

GLADSTONE PLANNING COMMISSION MEETING MINUTES of February 18, 2020

Meeting was called to order at 6:30 P.M.

ROLL CALL:

Chair Michael Milch, Commissioner Andriel Langston, Commissioner Natalie Smith, Commissioner Malachi de AElfweald, Commissioner Les Poole, Commissioner Darren Williams, Commissioner Patrick Smith

ABSENT:

None

STAFF:

Tami Bannick, City Recorder; Joy Fields, Senior Planner; Jacque Betz, City Administrator; Mike Funk, Fire Marshal; John Schmerber, Police Chief

CONSENT AGENDA:

1. Approval of January 21, 2020 Meeting Minutes

Commissioner Langston made a motion to approve the Consent Agenda. Motion was seconded by Commissioner Patrick Smith. Motion passed unanimously.

BUSINESS FROM THE PUBLIC:

None.

REGULAR AGENDA:

2. Monthly Planning Reports – January 2020:

Ms. Fields went over the planning report. In January there were 5 customer service contacts at the counter, 43 customer phone/email contacts, 5 building permits with land use review, 1 pre-application conference, and 2 administrative decisions. The administrative decisions included the gas station (76 Station) sign revisions – they requested a free standing sign and requested to amend the application to include the circles on the fuel canopies. There was a two lot partition on Columbia Avenue. The pre-application conference was for 18085 Webster Road - a proposal for new garages, storage, and recreational space at an existing multi-family complex. Under building permits, the W. Arlington Street project had a design review that was approved and they are still working with Public Works to have the pre-construction conference.

She said in March there will be two land use matters coming before the Planning Commission. One is 810 E. Arlington Street – a design review application. They are doing site improvements as well as renovation to the existing gas station. They are also proposing to add a new trash enclosure and a bottle storage area. The second one is 18000 Webster Road – a conditional use application combined with an authorization of similar use.

3. Public Hearing: File TXT-2020-01 – R-5 and R-7.2 Zoning District Text Amendments – Accessory Dwelling Units (ADU's) – Remove additional off-street parking and owner-occupancy requirements for ADU's in the R-5 and R-7.2 Zoning Districts (Chapters 17.10 and 17.12 of the Gladstone Municipal Code) unless ADU's are used as vacation rentals. Modify Chapter 17.78 (Home Occupations) to include a procedure for permitting ADU's as vacation rentals:

Ms. Fields said in January she gave an overview of three items that have been passed by the Oregon Legislature. Two of them come into play tonight. One is Senate Bill 1051, which required accessory

dwelling units to be allowed on single-family residential lots. However, they allowed local jurisdictions to have regulations that were reasonable. House Bill 2001 was then passed in 2018 – there was language that clarified that requiring an accessory dwelling unit have one additional parking spot above what was required of the single-family residence as well as owner occupancy was not considered reasonable. She said they will be discussing proposed changes. The proposed changes are to Section 17.10 (single-family residential district) and 17.12 (single-family residential district within the City limits of Gladstone) – in both districts the proposed changes are to remove the additional parking space requirement for ADU’s and remove the owner occupancy unless that ADU is used as a vacation rental. In reviewing the proposed changes with City staff it was brought to her attention that there would need to be some system for reviewing the owner occupancy and additional parking space if the ADU was used as a vacation rental. They will be looking at proposed changes in three sections of the Gladstone Municipal Code (GMC). The text amendments are meeting the House Bill 2001 requirements and are in line with the GMC that says text amendments must come before the Planning Commission to be considered and then make a recommendation to the City Council after holding a public hearing.

The Gladstone Comprehensive Plan has a goal for housing that is to meet the housing needs of all segments of the population through optimum utilization of housing resources for the construction, rehabilitation, and maintenance of the diversity of housing types at appropriate locations, price ranges, and rent levels while preserving and enhancing the integrity and identity of existing residential neighborhoods.

The proposed text amendments also trigger a review of the State-wide planning goals to make sure they are in line with those. Goal number one is citizen involvement. Goal number ten is housing. Goal number twelve is transportation. There are other goals that are applicable as well, but some of them are only applicable to counties and are not necessarily relevant to the discussion tonight although they are included in the staff report. House Bill 2001 exempts the changes of the code from going through a transportation analysis if it is to meet the middle housing needs as required. In 17.10 the accessory uses allowed in a single-family residential district include ADU’s, which are subject to a variety of standards. One of the standards currently in the code is either that the primary dwelling unit or the ADU shall be owner occupied for as long as the other unit is being rented or otherwise occupied. Prior to issuance of a building permit establishing an ADU a deed restriction requiring owner occupancy of one of the units shall be recorded in the Clackamas County Clerk’s office in the form prescribed by the City. Per House Bill 2001 that is no longer reasonable and neither is the one off-street parking space that is provided in addition to the off-street parking space required by Chapter 17.48 of the GMC.

In regard to Item G there was a question of whether “visually similar” was objective or if it needed to be removed to meet Senate Bill 1051 objective standards.

Item I has proposed changes that aim to provide clear and objective criteria.

Item L has two options – one is an ADU used as a vacation rental shall provide one off-street parking space in addition to the off-street parking space required by GMC for the primary dwelling unit and a deed restriction requiring owner occupancy. The other option is ADU’s used as vacation rentals shall be subject to 17.78, which is home occupations and shall provide one off-street parking space and a deed restriction.

Chapters 17.10 and 17.12 have the same language for ADU’s. Items D and E are removed.

Section 17.78 – Home Occupations – in all zones, home occupations in the same lot shall be accessory to the principle residential use and shall be permitted only in the following categories - #5 was added for consideration (Vacation Rentals as defined in ORS 90.100). She went over Type I and Type II home occupations and possible changes in that section as well as other possible changes to this section.

Staff is recommending approval of the proposed text changes to the GMC Chapters 17.10 and 17.12 and consider the changes in 17.78 and approve those changes that the Planning Commission determine to be appropriate and make that recommendation to City Council who will also be holding a public hearing and making the final determination.

Commissioner de AElfweald asked Ms. Betz to have City Council review page 3-4, B. - Gladstone Comprehensive Plan Housing Goal, Policy #2 – it doesn't actually apply to the City of Gladstone because it's talking about centers that are served by mass transit transfer stations, which we don't have within the City limits.

Chair Milch asked for the definition of "permitting" in this instance. Ms. Bannick said she believes it would be applying for a business license and a home occupation permit. Chair Milch asked if there was a definition for "short term" occupancy. Ms. Betz said they would have to refer to the ORS statute.

Commissioner de AElfweald said on page 3-5, 1, Goal 12 – expectation of traffic impact. They are reducing required parking and increasing the number of on-street parking so he doesn't think they can legitimately say that there will not be an impact on the transportation system. He is okay with them saying that the justification is the house bill but he is not okay with them saying that there will not be an impact on the transportation system. Commissioner Poole agreed.

Commissioner Patrick Smith asked about page 3-3, Proposed Amendments, #1 – in regard to removing the parking requirement how that started/how we got that. Ms. Fields said House Bill 2001.

Commissioner Patrick Smith asked if any of the representatives from the Fire and Police Departments wanted to comment. Fire Marshal Funk said his concern is locating the ADU in case of emergency – there doesn't seem to be anything in the code as to how the ADU is identified and if the address is not visible from the street. He proposed posting the address inside the ADU's. There was further discussion on this topic.

There was discussion regarding the minimum/maximum size of ADU's. There was discussion regarding manufactured dwellings/tiny homes, square footage ratios, and detached versus attached dwellings.

Commissioner de AElfweald had an issue with page 3-11, deed restrictions – if the owner is occupying the accessory dwelling it isn't a vacation rental. Ms. Fields said this brings in Chapter 17.78 – if the ADU is being used per the deed restriction by the owner then only 25% of the primary dwelling can be used as the ADU as the proposed changes are now. The owner has to live on the site but they can choose to live either in the primary dwelling or the ADU. Commissioner de AElfweald questioned whether it makes sense to add the deed restriction at all. Chair Milch explained that the only time the houses would have to be owner occupied would be if one was a short-term vacation rental as opposed to regular rentals. There was discussion regarding various scenarios.

Commissioner Williams suggested focusing on the two issues that need to be adopted tonight in order to comply, then address the other issues as they progress. Commissioner Natalie Smith suggested discussing the other issues during the work session with City Council. Commissioner Poole asked for clarification.

Ms. Fields said 17.10 and 17.12 are the ones that they need to address. 17.78, that discusses home occupations in relation to ADU's could be part of the code audit and could be discussed at length. Ms. Betz agreed that they should not deal with 17.78 tonight because there are a lot of unanswered questions. Senate Bill 100 is in relation to just addressing affordable housing so she feels it's important for the City to come in compliance since they have not been compliant for over a month. They have a grant to get into the housing needs analysis and finish the housing code audit and that would be the appropriate place to address the concerns such as the ones Commissioner de AElfweald has.

Chair Milch discussed page 3-10, paragraphs (d) and (e) which will be removed from the current code. Commissioner de AElfweald asked why (f) is required. Ms. Fields said because it is in the current code. Commissioner de AElfweald said he understands that is why it's there but he feels that if they are editing the code they should at least question whether it's valid for what they are changing. He said in the past they look at code and they are told to only look at the small piece that they are editing and then everything else sits for ten years. He said they shouldn't just skip by it. Chair Milch said it won't be a ten year skip because they are paying for a code audit that will look in more detail at these other things – their goal for tonight is to get through the ones that would bring us into compliance with these specific sections.

Commissioner Natalie Smith made a motion to recommend to City Council amending Section 17.10, R-7.2, Section 5, of the Gladstone Municipal Code (GMC) with the removal of paragraphs (d) and (e) as shown in the staff report. Motion was seconded by Commissioner Williams.

Discussion: Commissioner de AElfweald said it feels like what they are being asked to do is to rubber stamp specific changes rather than actually dealing with the issues as a whole and he is not okay with that. Chair Milch said they are making specific changes to bring us into compliance with things that the State has dictated that they have to have in our code. Commissioner de AElfweald said he understands that but he is not okay with them just glossing over everything else. Chair Milch agreed and said he has a lot of things that he would like to look at with much greater depth than they have time to do tonight. Commissioner de AElfweald said in the last three years every time they have said they would address the other issues it has never happened. Commissioner Natalie Smith suggested a committee with citizens on it to look into the issues. The other Commissioners agreed that they need to look at these issues in greater depth.

Motion passed unanimously.

Commissioner Williams made a motion to recommend to City Council amending Section 17.12, R-5, of the Gladstone Municipal Code (GMC), with the removal of paragraphs (d) and (e) as shown in the staff report. Motion was seconded by Commissioner Natalie Smith. Discussion:

Commissioner Poole asked about the visually similar aspect. Chair Milch said they didn't discuss those but he has concerns because he has read that parts of the codes that are impediments to the development of ADU's include these kinds of requirements. He understands that they included them here in order to comply with Senate Bill 1051 "clear and objective standards" but he has seen codes developed with a little more detail than this. He feels that the ADU's offer an opportunity to

increase the housing supply and to give people a chance to make their property worth more and perhaps generate some income.

Motion passed unanimously.

Commissioner Poole said they did not address eliminating “visually similar” on page 3-10, paragraph (g). He sees this as an impediment. Chair Milch said they are not recommending approval of that part right now.

Chair Milch feels they should take action with regard to the language regarding the ADU’s used as vacation rentals – this is the exception that the State law allows (Page 3-11, paragraph (l), 1 & 2). Ms. Betz had suggested they not address 17.78 tonight. Ms. Fields said the trip generation issue would be a good discussion point when 17.78 is looked at again. Commissioner de AElfweald feels that #2 is confusing and he is not sure it is necessary. There was further discussion regarding the topic of deed restrictions. Chair Milch said that right now the motion is to include the deed restriction requirement and the change in the additional off-street parking requirements for ADU’s used as a vacation rental. If the commissioners vote yes they want to keep the deed restriction requiring owner occupancy of one or more of the units.

Commissioner Langston made a motion to add the language in paragraph (l) on page 3-11 that applies to both R-5 and R-7.2 zoning areas. Motion was seconded by Commissioner Poole. Motion passed (6-1, Commissioner de AElfweald was opposed).

Commissioner Williams feels this topic needs more discussion and it is very important that they go through it. Chair Milch would like to do a presentation at the Senior Center regarding information published by AARP regarding ADU’s.

Commissioner de AElfweald would like to make some recommendations regarding 17.78 so that if this is brought before them to review next time they would have updates:

Page 3-27, Section 2 – he feels they need to update this to not preclude telecommuting.

Page 3-28, (11) – he feels that “personal contact may be permitted” should be replaced with “in person contact” to not prohibit online as well.

Page 3-28, (13 and 15) – both have outdated wording to allow online as a possible option as well.

Page 3-29, Sections 2 & 4 – he would like to update the “City Administrator or his designee” to be gender neutral. It was noted that this correction needs to be made throughout the code.

4. Discussion of Annual Work Plan for 2020 (March 24, 2020 is the target date for a joint work session with City Council to discuss the 2020 Planning Commission Work Plan):

Chair Milch went over the draft work plan objectives for 2020:

1. Implement Elements of the Gladstone Revitalization
2. Address Affordable Housing
3. Transportation/Parking
4. Code Revisions – Energy Efficiency
5. Code Revisions – Nuisance/Membrane Structures

Ms. Betz said that Mr. Southgate is applying for the grant funding to help us finish the housing code audit and the housing needs analysis. They are working with Kittelson & Associates to get

updated numbers on Portland Avenue street improvements because that project is going to be folded into the T-2020 Metro funding package.

Chair Milch asked if anyone had anything they wanted to add to the list. Commissioner de AElfweald feels that the notification requirements should be reviewed and updated. Chair Milch asked to what extent can they/should they rely on social media as public notification – does it meet requirements under the law? Commissioner de AElfweald said that it would not be enough to comply with the law in itself but there isn't anything that would prohibit the City from using it as an extra means of notification.

Commissioner Patrick Smith asked if any of our surrounding communities are further down the road than we are in adopting regulations relating to ADU requirements. Ms. Fields said there are a number of communities that have started looking at the middle housing issue and addressing that. They have chosen to address it in a variety of ways, many of which did not focus on ADU's (transitional communities, a grant looking at cluster housing development regulations, etc.). Commissioner Patrick Smith said that maybe if somebody else has already invented the wheel and it's working maybe she could let them know what that wheel is. Commissioner Poole pointed out that we need to look at what other communities *like us* are doing. Ms. Fields said that the State has recommendations for language that she will forward to the Commissioners.

Commissioner Poole said in regard to Transportation/Parking that we have regional connectivity constraints (a limited number of bridges and rivers on two sides) that don't get enough attention when we think about transportation and how folks are going to get around. We have a growing congestion problem and Metro's Transportation Plan for Gladstone is sorely lacking. If we don't focus on the big picture all of the nice things we're doing in this community will be compromised. There was discussion regarding opinions on light rail.

BUSINESS FROM THE PUBLIC:

None.

BUSINESS FROM THE COMMISSION:

Commissioner Patrick Smith:

He said in regard to "Code Revisions – Nuisance/Membrane Structures" – they gave a recommendation to City Council and they passed it. He saw one that was brand new and he dropped a note to Officer Boyle – his response was: It was recently discovered that the new ordinance that was intended to regulate membrane structures is unenforceable. The new ordinance was written by County Planning and the section of the code that it was written under limits its enforcement only when the structure is subject to design review. Design review is not applicable to temporary structures that are under 400 square feet. Commissioner Patrick Smith said we need to be careful if we do this over again to make sure that these things that they pass are workable and enforceable.

Chair Milch:

He thanked Commissioner Williams for being the new eyes and ears on the Commission because it's important to hear things from a different perspective.

Commissioner Poole:

He said the Metro T-2020 Transportation Plan was mentioned as a possible source for funding Portland Avenue – he intended to bring that bond measure up tonight because there hasn't been much discussion in the community about what it means and what's going on. In 2018 Metro put the bond for the Affordable Housing Measure on the ballot and the voters passed it. At the time there was approximately \$1.8 billion

in transportation bonding that they were planning on and they decided to wait another year or two because it was more critical that they address the housing issue. At the start of 2019 we began the process which was approximately \$900 million for traffic congestion relief and about \$900 million bonded for the southwest light rail. Since that time it's morphed into a \$3 billion bond measure and about \$2 - \$3 billion in fees, taxes, etc. He is very troubled by what he is seeing and hearing. If the bond measure goes to the ballot in its current form it will probably get a lot of resistance. If it's turned down by the voters in November the good parts of it all go out the door. He would strongly recommend that everyone get versed on what's going on because it's turned into a giant monster that's way off course and Metro is responsible for that. He feels we are missing the boat if we don't address the Metro T-2020 Plan in a bigger way. He feels the bond measure needs to be whittled down and presented to the citizens in a way where they can digest it or we will lose the good part of it.

Commissioner de AElfweald:

He wanted to remind Commissioners that if they took notes on their notebook that per our lawyer it's a new public document and they need to either keep it or mail a copy of it to themselves at their City email address. Ms. Betz said they do have the notebooks available for the Commissioners.

Chair Milch:

He said he is still new at this. He hopes that in the future the conversations could be a little more regulated from the Chair and a little less free form. He likes the input that they are getting, particularly from people who see things from a multitude of perspectives. They have what could be a pretty substantial work plan ahead of them for the year and they will try to move things along a little smoother, respect the time of staff who come here, and work together well as a Commission.

ADJOURN:

Meeting adjourned at approximately 8:33 P.M.

Minutes approved by the Planning Commission this 19th day of May, 2020.



Michael Milch, Chair

