

**COLUMBIA CITY PLANNING COMMISSION
PUBLIC HEARING / REGULAR SESSION
VIA "ZOOM MEETING"
NOVEMBER 17, 2020 - 6:30 P.M.**

PLANNING

COMMISSIONERS:

Kelly Niles, Chair
Barbara Gordon, Vice-Chair*
Coralee Aho
Doug Calkins
George Fortier
Dana Marble

*Denotes Commissioner absent

STAFF:

Lauren Scott, City Planner
Helen Johnson, Planning Administrative Assistant

OTHERS:

Shelly Sandford, River Club Estates Association Manager
Steve Wick, 1530 First Street
Jimmy & Rosemary Jeffrey, 1420 Second Street
John Heller, 35 100th Avenue NE, Bellevue WA

MEETING TO ORDER:

Kelly called the meeting to order at 6:34 p.m.

APPROVAL OF MINUTES:

IT WAS MOVED (CORALEE) AND SECONDED (DANA) TO APPROVE THE MINUTES OF THE OCTOBER 20, 2020 MEETING AS SUBMITTED. MOTION CARRIED UNANIMOUSLY.

CITIZEN INPUT AND REQUESTS:

Commissioner's and staff took a few minutes to be sure everyone had the correspondence related to River Club Estates zoned R-3 from both Shelly Sandford, Manager of the River Club Estates Association, and John Heller, owner of vacant lot #9 in River Club Estates.

Shelly Sandford presented a summary of the concerns stating the area is zoned R-3 which is incompatible with the Planned Unit Development (PUD) of River Club Estates. She explained what that means is River Club Estates was developed with single family homes on a single lot. Currently the R-3 zone does not permit a single family residence. Shelly went on to say a single family home would not be allowed to be built on the one remaining vacant lot. The River Club Estates PUD and CC&R's only allow a single family residence, creating a conflict.

Shelly shared with Commissioners she had a couple of solutions she had come up with. The most interesting was the section of code discussing authorization of unlisted uses in Chapter 7.35. She stated it basically says you can't always account for everything potential use and sometimes things are omitted. Shelly said when the area was annexed, the intended use of the area may have been missed as part of that. This solution would give the Planning Commission the opportunity to add the River Club Estates (PUD) as a permit use if she understands the code correctly.

Lauren addressed Shelly's idea by stating that unfortunately further in the Chapter 7.35.040 it states, the Planning Commission shall not authorize an unlisted use in a zoning district if the use is specifically listed

in another zone as either a permitted use or a conditional use. She said unfortunately since single family detached dwellings are permitted uses in other zones we don't think this would apply in this case.

Kelly asked Lauren to discuss options with Commissioners. Lauren explained the R-3 zone is pretty explicit on what it allows or doesn't allow. She said the only options to allow single family detached uses in the R-3 zone if they are not previously permitted or allowed through some special ordinance that City Staff have not be able to find or have not been presented with, really the only way would be to do a text amendment to the R-3 zone and add as a conditional use. The R-3 zone is intended to support higher density multi-family residential uses. Lauren also stated Shelly had suggested a good criteria for the conditional use which would be it must be surrounded by other single family dwellings. Lauren stated to rezone the entire River Club Estates area is not feasible because the City needs to maintain an adequate housing capacity. She stated River Club Estates unfortunately is the only area in the City zoned R-3 and in order to stay compliant with the statewide planning goals and the necessary housing supply another of the same size would need to be designated R-3 in its place.

Dana spoke up to let Lauren know that the area just north of River Club Estates is also zoned R-3, but it is in that same general area.

Helen also stated the area with the apartments off A Street is also an R-3 zone and is not fully developed. She felt the area was critical to the requirements to remain compliant with the statewide planning goals. Lauren confirmed that yes it is part of the high density land within the City.

Shelly stated that she felt the text amendment adding a conditional use was probably the most expedient way to resolve the issue. Lauren said she would not call a text amendment process speedy, but it would be the option preferred by City Staff.

Kelly stated the reason this is being brought up is that Mr. Heller, who has submitted information to the Planning Commission, would not be allowed to build a single family residence on the only remaining vacant lot in River Club Estates.

Dana stated he was not clear how all the lots in River Club Estates got built as single family in the first place if it was zone R-3 and asked for some explanation. Shelly spoke stating the area was developed in the County to County code, which is different than Columbia City code. When it was annexed, it was the density that established the R-3 zoning if she understands correctly. Shelly asked John Heller if he could add anything.

John Heller stated he did not believe there was an R-3 zone at the time, the property was developed as a PUD which allowed that type of density. He stated single family residences were part of plan and the CC&R's were approved in advance when it was annexed into the City. John stated it was always the intent for River Club Estates to be single family homes. He stated along the way some zone code changes have happened that preclude him from building a single family home. He stated if there was a tragedy or a fire for any lot owner they wouldn't be able to rebuild, under the current zoning, a single family residence. John stated it sounds like the text amendment according to Lauren is the best option. He is in favor of that if the Planning Commission makes a recommendation to the City Council to add some time to adopt the new model flood code so that plans can be submitted.

Dana stated he would be in agreement to move forward with some sort of solution to allow the single family residence in River Club Estates.

Helen wanted to clarify that if an existing single family home in an R-3 zone was destroyed for any reason it could be rebuilt as a single family home and would not need to conform to the current R-3

zoning requirements. Shelly stated she had appreciated Helen sending her the direct code reference to this statement.

Lauren discussed the process moving forward and what steps would happen.

IT WAS MOVED (DANA) AND SECONDED (CORALEE) TO START THE PROCESS TO DO A TEXT AMENDMENT ALLOWING A SINGLE FAMILY RESIDENCE AS A CONDITIONAL USE IN THE R-3 ZONE. MOTION CARRIED UNANIMOUSLY.

KELLY CLOSED THE REGULAR SESSION AND OPENED THE PUBLIC HEARING.

PUBLIC HEARING:

Kelly stated the hearing is a continuation from October 20, 2020 and it is legislative for proposed amendments to the Columbia City Development Code to clarify where ADUs are permitted and their applicable review process, clarifying the review procedures for new ramps or docks on the river and for modifications to existing ramps or docks, and the full incorporation of the Oregon Model Flood Code.

Staff report:

Lauren stated she would not redo the entire presentation from the last hearing addressing statewide planning goal findings and the findings related to the comprehensive plan or development code. She will speak to the questions that come up at the last hearing and the follow-up testimony discussing the City's review of docks and boat ramps and why the City's review would be required and what is the purpose of the changes.

Lauren said the City is required by FEMA to have a permit process for work in the floodplain and flood hazard overlay even if it is just an over-the-counter permit we need a way to process these requests. She stated when the Department of State Lands or Army Corp of Engineers receive an application for permit they do ask local jurisdictions if the proposal is consistent with that local jurisdictions standards or plans. The City also has good reason to review any upland work to ensure changes or modifications don't result in off-site impacts. For example, if someone was changing the alignment of their boat ramp potentially impacting the road system which would not be something that FEMA or DSL or any of the other agencies would be looking at and so the City's review of the boat ramps and docks is required regardless of whether there is language in the code or not. FEMA itself states that a community must review all proposed developments to ensure that necessary permits have been received from government agencies for which approval is required by federal or state law. If it's a modification or alteration we would review it just like any other structure modification request. Lauren went on to say that the language being added provides a clear review procedure for review that were already being required before. She also said from the City's standpoint we want to be sure administration has clear procedures to follow in cases of staffing turn over.

Input in favor:

None.

Input in opposition:

Steve Wick, resident at 1530 First Street, spoke to acknowledge what Lauren stated the City needs to know what is going on and the Corp of Engineers and the Oregon State Lands, each of those organizations has an update requirement for the building of a boat ramp or a dock. He asked for

explanation that after going through a permit process where does the City encourage him to go forward and what the plan is and what the cost to him is.

Lauren asked Helen to address the cost question. Helen explained that at this time the City has not had a flood development permit application. The City does have the site development review application. In her research she has been looking at other jurisdictions and agencies to see what their applications look like and what their fees are. She stated she is still doing research, but what she thinks she is leaning towards is for the flood development permit application and a site development review application would go hand in hand. She said she is still working on all of this, but looking at a minimal cost for the floodplain development permit application and is currently proposing a \$50 fee. Helen stated the current site development review application charges a deposit equal to 1% of cost, \$350 minimum and \$2,500 maximum. She is considering proposing that a major modifications or new structure would need to meet the established fee deposit outline. If it is a minor modification it would have a deposit \$100. She stated a minor modification should be pretty straight forward as long as the applicant addresses each area of the site development code criteria. Helen stated that the fees are just proposals at this time and that the City Council would have to agree and approve them in a different process than the text amendments we are discussing tonight.

Steve asked, if the Corps of Engineers and Oregon State Lands has an application and he has it approved and then brings it to the City to get the signature, does he have a permit and will the permit cost him anything and how does he move forward?

Helen stated that if Steve were to bring the joint application from the Corp of Engineers and Department of State Lands to the City for signature she would do what was done most recently and sign it explaining the requirement of the floodplain development permit application with the fee or deposit, still determining that, of \$50 and then if minor modification site development review the deposit would be \$100 and if major, which this situation would be because it is new, it would require the deposit equal to 1% of cost, \$350 minimum and \$2,500 maximum.

Steve asked that if he had a boat ramp he was proposing with an overall cost of \$65,000, what would be his fee? Helen came back to say the deposit for the application would be \$650. She further explained that time and materials spent on reviewing the application would be tracked and any excess refunded and any overage would be billed.

Steve then said he is just trying to understand what the benefit of these code changes are and how they affect the citizens of our community. Helen stated there has always been a requirement for this review, it is in the code currently. She explained the changes being presented are clarifying how the review is to happen. She said there hasn't been an application, there hasn't been a process explained and so that is what we are defining here.

Steve then asked Lauren if she would be the one to look at this application for approval. Lauren stated that yes, if he brought his approvals from other agencies and submitted plans and said I want to build this, she would be the one to review the application. Steve then asked Lauren if she has had other boat ramps and dock applications that she has reviewed for other cities. Lauren stated yes, for the City of Rivergrove near Lake Oswego.

Steve stated he had hoped these code changes would benefit the citizens to development our city. He asked if the \$650 fee would he be paying Lauren's hourly fee to get the process to go through. Lauren said no, explaining the permit application fee he would pay covers all city staff time, she is included in that. Helen wanted to further clarify that the amount paid is a deposit. Helen stated that in the scenario discussed earlier the \$650 would be a deposit. In processing and reviewing the application, if Lauren spent an hour reviewing the application, then her hourly wage would be tracked against the deposit.

Helen explained that if she had to send out 10 notifications related to the application and that cost \$10, then that would be deducted from the deposit. Helen stated that typically deposit are the City's best guess as to what the process would cost and then tracks the time and materials. If the review cost more, then an applicant would be billed, if it took less, the applicant would be refunded.

Steve asked Lauren, now that he has the Corp of Engineers and Department of State Lands permission, what would she be looking for in the application? Lauren explained she would be looking for consistency with Columbia City's floodplain regulations which are all included in the new code and are consistent with FEMA's new standards. She said that if you were doing any development above base flood, she would be look for consistency with other development standards depending on the zone that his is in.

Lauren wanted to clarify to Steve that if he were to apply for a new dock, without those code changes being in effect, we would still follow the same process even though it is not written down that is what City staff had previously interpreted. Helen agreed with Lauren's statement.

Steve commented that there is quite a bit of an expense to get an application through the Corp of Engineers. He spent \$6,500 and he had a beautiful application that showed everything he thought was needed for his boat ramp and then was told that Lauren would need to review it and it would be an additional fee of \$100 a couple of years ago. He asked how this is going to benefit the citizens of Columbia City and the fee seems unnecessary in his opinion.

John Heller, owner of Lot #9 in River Club Estates, who resides in Bellevue WA, stated he would be opposed to the code amendment changes as they are currently written. He has provided proposed additional wording he would like the Commission to consider in their recommendation to the Council in the event you take action tonight. John stated he thought the Commission had 60 days to make that decision and that would put the expiration at December 20, 2020. Helen clarified December 19, 2020 would be the expiration date. John said he was not sure when the next scheduled Planning Commission meeting is, but there would definitely be more time that could be taken for review, discussion and research before making a decision. John stated that is not necessarily his request or recommendation, he would be all in favor of his proposed wording he provided to the Commission in terms of their recommendation to the Council, knowing that the Council may not agree to that. He stated that what it does do is give until January of 2023 to adopt the new code. Then that would give breathing room to work under current code. He said that according to staff there is no urgency or requirement to adopt these new codes, with that being said in the staff report, there doesn't seem to be a sense of urgency. He does like the idea of saying that we are going to adopt them and we are going to adopt them at a later date. He feels this shows we are responsible, that we are looking at updating to the new code, but also gives us some time to adapt to the new codes.

Shelly Sanford asked if the code changes being proposed will impact the development of the remaining single lot in River Club Estates that is in need of text amendments before it can be developed. Her concern is if the text amendments are not done first, will these proposed code changes impact the way the lot can be developed.

John stated to Shelly that his proposed verbiage allows the City until January of 2023 to adopt the legislative text amendments for River Club Estates in advance of the new code adoption that we are discussing this evening. He explained it would be in two parts assuming that the Planning Commission recommend to the City Council to adopt this on January 1, 2023. He stated there has already been a motion passed unanimously to begin the process of the legislative change for zoning in River Club. He would hope by that time the code amendment would be done legislatively and it wouldn't be an issue.

Lauren stated that the staff report states that we are not under any strict timeline to adopt these model flood code changes, but the model flood code was developed to help communities to achieve the

minimum National Flood Insurance Program and state standards compliance for floodplain managements and delaying the implementation of those standards, those are still FEMA standards that exist now and delaying the addition of them into the Columbia City code doesn't help with Columbia City's compliance of FEMA standards and the National Flood Insurance Program.

John responded stating that Columbia City has gone without these standards for many many years since its incorporation. He stated unless there is some emergency that has not been identified, he does not see the urgency to adopt these codes.

Lauren clarified that the base flood development standards do exist in our current code now. She further explained that the overall intent of the standards that we are adding are in the code now, these changes effect definitions, make changes to administration and adds clarity to the process. Columbia City does currently have standards for development in the floodplain.

John agreed, but stated that the new standards have greater restrictions including the increase of the base flood level by at least 6 inches, he thought and asked Lauren to clarify. Lauren stated that current base flood elevation requirement in the City code is 18 inches which is 6 inches above the minimum recommendation in FEMA standards. She explained that is not changing with the new code. It will remain at 18 inches. John felt there are still additional regulations that he would have to comply with which includes additional fees.

Jimmy Jeffery, resident at 1420 Second Street, asked about dock improvements. He stated he has a couple of old piling that are rotten and need to be replaced. He asked if he would have to pay \$350 to get rid of something that should be removed from the river to begin with. He is confused about the replacement or the repair requirement. To him it doesn't seem beneficial to residents to get rid of material that should be eliminated to begin with. He is opposed to this inclusion, the fees they would have to pay and it seems redundant because they go through the Corp of Engineers and State Lands and now we are adding another layer of bureaucracy to the whole situation and it makes it almost impossible for local residents on the water front to do anything that would improve the quality and the tax base of the property meaning more money for the city and the county. He explained right now he is charged \$50,000 in equity for the value of his dock setup. Jimmy stated that means he has to pay \$500 a year in taxes. He feels it is redundant to pay more money and more fees for something that has been there a long time.

Written materials submitted:

Helen asked Kelly if we should look at the two options proposed by Mr. Heller. Kelly found the information and asked Mr. Heller to correct him if he gets anything wrong. Kelly read from John's letter, option 1) per 7.160.070 propose approval of the text changes which includes the addition in red to section 7.75.070, which is compliance, all development within special flood hazard areas is subject to the terms of this ordinance and required to comply with its provisions and all other applicable regulations, however properties located within River Club Estates shall be subject to the terms of this ordinance effective January 1, 2023.

Kelly read John's comment that state this would be the easiest and most practical solution which allows ample and reasonable time to make the proper text amendments to the development code specific to RCE and processed through a legislative procedure which requires hearing(s) by the Planning Commission and City Council.

Kelly continued with option 2) per 7.160.070, recommend the proposed text language to Chapter 7.75 takes effect on January 1, 2023.

Kelly then read John's comment that say, this would allow for the necessary modifications to the zoning code re: RCE to be successfully accomplished without any specific reference to RCE. In its executive summary, Planning Staff noted the new model code is not required to be incorporated at this time nor is there any urgency as noted below. Kelly states that he then referenced the executive summary which reads flood hazard overlay major changes are proposed to Chapter 7.75 Flood Hazard Overlays as the new Oregon state model flood ordinance was inserted into this section. The new model code is not required to be incorporated at this time and while Columbia City is currently in no danger or triggering either of those, the DLCDC recommends any code update include the new model code language.

Staff comment:

Lauren stated she felt that she and Helen had answered all of the questions that had been brought up, unless there is any additional clarification that is needed at this time. Helen agreed.

KELLY CLOSED THE PUBLIC HEARING AND RECONVENED THE REGULAR SESSION.

Kelly decided to break down each of the areas and discuss them individually. He started with the development code and the clarification of where ADU's are permitted and the applicable review process. Kelly stated he had no concerns with this area, Coralee also agreed. Dana said he was good and Doug also agreed.

Kelly then moved on to clarifying the review procedure for new docks or ramps on the river and for modification of existing ramps or docks. Helen stated code currently requires a review, but the problem is that the process of the review is not clearly outlined. She stated that code currently states the City shall review all development in the floodplain. With that being so vague staff determined the need to outline the process and from there would determine application and fees accordingly.

Coralee asked what has been done in the past. Helen stated she doesn't have the history, but she can recall a new home built on the river. She didn't recall a flood development permit application, but the whole process was done through the building permit process with the involvement of the City Engineer and City Planner. She recalled it being cumbersome and unclear as to who needed to be looking at what and how the process was supposed to happen. She stated prior to that she couldn't say as she was not involved. Helen said she thought the City Administrator had done and handled most of the floodplain stuff. She did say the City now has a new City Administrator. She also stated with the proposed text changes to the code the floodplain administrator would be the City's Planner which is Lauren. Helen went on to explain that the City Engineer, the Building Official, the City Administrator all have their different roles within the floodplain code that they have to take into consideration depending upon what the development is, how it's being development and where it is.

Kelly asked a scenario if he was a home owner on the river and wanted to put something in the river he would need to go to the Army Corp of Engineers. Helen clarified that he would need to obtain what she thinks is called a joint application from the Army Corp of Engineers and the Department of State Lands. She went on to say the application has a section for City approval or comments. Helen said it basically asking does the proposal conform with the City codes and regulations. Kelly asked that when the application comes to us after being approved by the other agencies, shouldn't it be pretty good to go. Helen told Kelly that it could come to us at different timelines, for example before the Corp has signed off or maybe before State Lands. Helen found a copy of the application and the section the City signs off on is titled City County Planning Department Land Use affidavit and says, I have reviewed the project described in this application and I have determined that and it gives options. It then says the application or variance request has or has not been filed for approvals described above. Helen recalled the previous process from more than 10 years ago before the FEMA requirements and the current Flood Hazard Overlay chapter required the City involvement and standards of review, the City would simply sign off

that we did not object. Helen thought it was in 2010 the City adopted the Oregon Model Flood Code into the Development Code and in that it talked about City requirement of review, but didn't explain how that process was to happen. She explained that more recently when these applications have come in the process and approval was questioned by staff. Helen said that because there was not a clear process outlined in code it was determined that the worst case scenario needed to be followed until the code could be fixed. This meant a site development review process would be required and go before the Planning Commission for approval. Helen explained the City's goal is to lessen the requirements for modifications by lessening the fee and lessening the process requirements. She continued to say in her research, the fees other jurisdictions charge are all over the place. She is trying to figure out what is most appropriate for Columbia City and our situation. She stated it is not the City's goal to make this an impossible process, but we do want to be sure that our code is being addressed. She commented as Lauren stated earlier if a boat ramp is being widened and changed, the Corp may not be looking at that as their interest is at the water level. For us, our interest is in the entire property.

Kelly asked if we know what the associated fees are for the Army Corp of Engineers application and approval. Helen stated she did not know. Kelly asked if any of the other Commissioner know the answer. No one did. Steve Wick spoke up to say the joint application requires an engineer. He secured Lower Columbia Engineering to assist him. He stated the application is multiple pages and he was required to get GPS's at this property to make sure he is not close to his neighbors, it requires all neighbors to be notified he is doing this project, it requires a list of all the materials and the safe handling of those materials. Steve stated the application itself is free, but you cannot complete it yourself. He stated he spent \$6,500 for his application with Lower Columbia Engineering. They told him to take the application to the City and have them complete a specific section of the application. Steve read from his application that states, this project is consistent with the Comprehensive Plan and land use regulations for the following. Then he stated Helen had checked the box that read other permit and in the comments she wrote, the City would require an application for planning approval by the contracted City Planner and application has been provide to owner. Steve said he was given an application form, Lauren would be required to review the application and it was \$100 and he would agree to pay for time and materials for Lauren's review.

Staff and Commissioners discussed at length the new proposed process and how it looks compared to the current process for new docks and boat ramps and modifications to existing docks and boat ramps. Mr. Wick also explained his experience attempting to get an application approved for a boat ramp with the City.

Kelly then moved the discussion on to the incorporation of the new Oregon Model Flood Code asking Lauren to give the Commissioners an overview of changes and the bigger impacts to the City.

Lauren said the biggest changes come in under the definitions section of the code chapter which is adding or clarifying them. She explained another larger area of changes is in the administration section which is how the City processes the floodplain development permits, who is responsible for what and what records need to be kept. Lauren explained the overall intent of the Flood Hazard Overlay chapter and approval standards are mostly reorganized. She stated she believed there were some small edits to the base flood elevations and anchoring for manufactured dwellings. She explained that the approval standards had some other small changes, but the overall approval standards in the code as it is today are still there.

Kelly asked Lauren if the Commission did nothing and didn't incorporate the proposed changes to the Flood Hazard Overlay Chapter what the outcome would be. He asked if it would automatically take effect though FEMA anyway. Lauren stated it wouldn't be in writing that Columbia City needs to be reviewing development permits to be consistent with this so you would be asking staff to review permits for consistency with standards that are not in our code. She stated that if we were to do any other code text

changes the DLCD will recommend that the model flood code for cities be implemented at that time. She stated that would be a typical response from them if they were notified of other major changes we are making to the code. Lauren said we could also run the risk of Columbia City not being compliant with the minimum flood insurance program standards and other state requirements. She explained we would be reviewing old outdated definitions and administration procedures.

Kelly then asked Lauren what the impact on citizens would be if we don't have our FEMA flood code stuff up to date and we did have a flood and FEMA assistance was necessary. He asked if residents would be hindered in their ability to get FEMA dollars or grants or loans. Lauren stated she was unsure and didn't want to speak to the ability to received federal funding, but it would impact the national flood insurance program in Columbia City. She went on to say that by not doing or delaying the implementation by a certain number of years, if DLCD ever did an audit of Columbia City we would run the risk of them making these requirements mandatory. Lauren said these changes went into effect over a year ago and it's important to stay on top of changes.

Kelly asked Helen when the last changes were made to the Flood Hazard Overlay chapter in the Development Code. Helen looked at code and said the entire code had been changed on 10/21/2010.

Kelly did ask that whatever we recommend to the City Council to consider the financial impacts applications and fees will have on residents. Helen did share the financial part of this process and the establishment of fees or deposits will be a separate process before the City Council and will have its own public hearing.

IT WAS MOVED (DANA) AND SECONDED (DOUG) TO RECOMMEND APPROVAL TO THE CITY COUNCIL THE PROPOSED TEXT AMENDANTS AS OUTLINED IN THE STAFF REPORT DATED OCTOBER 12, 2020. COMMISSIONERS IN FAVOR WERE CORALEE, GEORGE, DOUG & DANA. COMMISSIONER IN OPPOSITION WAS KELLY. MOTION CARRIED.

UNFINISHED BUSINESS:

Helen did say she received the official resignation of Commissioner Lee Anne Landenberger and has advertise for the vacant position, but has not had any interest yet.

NEW BUSINESS:

None.

ADJOURNMENT:

Meeting adjourned at 8:07 p.m.

Kelly Niles
Planning Commission Chair

Attest by:

Helen K Johnson
Planning Administrative Assistant