

PLANNING COMMISSION MEETING MINUTES

Vancouver City Hall – Council Chambers – 415 W. Sixth Street
PO Box 1995 – Vancouver, Washington 98668-1995
www.cityofvancouver.us

Marjorie Ledell • Steve Schulte • Larry Blaufus • Zachary Pyle • Nena Cavel

September 13, 2022

REGULAR MEETING

Vancouver City Hall - 415 W. Sixth Street, Vancouver WA

CALL TO ORDER

The September 13, 2022, meeting of the Planning Commission was called to order at 4:03 p.m. by Chair Ledell.

ROLL CALL

Present: Marjorie Ledell, Zachary Pyle, Larry Blaufus, and Steve Schulte

Absent: Nena Cavel

Motion by Commissioner Schulte, seconded by Vice Chair Pyle, and carried unanimously to excuse the absence of Commissioner Cavel.

ADOPTION OF MINUTES

Motion by Commissioner Blaufus, second by Commissioner Schulte, and carried unanimously to adopt the July 12, 2022, minutes as amended by the Chair.

COMMUNICATIONS FROM STAFF

Rebecca Kennedy notified the Commission of the Washington Chapter of the American Planning Association conference in Vancouver on October 11 to 13, 2022, and encouraged those interested to register. As part of the conference, there is a free short course on local planning on October 11, 2022.

WORKSHOPS

4:05 P.M. SHORT TERM RENTAL REGULATIONS

Jason Nortz, Development Review Manager, CDD; Becky Coutinho, Associate Planner, CDD; William Cooley, Community Engagement Manager, CMO

Rebecca Kennedy introduced the workshop. City Council has directed the Planning Commission to propose a framework for regulating short-term rentals in Vancouver. Jason Nortz presented a timeline of the work to date, a definition of short-term rentals and how they are treated in Vancouver, the data collection and public outreach processes, active listings and market details, the solicitation of feedback from current owners/operators, next steps, and the broad regulatory focal points of the effort.

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Commission Discussion

The Commission and staff discussed the following topics:

- The number of active listings at any given time compared to occupied listings, and the impacts of vacancy on housing stock. Staff responded they would get the occupied listing information for the next workshop.
- Concentration of housing stock in the downtown area that would be most impacted by short-term rental housing now and in the future. Staff responded that downtown and west side neighborhoods are slightly more impacted now due to their proximity to businesses and tourism sites, but that short-term rentals are occurring citywide.
- What will be the regulatory response? Staff responded they are looking at how other cities in Washington treat short term rentals. The Council workshop focused on owner occupancy, collecting lodging tax, meeting basic life safety inspections, and the impacts on overall citywide housing supply and availability.
- The history of short-term rental users and conflicts with owners. Staff responded they would try to find data on this and hopefully come back with some local data.
- When was the bed and breakfast use put in place? Staff responded the ordinance was passed in 2004 and last updated in 2009.
- Does Airbnb focus on short term rentals or do they provide other services? Staff responded Airbnb focuses on short term rentals with stays of less than 30 days, but they also have rentals for longer terms, such as three to six months that are targeted for traveling nurses and working professionals.
- Do Airbnb and VRBO collect and pay lodging taxes? Staff responded that the State of Washington has a short-term rental ordinance that requires either the platform to collect lodging tax and other taxes on behalf of the owner and remit those back to the cities, or the owner to pay those directly to the State which then remits city portions to the appropriate jurisdiction. Since the City doesn't currently allow short-term rentals, it's hard to track or request lodging tax from these uses, because they're not an allowed use. With help from the Finance Department, we found that the City has received lodging tax from about 40 short-term rentals.
- How will the City work with short-term rental platforms and owners to implement the new regulations and balancing the work between the platforms, which are accustomed to this work, and the owners, who may not be as familiar with implementing new regulations. Staff responded with the idea for a one year pilot program to start with a simple process with basic regulations and a permit process. Presumably, there would be a small processing fee, and the building official and fire marshal would perform basic life safety inspections that are required by the state. This would also provide a record of the condition of the short-term rental unit, and if there are issues with the unit the City could potentially revoke that permit. The platforms have also addressed some of the issues of party homes with rules and regulations, but this could be another reason for permit revocation.
- Has the outreach focused on homeowners or property managers? Staff responded that outreach has been focused on both the broader community and rental hosts, of which a small minority of those operate more than one property and/or are professional property managers.
- Do neighbors have any recourse for noise or parking complaints? Staff responded they do. Most calls come in after hours, and those are directed to the police department. For complaints during the day, we could look at it from a code enforcement perspective.

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- Would there be a different permitting process for individual homeowners and property managers? Staff responded it would likely be the same process for both. For rentals where the owner is on site, there could potentially be less control needed through the permitting process.
- What is the outreach process now that things have re-opened and how are you facilitating two-way communication? Staff responded we want to be in dialog to be able to ask follow-up questions. A lot of community members have expressed an interest to return to in person engagement, but we also received feedback for those who appreciate the hybrid option. The next phase of engagement could include in-person listening sessions to facilitate communication between rental hosts and neighbors. When we have more information about potential regulations, we could solicit feedback about specific regulations through a survey.
- Has there been engagement with neighborhood associations? Staff responded they are joining the Vancouver Neighborhood Alliance meeting, and there's an opportunity to potentially co-convene a dialog between the City's Office of Neighborhoods, the Neighborhood Alliance, and the impacted neighbors.
- The Washington Post article about the number of houses owned by a corporation or LLC. Staff clarified the initial data reported by the Washington Post was incorrect and has since been redacted. The number of homes owned by a corporation or LLC is 5.6%, not 40% as initially reported. Staff have corroborated the data with data from Clark County. Of those homes that are owned by a corporation or LLC, a large majority of those were based in Vancouver or Washington.

4:49 P.M. 2022 ANNUAL REVIEW COMPREHENSIVE PLAN AND ZONING CODE MAP AND TEXT CHANGES

Bryan Snodgrass, Principal Planner, CDD

46:56 Rebecca Kennedy introduced the workshop. Bryan Snodgrass presented an overview of four Comprehensive Plan and zoning map designation change requests, one Comprehensive Plan text change, and fourteen zoning text changes.

The first Comprehensive Plan zoning map change is the Stutesman proposal to change from general commercial to R-22.

Commission Discussion

The Commission and staff discussed the following topics:

- When will the current mobile homeowners be notified of the proposed change? Staff responded they will receive a postcard notice within 10 days of the public hearing date. Staff could reach out to the owner to provide more notice to the current tenants.
- Does the CG zone allow for mixed use? Staff responded it is allowed and could be either horizontal or vertical. For this site, vertical would be more likely.
- Do we envision this as a key node for density and what is the long term commercial viability? Staff responded that specific discussion of the upcoming comprehensive plan update has not started yet. Transit is accessible here, and there is a fair amount of multi-family housing in the area. This area is currently identified in the Comprehensive Plan as a major center, and it's unlikely it would be changed to a less intense use through the upcoming comprehensive plan update.
- If this area densified, do you get more residences from R-22 than with commercial zoning? Staff responded theoretically you could.
- For the hearing, what is the timeline for the commercial viability of this site, and what are the criteria for maximum build out with CG zone.

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Staff continued the presentation with the Schwartz proposal, with a change from residential to commercial.

Commission Discussion

The Commission and staff discussed the following topics:

- What are the differences for setback requirements with R-2 and CC? Staff responded they can include that information in the staff report for the hearing.
- Is more permitting required for the business to expand? Staff responded they would follow up with the applicant and other City staff. Depending on the type of expansion, if they were going to renovate, they would need building permits.

Staff continued the presentation with the SRHV proposal, with a change from industrial to mixed use. Charles Ray, Urban Forester for the City, provided an overview of the Oregon White Oaks that are currently on the property.

Commission Discussion

The Commission and staff discussed the following topics:

- The proposal has a lot of uncertainty regarding the trees, slope, and plans for this site. The Commission would need more information from the applicant to be able to make a decision at the public hearing.
- Are we considering the portion of the property that is proposed to remain heavy industrial? Staff responded the applicant is proposing to rezone only a portion of the property. You can consider the implications of that proposal, which is focused just on a portion of the property.
- Would like to understand from the applicant why MX is the best use for this site.
- Is the neighborhood aware of this proposal? Staff responded they were likely notified during the pre-application stage and would get another notice prior to the hearing.
- Is there a traffic report that compares the amount of traffic generated from mixed use and industrial? Staff responded there is information on the number of trips and will include that information in the staff report.

Staff continued the presentation with the Lieser School redevelopment, with a change from R-6 to R-30.

Commission Discussion

The Commission and staff discussed the following topics:

- Connecting SE Northgate Avenue to N. Lieser Road. Staff responded there was some opposition from the public as well as concerns for a proposed park on the northwest side of the property. There is a bike and pedestrian connection through the site that will be preserved.

Staff continued the presentation with the text changes to the Comprehensive Plan and zoning and the capital facilities plans.

Commission Discussion

The Commission and staff discussed the following topics:

- Regarding the solid waste disposal and recycling standards, are there any example sites where this issue exists and would be addressed by the change. Amanda Romero, Solid Waste Analyst with the City, responded the change is to update the code. The last update was in 2016, and since

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then there are types of developments that are more popular, such as narrow lots and cottage clusters.

COMMUNITY FORUM

Arnie Teppo was present to support regulations for short term rentals and is an operator of a short term rental. Airbnb automatically collects occupancy taxes and sends to the local jurisdiction or the State. Airbnb has tools to screen and prevent party houses. Airbnb requires smoke, carbon monoxide detectors, first aid kits, fire extinguishers, and COVID cleaning protocols, and supplies liability insurance for guests and hosts. He supported STRs for the flexibility to have a second property available for family and friends and generate some income to help pay taxes and other expenses. He supported reasonable regulations for noise, parking, and the proposed pilot program.

Janie Wilson, GG's House, was present to provide comments on short term rentals. She urged the Commission and staff to focus on regulations for STRs, rather than using the term "legalize". She provided documentation regarding the cost to run a short term rental compared to a long term rental. She supported an anonymous method for the community to submit complaints about an STR to address concerns about potential retaliation.

Terry Ibert was present to provide comments on short term rentals. He operates three Airbnb units in a single home. He noted the difference between types of housing units, and the majority of STRs identified in Vancouver are single family homes. One difference between short and long term rentals. He urged the Commission to identify specific issues and create regulations to address those concerns.

Michele McDermid was present to provide comments on short term rentals. She acknowledged the STRs that are operating in the City where they are not currently allowed. She felt that the Airbnbs operating in her neighborhood are affecting the neighborhood negatively. Short term rentals have increased the price of housing in her neighborhood, which also affects the character of the neighborhood.

Christine Dickinsen, from the Carter Park neighborhood, was present to provide comments on short term rentals. She expressed disappointment about the discussion during the workshop focusing on regulations and taxes, but not on the effects of short term rentals on the character of a neighborhood. She mentioned the regulations in nearby cities such as Olympia and Portland and how those cities have limited the number of rentals an owner can operate.

PUBLIC HEARING

6:53 P.M. UPDATES TO FOSSIL FUEL STORAGE REGULATIONS

Chad Eiken, Director, CDD; Bryan Snodgrass, Principal Planner, CDD; Becky Coutinho, Associate Planner, CDD; Lisa Grueter and Jason Hennessy, BERK Consulting

Rebecca Kennedy introduced the workshop. Chad Eiken presented background on the fossil fuel facility moratorium and the timeline of workshops with the Planning Commission and City Council. Bryan Snodgrass presented the proposed changes to the fossil fuel code, VMC Title 20, and the details of changes for bulk fossil fuel facilities, cleaner fuel facilities, and small fossil and cleaner fuel facilities. The

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presentation covered code clean up changes and new special use standards, an overview of existing bulk fossil fuel facilities, the Heavy Industrial (IH) district, and stakeholder outreach.

The presentation continued after a brief audio outage with two policy issues resulting from public input regarding small fuel facilities and new cleaner fuel facilities. Staff described the differences between limited and conditional use permits and analysis and staff recommendations of the policy issues for consideration by the Commission. Staff provided details of the proposed code clean up items based on public input.

Staff described the SEPA (State Environmental Policy Act) timeline for this project, including three comment letters received. Staff presented to City Council on September 12, 2022 and provided the details of Council's feedback during the workshop.

Commission Discussion

The Commission and staff discussed the following topics:

- Are the development standards for conditional use permit the same as applied to a limited use permit application? Staff responded they are the same in both cases.
- For revocation of a conditional use permits (slide 14, item 6), is it correct that this is not applicable for a limited use permit? Staff responded there is not a similar approach for a limited use permit. It is a permitted use and they must adhere to the conditions. There is a code enforcement process to deal with an applicant's failure to comply with the conditions of the permit.
- What is the definition of "cleaner fuel"? Staff responded it is specifically defined in the [draft ordinance](#). It includes carbon-free fuels, credit generating fuel, biomass renewable fuels, alcohol fuels, biodiesel fuel, E85 motor fuel, and alternative fuels that are not fossil fuels.
- Regarding the annual report to the City regarding capacity and shipment activity/type (slide 18), what information could become public? Staff responded the information in the report is also reported to Department of Ecology or other federal agencies. The report would include a description of the onsite storage capacity, number of tanks, volumes, and products, number of vessels, transfers of fuels, type and quantity of products transferred and destination, number of rail cars transporting fuels, number of trucks transporting fuels, a document that onsite activity is similar to the established baseline of storage and/or throughput, and conformity with applicable regional, state, and federal reporting or permit requirements.

Public Testimony

Audrey Leonard, staff attorney for Columbia Riverkeeper, supported the proposed ordinance to prohibit new or expanded large scale fossil fuel facilities. The proposed ordinance must safeguard safety and avoid loopholes for fossil fuel expansions. She urged the Planning Commission and City Council to require facilities converting to cleaner fuels or establishing new cleaner fuel facilities to get a conditional use permit. The small and cleaner fuel facilities carry many risks and have the potential to be dangerous. Requiring a conditional use permit puts a small burden on sophisticated companies whose incentive is the profit of the facility.

Janet Hedgepath supported requiring conditional use permits for cleaner fuel facilities. The moratorium was intended to preserve the health and safety of community and environment. If the Commission is going to consider cleaner fuels with other storage facilities, then she urged the Commission to require conditional use permits, rather than limited use permits, to provide the public a chance to weigh in.

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Michael Bomar, Director of Economic Development at the Port of Vancouver, USA. The Port is committed to climate action and supports the transition of Port activities away from fossil fuels and to attract cleaner and clean fuel facilities. We're pleased to see the updates to the definition of cleaner fuels and to clarify that a facility that expands can serve both traditional or clean fuel provided fossil fuel volumes do not exceed the pre-expansion baseline. We appreciate the proposal to allow for new clean and cleaner fuel facilities under conditional use permits; however, the restriction of 1 million gallon/3 acre space limit will be a deterrence for some clean facilities. We encourage a limited use permit for cleaner or small facilities and conditional use permit for any large facilities without an upper volume or acreage limit.

Holli Johnson, Western States Petroleum Association, expressed concerns for the proposed regulations and urged the Planning Commission to amend the proposed code language before making a recommendation to City Council. The conditional use permit process is appropriate when the use does not match the zoning. The use of conditional permits for industrial use in a heavy industrial zone is not appropriate. This will create uncertainty and likely disincentivize upgrades and improvements to facilities. The proposed language for greenhouse gas mitigation requirements seems to be unlimited to what may or may not be applied to a proposal, and leaves it up to the City to determine what is required to mitigate. This should be reviewed with other state and federal mitigation requirements. Finally, the annual reporting requirement includes information that is confidential, proprietary, and strategic business information which could be used by a competitor to gain an unfair advantage in the marketplace, as well as potential safety risk. She urged the review of public records act exemption in RCW 42.56 as it relates to proprietary business information.

Cathryn Chudy shared her concerns for the impacts to the Fruit Valley neighborhood and supported Option A. Until more careful deliberation and outreach is done by the city regarding cleaner fuels and their potential to harm health and safety, Option A would provide the maximum protection for those most disadvantaged and overburdened and whose voices are not adequately heard in this current ordinance process. Most of the Council believes that the City can provide health and safety protections, as well as advanced climate action goals by opening the door to cleaner fuel facilities in the Heavy Industrial Zone. Some of those small, cleaner fuel facilities will be able to use an expedited permit process that leaves out public participation. The unknowns are left to be experienced by those most affected without their input.

Rebecca Ponzio, Washington Environmental Council, supported the Planning Commission in recommending a fossil fuel land use code that is rooted in the protection of the health and safety of Vancouver neighborhoods, and those hardest hit by industrial pollution such as Fruit Valley. The ordinance should clearly ban new and expanded fossil fuel terminal storage and handling facilities and should ensure that conditional use permitting processes, not limited use, are applied to all new facilities under the definition of clean fuels and/or changes to existing facilities. A conditional use permit is a common permit type in Vancouver and it is not an unusual or unnecessarily burdensome process. Applying a conditional use permit approach is a way to better understand impacts to ensure the public health and safety issues are evaluated, and that the public has a chance to substantively weigh in. This is particularly important as we learn more about these various potential projects and technologies. We have learned from other jurisdictions like Tacoma and Whatcom County that being clear, concise, and rooted in the intent of the original moratorium language around health and safety is the most effective way to establish code of this significance.

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Mark Fitz, Star Oilco, did not support the proposed code amendments. He disagreed with the cleaner fuels definition, as all fuels will soon be cleaner fuels in Washington by law. The cleaner fuels inventory is a major investment which will bring back property tax revenue to the City and to the region.

Commission Discussion

- Are the requirements to expand and/or convert up to 15% tied to both converting to cleaner fuels and seismic upgrades, or just seismic upgrade upgrades and expansions of the existing bulk fuel? Staff responded it's both, it would need to convert to cleaner fuels and complete the seismic improvements and upgrades.
- Limited use permits and how it is determined that limited use is appropriate. Staff responded that limited use means that the use is allowed so long as they meet the list of conditions. The approval process would be a site plan review process. The conditions are intended to get at the known impacts. Staff is recommending a conditional use permit for new cleaner fuel facilities up to one million gallons. We don't know what those specific site impacts might be because we don't know where there'll be located. Whether it is a limited use or conditional use, any of these tanks would exceed the SEPA threshold and there would be a SEPA review where the public could comment.
- Is there a process difference between a limited use and a conditional use in terms of the amount of public notice for review? There is public notice for both. Limited use is under the site plan application. There's a public notice to properties within 500 feet and is sent to the neighborhood associations. They can comment staff within 14 days. The site plan approval is an administrative process. Staff reviews it, determines whether it meets all the criteria and then makes their decision. The conditional use process involves a slightly longer comment period of 30 days, notice is sent to the same people and neighborhood associations, and it's published in the newspaper. There is a public hearing before the Hearings Examiner, who would make the decision on the application. That decision is appealable to the City Council.

Motion by Commissioner Schulte, seconded by Commissioner Blaufus to recommend to City Council adoption of fossil fuel facility standards as recommended by staff in the proposal dated August 11, 2022, with modifications dated September 6, 2022, and based on the findings and conclusions in the staff report for the public hearing dated September 13, 2022.

Commission Discussion and Deliberation

- Commissioner Schulte acknowledged the long process for this recommendation and supported the conclusion that the team arrived at. Timing is imperative to get started with these changes.
- Commissioner Blaufus supported the recommendation as a good middle ground.
- Commissioner Pyle requested a review of the recommendations for the three types of facilities. Staff responded the recommendation prohibits new bulk fuel facilities (60,000 gallon or more capacity), with allowances for maintenance and upgrades to existing facilities. There are also allowances for expansion up to 15% with conversion to cleaner fuels. The recommendation allows for cleaner fuel facilities in the heavy industrial district only and is subject to a conditional use permit. The recommendation allows for small fossil and cleaner fuel facilities in the heavy industrial district, subject to the specific standards, and a limited use permit process. Small fossil fuel facilities would be conditional use.
- Vice Chair Pyle acknowledged the process and input from staff, consultants, and the public to assess the risks and create a comprehensive set of regulations. A conditional use permit for all three types of facilities is repetitive and there is little benefit or additional expertise gained from

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a conditional use permit versus a limited use permit. The regulations as suggested in the staff report are robust and sufficient to move forward with limited use.


- Chair Ledell was in favor of the motion and the use of conditional permits as it allows for greater public input.

Roll Call Vote

Larry Blaufus	Yes
Steve Schulte	Yes
Zachary Pyle	No
Marjorie Ledell	Yes

The motion passes 3-1.

ADJOURNMENT 8:38 P.M.

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Marjorie Ledell, Chair

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