

MINUTES

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

September 16, 2003
6 p.m.

PRESENT: Steve Moe, Chair; William Carpenter, David Cole, James Burford, Gayle Decker, Greg Shaver, members; City Attorney Joe Leahy; Mel Oberst, Greg Mott, Mark Metzger, Planning Department staff; Terry Parker, Lane Transit District.

1. PLEDGE OF ALLEGIANCE

Those present recited the pledge of allegiance.

2. APPROVAL OF MINUTES

Commissioner Shaver chose to abstain from approval of the minutes as he could not clearly recall what had transpired at meetings held in June and July.

Commissioner Carpenter offered the following correction to the minutes of June 17, 2003:

- Page 6, paragraph 3: “Mr. Carpenter *asked* for clarification of the term...”

Commissioner Carpenter moved, seconded by Commissioner Cole, to approve the minutes from the meeting of the Springfield Planning Commission held on June 17, 2003, as amended. The motion carried unanimously, 3:0; Commissioner Burford, Commissioner Decker, and Commissioner Shaver abstaining.

Commissioner Carpenter moved, with a second from Commissioner Burford, to approve the minutes from the July 1, 2003, work session of the Springfield Planning Commission. The motion carried unanimously, 4:0; Commissioner Shaver and Commissioner Decker abstaining.

Commissioner Decker noted that her first name was spelled incorrectly in the heading of the minutes of July 8, 2003. She clarified that the correct spelling was Gayle with a ‘y.’

Commissioner Decker moved, with a second from Commissioner Cole, to approve the minutes from the regular session of the Springfield Planning Commission held on July 8, 2003. The motion carried unanimously, 5:0; Commissioner Shaver abstaining.

Commissioner Decker moved, seconded by Commissioner Burford, to approve the work session held on July 15, 2003. The motion carried unanimously, 4:0; Commissioner Shaver and Commissioner Carpenter abstaining.

Commissioner Shaver moved, with a second from Commissioner Cole, to approve the minutes of the regular session of the Springfield Planning Commission held on July 15, 2003. The motion carried unanimously, 6:0.

3. REPORT OF COUNCIL ACTION

Commissioner Moe reported that the City Council had been focused on the PeaceHealth Hospital relocation to Springfield. Mr. Leahy added that the judge had denied the temporary restraining order. He related that the judge had not been pleased with either side as the side that wanted the restraining order did not adequately address the criteria in its findings and the City had not adequately found a “legal remedy” for the situation. Commissioner Moe explained that the issue was that work was slated to begin at the site prior to Master Plan approval.

Continuing his report, Commissioner Moe said that the Council had ratified the hiring of a new Development Services Director, Bill Grile. Mr. Leahy remarked that Mr. Grile had been the director of planning, had served on the City Council, and had been City Manager of Coos Bay.

Commissioner Carpenter stated that he had attended the work session, at which the council had a discussion with the City Prosecutor regarding how the City courts were run and whether there was adequate jail space. He said this was followed by a briefing from the Fire Chief on the truck that had leaked hydrogen and the actions the City had taken to abate the problem.

4. BUSINESS FROM THE AUDIENCE

Commissioner Moe called for other business from the audience. There was no one present wishing to speak.

5. QUASI-JUDICIAL PUBLIC HEARING

a. Lithia Motors Request to Amend the Springfield Development Code LRP2003-00009

Commissioner Moe directed staff to explain the hearing requirements.

Mr. Oberst, Planning Supervisor stated that this was a hearing on which the Planning Commission would be making a recommendation to the City Council. He explained the procedural requirements mandated by State Law.

Commissioner Moe convened the public hearing. He requested commissioners to declare any conflicts of interest or *ex parte* contacts. There were none.

Mr. Metzger, Planner III provided the staff report. He noted that there was a typographical error throughout the report as it referred to a cutoff date in the year 2000, and should have specified the year 2002. He stated, with respect to the report, that the Planning Commission should review the criteria of approval and adopt findings that the proposal was in conformance with the Metro Plan, applicable State statutes, and state-wide planning goals and administrative rules. He reported that staff had, after examining the Oregon Revised Statutes (ORS), Oregon administrative rules, and the state-wide planning goals, determined that the proposal did not violate those bodies of law and policy. He conveyed staff’s recommendation for approval based on its findings.

Commissioner Carpenter asked how Lithia Motors could be harmed by the proposed changes, given that the site fell outside of the proposed boundary for the nodal development and the quarter mile radius from downtown that was designated in the proposed rezoning. Mr. Metzger replied that the Springfield Downtown Refinement Plan had designated the site to become rezoned to Downtown Mixed Use. He explained that this was a proposal to modify the Mixed Use Commercial zone to allow the ses.

Commissioner Carpenter asserted, there was no reason to address this at present as the nodal area was

not yet designated. Mr. Metzger responded that the applicant would be required to be rezoned to Mixed Use in conjunction with their site plan application. As such, he said they had an immediate need for this to be addressed.

City Attorney Leahy commented that this only applied to sites that were “downtown wide” and existing as of June 3, 2002. Mr. Metzger explained that the cutoff date was to allow the three existing automobile dealerships to continue, while disallowing new dealerships from being installed.

In response to a question from Commissioner Shaver, Mr. Metzger stated that the language would allow the dealership to be sold as such to another automobile dealership, but that it would likely not be able to return to that use once another use had been applied to the property. Commissioner Burford suggested that the language be specific rather than vague in this regard. Mr. Oberst commented that the language regulates use not ownership.

Doug DuPriest, 777 High Street, Eugene, as representative of Lithia Motors, provided testimony for the applicant.

In response to the question in regard to the cutoff date, Mr. DuPriest explained that the property had been comprised of three owned and two leased properties when it had been in possession of the Hutchins auto dealership, but when Lithia Motors had purchased the dealership, it had also purchased the leased properties. He said the cutoff date was to ensure that the two properties were included.

Mr. DuPriest related that the applicant would support a change in language to specify that only existing auto and truck dealer uses would be allowed on the properties.

Mr. DuPriest said the present hearing had resulted from Lithia Motors’ use of one of the pieces of property. He explained that the property had a building on it, which Lithia Motors had razed, leaving a gravel lot. He alleged that unbeknownst to Lithia Motors, this had placed the dealership in violation of land use law. He related that rather than arguing that it had an existing non-conforming use, Lithia Motors had initiated a dialogue with the City, which had suggested that Lithia Motors improve the lot so that it could resume use of it. He commented that Lithia Motors had, to a certain extent, felt harmed by this, as it was continuing to use the property in the manner that it had been historically used for.

Mr. DuPriest stated that the dealership had worked to meet the specifications set forth by the City to be in compliance, one of which was the requirement to replace the building. He said that in order to submit a site plan to build this structure, it had to apply to be rezoned, as per the Springfield Downtown Refinement Plan.

Mr. DuPriest voiced his agreement with the commissioner that had characterized the application as “keeping an open business thriving.” He said that the dealership was a significant private employer, with 60 employees.

Continuing, Mr. DuPriest noted that the proposal before the Planning Commission affected two other dealerships. He submitted that the quarter mile radius from the Transit Station, creating a half circle of property to be developed comprising 60 acres and 20 city blocks, was a significant sized area for the City to encourage redevelopment with more intense and dense uses. He predicted this would take 5 to 15 years. He said that, during this time, the current request would allow the existing dealerships to continue as they are as permitted uses. Thus, the applicant submitted that this request would not undercut what the City was trying to do within this radius and that it was complimentary and compatible with the transit-oriented development closer to the new transit station for the following reasons:

- The dealership would provide a continued source of employment in the downtown.
- It would provide a continued source of customers for the dealerships and other downtown busi-

nesses.

- While all of the dealerships were in place, so long as they were outright permitted uses, it would make it less likely that other businesses would purchase the land. This will focus development on the quarter mile area the City wanted to encourage redevelopment of.
- The auto dealership had less capital investment and buildings and, when it came time to redevelop, it would be more feasible to do so. He likened the dealership to a land bank.

In summary, Mr. DuPriest submitted that it was appropriate to recognize in the Mixed Use zone outside of the quarter mile radius the existing auto dealerships on the geographic footprint they existed on approximately a year ago. He requested approval of the amendment.

Mr. DuPriest stated, in response to a question from Mr. Carpenter, that all of the property was currently zoned Community Commercial.

Commissioner Carpenter asked for clarification on why the lot in question was not allowed to be used to park automobiles on. Mr. Oberst explained that Lithia Motors had removed a structure from the lot and that the code prohibited using “undeveloped” lots for car sales. He added that the sales building was across the street on a different property and the code was not satisfied by this.

Commissioner Carpenter asked why the other two dealerships could not come before the Planning Commission on their own. Mr. Oberst explained that any action that the other two dealerships took would place them in the same position as Lithia Motors currently found themselves in. Should the sales building burn down on one of the two properties, they would be unable to continue in business without this modification to Article 40.

Commissioner Burford recommended the language specify that the dealership sold only automobiles and light trucks.

Greg Coleman, 863 Main Street, general manager of the dealership, elaborated on the definition of a light truck, stating that it would be a truck not used for commercial purposes and sold to an individual for personal use.

Commissioner Moe called for testimony from those in support.

Kim Coleman, 35647 High Ranch Drive, representing Grim Investments which owned the property at the corner of 8th Street and South A Street. She expressed her intention to develop the property to have a fast food restaurant, noting that an espresso shop had already opened there. She stressed that the only reason the property was purchased was because of the redevelopment of the area, part of which was Lithia Motors. She said if the auto dealership was not there, the property would not be viable for the investment company.

Commissioner Moe called for testimony from those in opposition.

Mr. Metzger stated that Lauri Segal of 1,000 Friends of Oregon had submitted a letter of opposition into the record.

Commissioner Moe called for summation by staff.

Mr. Metzger said that the amendment had been worked over “rather well.” He affirmed that adjustments would be made to reflect some of the discussion in regard to the selling of light trucks and that the date would be corrected.

Commissioner Moe asked for rebuttal from the applicant. The applicant declined.

Commissioner Moe closed the public hearing.

Commissioner Carpenter asserted this would set a precedent that had established uses that normally would not go into a nodal development code being placed in the code through an amendment. He asked what there would be to stop every excluded use from coming before the Planning Commission with the same kind of application. He felt that the resulting zoning ordinance would be like “Swiss cheese.”

Mr. Metzger responded that this sort of decision was legislative and that the community would ultimately make the decision. He said that it was beneficial to consider the impact of the plan to implement a node in the downtown area, but stressed that the dealerships were outside of where the nodal development overlay would be placed. He emphasized that the issue before the commission was an amendment to Article 40 - Mixed Use, which could be applied outside of nodes.

Commissioner Carpenter speculated that the motorcycle dealership in the downtown area would apply for an amendment to the overlay. Mr. Metzger stressed that the City was looking to grandfather in existing uses in the Mixed Use zone.

Commissioner Shaver called the issue a “no-brainer.” He felt the City had to do what it could to maintain businesses in this “miserable economy.” He agreed that the property would increase in value over the next few years and that, when the time came and the dealership wanted to move, redevelopment would be facilitated by the amount of property and the lack of buildings. He suggested that the motorcycle dealership in the downtown area be included in the language amending Article 40.

Commissioner Shaver moved to approve the amendment using the following language:

“Operation, maintenance, repair, expansion, and replacement of auto, light truck, and motorcycle sales, new and used, including accessory repair garages, parts and accessories sales, on land where such uses lawfully existed as of June 3, 2002, owned, leased, and controlled by a single entity. Commissioner Decker provided the second.

Commissioner Carpenter objected to this, as he felt that allowing the dealerships to exist as a permitted use would set a precedent which would undermine the purpose of nodal development. He recommended that staff determine if there was a better way to allow Lithia Motors to continue, other than permitting the use.

Commissioner Cole disagreed, adding that the cutoff date should be removed from the language as he did not think that new dealerships should be blocked from being developed in the area. He opined that auto dealerships were positive developments that brought in “good-paying jobs.” He supported Mr. Shaver’s motion.

Commissioner Burford agreed that more growth and development was needed. He noted that he remained unconvinced that nodal development was beneficial. He was inclined to give any and all of the automobile and motorcycle dealerships ‘grandfathered-in’ status, but felt hesitant regarding the development of more dealerships in the area. He commented that he did not want to see a portion of downtown Springfield become like “auto row” by Valley River Center.

Commissioner Decker called the requested change reasonable, noting that this was why the code was written on paper and not carved in stone. She said she would not support the addition of language regarding motorcycle dealerships because she thought there was not a “crying need” to be addressed.

Commissioner Moe concurred, stating that mixing motorcycles in at this time was not prudent. He stated that, as Lithia was likely the largest private employer in downtown Springfield, he supported letting the land

use for the dealership be permitted.

Commissioner Carpenter called for the question.

The motion failed, 4:2; Commissioner Shaver and Commissioner Cole voting in favor.

Commissioner Shaver moved to amend the text of the Springfield Development Code, adding “*Operation, maintenance, repair, expansion and replacement of automobile, light truck sales, new and used, including accessory, repair garages, parts, and accessory sales on land where such uses lawfully existed as of June 3, 2002, owned, leased, or controlled by a single entity.*”

Commissioner Decker provided the second. The motion carried, 5:1; Mr. Carpenter voting no.

6. LEGISLATIVE PUBLIC HEARING

a. Natural Resources Inventory

Commissioner Moe recused himself from the proceedings due to a perceived conflict of interest. Commissioner Carpenter assumed the position of chair.

Mr. Metzger explained that this was a continuance of the legislative public hearing. He reminded commissioners that they were at the point of deliberation which would result in a recommendation to the City Council.

In response to a question from Commissioner Carpenter, Mr. Metzger explained that the safe harbor criteria regarding uplands came out of the Oregon administrative rules. He said that, as opposed to the City analyzing a site and making recommendations as to how to protect it, staff could step back and not do the analysis and accept the minimum protections cited under what was called safe harbor for upland sites. In summary, the State law dictated that the City shall protect those sites that were home to sensitive, threatened, or endangered species either on a State or Federal listing. He related that it would be the job of the City to affirm that it had a complete inventory of where the animals were. He anticipated that plant life would eventually be included in the inventory. He stated that the City would need to coordinate with the Oregon Department of Fish and Wildlife (ODFW) and/or the Fish and Wildlife Service (USFWS) to determine the protections that would be needed. In summary, Mr. Metzger stated that safe harbor was an approach to protection by which the City accepted State-defined protection measures that applied to threatened, endangered, and sensitive wildlife species.

Mr. Metzger said, in response to a further question from Commissioner Carpenter, that in the case of riparian zones streams defined as fish-bearing streams would be protected, though there was mixed opinion on whether “fish-bearing” was inclusive of only anadromous game fish or included other species. If protected, the streams would receive setbacks of 75 feet for larger streams, such as the Willamette River, and 50 feet for smaller ones.

In response to a question from Commissioner Burford, Mr. Metzger stated that wetlands were defined by Federal law and there was, under State law, an analysis of which wetlands were significant. He said there was minimal opportunity to allow any kind of impact to significant wetlands.

Mr. Metzger elaborated on the differences between the two criteria, explaining that the standard analysis process required site by site analysis and the return for this was that it enabled decisions to be tailored to the sites. He said he could not concretely say whether the City could, at a future point in time, decide to change from a safe harbor process to a standard analysis process.

Commissioner Burford asked if the natural resource inventory was already in place in the City of Spring-

field. Mr. Metzger replied that when the original natural resource study was generated in the late 1980s and early 1990s it was not adopted, but many of the protection policies for the upland areas became incorporated into the development code in the forms of a tree-felling ordinance and hillside development standards.

Commissioner Shaver called forth an example of a 20-acre property on which the property owner wanted to develop. He asked if the developer would have to “jump through extra hoops” to develop the property, or if it was already known where endangered species were. Mr. Metzger responded that most sites which were habitat to threatened, endangered, or sensitive species were known, but should it not be known and the property owner was aware of such species, it was up to the property owner to make it known. He said that, should the safe harbor criteria be the framework that staff was working from, specific methods to mitigate the impact of the development would be dictated, but should the occurrence of the species be governed by the standard process policy, staff would work with the developer through the Environment, Social, Economic and Energy (ESEE) analysis of the site and determine what would be allowed to be done.

Mr. Metzger said that the responsibility of the Planning Commission and the City at the current time was to determine what process it would opt to utilize for environmental analysis. He thought that it would be possible at a future point to decide to change the way these sites would be analyzed.

Commissioner Shaver pointed out that he had presented a list of altered criteria that, if enacted, would essentially treat the uplands with the safe harbor approach, included in the commissioners’ packets as an attachment entitled **Springfield Inventory of Natural Resources Revised by Shaver and Safe Harbor Approaches**. He felt that it would allow more flexibility. Mr. Metzger commented that he had looked over Commissioner Shaver’s suggested inventory and that he had not determined there to be much flexibility.

Mr. Metzger said that, in the case of upland areas, the design for protection for an upland specie was flexible in that it would be a collaboration with ODFW or the USDFW and would be decided upon through consultation with them.

Commissioner Carpenter asked for commentary from the rest of the commission on whether to continue discussing Commissioner Shaver’s revised criteria.

Commissioner Burford suggested that the standard process would be a more flexible approach for the upland sites. Mr. Metzger responded that, as reflected in the staff report, many protections for upland sites were similar to the tree-felling and hillside development ordinances. As such, he felt that an ESEE analysis could be wasteful.

Mr. Metzger reiterated his recommendation to employ the safe harbor criteria for uplands. Commissioner Burford concurred.

Commissioner Shaver strongly encouraged those present to consider his proposal, which would remove some upland sites from the map. Mr. Metzger responded that it was his understanding that the City Council had “bought off” on the criteria and staff and the commission would work on it and, as such, it would be challenging to change the sites at this time.

In response to a question from Commissioner Carpenter, Mr. Metzger stated that there would be one more public hearing before the City Council.

Commissioner Decker asked Mr. Metzger to analyze the costs of the two different processes. Mr. Metzger responded that significant staff time would be needed for an ESEE analysis and that this would cost money. He reiterated that the safe harbor process minimized further work. He further commented

that there would be some cost to the land owner as well.

Commissioner Carpenter called for a ten minute recess to provide Mr. Metzger and City Attorney Leahy the opportunity to look to OAR 660.23 to determine whether there was flexibility in the law that would allow the City to change processes after having worked under one process for a period of time.

The Planning Commission reconvened at 9:07 p.m.

Mr. Leahy reported that he and Mr. Metzger were unable to determine any flexibility from the research they did. He said that, given that the base idea was to protect the environment, he felt that should the City accomplish this under one process there would be no reason that it could not switch to the other process, so long as the protections already in place remained so. He recommended that the commission make two recommendations, one based on the assumptions he had extrapolated from the statute and a second one to address the possibility that the assumption was erroneous.

Commissioner Burford moved, with a second from Commissioner Decker, to recommend that the standard process be used in the analysis of the wetlands and riparian zones and the safe harbor process be used in the analysis of the uplands.

Mr. Leahy stated that he would take the concerns expressed by the Planning Commission before the City Council and would convey the essence of the conversation.

The motion carried unanimously, 5:0.

Commissioner Moe rejoined the commission.

7. BUSINESS FROM THE DEVELOPMENT SERVICES DIRECTOR

There was no business from the development services director at the present meeting.

8. BUSINESS FROM THE COMMISSION

Commissioner Moe reminded the commissioners that the Springfield Planning Commission was hosting the joint meeting of the Eugene Planning Commission, the Lane County Planning Commission, and themselves in the Springfield Library Meeting Room.

Mr. Mott stated that it was a continuation of a joint hearing with joint deliberation on the items that were brought before them and the testimony that had been received. He noted that it would be the last joint meeting on Natural Resources.

9. ADJOURN REGULAR

Commissioner Moe adjourned the meeting at 9:12 p.m.

(Recorded by Ruth Atcherson)

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