

# PLANNING COMMISSION MEETING

January 26, 2015

**CHAIR CRIS TORP** called the Lincoln County Planning Commission meeting to order at 7:31 pm and roll call was taken.

## **OTHER COMMISSIONERS PRESENT**

DICK JOHNSON  
JUDITH PELLETIER  
PHIL SPULNIK  
MARK MCMAHON

## **COMMISSIONERS ABSENT**

STEVE MORRILL  
SAM GALASSO  
ANDRA BOBBITT

Staff Present- Planning Director Onno Husing, Associate Planner Joshua Shaklee, Associate Planner Hui Rodomsky, Permit Specialist Kristine Castillo

## **QUORUM STATUS**

With Commissioners present a Quorum has been reached for the January 26, 2015 Planning Commission Meeting.

## **APPROVAL OF MINUTES**

Chair Torp asked for any changes or additions to the draft October 13, 2014 meeting minutes. No changes were made.

Commissioner Johnson moved to approve the October 13, 2014 meeting minutes. Commissioner Pelletier seconded the motion. The vote was taken and the motion passed with all in favor.

Chair Torp asked for any changes or additions to the draft December 16, 2014 meeting minutes. No changes were made.

Commissioner Johnson move to approve the December 16, 2014 meeting minutes. Commissioner Spulnik seconded the motion. The vote was taken and the motion passed with all in favor.

## **ITEMS FROM THE AUDIENCE**

Chair Torp asked if there were any items from the audience. There were none.

## **PAST ACTION REVIEW FOR PLANNING COMMISSIONERS**

Chair Torp asked if there were any items for past actions to review.

Planning Director Husing informed the Commissioners the Findings, Conclusions and Final Order for Lettenmaier Case #02-LUPC-ZC-14 were accepted and adopted in the previous Planning Commission Meeting scheduled on December 16, 2014.

### **UNFINISHED BUSINESS**

Chair Torp asked if there were any items of unfinished business that needed review. There were none.

### **ACTION ITEMS**

Chair Torp asked if there were any action items that needed reviewing. There were none.

### **PUBLIC HEARING**

**Continuance of Public Hearing on Case File #02-TA-14; The Lincoln County Planning Commission will consider amendments to the Lincoln County Comprehensive Plan and Zoning Ordinance to establish a new zoning designation, the Public Park Master Plan (PMP) zone. The purpose of the PMP zone is to facilitate the development, maintenance and enhancement of state and local public parks. The zone provides for the implementation of state park master plans adopted by the Oregon Parks and Recreation Commission and local park master plans adopted by the Lincoln County Board of Commissioners pursuant to Oregon Administrative Rule (OAR). The text amendment also amends LCC 1.1405 (Sign Requirements) to allow accessory signs pursuant to OAR.**

Chair Torp read the applicable criteria and asked for any ex parte contacts or conflicts of interest.

No ex parte contacts or conflicts of interest were disclosed.

### **STAFF REPORT**

Planning Director Husing explained that amendments to the Lincoln County Comprehensive Plan and Zoning Ordinance to establish a new zoning designation, the Public Park Master Plan (PMP) zone, are policy/legislative decisions, not quasi-judicial matters. Husing offered that a desired outcome of the hearing would be for the Planning Commission to forward a recommendation to the Lincoln County Board of Commissioners (BOC) to adopt the PMP code amendments.

If adopted by the BOC, a new “stand-alone” Parks Master Plan zoning classification would be established. All parks within the unincorporated areas of Lincoln County owned by Lincoln County or the State of Oregon Parks and Recreation Department (OPRD) would be eligible to be re-zoned to PMP upon the request of Lincoln County or OPRD. The main purpose of the PMP zone would be to align the County’s development code to facilitate the use of a parks master planning process as prescribed in state statute and administrative rules. At present, under the county’s code, the scale of development of public parks in T-C and A-C zoning is substantially limited. Once a property is rezoned to PMP, a parks master planning process could be initiated to exercise substantial flexibility about how a park could be developed.

At their October 13, 2014 meeting, the Lincoln County Planning Commission expressed concerns that OPRD, at some time in the future, seek to develop a state park that was too intensively developed and directed staff to gather additional information for how an appeal process would occur. Director Husing drew the Planning Commission’s attention to: (1) the language in the OARs about the important consultative role of the Planning Commission and the BOC in the master planning process, and, (2) how the existing OARs directs OPRD to develop parks in a way that maintains nature features of the property and otherwise does not exceed the carrying capacity of the property. Therefore, Husing noted, if OPRD submitted a highly aggressive master

plan, and Lincoln County were to appeal, the matter would end up before the State of Oregon Land Use Board of Appeals (LUBA). LUBA would then review what OPRD was proposing to determine, to their satisfaction, that the proposed park was consistent with the guidance provided under the OARs.

Chair Torp asked if there were any further questions for staff.

Commissioner Johnson inquired after how and when the PMP zoning designation would be applied, and whether it could be applied to other parks besides Brian Booth State Park, such as Beverly Beach and Moonshine Park?

Director Husing stated that the PMP zone could be applied, by the County or OPRD, to existing parks to gain the flexibility afforded by the master planning process for expansions or re-development of these parks.

Commissioner McMahon inquired about the strong language in the OARs that would provide safeguards to over-development of parks . It was agreed to take that matter up during the testimony phase of the hearing.

#### **TESTIMONY**

Ron Campbell, Oregon Parks and Recreation Department  
Wayne Belmont, Lincoln County Counsel

Lincoln County Counsel Belmont explained that under current code provisions, parks are generally designated as forest or farm land and are constrained by what development is allowed in those zones. The new process is more involved on a local level in the development of these master plans. The County is provided notice and has opportunity to participate in the process of developing the master plans of future State parks. In the case of Brian Booth, the Lincoln County Board of Commissioners has already participated on several levels. They have done a site visit to the park, viewed the master plan, and had official presentations throughout the entire planning process.

The administrative rules provide some mechanisms for us in that participation process for raising questions, issues, and looking at the elements of our comprehensive plan even as they would apply to the process. The administrative rules require OPRD to address all of those issues and ultimately if the Planning Commission disagrees with the outcome, there is a dispute resolution process.

Lincoln County Code, at present, is very restrictive, and has even inhibited the development of County Parks, such as Moonshine Park, which has recently doubled in size. Rather than trying to proceed with those changes that need to be made, we would rather have the PMP move forward.

Commissioner McMahon stated that he would not like to see over-developed parks in Lincoln County. He fears that ultimately State requirements would take precedence over the County's.

Mr. Campbell stated that this is a common misconception and the State does not preempt local land use laws, they are bound by County land use objectives.

Commissioner McMahon remarked that he is still dissatisfied overall with the ability of the County to influence the development of State parks. Commissioner McMahon stated that residents are left to trust that State Parks has the County's best interest at heart. The master planning process does give us the opportunity to express our local wishes. However, he expressed concern that Oregon will become a tourist state, with development occurring in the mountains and the coast. He feels that Lincoln County is a playground for Portland and he does not want to see it further overrun.

Counsel Belmont stated Commissioner McMahon could limit applying the designation to a large parcel park. Counsel Belmont stated he appreciates the opportunity to provide input before the designation is applied.

Director Husing stated that the State legislature codified land use planning in 1973. If State Parks started to buy a ton of property and started filling up the coast with Parks, the remedy would need to come from the legislature.

Commissioner McMahon remarked that a remedy like that would have to be funded.

Mr. Campbell stated that only ten percent (10%) of Brian Booth Park, or 1,276 acres, is planned to be developed for recreational support facilities which is reasonable.

Commissioner McMahon asked with one hundred and sixty (160) sites, does it really reduce the impact to the natural resources.

Mr. Campbell remarked that developing a parks master plan is a very extensive process requiring public involvement and involvement of key interests. For example, the Brian Booth Park master planning process has included meetings with neighbors in Seal Rock, adjacent property owners, and agencies like Oregon Department of Transportation (ODOT). The plan must address natural enhancement, protection, local public services, traffic studies, and any road improvements required by ODOT (which will cost over \$100,000 of changes for safety). Mr. Campbell remarked there are a lot of "teeth" in the OARs, thus not allowing these plans to go through without following the State Park Planning guidelines. He stated that OPRD relies on experts in the field to develop these plans.

Commissioner Pelletier asked how the number of proposed campsites at Brian Booth compares with Beverly Beach or Lost Creek Parks.

Mr. Campbell stated Beverly Beach has approximately 200 sites, while 169 are proposed at Brian Booth, where car camping and built in facilities will be emphasized, rather than RV parking.

Chair Torp asked if a park were to expand in size whether the park would be affected as a whole or if the added acreage be considered separately (requiring a separate master plan).

Mr. Campbell stated that if acreage was added to Beverly Beach for example; you would have to adopt a whole new master plan, including the original park.

Counsel Belmont stated there is a process that existing parks have to comply with existing OARs and plan would have to be tweaked to accommodate.

Commissioner Pelletier stated she is surprised Oregon Department of Transportation would agree to allow development on the corner (where Brian Booth Park would be accessed from Highway 101).

Mr. Campbell stated that some improvements to the park entrance are required by ODOT, but widening the road or lengthening the left turning lane is not required.

Commissioner Spulnik remarked that the specifics of the Brian Booth Park master plan are not under consideration to the PMP zoning designation.

Commissioner McMahon stated that the issue with that kind of thinking is once the zoning is created and applied, there should be a dialogue.

Commissioner Spulnik compared the zoning designation to a public facility zoning. He stated that the Planning Commission sometimes doesn't get much say but it still needs to be applied appropriately.

Counsel Belmont stated that there is a need for this zoning designation in Lincoln County. The process allows us to determine what the community wants.

Commissioner Spulnik motioned to recommend that the Lincoln County Board of Commissioners adopt an amendment to the Lincoln County Comprehensive Plan and Zoning Ordinance to establish a new zoning designation, the Public Park Master Plan (PMP) zone.

Commissioner McMahon seconded the motion.

The vote was taken and the motion passed with all in favor.

**MOTION to recommend to the Lincoln County Board of Commissioners the adoption and amendments to the Lincoln County Comprehensive Plan and Zoning Ordinance to establish a new zoning designation, the Public Park Master Plan (PMP) zone. The purpose of the PMP zone is to facilitate the development, maintenance and enhancement of state and local public parks. The zone provides for the implementation of state park master plans adopted by the Oregon Parks and Recreation Commission and local park master plans adopted by the Lincoln County Board of Commissioners pursuant to Oregon Administrative Rule (OAR). The text amendment also amends LCC 1.1405 (Sign Requirements) to allow accessory signs pursuant to OAR.**

#### **PLANNING COMMISSION CONCERNS**

#### **ELECTION OF LINCOLN COUNTY PLANNING COMMISSION OFFICERS**

Commissioner McMahon moved to re-elect Cris Torp to serve as Chair of the Lincoln County Planning Commission for the year 2015.

Commissioner Pelletier seconded the motion.

The vote was taken and the motion passed with all in favor.

Commissioner Pelletier moved to re-elect Andra Bobbitt to serve as Vice Chair of the Lincoln County Planning Commission for the year 2015.

Commissioner McMahon seconded the motion.

The vote was taken and the motion passed with all in favor.

Commissioner Spulnik moved to close the election proceedings.

Commissioner McMahon seconded the motion.

The vote was taken and the motion passed with all in favor.

## **WORK SESSION**

### **PLANNED INDUSTRIAL I-P ZONE AMENDMENT**

Planning Director Husing stated the purpose of the work session was to provide the Planning Commission with an opportunity to consider and influence any proposed amendments. Before the Planning Commissioners is a potential amendment to the Planned Industrial Zone (I-P) section of Lincoln County's land use code. If the Planning Commission so chooses, a recommendation to initiate a code amendment could be advanced at a future public hearing and it would then be forwarded to the Lincoln County Board of Commissioners.

The proposal involves a simple change to the Code. Planning staff worked with Lincoln County Counsel Belmont to draft some potential code language. The amendment would address dimensional standards, largely setbacks, that in certain circumstances may unnecessarily encumber the full utilization of I-P zoned properties in Lincoln County.

Husing explained the reason this proposed code amendment is before the Planning Commission is Dennis Bartoldus, Attorney-at-Law, approached the planning department on behalf of a client that owns property located in an I-P zone on 23rd Drive in unincorporated Lincoln County regarding potential uses of this property. The property is also located within Lincoln City's urban growth boundary (UGB). The owners of these types of properties feel comfortable being out of city limits as they probably have reduced taxes and have no real need for city amenities. There is a modest amount of this type of property in the County. Portions of South Beach, in County jurisdiction but within Newport's UGB, are zoned I-P. There is also IP zoned parcels located within the City of Toledo's UGB, including a large parcel owned by the Siletz Tribe.

Director Husing and Mr. Bartoldus made a site visit to the property on 23<sup>rd</sup> Drive where Mr. Philips seeks to develop with storage areas for lease. The proposed facilities would be used for storage and some of the buildings would house commercial/light industrial business. Because of the narrow shape of the property, and given the setback requirements presently in the Lincoln County Code, space would be very limited at the property. It is important to note that, in time, this property and the other I-P zoned properties along 23<sup>rd</sup> Drive will be annexed into City of Lincoln City limits.

Mr. Bartoldus stated that the purpose of I-P zoned land is to create jobs. Mr. Philips' property is severely constrained by utility easements and elevation problem on one end of the property. Under current County code this would make it extremely difficult to further develop. His client wants it to be a distribution area and it could also be used for machine repair shops. The circumstances at the property led to the suggestion that if Lincoln County amended its code to provide the staff of the Department the discretion, at the urging of the property owner, to apply the dimensional standards of the City of Lincoln City, such a code amendment could be in the public interest.

Commissioner Johnson asked if we are just talking about those two lines that are referring to these industrial properties.

Commissioner McMahon asked if the County's setbacks more restrictive than those of the cities near these properties. The staff pledged, at a future hearing on this proposed code amendment, to collect the dimensional standards for industrially zoned properties located in each of the cities that have UGBs containing County land zoned I-P.

Associate Planner Shaklee stated he has checked on Lincoln City's ordinance and will provide those to the Planning Commission when the matter is before them to recommend the adoption of the code amendment.

Planning Director Husing stated that the application of Lincoln City's setbacks to this property would allow Mr. Philips to achieve a higher-utilization of the property.

Mr. Bartoldus stated that no adjacent properties would be impacted by the proposed improvements to his client's property.

Commissioner McMahon confirmed that any action involving a property located within an UGB would require that County staff consult with the affected city anyway.

Associate Planner Shaklee remarked this amendment only addresses setbacks, not height, or other dimensional standards.

County Counsel Belmont advised the Planning Commissioners they would need to adopt a resolution to initiate a code amendment or ask the Lincoln County Board of Commissioners to do so and forward it to the Planning Commission for adoption.

Commissioner McMahon moved that the Planning Commission recommend that the Board of Commissioners initiate a code amendment for the I-P zone as presented at this meeting. Commissioner Pelletier seconded the motion.

The vote was taken and the motion passed and all were in favor.

**MOTION TO RECOMMEND THE  
BOARD OF COMMISSIONERS  
INITIATE A CODE AMENDMENT FOR  
THE IP ZONE AS PRESENTED AT THIS**

**MEETING ON JANUARY 26, 2015  
MOTION PASSED WITH ALL IN  
FAVOR.**

**PLANNING COMMISSION CONCERNS**

Commissioner Spulnik requested that the Commission consider at a future time a code amendment to allow recreational vehicles (RVs) to occupy properties in Lincoln County beyond existing parameters found in the code. He stated that many properties in the county would benefit from such a change.

A brief discussion ensued regarding ocean planning and wind generating.

**ADJOURNMENT**

Chair Torp adjourned the Planning Commission meeting at 9:45pm.

Respectfully Submitted,

Kristine M. Castillo  
Permit Specialist