



**MINUTES**  
**Coburg Planning Commission**  
April 21, 2021  
Coburg City Hall  
91136 N Willamette Street  
Via Virtual Conference

**COMMISSIONERS PRESENT:** Paul Thompson, Chair; Jonathan Derby, Seth Clark, John Marshall, Marissa Doyle.

**COMMISSIONERS ABSENT:** William Wood, Vice Chair.

**STAFF PRESENT:** Megan Winner, Planning & Economic Development; Gary Darnielle, Attorney and Planning Advisory; Nancy Bell, City Council Liaison.

**1. Call Meeting to Order**

Commissioner Thompson opened the Planning Commission meeting at 7:03 p.m.

**2. Roll Call**

Commissioner Thompson called roll and a quorum was present.

**3. Agenda Review**

There were no changes made to the agenda.

**4. Public Testimony**

There was no public testimony.

**5. Approval of March 31, 2021 Special Meeting Minutes**

**MOTION:** Commissioner Thompson moved, seconded by Commissioner Clark, to approve the March 31, 2021 Planning Commission Special meeting minutes as presented. The motion passed unanimously.

**6. Commission Training**

- Oregon Land Use Planning Law & Process

Commissioner Thompson noted that a training handbook was sent out to the Commission earlier that week. He asked if there were any sections anyone wanted to focus on. He wanted to hear more about The Role of a Planning Commissioner, Land Use Decision Making, and Quasi-Judicial Land Use Procedures. There was no other input.

Mr. Darnielle shared that when the Oregon Planning Institute was open, he ran a Planning Commissioner training. He would be compressing a lot of information into only an hour.

When talking about the role of a Planning Commissioner it was important to remember that they acted as the face of the City. That meant it was important to think about what they were presenting during a public meeting. Mr. Darnielle thought it critically that commissioners be prepared. That meant reading administrative reports and whatever materials were sent out. Asking questions was also a big part of their role. Commissioners also needed to be fair. Community members might not always trust the process, but they might trust the commissioner. Actively participating in the process also played into that.

Mr. Darnielle said that the Commissioners also wore a judicial hat, which restricted them in some ways. Commissioners could talk about legislative issues with anyone so it was hard to remember sometimes what you could and could not talk about openly. Also, with judicial decisions they could not just deny it. If they did not want to approve a motion as presented, they have to offer amendments.

Mr. Darnielle said that there were several different takings, but only one that would apply for Planning Commissioners. It was good to have knowledge of all types. A physical taking was when something had to be added or taken away from a property. When imposing changes on a building there would be costs.

Commissioner Marshall asked about putting open space requirements into their development code and if that would be considered a taking. Mr. Darnielle replied that that was different, but they should be careful. Requiring front lawns was a normal thing to have in a development code but had not been consider a taking in the past. Open space was usually a tradeoff between the City and the developer.

The Quasi-Judicial Land Use Process detailed who could testify in front of the local government. In Oregon anyone who could do it had the right to say what they wanted. If there were procedural mistakes in the process, they were forgivable if they did not impede on anyone's rights. In Coburg, if someone lives within 300 feet of where the application occurs, they had the right to receive written notice of it if they were a property owner. If the person still showed up at the hearing and had notice from a neighbor, it was excusable. Mr. Darnielle said that State law outlined what information should be given to the community about the hearing and application.

In the decision-making process commissioners were subject to certain ethical rules (conflicts of interest). They applied to both the City and applicant as well. As decision makers they could not be bias or prejudge an application.

Commissioner Marshall asked if site reviews were ex-party contact. Mr. Darnielle told him that site review were not, but site views might be. A site review was a land use application, and a site view was when people went to the in question before the hearing. For this reason, site views should be done individually to avoid talking to others about the application.

Mr. Darnielle said that the burden of proof was on the applicant to prove that all approval criteria was met. However, the burden changes based off the testimony. Commissioners would have to bring evidence to overwrite if any criteria were wrong. When there was conflicting evidence between for the applicant, the commission could decide which testimony they trusted more. As decision makers they did not have to just accept a conclusion made by an expert, definitely if they had evidence against their testimony. They could ask the expert to come back with more details and take the other testimony into account. In their final decision they might want to include why they chose one testimony over the other.

When deciding and adopting their findings there were a few things they should keep in mind. One was that they needed to state the facts in their findings as they believed them to be. An applicant's evidence was not enough for a finding, staff or an expert had to make that finding themselves. Also, findings could not be a conclusion, but should instead support it.

Commissioner Doyle asked if the applicant's engineer said one thing and a community member said another if the Commission could ask for a third expert to investigate it. Mr. Darnielle suggested leaving the record open to allow the City engineer to weigh in.

Councilor Bell inquired into if they had to bring in the City engineer if that was their responsibility as the City instead of the applicant's. Mr. Darnielle replied that there were a few ways to do it. The City's engineer could do an independent analysis, or in some cases they could get the applicant to pay for a non-biased third-party engineer. Usually, it would go to the City engineer. He would give the same advice concerning the City attorney. As a Commission they could decide what was not relevant.

The Commission had to look at the impacts of the potential development (noise and traffic impacts) and weigh them against what was currently there. Application details should be clearly defined so that the applicant was aware of what they needed to propose to get approved. Doing that would also make it easier for Commissioners to make a clear decision.

Commissioner Clark had seen many applicants where the City had presented findings of facts. Every time conditions of approval were presented to them. He felt that giving those options made it feel like they only had a few options to choose from. Also, if all findings were founded and, in the right, how could they approve it with conditions instead of as is. Mr. Darnielle replied that the applicant would need to explain why their findings were accurate. Staff sometimes provided an easier solution, so they did not have to get into all the details. Commissioners could ask the City or the applicant to provide more details.

Commissioner Doyle wondered if the development code were vague in some areas and everyone interpreted it different, what could they do. Mr. Darnielle said that the Commissioner's interpretation had to be clear and consistent application to application. If the code were subjective than they could refine it more and provide that information to the applicant. Having someone from the City present to help determine what the code was saying would be helpful. Commissioner Clark asked if that would happen during deliberation. Mr. Darnielle replied that it would. Some complex decisions took place over several meetings, which could give staff and Commissioners more time to develop and answer questions.

Commissioner Thompson noted that Mr. Darnielle said that the Commission should ask questions wherever they had them and make their own destiny. He brought up that there were times when the Commission was being presented the evidence which fit the code but was not getting the outcome that the City wanted. He asked how they dealt with those situations. Mr. Darnielle replied that if the application fit the code requirements, they could not deny it based on not liking it. However, some criteria were more flexible which might allow for a denial. Also, they could incorporate conditions of approval. He thought that the City Council should build in a sit-down discussion with the Commission, since they knew what was working and what was not working in the City. Councilor Bell emphasized that if there were issues that they were brought to the City Council, even if outside of their joint meetings.

## **7. City Updates**

- City Administration Report

## **8. Adjournment**

Commissioner Thompson adjourned the meeting at 8:41 p.m.

*(Minutes recorded by Lydia Dysart)*

**APPROVED** by the Planning Commission of the City of Coburg on this 19<sup>th</sup> day of May 2021.

**ATTEST:**

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Sammy L. Egbert, City Recorder

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Paul Thompson, Commission Chair