



PLANNING COMMISSION

WEDNESDAY, SEPTEMBER 13, 2023

ADMINISTRATIVE MATTERS

1. Consideration of the July 12, 2023 PC Meeting Minutes



PLANNING COMMISSION MEETING MINUTES

July 12, 2023 at 6:00 PM

City Hall Council Chambers & Remote Video Conferencing

Draft PC Minutes are to be reviewed and approved at the September 13, 2023 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, July 12, 2023. Chair Heberlein called the meeting to order at 6:00 p.m., followed by roll call. Those present:

Planning Commission: Ron Heberlein, Andrew Karr, Kamran Mesbah, and Kathryn Neil. Jennifer Willard arrived after Roll Call. Olive Gallagher and Nicole Hendrix were absent.

City Staff: Miranda Bateschell, Daniel Pauly, Amy Pepper, Kimberly Rybold, 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 June 14, 2023 Planning Commission Minutes

The June 14, 2023 Planning Commission Minutes were accepted as presented.

WORK SESSION

2. Procedural Development Code Cleanup (Rybold)

Miranda Bateschell, Planning Director, introduced the agenda item noting that when reviewing Code and processing applications, unclear edits or inconsistencies in the Code are found and that changes or updates to federal government guidelines also impact the processing of applications. The Code Cleanup would help ensure consistency and provide clarification between Staff and applicants.

Kimberly Rybold, Senior Planner, introduced Consultant, Jamie Crawford, who had worked with the planning team particularly on the wireless applications and had prepared a number of the proposed Development Code changes related to those components.

Ms. Rybold and Jamie Crawford, Winterbrook Planning, presented the Development Code Process Clarifications via PowerPoint, noting the goals of the project and reviewing proposed Code updates related to wireless communications facilities, development approval extensions, temporary uses and signs, and development applications. Staff's goal was to return to the Planning Commission in September for a public hearing on the Code amendments.

Ms. Rybold addressed Commissioner questions as follows:

- Staff believed submitting a development approval extension 30 days prior to expiration was enough time to resolve anything that might be missing. An extension request involved the application form, fee, and a written statement explaining the reason for the request. The goal was to ensure decisions are issued before the permit expires. (Slide 4)
 - She confirmed the Code change was from 8 to 30 calendar days, making Code Section lines 4.140 and 4.023 consistent.
 - Applications that did not include payment were not considered successful applications, as noted in the Code sections that discussed what constituted a filed application.
 - The fee and correct authorization must be in place 30 days before the application process begins.

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

Daniel Pauly, Planning Manager, noted Development Engineering Manager Amy Pepper, Natural Resource Manager Kerry Rappold, and City Engineer Zach Weigel have worked on the Frog Pond stormwater standards, which were an important component when considering a neighborhood layout because stormwater was integrated and consumed land.

Mr. Pauly and Ms. Pepper presented the Stormwater Facilities Standards for Frog Pond East and South via PowerPoint, describing the purpose and background of the City's NPDES MS4 Permit requirements and reviewing the various components of the proposed stormwater standards.

Comments from the Planning Commission was as follows with responses by Staff to Commissioner questions as noted:

- Ms. Pepper clarified the reference to Section 4.113.(05)A, stating, "as required by the City's NPDES MS4 permit." involved only one permit.
- In Section 4.113.(05)C.2.a which described Lower Priority landscaping areas within so many feet of the buildings, stated, "except for detached single-family, middle housing, ..." Did "except" mean they were a higher priority or excluded completely. More language may need to be added for clarity.
 - Ms. Pepper understood the intent was to address stormwater facilities for middle housing which has smaller lots and bigger footprints, and since detached stormwater facilities needed to be 10 ft from a foundation and 5 ft from a property line, there was not enough room for a stormwater facility.

- Mr. Pauly confirmed the intent was to exclude multi-family housing, noting single-family homeowners are not well-equipped to deal with the maintenance. Adding a facility on the lot of a multi-family could be acceptable.
- Mr. Pauly clarified maintenance agreements with either the property owner or homeowners association (HOA) ensured the stormwater facilities are maintained, and the currently vacant environmental specialist position for overseeing that specific task would be filled soon.
 - Ms. Pepper noted the key ways the City ensured maintenance. First, each property with a facility is required to have a maintenance agreement recorded with the property at the time of development. That way, new property owners will see the maintenance agreement on the title report. Second, notices are sent to those with maintenance agreements and they are required to report what they have done with their facilities. Finally, the City conducts inspections to confirm the facilities are actually maintained and then works with property owners not familiar with the facilities, which was common, to get it maintained.
 - Mr. Pauly noted the process was similar to the backflow inspections on irrigation systems where annual letters were sent and the backflow company tests the system and sends the test to the City to ensure it the water system is not being polluted.
- Staff clarified the City has had an environmental specialist for a while, the position was just currently vacant. The City had contracted with a consultant and an intern carrying out some inspections after the last specialist left. Notice has gone out through Mr. Rappold, so work was occurring.
 - Physical stormwater samples are not taken of private stormwater facilities; a visual inspection was done as one could see how well the facilities were operating based on the health of the landscaping, trash present, or invasives taking over.
- Ms. Pepper confirmed the contract with property owners and the Municipal Code gave the City access to go in and maintain a facility if a property owner was not willing to maintain it themselves. She confirmed the City had a way of doing a chargeback.

Commissioner Mesbah:

- Noted resilience was lacking in the standards, which was good in a way. He liked the fact that the kinds of facilities were dispersed. He recalled discussion about not doing large facilities in Frog Pond and that he suggested reserving space for large facilities next to the easement or some natural area because resilience in the system would require that. Weather was reaching more extremes and facilities designed today would get flooded or washed out in 20 years, and permits are renewed every five years. Stormwater standards are harder to achieve as a result of urbanization causing pollution in the receiving waters. At some point, the City would be pushed into a corner of needing to have space somewhere to provide a much higher level of water quantity and water quality protection. It was good that the City was not putting all of its eggs in the basket of a regional facility, but he cautioned against giving space away because the City needed to reserve its space in case resiliency was needed in addition to the dispersed facilities.
 - Ms. Pepper added the City's stormwater design standards for the actual sizing of the facility was to a specific storm event, but the developer is required to explain what happens in the 100-year event and where that flooding would occur, and then provide protection measures. For example, if a pond would not hold a 100-year event, the developer had to show what would flood and provide any needed downstream easements to protect that area downstream as part of the development. While this did not quite address Commissioner Mesbah's comment

because the storm event was based on today's published 25-year, 100-year events and was likely to change; however, it was a bit of a buffer, so the City is trying to address these concerns.

- Responded today's standards for a 100-year flood was 25-years old, and today's 100-year storm is really a 1000-year storm 25 years ago. These facilities are being undersized because the City is stuck with old design standards, and the engineering community is not developing new design standards fast enough for stormwater facilities that reflect of the stochastic change in the stormwater curve seen in each location.
 - The issue that these statistical models are not stationary was raised 10 or 15 years ago, and now the results of the non-stationarity are being seen, but there are still no design standards that account for the movement and allow for flexibility to oversize or deal with overflows. These impacts are being seen around the country, and it will happen in Wilsonville. Space is required to deal with that because the receiving waters are all sensitive cold-water streams for the most part.
 - Ms. Pepper noted the design standards were based on a flow duration calculator that was more of a simulation model, not flow rates pre/post development, and hopefully accounted for some of those changes. She agreed with Commissioner Mesbah's comments, adding the City would push better data out in its standards when available.
- Noted the flow models were dealing with 1973 to 1990 kind of flow, which was not what the City needed to be considering. This planning document was for the future, so resilience needed to be part of the standards.
 - Ms. Pepper stated Mr. Rappold was working on the Stormwater Master Plan and she would ensure he addressed the resilience question, which may be addressed in the Master Plan, too.
- Believed there was federal guidance on climate resilience for infrastructure.
 - Ms. Pepper clarified there was specific guidance for wastewater and drinking water, but she was not sure where stormwater was addressed and would pass along the concern to Mr. Rappold.
- Added the Environmental Protection Agency (EPA) may be getting its wings clipped by the courts, which may be another issue. The NPDES MS4 Permit requirements were minimum standards and the City should be able to do better. As the federal government falls behind in these things, the City ought to have the ability to protect its own environment, ensuring consistency in quality across the board, and protecting the environment at the same level as mobility, aesthetics, etc.
- Confirmed he was requesting revisions to the Code changes to help address the fact that flows would be higher than what the standards were identifying. And to be clear and objective there ought to be some code that allows the City to renegotiate long-time facility agreements with the landowners, but that would not be possible because Wilsonville is densifying as mentioned, so what were landowners to do with the extra water coming down the down spouts?
 - He was unsure what the answer was whether it could be flagged in the standards, or addressed in some way, or whether it was only a matter of ensuring the City's comprehensive Stormwater Plan had those processes under control. Normally, it fell on the City because the developers could not do anything about it; the agreements were passed on to subsequent buyers.
- Liked the narrow focus on the standards. He agreed trees could not be in stormwater facilities, but Minneapolis and Seattle gave stormwater credits based on the trees planted. If the City was going for resilience, maybe the City should not openly offer that as an option, in case it becomes some

Plan B of maybe adding more trees because the city was getting more precipitation, and the City had not used all of its capabilities in that area, because the City disallowed it. He was not suggesting the City give credit for the trees developers plant and allow a smaller stormwater facility.

- Ms. Pepper clarified that credit was already an option, but there were a lot of restrictions on how close the trees had to be to a facility to actually get credit, so it was not often requested.
- Noted parking lots were usually where he saw them used.

Chair Heberlein:

- Asked if there was a site size threshold for 20% decentralized stormwater.
 - Ms. Pepper said she believed that section was written for greater than two acres, so it addressed subdivisions.
- Asked if Morgan Farm as a recent development met the proposed requirements, noting he had seen the decentralized stormwater on that site.
 - Ms. Pepper stated she would have to look at Morgan Farms specifically, noting part of the reason the City wanted to set up this hierarchy was the lack of clarity seen on how to implement the City's stormwater standards as Frog Pond West developed and that there were many more large ponds in Frog Pond West than anticipated in the Master Plan. Recognizing that Frog Pond East and South would be higher density, there could be some regional facilities, but City was trying to help developers be creative and prioritize integrating decentralized stormwater facilities early in the design process.
- Asked if there had been any feedback around cost differences between the larger stormwater facilities and decentralized facilities? Is there a penalty for using decentralized facilities?
 - Ms. Pepper clarified the City wanted decentralized facilities, so no penalty was involved. The City's stormwater permit prohibited Staff from discussing costs as different development communities had different costs depending on design.
 - Mr. Pauly noted the development community would say it would be more expensive, but the City had not investigated or discussed the cost differentials or if the cost differential was reasonable.
- Believed that would be useful to investigate before going forward rather than having people at the public hearing say it would be twice as expensive as anything the City currently developed. Knowing the costs would help ensure the City was also meeting its affordability goals.
- Noted he has served on his neighborhood's HOA for nine years and had never seen the yearly letter sent to owners of stormwater facilities, nor had the HOA been instructed by the management company to do anything related to a letter until this year when a letter was received, saying the swales were out of compliance and needed to be fixed to the tune of about \$20,000. It would be interesting to see if the yearly letter was really going out and how it was being communicated. Secondly, how can the City better communicate the maintenance expectations to HOAs or individual property owners as many do not know they have to maintain their stormwater facilities?
 - Ms. Pepper replied Mr. Rappold would follow up on the letters that go out, adding the operations and maintenance responsibilities were included in the maintenance agreement. She explained the maintenance of the stormwater facilities was a common concern, noting many HOAs change the original landscape companies maintaining the facilities, and the person filling out the annual report might not know what is actually being maintained and the City receives the reports that the facilities are being maintained. It can take couple years for the City to

realize the maintenance is not occurring and the City works with the property owner to get the facility into compliance and hopefully not spend \$20,000 completely rebuilding it.

Commissioner Willard:

- Appreciated Commissioner Mesbah's comments about 1,000-year floods and encouraged the City to consider striking some of the items listed in Paragraph D, "The placement of one or more of the following uses shall be prioritized over stormwater management" so that stormwater would be prioritized because storms are growing.
 - Ms. Pepper explained a comprehensive review of the alternatives and tradeoffs in the priority list was done. Street trees were part of urban shading to help with the temperature of the stormwater, as well as the distance facilities are placed from the pavement. Fire hydrants, street lighting for safety, etc. were all things to have as priorities. Any feedback about which items should be lower priorities or removed from the list would be helpful.
 - Mr. Pauly suggested the language be adjusted towards a balance and not insinuate that stormwater was not a priority.
- Suggested allowing trees in the 1,000-year, not the 100-year, stormwater facility, so the trees would be in a really big flood; perhaps a co-location option could be added for expanded stormwater.

Commissioner Mesbah:

- Believed HOAs with stormwater facilities were supposed to do reserve studies to reflect long-range maintenance and the redoing of them, which was where the \$20,000 would get addressed.
 - Commissioner Neil stated his HOA had a reserve study, but it did not include stormwater facilities.
- Stated the letters should clearly indicate where stormwater facilities that need attention were located or even flag the facilities the reserve study should include.
- Agreed getting developers to prioritize the placement of stormwater facilities was a struggle and recommended having a map/diagram based on topo maps showing the streams, wetlands, wetland buffers, etc. and drainage patterns of the property being considered for development, along with the proposed stormwater facilities, such as a grassy swale. The map would become part of the natural resources overlay, putting stormwater front and center when creating the site plan. The developer could then design and move the facilities/grassy swale based on earthwork, changes within their development, etc., but that way, it was flagged and would not get lost.
 - The City could work with the width, perhaps have a minimum 50-ft width, but map a 150-ft wide area with the allowance to reduce the width, just so there is room.

Chair Heberlein called for public comment.

Monty Hurley, AKS Engineering and Forestry, thanked the Commission for the opportunity to give comments, adding he had been working with Ms. Pepper and Mr. Pauly on projects in Frog Pond and was very familiar with stormwater standards.

- AKS was concerned about the language regarding the 20% standard in Section E, Page 40 of the packet, which he read. He assured stormwater was the first thing AKS looked at on a site. AKS does a lot of development including several projects in Frog Pond, throughout the state of Oregon and southwest Washington. Stormwater drives a lot of AKS' layouts for development. Having

stormwater facilities with a 50-ft swale was a good idea, but the 20% standard would require AKS to output five such facilities throughout a site, which completely blows up the site plan.

- AKS was very concerned about the unintended consequences and the conflicts that had been raised in some of the slides. Having worked in many jurisdictions around Oregon, AKS had not seen this language in any of other standards. The closest would be the City of Portland, where they like dispersed facilities. A bit of success has been observed in places with permeable soils because there is infiltration, but in places like Wilsonville with clay and impermeable soils, decentralized facilities have not worked as well.
- While it was not direct equation that an area would be divided up into fifths for each of the facilities, to put in five stormwater facilities on a site that has one large stormwater facility, like Morgan Farms for example, twice as much area would be required to get that same amount of volume because of the inefficiencies, site slopes, and geometries. Additionally, twice as much area would require twice as many retaining walls, inlets and outlet structures, etc. Often five times the facilities required five times the infrastructure because stormwater piped into each facility also had to be piped out as clean water from each facility. This would result in additional costs upfront to the developer, which would be passed on to the homebuilder, and ultimately on to the homebuyer.
 - Five times the facilities would also mean five times the maintenance cost for the homeowners' association, or if based on area, five times the facilities would be in at least twice as much area. More stormwater facilities meant more infrastructure in the streets, like pipes and manholes, as well as catch basins, etc. and therefore, direct and perhaps even additional maintenance costs for the City as well.
 - AKS has worked in a number of different jurisdictions, as well as with private developers, taking projects from concept to construction and beyond in addressing warranty issues, so the firm was familiar with storm facilities throughout the process and was not biased in any way.
 - When doing a comparable project in Frog Pond versus one in South Hillsboro or in Oregon City or Happy Valley, the additional costs to the project in Wilsonville, under the current standards, was in the range of \$7,000 to \$10,000 per lot for all of the stormwater planters and robust stormwater facilities. On a 30-lot subdivision, that was an extra \$200,000 to \$300,000 that, again, ultimately, gets passed on to the homebuyers. Stormwater facilities are site specific, and there are a multitude of factors to consider. With the proposed changes, the additional costs would be significantly more.
 - In summary, AKS was concerned about additional costs, additional infrastructure, additional maintenance, and the unintended consequences of the standards, which need to be considered very carefully. Rather than having to address the resiliency for one large facility, the standards would result in the need to have resiliency for five different facilities.
 - Expanding the number of storm facilities takes up space on the site, requiring them to be built closer to structures, otherwise density would be lost, requiring further expansions of the urban growth boundary, perhaps.

Chair Heberlein asked if Wilsonville's standards were more rigorous leading to higher cost or were they functionally equivalent and the implementation was driving cost.

Mr. Hurley replied it went to the decentralized facilities. In the City's current standards, there were already incentives for decentralized facilities, which was why they were seen throughout Frog Pond where there was either some level of decentralized facilities and a large pond, or no decentralized

facilities and a very large pond. Those current standards were already driving up the costs. The proposed changes would take it to another whole level. It was common sense to place the stormwater facility at the lowest part of the site, but now five facilities would have to be placed at the lowest part or spread out throughout the site, and then all the additional piping and infrastructure needed to be considered.

Commissioner Mesbah noted that while the points were well taken, it was all theoretical. They were not discussing a particular site plan or what options were available for designing swales, instead of piping everything for example. A dispersed stormwater treatment train, the meandering swales into infiltration areas, minimized the amount of gray infrastructure because those facilities did not provide attenuation, infiltration, etc. However, those facilities were very site specific and required site and landscape design to be part of it and if it was impossible then there was the fee in lieu. Because it was all site specific, the Engineering Staff and developer's engineers had to really do problem solving; it was not a black and white issue.

- Regarding concerns about the 20% standard taking up more space, stormwater facilities take up more space somewhere, and that space had to be dealt with, whether it was a huge regional facility or a bunch of smaller ones. Facilities take away from density, but part of the balancing act Mr. Pauly keeps talking about is that there is a maximum to densification. At some point, the decision must be made not to go any further, because then everything becomes underground, which involves other issues.
- They were all good points raised, but a deeper discussion was needed at the next meeting to ensure the City has a problem-solving attitude while not letting people off the hook easily. It was difficult, but that was why engineers made the big bucks.

INFORMATIONAL

4. City Council Action Minutes (June 5 & 19, 2023) (No staff presentation)
5. 2023 PC Work Program (No staff presentation)

ADJOURN

Commissioner Willard moved to adjourn the regular meeting of the Wilsonville Planning Commission at 7:27 p.m. Commissioner Mesbah seconded the motion, which passed unanimously.

Respectfully submitted,

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