

## MINUTES

Springfield Planning Commission  
Regular Session  
City Council Chamber  
225 Fifth Street–Springfield

July 15, 2003  
7 p.m.

**PRESENT:** Steve Moe, Chair; Lee Beyer, James Burford, Greg Shaver, Gayle Decker, David Cole, members; Greg Mott, Mel Oberst, Linda Pauly, Gary McKenney, City of Springfield.

**ABSENT:** Bill Carpenter.

Commissioner Moe called the meeting to order.

**1. PLEDGE OF ALLEGIANCE**

Those present recited the pledge of allegiance.

**2. APPROVAL OF MINUTES**

There were no minutes to approve.

**3. REPORT OF COUNCIL ACTION**

There was no report.

**4. BUSINESS FROM THE AUDIENCE**

Commissioner Moe called for business from the audience.

**Honalei Rosen**, 1551 B Street, asked if the commission would decide to support staff in designing with trees in mind. She said that trees should not be seen as a problem to development but something to incorporate into design. She commended the work done by staff to this point, and asked the commission to engage the public so that the issue was less contentious. She asked that an agenda item entitled “Designing and Developing with Trees in Mind” be scheduled in September.

Commissioner Moe adjusted the agenda by moving item 6a ahead in the order of business.

**5. LEGISLATIVE PUBLIC HEARING**

**a. Natural Resources Inventory**

Mark Metzger Planner III, recalled the commission’s agreement to postpone deliberations on the item until Commissioner Bill Carpenter could be present and participate. He said that with the commission’s concurrence, the item would be continued to September 16, 2003.

*Commissioner Burford, seconded by Commissioner Beyer, moved to continue the hearing until September 16, 2003. The motion passed unanimously, 6:0.*

## 6. QUASI JUDICIAL PUBLIC HEARING

### a. **Appeal of Planning Director's Decision—Continuation from July 8, 2003 - Jo. No. ZON2003-00025 Appeal of Site Plan Review) (Jo. No. ZON2003-00026 Appeal of Partition Tentative) (Jo. No. ZON2003-00027 Appeal of Tree Felling Application)**

Commissioner Beyer indicated for the record that he had visited the site and viewed the trees and drive-ways.

Commissioner Shaver asked if further discussion between the appellant and staff had occurred. Linda Pauly Planner II, indicated that she met with the appellant's transportation Engineer, Mike Keiser, who provided her with proposals for the parking space for the Lane Transit District vehicle. City staff indicated that the proposals would meet the condition of approval without modifying the site plan. Mr. Kloos clarified that an agreement on the location of the space had been reached, but no agreement had been reached on how it would be signed. Commissioner Beyer asked the status of the issue as it related to the appeal. Mr. Kloos indicated that, given there was no agreement on the marking of the space he was reluctant to withdraw the issue as an appeal issue.

Commissioner Shaver determined from Meg Kieran City Attorney, that no other issues related to the appeal had been resolved.

Ms. Kieran called attention to three memorandums to the commission from her (dated July 11, July 14, and July 15) and two letters to the commission from Mr. Kloos (dated July 14 and July 15) distributed to commissioners.

Commissioner Shaver asked if staff and the appellant had discussed alternative language regarding a covenant or restriction. Ms. Kieran said that she had not had an opportunity to discuss it with the appellant, but staff was willing to remove the requirement for a restrictive covenant. In its absence, the City authorized the removal of the trees, but asked the appellant, under Article 38, to provide for adequate substitute vegetation. She noted that the arborist's report done for the City provided a list of what was considered by the arborist to be adequate substitute vegetation. The commission could depart from the arborist's report if it desired.

The commission reviewed the July 15 letter submitted by Mr. Kloos.

Ms. Kieran responded to issues raised in the July 15 letter from Mr. Kloos, stating that the requirement of a tree-felling permit by the City did not make a property unavailable for commercial development. There was no evidence in the record that the existence of trees on property prohibits commercial development. In addition, the cases cited by Mr. Kloos involved discretionary approvals requiring a Type III procedure; the tree-felling permit and site plan permit in these appeals were Type II procedures. Responding to Mr. Kloos' argument that the procedure required the City to provide evidence that there was a sufficient supply of commercial lands notwithstanding the impact of the tree-felling ordinance on the availability of commercial lands, she suggested that a logical extension of that argument was to state that a site plan approval, which was also a Type II procedure, required the City to remove the subject being removed from the commercial lands inventory, which was absurd because all commercial development was subject to a site plan review.

Ms. Kieran noted that the Springfield Commercial Lands Study and Metro Residential Lands Study were a requirement of periodic review, and were approved by the council shortly after publication. She said that although Springfield had a shortage of lands, the metropolitan area as a whole had a surplus of 1,200 acres of buildable residential lands for the 20-year planning period, and 2,400 to 2,900 of surplus buildable industrial lands for the same planning horizon. Development constraints were identified but were limited to

slope, wetlands, floodplains, and distance from public facilities. There was no mention no trees as a limitation. She invited questions about her response to Mr. Kloos' memorandums.

Ms. Pauly briefly reviewed the appeal issues before the commission, reminding commissioners that the appellants had appealed the director's decisions related to the site plan, partition tentative, and tree felling.

Commissioner Shaver suggested that the tree ordinance would be more user-friendly if "significant" was better defined. However, he thought that the conditions that had been imposed on the application related to tree removal by the City were very reasonable. He thought the City was lenient about tree cutting. He believed the *Ride-Source* issue had been handled but noted it had not been withdrawn. He advocated for denying the appeal for the two conditions. Mr. Burford concurred with Mr. Shaver.

***Commissioner Shaver, seconded by Commissioner Burford, moved to deny ZON2003-00025 and to uphold staff's site plan conditions 6 and 7. The motion passed unanimously.***

The commission discussed the appeal issues related to partition tentative condition 10.

Responding to a question from Commissioner Shaver, Ms. Kieran said that it was her understanding Springfield would withdraw the requirement for the covenant on Parcel 2 if the tree-felling application and permit was in place.

Commissioner Shaver said that failure to define "significant" to mean trees species or groves that the City's plans call out as significant was to miss half the definition. He suggested that the commission might wish to discuss the issue again, but at this point it must rely on the existing text. He believed that the staff interpretation of the code was accurate.

Commissioner Beyer believed that Mr. Kloos' points were well taken in this instance. He thought that "significant" referred to quantity. That was the tradeoff made when the tree ordinance was adopted. He agreed with Commissioner Shaver that the commission needed to clarify the issue.

Commissioner Decker did not share Commissioner Beyer's definition of the word "significant." She thought it suggested more than quantity, and argued that the appellant's use of the term "removal of five significant trees" that also seemed to agree with the staff definition. She supported the staff position.

***Commissioner Shaver, seconded by Commissioner Decker, moved to deny the appeal on ZON2003-00026. The motion passed, 4:2; Commissioner Beyer and Commissioner Cole voting no.***

The commission briefly discussed its previous decision related to condition 7. Commissioner Shaver believed that given the commission's previous actions, the requirement for a covenant was no longer an issue. Ms. Pauly concurred.

Responding to a question from Commissioner Beyer, Ms. Pauly said the re-vegetation plan was done for the City by a consultant after the arborists report was done. The plan required the replanting of trees to fulfill the functions of noise and visual screening provided by the tree grove. It did not require that the trees be preserved, but that they be replanted using the same species. There was flexibility in the number of trees required depending on the size of those purchased. The applicant had some flexibility in where the trees were placed in the landscaping plan. Ms. Pauly noted that the applicant received permission to remove five trees.

Commissioner Cole asked if it was normal to require tree replacement. When the fire station was developed, the trees were cut down and no replacement trees were installed. Commissioner Shaver clarified that there was freedom to replace the trees on the site in a different location.

*Commissioner Shaver, seconded by Commissioner Decker, moved that ZON2003-00026 be denied, without the replacement covenant on parcel 2. The motion passed unanimously, 6:0.*

**b. Zone Change Request Stencil/Cockerline - ZON2002-12432**

Greg Mott Planning Manager reviewed the rezoning request, noting the location of the subject property on Harlow Road. The property was the subject of a public hearing for a refinement plan amendment to change its designation to Neighborhood Commercial (NC). A rezoning consistent with that plan designation as being requested from residential to NC. The criteria for zone changes, was in Article 12. He said that those wishing to testify should address the applicable criteria or identify other criteria applicable to the action. He reviewed the criteria, and noted that failure to address the criteria could mean that one lost one's right of appeal to LUBA.

Mr. Mott entered the staff notes into the record. He recommended approval of the zone change.

There were no declarations of *ex parte* contacts of conflicts of interest.

Commissioner Moe opened the public hearing.

**Terri Harding**, Satre and Associates, 132 East Broadway, Suite 136, concurred with Mr. Mott's summation and noted the council's approval of the re-designation proposal. The rezoning was the last policy step needed before submittal of a site review application. She invited questions.

Commissioner Shaver asked why the plan designation change and zone change could not occur simultaneously. Mr. Mott said that the City's requirement for a zone change was that whatever facts existed at the time of the application were the facts to be applied to the decision. If the fact was that the property was designated industrial and an applicant was requesting a change to commercial that would be inconsistent with the designation and must be denied. Until the plan designation occurred, the zone change application had to be considered with the facts in place at the time the application was submitted. An applicant could not count on the City Council amending a plan. In response to a follow-up question from Mr. Shaver, Mr. Mott clarified that the council acted on plan designation changes; only the commission acted on zone changes. He added that staff would prefer to act simultaneously but was unable to because of the 120-day limit imposed on application review by the State.

There being no other requests to speak, Commissioner Moe closed the public hearing.

*Commissioner Beyer, seconded by Commissioner Burford, seconded to approve the rezoning as recommended by staff. The motion passed unanimously, 6:0.*

**c. Final Planning Commission Approval of ODOT Detour Bridge Conditions - SHR2003-00115 Willamette Greenway Overlay District/Discretionary Use**

Mr. Mott asked the commission to take final action and accept the conditions as consistent with its decision of May 20, 2003.

*Commissioner Shaver, seconded by Commissioner Burford, moved that the documents received by the Planning Commission were consistent with the decision made on May 20, 2003. The motion passed unanimously, 6:0.*

**7. BUSINESS FROM THE DEVELOPMENT SERVICES DIRECTOR**

Mel Oberst Planning Supervisor noted that the meeting was the Commission's last until September 16, 2003.

## **8. BUSINESS FROM THE COMMISSION**

Commissioner Beyer suggested that the staff review the tree ordinance again. Mr. Oberst suggested a general discussion of the tree-cutting ordinance given the interest that had been expressed in the last few months. He said that staff would schedule a discussion in the fall.

Commissioner Shaver said that the requirements for *Ride-Source* vehicles should be spelled out clearly in the code.

Commissioner Moe adjourned the meeting at 7:55 p.m.

(Recorded by Kimberly Young)

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