

Mayor Burge called the work session to order at 6:00 p.m.

Present: Mayor Scott Burge, Council President Megan Greisen, Councilor Joel Haugen, Councilor Josh Poling, Councilor Brandon Lesowske, Councilor Pete McHugh, Interim City Manager Alexandra Rains, Chief Norm Miller, City Recorder Susan Reeves, City Planner Laurie Oliver Joseph, City Engineer Chris Negelspace and Legal Counsel Peter Watts.

From Start to Finish....



City of Scappoose
November 2, 2019



- Inquiry Meeting
- Pre-application conference
- Land Use application submittal
- Construction document review
- Building permit issuance

- Provide a general understanding of land use procedures
- Answer questions regarding permitted use of land in City limits per zoning requirements for a specific lot/parcel
- Identify potential issues ahead of time for proposed projects, including any 'fatal flaws'
- Attended by the applicant, City Planner and City Engineer

The SDC (Scoposoppe Development Code) requires a pre-application conference be held for most land use applications. The purpose of the pre-application conference is to:

- Review the applicant's preliminary proposal
- Explain the land use process and timeline
- Provide the applicant with the applicable sections of the Comp Plan/Development Code that require a narrative response stating how their application meets the criteria for approval
- Answer any remaining questions that the applicant has in order to ensure the submittal of a complete application

Attended by the applicant/conciliant team, City Engineer, Building Official, Public Works Director, Columbia River PUD, and County/JOTD/Port representatives (as applicable).

[illegible]

- Once an application is received, the City Planner and City Engineer review the application for completeness within 30 days and provide comments back to the applicant on what items are missing or deem the application complete.
- It is not uncommon for an application to be deemed incomplete and for staff to request additional information in order to complete their review.
- Once deemed complete, this begins the clock for staff to process the application, including the resolution of all appeals, within 120 days.

Types of Decisions



- Limited Land Use
- Quasi-Judicial
- Legislative

Land Use Decisions



The term "land use decision" is defined in ORS 197.015(10)

- Simply stated, it is a final decision that:
- Adopts, amends or applies a statewide planning goal, a comprehensive plan provision or a local land use regulation

The "land use decision" definition is subject to several exceptions and does not include a decision of a local government:

- That is made under land use standards that do not require interpretation or the exercise of policy or legal judgement
- That approves or denies a building permit issued under clear and objective standards
- That is a limited land use decision
- That approves or denies a final subdivision or partition plat

Limited Land Use



- Does not require interpretation or the exercise of policy or legal judgement
- If the application meets all City requirements, the City has an obligation to approve
- Process is governed by ORS 197.195
- Includes:
 - Approved by Planner: Minor Partitions and Property Line Adjustments
 - Approved by Planning Commission: Subdivisions, Major Partitions, Site Development Review (B-Mart, Starbucks, etc.)

*Planning Commission decisions can be appealed to City Council

Quasi-Judicial



- Majority of land use decisions
- Requires that the approval body act as a judge and base their decision on specific facts in the record related to pre-existing approval criteria
- Decision must be made within 120 days of the application being deemed complete (including the resolution of all appeals)
- Must comply with general standards of due process:
 - Opportunity to be heard;
 - Opportunity to present and rebut evidence;
 - An impartial decision maker;
 - A record containing the evidence relied upon by the decision maker
 - A written decision supported by findings
- Process is governed by ORS 197.763

Quasi-Judicial



- Includes:
 - Approved by Planner: Sign permits, Minor Variance, Type 1 Home Occupation Permits, Sensitive Lands Permits, Public Land Tree Removal Permits, Type 1 Food Cart Pod Permits, and Interpretations
 - Approved by Planning Commission: Conditional Use, Major Variance, Type 2 Home Occupation Permits, Historic Overlay District Exterior Alteration/New Construction, Public Land Tree Removal Permits (not associated with timber harvesting), Authorization of Similar Use, Fences Greater Than 8-Foot, Conceptual Master Plan Approval/Modification, Type 2 Food Cart Pod Permits, Appeal of a Planner's Decision
 - Approved by City Council: Annexations, Zoning Map Amendment, Comp Plan Map Amendment, Planned Developments

*Planning Commission decisions can be appealed to City Council

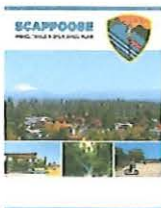
Quasi-Judicial



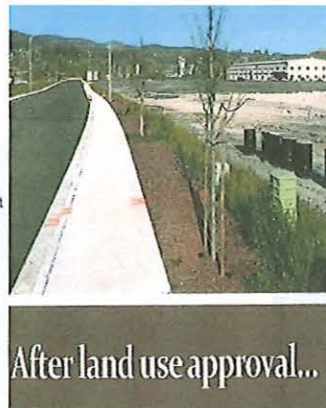
When making a Quasi-Judicial decision, the decision maker must be impartial:

- Must declare ex-parte contacts – any evidence or testimony related to a pending application received outside of a hearing (may include conversations, social media posts, site visits)
- Must declare any conflicts of interest, and recuse oneself if there is an actual conflict of interest (financial interest – either gain or loss)
- Must not be biased (set aside personal opinions, objectively apply facts of the application to the regulations that govern)

Legislative



- Typically involves adoption of new Comp Plan or Development Code standards that apply broadly to many people of a large geographic area
- Not required to be accompanied by findings, but they are recommended
- Not subject to the 120-day rule
- Planning Commission makes a recommendation to Council and City Council is the approval authority



After land use approval...

Applicant submits construction documents for review. Must conform to SMC 15.04, including, but not limited to:

- Public Works Design Standards
- Building Code
- Fire Code
- Development Code
- Conditions of Approval

Once plans are approved, a building permit is issued, and construction begins!

Council President Greisen asked City Planner Laurie Oliver Joseph what she feels we should maybe work on.

City Planner Laurie Oliver Joseph stated she thinks there is a lot of opportunity to work on the site development review chapter and review that through a public process. She stated as far as having an architectural review committee, she doesn't know if our town is large enough for

something like that, but she does think there is opportunity, and perhaps this plays into the larger picture of the community vision, in looking at that. She explained there are going to be comp plan policies that come from the community visioning exercise and new development code that needs to be written in support of the comp plan policies, so that could be an opportunity when we are doing that much public outreach to ask, what do we want the City to look like 50 years from now.

Legal Counsel Peter Watts explained in his experience with architectural review committees, it generally adds a couple of months to the process. He explained with those committees it is very hard to get to clear and objective standards, it's hard to draft the language, it is really a fine balance of how prescriptive do you want to get, which then limits people's ability to be creative. He stated where you see this most is if someone wants a bonus floor. He stated the problem usually is the standard is "compelling architecture", that is just too subjective. He stated it is really important to balance the cost to the developer which is probably 60-90 days as part of getting through the process, which means 60-90 days of carrying costs for them. He stated if you want to do this, his recommendation is that you have that conversation regarding esthetics and then we have very clear criteria versus putting it in front of an architectural review committee.

Mayor Burge asked is that what we have done for the Downtown Overlay, since we don't have a review committee?

City Planner Laurie Oliver Joseph replied, correct.

Councilor McHugh stated he does have a concern that at some point when the City does a big project that City Council gets to at least look at it. He doesn't think Council needs to be involved in the process itself necessarily but he feels Council should have input as far as stating that looks good, thank you for sharing it with us because at the end of the day, we are the elected officials. He stated if all the boxes are checked when you present something to the Planning Commission, there is not a whole lot of room for discussion. He stated maybe that is the way it works.

City Planner Laurie Oliver Joseph stated that is part of the process and even though it is meeting everything, that is the way our code is written. She stated as far as not seeing something or knowing about it as Council, it is not that we would change our process to have you look at it at the same time, the problem with that is if there is an appeal it will be coming to Council for a decision.

Legal Counsel Peter Watts talked about the expectation that all of our standards be clear and objective.

Councilor Poling stated he definitely thinks we are in a spot with our future growth where we should be cautious with moving forward and looking at some of that language and adding in some of the things that we want to see in our community. He thinks a design review board is going too far.

Councilor Lesowske asked City Planner Laurie Oliver Joseph if there would be efficiencies if she were to take on approval for some of this work rather than having it go through the current process?

City Planner Laurie Oliver Joseph replied Chris and she have talked about that and if they had more staff it would make it easier. She stated currently this makes it go through a process in a very particular way that gives them check points at each point. She stated if Council, in the future, wanted to explore the option of having more go straight to approval, because there are benefits to that, we would need to have some sort of process whereby she had on-call staff and Chris had on call staff where they could get some things turned out quickly.

Councilor Lesowske stated to City Manager Rains, that we keep that in mind moving forward as a potential efficiency that we would review what our current process it and that we would be able to bring it to the Council for review. He asked if the Planning Commission could defer their decisions to the Council?

City Planner Laurie Oliver Joseph replied, yes.

Councilor Haugen stated if Council hasn't attended a Planning Commission meeting, he encourages them to, but the danger with that as Laurie and Peter eluded too, is if you get actively involved in the Planning Commission meeting then you have the ex parte contact issue that creates a message because if it gets appealed and comes to Council, you may have to recuse yourself. He explained in his experience on the Planning Commission, if you have a good planner and you have a good engineer and good legal advice you are really solid.

Mayor Burge stated in 22 years, less than a hand full of applications have been appealed and come before the Council. He would like to have a future work session on the Downtown Overlay, so everyone here is familiar with it.

Adjournment

Mayor Burge adjourned the work session at 7:00 p.m.



Mayor Scott Burge

Attest: 

City Recorder Susan M. Reeves, MMC