

MINUTES

PLANNING COMMISSION

Virtual Meeting
Port Angeles, Washington 98362
July 13, 2022 6:00 p.m.
REGULAR MEETING

CALL TO ORDER

Chair Stanley opened the regular meeting at 6:00 p.m.

ROLL CALL

Commissioners Present: Richie Ahuja, Tammy Dziadek, Steve Luxton, Andrew Schwab (Vice-Chair), Marolee Smith, Benjamin Stanley (Chair), Colin Young

City Staff Present: Ben Braudrick (*Senior Planner*)
Chris Cowgill (*Assistant City Attorney*)
Holden Fleming (*Housing Coordinator*)
Norm Gollub (*Interim CED Director*)
Zach Trevino (*Assistant Planner*)

Public Present: John Ralston

PUBLIC COMMENT

Chair Stanley opened the meeting to public comment.

One individual provided public comment, as follows:

John Ralston began by expressing a desire to comment on the proposed code amendment that would allow the addition of commercial uses in residential zones. He also had questions about the proposed amendments to Port Angeles Municipal Code (PAMC) Section 17.10.020. Specifically, he wanted to confirm that subsection (I) would allow for two duplexes on a 7,000 square foot lot in the R7 zone, which he thinks would be great. He had been in communication with Planner Holden Fleming, Housing Coordinator, who he noted has been very helpful. Mr. Ralston was seeking more information on the implementation of cottage housing, including some examples. He tried corresponding with Bob Beckford of Makers, but did not receive any response. He was hoping that the City could help him by providing better contact information so that he could see examples of cottage housing as he contemplates doing a couple of small developments to take advantage of what the PAMC allows.

Chair Stanley asked whether, since Mr. Ralston is supportive of the proposal to allow multiple duplexes on a single lot, he would also support the provision that would allow multi-family units on a 7,000 square foot lot.

Ben Braudrick responded by stating that the City is just looking at the initialization of this process, which has not been distributed to staff in any way. The proposal was brought forward to the

Planning Commission at this time to ensure that it could be heard by all Commissioners and the process started.

Chair Stanley closed the meeting to public comment.

APPROVAL OF MINUTES

Commissioner Young moved to accept the minutes from the May 25, 2022 regular meeting of the Planning Commission. **Commissioner Luxton** seconded. The motion passed unanimously (7-0).

DISCUSSION

1. Commissioner Proposed Changes to Tile 17: Discuss motion regarding Commissioner Luxton's proposed changes to Title 17 of the Port Angeles Municipal Code

Planner Braudrick noted that, while staff would like a chance to respond, Commissioner Luxton should present his proposed changes to the Commission.

Chair Stanley began by stating that he has been supportive of a lot of the proposed changes, but that the Commission should recognize that these are very significant changes in terms of zoning, and making these changes could prove to be contentious, so it will be important for the Commission to discuss the changes and their implication with the regard to the Zoning Code and other standards.

Commissioner Luxton presented his proposed code text amendment language, which suggests changes to Title 17 of the PAMC. He noted that there were many errors that were introduced through the Building Residential Capacity (BRC) land use code revisions. Some of these involved things being left out, and others involved unclear language that caused confusion about intent. The first item in the proposed changes is the addition of commercial uses in residential zones. He stated that one of the main problems in the City is that most of the businesses are on one side of the town. This causes those on the west side to have to drive a long distance whenever they need to purchase anything. The corner shop idea in the proposed text is meant to facilitate a use that is present in other countries, where small retail or restaurant uses are incorporated into residential areas, usually on corners. Victoria, British Columbia, is one example where this type of corner use is prevalent. Commissioner Luxton noted that there was not any existing definition in the PAMC that would facilitate such a commercial use, so he proposed this new definition of "corner shops." The point of having such a store would be to enable residents to walk rather than having to drive to access goods and services they want. Such a change would help promote density and walkability, while helping small businesses. To ensure compatibility with surroundings, a size limit of 1,000 square feet and limiting operating hours to between 7:30 AM and 9:00 PM is being proposed. The use would still need to go through the conditional use process in the R7, R9, and R11 zones.

Chair Stanley asked for initial comment, noting that it sounds like Commissioner Luxton wants to apply the changes to all the residential zones in the City, without the need for a conditional review. **Commissioner Luxton** responded, clarifying that the use would be subject to the City's existing conditional use permit process, which means that the use would not be automatically permitted by right. Staff would have the opportunity to decide whether the use is consistent with the Comprehensive Plan and goals of the City. Also, neighbors would have a chance to weigh in on the process. He asked Planner Braudrick whether the distance for mailed notices is a 300-foot buffer. **Planner Braudrick** stated that it is, and added that the meeting of the Commissioners was intended to allow Commissioner Luxton to review his proposed changes and then for the

Commission to decide whether they wanted to bring the item forward for further discussion at a subsequent meeting.

Vice Chair Schwab asked how the proposed changes differ from the mixed-use standards already in code. **Chair Stanley** agreed that this matter needs to be discussed, and asked staff to clarify what sections of code prohibit this use and what the benefits of prohibiting this the desired type of development are.

Commissioner Luxton asked whether the mixed use standards apply in certain block frontage designations or along certain streets, and stated that they do not apply to the residential zones being considered. The mixed use design standards would not facilitate more commercial uses in residential zones of the City. **Vice Chair Schwab** responded that this had been his question, with the intent of clarifying how the proposed language would be different than what the PAMC already allows.

Planner Braudrick added that he agrees with Commissioner Luxton in the fact that the zones where corner shops are proposed to be allowed are not mixed use or commercial zones at this time, so the change would be introducing a mix of uses into what are currently residential zones.

Commissioner Smith commented that everywhere she has ever lived besides Port Angeles has had little corner markets near schools that kids can walk to, which she thinks is a great idea. **Commissioner Luxton** added that a primary goal of planning is to get back to what cities looked like before there was much planning. Walking around the west side of Port Angeles reveals many buildings on corners that used to be stores or restaurants, with commercial buildings dating back to the 1940s or 1950s, but these no longer exist as commercial establishments. He provided the example of the 5th Street corridor as a place where commercial uses are found.

After providing an overview of the “corner shops” definition, **Commissioner Luxton** moved on to the proposed language in PAMC 17.10.020, beginning by expressing disappointment to the reaction that the City Council had to a recent letter the Commission had sent them. He expressed a feeling that staff was attempting to unreasonably slow down the Commission’s proposals. He also stated that he felt misinformation had been introduced into the discussion, such as during the discussion of whether fourplexes are allowed in the R7 zone, sewer and water development fees, and permit fees for certain types of residential development, which caused confusion. It would be ideal for the Commission to have more time to present ideas to the Council. The proposed changes to PAMC 17.10.020 are meant to clarify what uses are allowed in the R7 zone, while fixing some errors that had been present in the original BRC revisions. Commissioner Luxton proceeded to explain the rationale for each proposed change to the list of permitted uses. One reason the changes are important is that the multi-family tax incentive that the City has had in place for years has still had no applicants to his knowledge, since it applies to very few areas and zones in the City. Allowing a fourplex in the R7 zone on 50-foot-wide lots would not be a density increase from what is already allowed, but would open up a much larger area to the tax incentive.

Planner Braudrick reminded the Commission that the details of the changes are not being discussed tonight, but that a motion would be made on whether to discuss the matter in the future.

Commissioner Ahuja asked if the Chair had the discretion to amend the agenda item and open the item up for discussion. **Planner Braudrick** answered that the PAMC and bylaws necessitates that the item be placed on the agenda to provide staff with ability to respond. The discussion at this initial meeting should focus on the merits of the proposal, not the content, so that the public can understand what the proposal is and have the chance to provide comment during the public comment period. **Commissioner Young** and **Chair Stanley** noted that this would allow the Commission to assess their needs regarding what level staff analysis will be necessary.

Commissioner Smith asked Commissioner Luxton how cottage housing would be affected by the proposed amendment. **Commissioner Luxton** responded that cottage housing is already an allowed use in the R7 zone and would be unaffected. **Commissioner Smith** explained that many lots in the City have the potential to be developed as pocket housing with clusters of approximately ten houses. **Commissioner Luxton** noted that the BRC revisions facilitate this type of residential development. The addition of minimum lot sizes to single-household dwellings in this section would clarify the intent of “small lot” development as being on lots between 3,500 square feet and 5,000 square feet in size. The addition of the option for two duplexes on a single lot is meant to preserve density while opening up more of the City to the aforementioned tax incentive. He noted that the plural on the end of “duplex” in the current R9 zone list of permitted uses causes confusion by indicating multiple duplexes and potentially opening the City up to litigation.

Moving on to a summary of the proposed changes to certain PAMC chapters addressing commercial zones, **Commissioner Luxton** noted that the BRC revisions overwrote certain code sections in Title 17. The intent had been to roll all the commercial zones into a single design standards chapter, but removal of the Commercial Arterial chapter (PAMC Chapter 17.23), was forgotten as part of that process. This mistake needs to be remedied, along with the deletion of Chapter 17.25, Commercial Regional (CR), since the CR zone is not used within city limits. Deletion of Chapter 17.45, Infill Overlay Zone (IOZ), should also occur since the baseline densities of the City already exceed those which could be achieved through the IOZ, so nobody has an incentive to use the overlay tool. Removing these chapters would clean the code up. Finally, Commissioner Luxton reviewed his proposed changes to definitions to make the use of terms designating types of residential development consistent throughout the code. **Chair Stanley** expressed the importance of the code being consistent and professional, for ease of use by developers assessing whether they want to invest in the community.

Planner Braudrick provided a clarifying note about the process that these changes would go through. This item is not currently on staff’s work plan, and staff feels that it needs to go through the Comprehensive Plan amendment process. There is some confusion about the Housing Action Plan and the Land Use Element that needs to be addressed before these changes could move forward. He noted that, while the PAMC does not define “infill” development, small-lot infill development standards require that lots be 5,000 square feet in size, so infill could be defined as lots smaller than 7,000 square feet. The Comprehensive Plan should reflect the process of PAMC amendment. He provided an overview of when the comprehensive planning process occurs, which can only happen once per year. That process would need to move forward and allow opportunity through public engagement, assessment of impacts, and notice to the Department of Commerce, as well as showing that the code changes would meet the criteria in the Comprehensive Plan.

Chair Stanley asked what the deadline would be for the Commission to decide on proposed changes. **Planner Braudrick** responded that there is a 60-day period before adoption, which usually occurs in June, so the deadline for finalizing proposed changes would likely be in April to allow for the legal noticing period. At least one public hearing would need to occur with the Planning Commission in May, and one meeting with City Council, with a decision made prior to June 30th.

Commissioner Luxton asked why a Comprehensive Plan update is necessary if the proposed PAMC changes do not increase density over what is currently allowed by Title 17. **Planner Braudrick** noted that the reason is the definition of lower density residential Comprehensive Plan Land Use Designation that is in the Land Use Element of the Comprehensive Plan and mapped in the Comprehensive Plan Land Use Map. **Commissioner Luxton** raised the issue of the small-lot single-household dwellings and duplexes that were introduced through the BRC revisions, which

he noted exceed the density called for in the Comprehensive Plan. **Planner Braudrick** clarified that those are infill development patterns that are not going to be as impactful as would other types of citywide increases in allowed density. The distinction comes down to the units per acre allowed in the Comprehensive Plan and the design standards that proposed infill development is currently subject to. **Chair Stanley** added that the root of the issue is the fact that comprehensive planning is required by state law and is subject to many requirements that cannot be quickly changed.

Commissioner Luxton noted that the issue all comes down to the 6 units per acres allowed by the Comprehensive Plan, which has already been exceeded by the BRC revisions, so it is clear that a comprehensive planning process is unnecessary for these proposed amendments. He asked why it is the case that two duplexes on twice the land area as one is unacceptable, since density is not being changed at all. **Planner Braudrick** responded that current allowed infill is distinct from allowing four units on a 7,000 square lot everywhere in the R7 zone.

Commissioner Luxton asked whether the City's legal department has reviewed this determination. **Planner Braudrick** confirmed staff have discussed the proposal in preparation for the agenda item, and the issue comes down to the definition of infill in the Comprehensive Plan. **Chair Stanley** asked whether it would be possible to redefine infill in the PAMC to meet Commissioner Luxton's objectives. **Planner Braudrick** responded that such a redefinition would be part of the Title 17 changes being proposed.

Commissioner Luxton stated that the building boom based on low interest rates is now over, but having a code that promoted multi-family 2-3 years ago would have facilitated some of the needed housing development. At present, the median home in Port Angeles costs approximately \$400,000, requiring the median household to spend 70% of their income to afford a house. The housing situation is an emergency, but the City is not addressing it fast enough. Meanwhile, people cannot afford housing, medicine, tuition, or other necessities. This causes the problem to get worse while inadequate incremental changes are being made.

Chris Cowgill, Attorney, interjected to state that, while the procedure to solve the problem cannot be designed at this meeting. If the Commission were to add the proposed code changes to the agenda for further discussion at a subsequent hearing, the staff report could include an analysis of the issue raised.

Commissioner Luxton asked about Attorney Cowgill's correspondence with staff about the difference between the BRC revisions and other density increases. **Attorney Cowgill** confirmed that this has been discussed, but procedure in general has not yet been discussed.

Commissioner Luxton asked Planner Braudrick why the BRC revisions were able to pass, given the Comprehensive Plan's definition of infill. **Planner Braudrick** responded that Chapter 17.21 of the PAMC does define small lot infill as development on lots of 5,000 square feet or less in size.

Commissioner Luxton asked why, given the approval of that criteria, the Commission cannot make the proposed PAMC changes, since they do not affect density. **Planner Braudrick** answered that the SEPA decision was legally binding and could not be appealed, which was a concession from the State of Washington in order to build residential capacity. Every jurisdiction approached this differently, and Port Angeles did it with the infill standard. **Chair Stanley** summarized this point by noting that the state provided a one-time opportunity to amend standards, and the City did not go as far as Commissioner Luxton would have wanted.

Commissioner Young stated that, while he supports the reasons Commissioner Luxton raised for why changes need to be made, he believes that the Commission needs to be more strategic, since the Commission already proposed something similar to the current proposal to the City Council,

which rejected that proposal. Given that, he suggested that the Commission avoid taking the same approach a second time, to ensure that the proposal is not rejected in a similar manner as before.

Commissioner Luxton asked whether the Council rejected the previous proposal due to misinformation causing misunderstanding or due to genuine opposition to the proposal. **Chair Stanley** agreed that there is a need for a more structured argument from the Commission, which Commissioner Luxton's approach to the proposed amendment contributes to. He asked Commissioner Luxton whether the difference between a duplex and fourplex is the difference between Commissioner Luxton taking advantage of a big tax exemption as the state or federal level. **Commissioner Luxton** responded affirmatively.

Commissioner Luxton mentioned a meeting in 2018 in which Councilmember Lindsey Schromen-Wawrin brought up a state program for multi-family tax exemption. This program would provide multi-year tax exemptions for the construction of multi-family housing, but this only applies to buildings that have four units in a single building, and would not apply to two duplexes on a single parcel. He noted that fire sprinkler system costs for buildings containing more than two units make projects financially infeasible. This has led to all rental units developed in Port Angeles since 2007 being duplexes, since multi-family is cost prohibitive. This is why the tax exemption is a critical element of making four-unit developments feasible. **Chair Stanley** suggested that Commissioner Luxton raise that argument at a future meeting.

Chair Stanley stated that he would like the Commission to vote on whether this matter should be discussed at a future meeting. First, it should be considered that this could have a ripple effect on the rest of the Zoning Code. For example, the proposed level of density near a single-family home may cause concern among homeowners. To mitigate this potential conflict, he suggested that the Commission consider adding a couple feet to the maximum permitted fence height for fences in residential zones, or implementing design standards that would force a fourplex to look more like a house rather than an apartment building. He stated that he would personally support fourplexes, and asked whether it should be allowed for 7,000 square foot lots to be divided into four separate lots of 1,750 square feet each in the R7 zone. This would allow people to own smaller lots with tiny homes, which could lower barriers to homeownership for lower-income people. **Commissioner Luxton** expressed complete agreement with that sort of proposal. He noted that homeowners have seen significant wealth accumulation in the last two years, while those who do not own property are increasingly unable to attain ownership, which is an unsustainable situation.

Commissioner Smith provided an anecdote about three of her neighbors who have mobile homes on their property used as residences, which is illegal, resulting in a residential density higher than what is allowed by underlying zoning. This type of occupancy lacks sewer or electrical connection, but people are forced to establish this kind of arrangement. The City still does not have any way for people to live temporarily on their property in compliance with code. She requested a joint meeting with City Council to discuss this matter in detail. **Chair Stanley** recalled when the Commission proposed allowing RVs on any property, which was not approved. He stated that the proposal being considered now is a more legitimate way to accomplish the same goal.

Commissioner Luxton asked staff to explain what the maximum amount of change is that could occur to residential density without the need for a PAMC amendment or Comprehensive Plan amendment. **Planner Braudrick** noted that, while would need time to formulate a complete answer, the issue is a matter of density and would take a bit of a longer process. He noted that cottage housing is allowed at a density of up to three units on one 7,000 square foot lot.

Commissioner Luxton asked whether there is something that could be done to alleviate the housing crisis without having to go through the long process of a Comprehensive Plan amendment.

Planner Braudrick stated that he would want time to put suggestions in writing, and that the Commission could make a motion asking staff to research the issue.

Commissioner Dziadek noted that, on the street where her residence is located, people are living in cars and trailers because they do not have a place to live, and agrees that the issue needs to be addressed. **Chair Stanley** suggested that it may be time to suggest that City Council take on legal liability and authorize construction of additional residential units now, in order to avoid having to go through the year-long approval process. **Commissioner Luxton** added that, while the Planning Commission believes the housing shortage to be an emergency, staff is emphasizing the legal requirements and timeline, and Council is deferring to staff's outlined procedure. He noted that, while this makes sense due to liability, the country cannot be run on avoiding liability. He claimed that the City is losing control of Port Angeles, since the need for housing is not being met with the code that exists. He asked whether the motion should be for staff to make a list of suggestions on what might be beneficial. **Planner Braudrick** responded with a reminder that the City recently hired a Housing Coordinator, whose priority is to house individuals.

Chair Stanley stated that the Commission needs to ask Council if they believe the State of Washington will sue the City due to violation of the Comprehensive Plan, and expressed that it would be crazy for the state to sue if the Council declared a housing emergency. **Commissioner Smith** reminded the Commission that the City declare itself to be a compassionate city, which it is not adhering to without addressing the homelessness issue.

Vice Chair Schwab stated that he will vote according to the advice of legal counsel. **Commissioner Luxton** noted that judges decide what is legal, and anything before that point is reached is just an opinion.

Commissioner Ahuja asked whether the City is willing to step up and declare a housing emergency, and whether there is a precedent for this type of action. He suggested that the Commission ask the City to explore how to accelerate the process, based on the suggested amendment to PAMC. Alternatively, staff should also provide recommendations on how they would address the housing crisis. Something needs to be done, and Commissioner Ahuja agrees that a joint meeting with the Council is ideal, to ensure that this case is presented to the Council.

Commissioner Smith motioned for the Planning Commission to officially place the proposed code text amendment language as drafted by Commissioner Luxton, suggesting changes to Title 17 of the Port Angeles Municipal Code, on the agenda for discussion at the next regular meeting of the Planning Commission, and for staff to be able to provide input during that discussion. Commissioner Ahuja seconded the motion. Further discussion briefly occurred to clarify the motion, followed by a vote. **The motion passed unanimously (7-0).**

Commissioner Luxton motioned to direct legal counsel to produce a legal opinion on the necessity of a Comprehensive Plan amendment in order to amend the PAMC and enable two duplexes or one fourplex on a single 7,000 square foot lot in the R7 zone. Commissioner Smith seconded the motion.

Before a vote, additional discussion ensued. **Chair Stanley** questioned whether the Commission has the power to direct legal staff, but noted that it can suggest a course of action. He asked staff whether discussion of the opinion requested in the motion has already occurred with legal counsel. **Planner Braudrick** stated that he does not believe it had, as the discussion with legal counsel to date mainly centered on how to move forward with Commissioner Luxton's proposed amendments as an agenda item that the entire Commission could consider. He confirmed that there had not been a comprehensive assessment of the legality of allowing certain types of dwelling units, as proposed in the amendment being considered.

Commissioner Luxton pointed out that the Revised Code of Washington allows the Commission to direct staff on fact-finding missions. **Chair Stanley** noted his awareness of this law.

Commissioner Young expressed concern about the wording of the motion, specifically that it would put pressure on the city attorney such that the final recommendation is skewed toward a legal recommendation that protects the City from legal liability and away from an outcome desired by the Commission. If the determination of the attorney is that the City should not pursue the proposed changes without the comprehensive planning process, it would hinder the Commission's effort.

Further discussion of the motion by the commissioners and staff occurred in an attempt to mitigate the risk of inadvertently undermining the Commission's effort to achieve their desired result. It was decided collectively to vote against the above motion due to confusion about the motion and doubt that it would accomplish the Commission's goal, then proceed to make another motion for clarity.

A roll-call vote was called, and the motion failed unanimously (0-7).

Commissioner Luxton motioned to request that legal staff produce an opinion as to why it was acceptable for the "Building Residential Capacity" land use code revisions to violate the development densities established by the City of Port Angeles Comprehensive Plan, but not acceptable for the proposed code text amendment language as drafted by Commissioner Luxton, suggesting changes to Title 17 of the Port Angeles Municipal Code, specifically the proposal to allow two duplexes or one fourplex on a single 7,000 square foot lot in the R7 zone, to conflict with the City of Port Angeles Comprehensive Plan in a similar manner. Vice Chair Schwab seconded the motion. The motion passed unanimously (7-0).

Chair Stanley left the meeting after consideration of the single discussion agenda item and transferred responsibility for the remainder of the meeting to Vice Chair Schwab.

STAFF UPDATES

Planner Braudrick provided three updates to the Commission, as follows:

1. The letter that was recently presented to the City Council has been addressed in a memorandum drafted by Housing Coordinator Holden Fleming, which is moving forward and will be placed on the agenda for consideration on Tuesday, July 19th at the scheduled City Council meeting.
2. Two new staff members were introduced to the Commission, Interim Community and Economic Development Director Norm Gollub, and Assistant Planner Zach Trevino. Each provided a brief introduction of themselves to the Commission.
3. The City Council approved a reorganization of the Community and Economic Development Department at their last meeting, involving movement of personnel and a change to department structure. Planner Braudrick will send the Commissioners an email describing the changes.

REPORTS OF COMMISSION MEMBERS

Commissioner Luxton asked for a staff recapitulation of the proposed fee waiver that is being pursued based on direction from City Council. **Planner Braudrick** clarified that this information will be available in the City Council meeting agenda shortly after the meeting, but offered to email the Commission a reference page for where this specific item can be found in the agenda packet.

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Commissioner Dziadek asked whether the Commission received her email that she sent weeks ago regarding the Climate Resiliency Plan that contains information from Cascadia Consulting Group. She had asked for an explanation on how to compare multi-criteria analysis with non-multi-criteria analysis.

The Commission asked for the Housing Coordinator Holden Fleming to introduce himself. **Planner Fleming** made brief introductory comments, noting that the conversation that occurred at this meeting is important.

ADJOURNMENT

Commissioner Young made a motion to adjourn the meeting, Commissioner Smith seconded the motion. The motion passed unanimously (7-0).

The meeting adjourned at 8:50 p.m.

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Zach Trevino

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Zach Trevino, Secretary

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Ben Stanley

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Ben Stanley, Chair

MINUTES PREPARED BY: Zach Trevino, Secretary