town Center ground floor units were likely. Along the main street and at the intersection with Courtside Dr, active ground floor spaces would not be primarily residential. She could not remember if live-work spaces were restricted, but she did know an active space along the main street was required. Both live-work and purely residential spaces on the ground floor in some of the Town Center buildings would be seen.
- Mr. Pauly confirmed the Planning Commission would continue to review the Development Standards at the June meeting before holding the public hearing. He would highlight changes in the next revision for easier differentiation so Commissioners would not have to re-read the entire document.
- Mr. Pauly highlighted key new or notable changes in the Development Code as follows:
  - Blending minimum requirements for housing types over sub-district boundary lines was initially discussed for mobility-ready units, where an excess in one sub-district could be counted as a credit to a neighboring sub-district that may not have enough as long as the units were on the sub-district borders. After a lot of discussion, Staff was recommending the concept be extended further to allow blending for either middle housing or small units, but not both, to allow similar flexibility for those unit types. If, for example, middle housing standards were not met in one sub-district and the builder controlled both sides of the boundary line, the line could be a bit wider to build middle housing on the other side of the street. The credits needed to be used immediately adjacent to the boundary line and could not be used on the other side of the sub-district.
  - Several requirements still needed to be met, including having three types of housing units in each sub-district. For example, a sub-district could have three different configurations of multi-family units and meet the middle housing requirement right over the sub-district line.
  - The credits could really come into play in two scenarios. Sub-district E4 in Frog Pond East was at the corner of Stafford and Advance Rds. where West Hills had shown scenarios with primarily multi-family units in the sub-district. In that case, middle housing requirements

could be met right over the border on the northern side in Sub-district E5. ~~next door to the north.~~

- Another scenario was at the boundaries between Sub-districts South 2 and South 3, where a variety of 2- to 5-acre properties were located. If a developer gets an interest in a 3- or 4-acre property on both sides of the sub-district line, housing types could be blended a bit at the sub-district line, which seemed like a reasonable flexibility to allow in that situation.
- Builders could not borrow credits from another builder. Credits were intended for use when the Stage 1 area, or proposed development, already crossed sub-district lines. Flexibility would be allowed during Stage 1 planning, when looking at the entire area being planned for development, but credits would be limited to the boundary area or either side of the street.
- Mr. Pauly said he would have to consider if the Code allowed for rolling surplus credits across multiple sub-districts, or daisy-chaining credits, to meet housing type requirements.
  - Commissioner Heberlein believed as long as the overall requirements were being met, a bit of shift in a given development seemed reasonable.
- Narrow Side Yards. In Villebois, several scenarios involving 3-ft or 4-ft side yards provided no access, essentially becoming dead ends. These yards were not usable and were located on the inactive side of the house. Consequently, no motivation to maintain them existed, leading to the accumulation of junk and overgrown blackberries. Staff deliberated the details of fence placement and whether to allow fences in these situations, considering fences could be erected anywhere at any time because permits were not required. Staff did not encourage allowing fences in such situations because even if a fence was not allowed, enforcement would be an ongoing issue if the area appeared to be a natural location for a fence. (Note E, Page 14 of 80)
  - The primary issue involved the maintenance of these narrow side yards. One approach considered preventing side yards from being so narrow. However, practical reasons existed for having narrow side yards. Often, narrow side yards resulted in one side being active, with an easement over a portion of the neighbor's property to use as an active side. The neighbor, in turn, had an easement over the other side. This arrangement was not always feasible due to the orientation of the houses, which sometimes resulted in two inactive sides facing each other.
  - In some cases, fencing these areas was unavoidable due to the orientation of buildings and efficient land use. When building detached homes, increasing the space between buildings was undesirable because the land could be used for additional housing, so the issue became how to encourage or require maintenance of these areas.
  - Practical reasons for having narrow side yards existed, and the issue came down to encouraging or requiring maintenance. Common sense suggested if people used the area, maintenance would be more likely to occur. The Development Code applied citywide and suggested narrow areas should have a gate or some form of passage to the rear yard or alley, increasing usability and preventing the yards from becoming forgotten dead ends. The Code also addressed the issue of blocking the passageway with junk or large plants, such as placing an arborvitae in narrow side yards.
  - Adding language to the Nuisance Ordinance, which generally fell outside the Planning Commission's purview, to include typical nuisances like junk and weeds blocking passage was recommended to allow enforcement under the Nuisance Ordinance.

- The Building Code required side yards to be a minimum of 3.5 ft. The economics usually did not work out for more narrow side yards because the wall and eave would have to be fireproofed, substantially increasing construction costs.
- A 3.5 ft side yard required a gate or some other opening to access the area. A string of detached houses with 3.5 ft side yards were likely to have active and inactive side yards.
- Controlled maintenance and management of side yards were the responsibility of the HOA under its covenants, conditions, and restrictions (CC&Rs). Under the Nuisance Ordinance, the HOA had more active patrols and stricter rules than the City, so active HOAs usually addressed those issues. However, the City had tall grass regulations, and if the condition was severe enough and a complaint was filed, the Code could be enforced. The main difference was an HOA could force a resident to mow when the lawn an inch tall, while the City would not enforce mowing until the grass was 2-ft tall, dried out, and a fire hazard.
  - The Code itself would dictate the maximum gap between the houses and the setback for the fence before moving on to the Nuisance Code or an HOA's CC&R role. Most side yards, particularly between townhouses, had shared maintenance and shared access, but a few exceptions brought up the need to address when additional action could be taken.
- Mr. Pauly clarified the Nuisance Code addressed a level of severity. For example, an old microwave being put out before being taken ~~take~~ to the next large debris day at Public Services would probably be okay as long as the HOA did not object, but a large pile blocking the entire side yard or weeds growing over the fence causing rats to run through the neighbor's yard would be actionable.
  - The Nuisance Code addressed issues such as fire hazards and garbage piles attracting varmints. Other factors could trigger the severity of the Nuisance Code violation, such as items blocking one of the required passageways.
  - Examples of why side yard maintenance should be addressed in the Code included trees planted in a side yard that had grown into the neighbor's yard, creating a nuisance or weeds overgrowing a fence otherwise would not be severe enough to warrant action. The most important part was to increase the use of side yards so that it was maintained, which would take care of the issue. City Council supported adding the provision to the Nuisance Code.
- Drawings of the fences had been updated. Prior drawings had shown just a brick wall, but now the walls were shorter with the metal on top along Stafford Rd. (Figure A-8.3) Each dimension was now half of what was required along Boeckman Rd. The other fence design along Advance Rd had less brick, mirroring units in Villebois. (Figure C-8) (Pages 57 & 58 of 80)
- The public realm elements were completely new. The Master Plan contained quite a bit of detail, so the Master Plan was referenced rather than restating it in the Development Code. (Page 60 of 80)
- Commercial Main Street had been updated to define and clarify that 50 percent of Brisband St frontage was required to be commercial use to ensure getting the commercial units called for in the Master Plan.
- The section of allowed residential unit types was changed significantly to state all unit types were allowed but also show the limitations to that broad allowance. This approach made more sense than listing all allowed units. The proposed change would create variety by allowing specific unit types, which would then be guided by the Variety Standards.
- Mr. Pauly confirmed the Planning Commission would broadly discuss housing next month and also review the annual housing report, carrying forward themes on how housing functioned and what

that meant as far as the housing that would actually be produced. Additional details could be discussed as well as any updates of the Code as Staff continued to refine it in the coming weeks.

- Changing the design of the fence along Stafford Rd to no longer be all brick would not increase traffic noise for units along Stafford Rd, as the design included a travel lane followed by a wide planter, a 12-ft sidewalk, a setback to the wall, and then another setback before the unit. Units on Stafford Rd would have quite a large distance between the traffic and the front door of the unit, unlike units on smaller streets like Barber Street, which would be right on the street.
  - Regarding front yard fences, the 2-ft wall with the metal on top was substantial. Having just a brick wall would totally close off the front yard, leading to questions of why the unit should face Stafford Rd. The units on Stafford Rd would be at least 30 ft from the travel lane.

Chair Karr called for public comment.

Dan Grimberg, West Hills Land Development, thanked the Commissioners for their efforts, acknowledging the complexity of the Code they were tasked with understanding and noting his long-term involvement in the development industry.

- He expressed concern about the inflexibility of the current Code, emphasizing the development world required adaptability due to changing economic conditions, market demands, and consumer preferences. Developers managed numerous factors to build products to meet public and market needs. A lot of work went into determining what would sell and what the public and market wanted.
- He warned excessive requirements in the Code left little room for flexibility, which was problematic for long-term planning as conditions would inevitably change. He noted the difficulty of amending the Code and obtaining adjustments or variances, which could add uncertainty and risk for developers. A developer had opportunities across the market they were in and where to their risk capital, so all these factors were considered. West Hills maintained contact with builders, did land development, sold lots, and built houses, doing it all, depending on the conditions at the time. He urged the Commissioners to consider how flexibility would be implemented.
- He provided four examples illustrating West Hills' concerns about flexibility as follows:
  - Table 6B identified the minimum number of units required in each sub-district. After working on the issue for about a year-and-a-half, concerns about the numbers still existed. The plan for Sub-district E5, previously shown to the Planning Commission as an example of what could be done with the 80-acre Azar property, probably the largest to be developed in Frog Pond East and Frog Pond South, met the previous requirement of 214 units. At yesterday's meeting, Mimi Doukas of AKS Engineering noticed the minimum units for the sub-district had increased to 244 units, but with the mix in the area, room for 30 more units was not available. He emphasized the issue was still under discussion and hoped for a satisfactory resolution, but noted the change was related to Stormwater Code, increasing the impact on buildable land from five percent to ten percent and therefore increasing the required density on the higher density sub-district. (Page 32 of 80)
  - Regarding mobility-ready units, West Hills wanted to provide housing to an existing market, but no real concrete numbers for people with limited mobility were available. The current Code's requirement for fully accessible units on one floor was overly restrictive. He suggested considering a more flexible approach focused on visitability, such as requiring only a bedroom

on the main floor. He questioned the need for such stringent requirements, given the lack of concrete numbers indicating demand for fully accessible units.

- The definition of a small unit was questionable, noting the average unit West Hills built was approximately 2,000 sq ft. He believed any unit smaller than 2,000 sq ft was a small unit. Instead of using the lack of 1,200 sq ft homes in Villebois to suggest the existence of a market gap needing to be filled, he contended that particular market did not exist. If the market existed, the home would be built. The project needed to be financially feasible, but the Planning Commission was directing unit types for a very hypothetical market. Another factor was small units on lots had a very high cost per square foot, negatively affecting marketability and possibly explaining why those unit types were not selling or being built.
- Regarding the requirement for 50 percent of street-facing façades to be dedicated retail space, a recent study conducted for the City indicated the retail market was very weak. Not only would the requirement affect willingness to build the retail space, but the apartment units, which would serve the mobility and small unit issue because of elevator service, would not be built. He proposed allowing live-work units to count toward the retail requirement. He explained live-work units could be built to appear as retail spaces, with appropriate design elements such as 12-foot plate lines, glazing requirements, and street-facing access. This approach would provide the necessary activity on the street while avoiding vacant retail spaces. Additionally, the vertical housing tax credit, which counted live-work units toward retail requirements and provided a partial property tax abatement for 10 years, further supported his proposal.
- The noted the City of Portland passed a regulatory relief package in December to spur housing development by removing certain Code requirements impeding housing production, including the active-use requirement for multi-family buildings. Buildings requiring retail on the main floor had see-through glass, so the spaces were vacant after the retail market went bad. He noted the retail market was very fickle, noting a restaurant he frequently ate lunch at near his office in downtown Portland recently closed down. In the uptown shopping center off Burnside, one of the best retail locations in Portland, the deli, liquor store, pharmacy, real estate office, and ice cream shop all went out in the past year. Putting retail on the bottom floor would not guarantee success.

Mr. Pauly confirmed if stormwater retention facilities were larger than anticipated, the minimum unit requirements could be recalculated using the method outlined in Code Section 4.127 (.06) C. He noted he had previously mentioned the numbers in Table 6B would be refined, aligned, and better proportioned as better projections of units per acre and layout plans were received. Staff was still working through the numbers, which would probably change a bit more. Only buildable land was being used in the calculations, with land used for streets, stormwater facilities, and open spaces excluded. A requirement reduction was available and could be calculated if the net was less than 75 percent of gross. He believed West Hills and Staff would eventually be more aligned and reach an agreement.

Mr. Grimberg acknowledged reducing the minimum number of units would allow them to meet the Code, but the reduction was a killer financially because density was needed to spread and reduce costs and make money. The primary goal was not to decrease the number of units, as they aimed to create a thriving community and density was crucial to making the financial formula work. He confirmed the main concern was the stormwater facility requirements eating into the buildable area, rather than the minimum number of units. He noted AKS had studied the issue and estimated the Stormwater Code



recently presented by the City created a 10 percent density reduction. An example using simple arithmetic assumed 350 lots were owned. Losing 10 percent more than anticipated resulted in over 30 lots being lost. If a lot was worth \$200,000, a \$6 million loss would be created, leading to serious concerns.

Mr. Pauly clarified other code regarding stormwater, not under the Planning Commission's purview, was also at work. For example, Public Works Standards could result in the same concerns and issues even without the Stormwater Code. The proposed Stormwater Code was meant to elevate the issue to everyone involved in the design process as the subdivision and all of its components were being designed.

Ms. Bateschell added many conversations had looked at recent developments, including Frog Pond West, in terms of land consumption for stormwater facilities consistent with Public Works Standards and the Code. Calculations indicated about seven to eight percent of land was being consumed for stormwater facilities, partly explaining the reason for modifying the assumption behind the numbers. Originally five percent of the gross development acreage had been used, but the number was now rounded up to ten percent, slightly higher than the seven to eight percent, to be conservative and make sure to account for more extensive stormwater facilities, which was partly why number changes were still being seen. The process was still being worked through to make sure the assumptions were good.

Mr. Pauly noted in subsequent calculations for unit allocations, the ten percent assumption was used because the additional information received was more accurate.

#### **INFORMATIONAL**

3. City Council Action Minutes (April 1, 3, & 15, 2024) (No staff presentation)
4. 2024 PC Work Program (No staff presentation)

There were no comments.

#### **ADJOURN**

Commissioner Hendrix moved to adjourn the regular meeting of the Wilsonville Planning Commission at 7:31 p.m. Commissioner Scull seconded the motion, which passed unanimously.

Respectfully submitted,

By Paula Pinyerd of ABC Transcription Services, LLC. for  
Mandi Simmons, Planning Administrative Assistant