



CITY OF PHILOMATH

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Mission: To promote ethical and responsive municipal government which provides its citizenry with high quality municipal services in an efficient and cost effective manner.

PLANNING COMMISSION

CITY HALL COUNCIL CHAMBERS

980 Applegate Street

January 21, 2020

6:00 p.m.

MEETING AGENDA

- 1. CALL TO ORDER**
- 2. ROLL CALL**
- 3. APPROVAL OF MINUTES**
 - 3.1 December 16, 2019
- 4. NEW BUSINESS**
 - 4.1 Election of Chair and Vice Chair
- 5. OLD BUSINESS**
 - 5.1 Urban Fringe Agreement
 - 5.2 Development Code Discussion
Major/Minor Modifications: PMC 18.130
Recreational Vehicle Park code considerations: PMC 18.50.010, 9.15.025
& 18.45
- 6. ADJOURNMENT**

NEXT MEETING

February 18, 2020

6:00 p.m.

**PHILOMATH PLANNING COMMISSION
MINUTES**

December 16, 2019

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5
6 **1. CALL TO ORDER:** Chair Stein called the meeting to order at 6:00 pm. at the City Hall
7 Council Chambers, 980 Applegate Street, Philomath, Oregon.

8
9 **2. ROLL CALL:**

10 **Present:** Commissioners Steve Boggs, Gary Conner, Jeannine Gay, Lori Gibbs, David
11 Stein, Joseph Sullivan and Peggy Yoder.

12
13 **Staff:** Deputy City Attorney David Coulombe, City Planner Pat Depa and City Recorder
14 Ruth Post.

15
16 **3. APPROVAL OF MINUTES**

17 **3.1 Minutes of November 12, 2019 –** Commissioner Sullivan requested two corrections:
18 Page 3, first paragraph: strike “without Planning Commission involvement.”
19 Page 3, last paragraph: add reference to the distributed memorandum. Ms. Post suggested
20 adding “(Supplemental Agenda Item)” and the memorandum would be filed with the agenda
21 packet.

22
23 **MOTION:** Commissioner Gay moved, Commissioner Yoder second, to approve the November
24 12, 2019 minutes as amended. Motion APPROVED 7-0 (Yes: Boggs, Conner, Gay, Gibbs,
25 Stein, Sullivan and Yoder; No: None).

26
27 **3.2 Minutes of November 18, 2019 –** Commissioner Gibbs requested the following
28 correction:

29 Page 3, Line 111: Replace “Chair” with “Commissioner.”

30 Commissioner Sullivan requested the Page 1, Line 25, approval of the minutes, show that he
31 abstained because he was not in attendance at the September 16 meeting.

32
33 **MOTION:** Commissioner Gay moved, Commissioner Yoder second, to approve the November
34 18, 2019 minutes as amended. Motion APPROVED 7-0 (Yes: Boggs, Conner, Gay, Gibbs,
35 Stein, Sullivan and Yoder; No: None).

36
37 **4. NEW BUSINESS**

38 **4.1 Public Hearing on PC19-10**

39 382 N 7th Street / 12-6-11AD #1900

40 Applicant: Kevin Sullivan

41 Application Type: Class C Variance for rear yard setback

42 Chair Stein opened the public hearing at 6:08 p.m. The rules for testimony were read by Mr.
43 Coulombe. Commissioner Joseph Sullivan declared an actual conflict of interest as the
44 applicant is his brother.

45
46 *Commissioner Joseph Sullivan recused himself at 6:09 p.m. and left the room.*
47

48 Presentation of Staff Report: Mr. Depa summarized the staff report as included in the agenda
49 packet and reviewed the findings of fact. He stated that staff determined that the application did
50 not meet any of the six approval criteria and recommended denial of the application. He
51 suggested a variance request from the front of the property would possibly result in better
52 findings and be more in line with the other homes on the street. There was discussion about
53 potential circulation issues with only a five foot setback on both the rear and south side yards,
54 the footprint of the original house with the lot slope, and the definition of human scale
55 development. Commissioner Yoder questioned if there were other homes with variances in the
56 area and concern for the potential for drainage issues. Mr. Depa stated none of the other
57 homes in the area had variances.

58
59 Presentation of Applicant: Kevin Sullivan, Philomath, OR – Mr. Sullivan described the footprint
60 of the original home, retaining wall issues and the desire to avoid building a house that looked
61 into the backyard of the home behind it. He suggested J.D. McGee engineering did not think
62 ponding was an issue. Mr. Sullivan described the current water drainage from the lot and the
63 driveway grade plans. Mr. Sullivan described occupancy plans for the new house. Mr. Depa
64 explained that lot coverage limitations would only allow for the one car garage. Mr. Sullivan
65 explained the reasoning for selecting the floor plan and footprint that was selected for the lot
66 and the desire to keep the project inexpensive. He stated it is a fairly small house. There was
67 discussion about the reduced rear setback and the location of the current house to the west
68 and possible future development to the west. Mr. Sullivan stated that close doesn't matter as
69 much as visibility and their intent was to reduce that issue. He stated the neighbor doesn't have
70 an issue with the proposed setback.

71
72 Mr. Depa reviewed some options that staff had proposed to the applicant in lieu of the rear-
73 yard setback variance. He explained that the North 7th Street right-of-way is 80 feet wide but
74 would more likely only ever be developed to a 50-foot right-of-way. Mr. Sullivan stated that the
75 neighbor is not interested in an access easement. He described the driveway situation.
76 Commissioner Yoder noted there are no opponents to the request and it is plainly posted. Mr.
77 Depa pointed out the Commission would have to develop new findings that supported approval
78 of a variance to replace the findings in the staff report. Mr. Coulombe reminded the
79 Commission that the decision should be fact driven based on the criteria, not based on
80 opponents or proponents.

81
82 Mr. Sullivan described the information he has received that there is no pooling of water. Mr.
83 Depa described the effect of downspouts draining water away from the house and the need for
84 sufficient area for the drainage to permeate before shedding onto the neighbor's property. Mr.
85 Sullivan stated he could work with an engineer to resolve any issues and suggested a
86 condition of approval to that effect.

87
88 Commissioner Conner suggested working through each of the findings. On Criteria (a), he
89 requested clarification about the five foot setback creating a safety issue. He questioned what
90 type of circumstance would allow a variance under Criteria (a). There was discussion about
91 North 7th Street not being a through street and questioning the criteria to slow traffic down. Mr.
92 Depa explained if the side yard was a larger setback it might not be an issue but it is also a five
93 foot setback.

94
95 Commissioner Conner stated he believed the steep grade is a hardship. Commissioner Gay
96 described steep slope runoff issues on Southwood that don't create adverse impacts. Chair
97 Stein stated his observation is that the runoff from adjacent properties will go right where the
98 house is intended to sit. There was further discussion about slope and runoff. Mr. Sullivan
99 described the driveway issues that result in even a smaller footprint having to be placed in the
100 back of the lot. He stated the engineering opinion he had received didn't think the runoff was an
101 issue. He stated if the variance were approved, they would then review the engineering needs.

102
103 Commissioner Conner stated he felt findings could be developed, with the exception of Criteria
104 (f), questioning if this was the minimum variance that would alleviate the hardship. He stated
105 there may be other possible solutions.

106
107 Chair Stein suggested that an approval to this request could have consequences from a future
108 application. Mr. Coulombe stated it is the applicant's burden to provide the information needed
109 for the Commission to reach an approval. He suggested completing the public hearing process.

110
111 Testimony by Proponents: None.

112
113 Testimony by Opponents: None.

114
115 Testimony by Neutral Parties, including Governmental Bodies: None.

116
117 Rebuttal by Applicant, limited to issues raised by Opponents: None.

118
119 Mr. Coulombe explained there has been no request for a continuance by either the applicant or
120 any other party.

121
122 Commissioner Conner stated he did not believe the Commission was required to completely
123 alleviate the issues. He stated he did not believe sufficient information had been provided to
124 show the variance was the minimum required.

125
126 Chair Stein closed the public hearing at 7:04 p.m. Mr. Sullivan waived the right to submit final
127 written arguments.

128
129 **4.2 PC19-10 Discussion and Possible Decision** – Commissioner Yoder questioned if the
130 only issue is the setback. Mr. Depa explained the lot coverage is not an issue. He explained
131 that cost is not a qualified hardship. Commissioner Conner stated it may not qualify but it is
132 problematic. There was additional discussion. Mr. Depa stated it would probably be easier to
133 make a justification for a front yard setback variance based on the location of the original house
134 and the neighboring houses.

135
136 **MOTION:** Commissioner Boggs moved to table the discussion and consider a front yard
137 setback variance. No second. Mr. Depa stated that would be a major material modification and
138 would require re-notification.

139
140 At 7:15 p.m. Chair Stein reopened the hearing to hear from Mr. Sullivan again. There was no
141 other testimony added. There was further discussion about possible alternatives and the need
142 to revise the findings.

143
144 **MOTION:** Commissioner Gibbs moved, Commissioner Boggs second, to deny the application
145 as proposed. Motion APPROVED 4-2 (Yes: Conner, Boggs, Gibbs, and Stein; No: Gay and
146 Yoder.)

147
148 *Commissioner Stein called a recess at 7:23 p.m. and reconvened at 7:30 p.m. Commissioner*
149 *Joseph Sullivan rejoined the meeting.*

150
151 **4.3 Urban Fringe Agreement discussion** – Mr. Depa distributed a memorandum and draft
152 Urban Growth Management Agreement documents (Supplemental Agenda Item #4.3). He
153 explained that Benton County was conducting a review of their code and there were zoning
154 districts that had been specifically created to address delayed annexation agreements that
155 exist within the Philomath Urban Growth Boundary. He described how those properties were

156 being treated as subject to the Philomath Zoning Code due to future expectation they would be
157 annexed. He stated the revisions were intended to address those delayed annexations and to
158 spell out the process between the two jurisdictions that is already being used. He stated the
159 Benton County Commissioners have reviewed and approved the revisions. He requested the
160 Planning Commission review the revisions and come back with any potential concerns before
161 sending it to the Council for final approval. There was discussion about this formalizing the
162 actual process that has been used.

163
164 Ms. Post provided a history of delayed annexation agreements in Philomath. Commissioner
165 Yoder stated she would like an opportunity to read the document before making a
166 recommendation. It was agreed by consensus to place the agreement on the January Planning
167 Commission agenda.

168
169 **5. OLD BUSINESS**

170 **5.1 2040 Comprehensive Plan Advisory Group update** – Mr. Depa summarized that the
171 City Council did accept the Planning Commission’s recommendation and added two members
172 of the Commission to the Advisory Group. Ms. Post explained that the City Council approved
173 the nine proposed members and added Commissioners Yoder and Stein.

174
175 **5.2 Development Code & Annexation Amendments (PC19-08 & PC19-09)**

176 **A) City Council decision review** – Chair Stein explained that Mr. Workman was
177 unavailable tonight. Mr. Coulombe reviewed the legislative process, including the public
178 hearing and decision process at the City Council level. Ms. Post reviewed the City Council
179 minutes of November 25 related to the removal of Section “G” from PMC 18.135.030 in the
180 annexation code. Chair Stein stated there is a communication issue because the Council didn’t
181 understand why the Commission put section “G” in, and he was disappointed in the action. Mr.
182 Coulombe suggested in the future adopting a statement to submit with text amendments
183 providing an explanatory statement. Commissioner Yoder questioned if the Planning
184 Commission could have requested the Council respond back if they made any changes. Mr.
185 Coulombe described the lengthening of the process that scenario could create. He stated the
186 goal of code drafting is for it to be clear and concise and doesn’t require further explanation.
187 Commissioner Sullivan described the possibility of having a City Councilor in attendance at
188 future Planning Commission meetings.

189 **B) Major/Minor modifications: PMC 18.130** – Chair Stein stated the issue of a major
190 versus minor modification had been raised. Commissioner Yoder stated she and
191 Commissioner Boggs had submitted a letter of objection to the minor modification application
192 for Millpond Crossing. There was discussion about the Commission having an opportunity to
193 review the letter they submitted. There was discussion about the decision being within City
194 Manager Workman’s authority based on the code definition of a minor modification. Mr. Depa
195 stated the staff report on that application is posted on the City’s website and addressed the
196 three issues that were raised by Commissioners Boggs and Yoder. There was discussion
197 about the issues related to the change in phasing for the development and the timing of
198 construction of the extension of South 17th Street. Mr. Depa explained the review of the trips
199 generated showed they were still within the threshold with the change in the phasing.
200 Commissioner Yoder questioned if the language in 18.130.030 should be amended to add
201 changes in phasing. Commissioner Sullivan questioned what the Planning Commission’s
202 response would be if it was felt that the City Manager had overstepped in approving a
203 modification. Mr. Coulombe stated that the Commission’s review authority does not extend to
204 whether an administrative decision-maker exceeded authority. There was further discussion
205 about an appeal process for a modification decision. Mr. Coulombe explained ramifications
206 related to the discussion of a specific case such as the Millpond modification before the appeal
207 period has expired. It was agreed to put further discussion on the January agenda.

208 **C) Recreational Vehicle Park code considerations: PMC 18.50.010, 9.15.025 & 18.45 –**

209 Mr. Depa explained this was a request from a member of the City Council to consider adopting
210 changes related to the specific code sections. He stated this was something that the
211 Commission could consider in further code amendment discussions. There was discussion
212 about the definition for a Recreational Vehicle Park for Section 18.15.010. Commissioner
213 Sullivan stated this appears to be an example of the City Council sending information to the
214 Planning Commission for consideration. There was discussion about this potential language
215 not impacting the existing Lepman project because of the goalpost rules.
216

217 Robert Biscoe, Philomath, OR – Mr. Biscoe described the intentions of the Councilor who had
218 submitted the proposed language. He stated it was a result of the concern from public
219 testimony that was concerned about RV Parks.
220

221 **6. OTHER BUSINESS**

222 **6.1 Communication expectations between Commission, Council & Staff –**

223 Commissioner Stein stated this topic had been sufficiently addressed through earlier
224 discussions in the meeting.
225

226 **6.2 Setting meeting dates: January and February 2020 holiday conflicts –** After
227 discussion about availability, it was agreed to move the January meeting to Tuesday, January
228 21, 2020, and the February meeting to Tuesday, February 18, 2020.
229

230 **7. ADJOURNMENT:**

231 There being no further business, Chair Stein adjourned the meeting at 8:30 p.m.
232

233 SIGNED:

ATTEST:

234 _____
235 David Stein, Chair
236

Ruth Post, MMC, City Recorder



MEMORANDUM

DATE: December 16, 2019
TO: Planning Commission
Cc: Chris Workman, City Manager
FROM: Patrick Depa, Associate Planner
RE: Update Philomath-Benton County Urban Growth Management Agreement

The Urban Growth Management Agreement (UGMA) is an agreement between the City of Philomath and Benton County for the joint management of the Philomath Urban Growth Area and for the coordination of land use actions. In the 1980s the County adopted zoning chapters to match those within the City of Philomath's development code to apply to properties with delayed annexation status. However, over time the local regulating documents have changed and staff's understanding has changed so that the common practice was not being followed.

The county is now eliminating these zoning chapters that no longer match the city's zoning designation being used as a place holder during the time a delayed annexation. In following Philomath's Comprehensive Plan and the Urban Growth Management Agreement, both jurisdictions **agree that city zoning does apply** to all properties that are annexed or under a delayed annexation agreement. To better clarify who has jurisdiction pertaining to development in areas within the urban fringe, the UGMA is being updated to reflect that the city shall be responsible for the enforcement of city implementing ordinances.

The changes before you are meant to define and clarify the procedure the city and county have been following for an application of a delayed annexation. In addition, the city and the county have been processing building permits in the same manor for many years per their Intergovernmental Agreement (IGA). The proposed amendments in the UGMA now specifically call out which permits are being processed per the IGA on a development application for property that has entered into a delayed annexation agreement.

The amended agreement has already been presented to the Benton County Commissioners who have preliminarily approved the proposed changes. After your review of the proposed amendments, we will forward the updated UGMA to the Philomath City Council for review and approval. If the amended UGMA is approved by City Council the amended document will be brought back to the County Commissioners for their final approval.

URBAN GROWTH MANAGEMENT AGREEMENT
CITY OF PHILOMATH and BENTON COUNTY

AGREEMENT BETWEEN THE CITY OF PHILOMATH AND BENTON COUNTY FOR
THE JOINT MANAGEMENT OF THE PHILOMATH URBAN GROWTH AREA AND FOR
THE COORDINATION OF LAND USE ACTIONS.

RECITALS:

- A. The City of Philomath (City) and Benton County (County) are authorized under the provisions of ORS 190.003 to 190.030 to enter into intergovernmental agreements for the performance of any or all functions that a party to the agreement has authority to perform; and,
- B. ORS 197.175, 197.190, and 197.250 require counties and cities to prepare and adopt comprehensive plans consistent with statewide planning goals, and to enact ordinances or regulations to implement the comprehensive plans; and,
- C. Statewide Planning Goal 14 requires that the establishment and change of urban growth boundaries shall be through a cooperative process between the City and the County; and,
- D. The City and the County share a common concern regarding development and use of lands within the Urban Growth Area (UGA) and other identified areas of mutual interest; and,
- E. The City and the County are required to have coordinated and consistent comprehensive plans that establish an Urban Growth Boundary (UGB) and a plan for the UGA; and,
- F. Statewide Planning Goal 2 requires the City and County to maintain a consistent and coordinated plan for the UGA and UGB when amending their respective comprehensive plans; and,
- G. The City and the County recognize that it is necessary to cooperate with each other to implement the City Plan for the UGA.

NOW, THEREFORE, THE PARTIES DO MUTUALLY AGREE AS FOLLOWS:

1. Intent of Agreement

- 1.1. The City and the County hereby establish a procedure to implement the City plan for the Philomath Urban Growth Area. The "plan for the UGA" shall consist of the Philomath Comprehensive Plan. For purposes of this agreement, the Philomath Urban Growth Area (UGA) shall be defined as the unincorporated area within the Philomath Urban Growth Boundary (UGB). The City and County's Comprehensive Plans, as amended, for the UGA are incorporated in this agreement by reference.

- 1.2. The Philomath Comprehensive Plan (City Plan) and County Development Code, in conjunction with this agreement, shall establish the standards and procedures for review and action on comprehensive plan amendments, implementing ordinance changes, proposed land use actions, provision of services, public improvement projects, and other related matters, which pertain to implementing the City Plan in the UGA.
- 1.3. The County shall continue to have jurisdiction in the UGA to implement the City Plan in conjunction with the County implementing ordinances.
- 1.4. The County incorporates by reference the current (the date of the agreement) City Comprehensive Plan as it applies to the UGA.
- 1.5. It is recognized that in portions of the UGA a variety of urban services may be provided including: sanitary sewer, water, storm drainage, fire protection, parks and recreation, and transportation. Providers of such services contribute both to existing services and future development in the UGA and serve essential functions. It is intended that this agreement serve to strengthen coordination between urban service providers, the County, and the City in order to maximize efficiency of urban service delivery in the UGA.
- 1.6. All actions as specified by this agreement shall be taken to assure that the City and County comprehensive plans remain consistent and coordinated with each other.
- 1.7. All land within UGB may be subject to future annexation; however, establishment of a UGB does not imply that all land within the boundary will be annexed.
- 1.8. This Urban Growth Management Agreement (UGMA) replaces all prior UGMA's between the City and the County.
- 1.9. Nothing in this agreement shall restrict the right of the City or the County to enter into separate special-purpose intergovernmental agreements with each other or with any other entity as provided for by state law. Such other agreements shall be consistent with this UGMA.

2. Definitions

For the purpose of this agreement, the following words, terms and phrases have the following meaning:

- 2.1. Building Permit: Written authorization to proceed with the construction of improvements subject to state building codes and local development regulations.
- 2.2. Comprehensive Plan: A generalized, coordinated land use map and policy statement of the governing body of a local government that interrelates all functional and natural systems and activities relating to the use of lands, including, but not limited to, sewer and water systems, transportation systems, recreational facilities, and natural resources including air and water quality management programs.
- 2.3. De Novo Hearing: A new hearing held without the benefit of the record of a previous hearing.

- 2.4. Final Decision: The last scheduled decision-making action of the approving authority.
- 2.5. Implementing Ordinances: The County's standards, criteria, conditions, or other requirements adopted by the governing body under the authority of the state law.
- 2.6. Major Public Works Project: A project that either serves an area-wide need or has significant land use or public facility impacts.
- 2.7. Public Facility Plan: A document or documents adopted by the City or the County as part of the Comprehensive Plan and meeting the minimum requirements of the Public Facilities Planning Rule as described in OAR Chapter 660, Division 11.
- 2.8. Quasi-Judicial Proceeding: Any proceeding that requires a discretionary review by public hearing, which may be a contested case, and which places the burden of proof on the applicant. Quasi-judicial actions are initiated by an applicant and applied to a particular property ownership or plan provision.
- 2.9. Street: The entire right-of-way or any public or private way that provides ingress or egress by vehicle or other means or that provides travel between places by means of vehicles. "Street" includes, but is not limited to: 1) ways described as streets, highways, throughways or alleys; 2) road related structures that are in the right-of-way such as tunnels, culverts or similar structures; and 3) structures that provide for continuity of the right-of-way such as bridges. The term "Road" is synonymous with "Street".
- 2.10. Transportation Improvements: Any physical facilities that are designed and intended to accommodate the movement of people and goods, and includes a network of streets and roads, bicycle and pedestrian paths, public transit, traffic control devices, channelization, and access management.
- 2.11. Ultimate Decision-Making Authority: The local decision making authority having final jurisdiction.
- 2.12. Urban Growth Area (UGA): The area of land intended for urbanization located between the city limits and the urban growth boundary. Identified as the 'urban fringe' in the City Plan.
- ~~2.12-2.13.~~ Urban Growth Boundary (UGB): A legal boundary line jointly adopted by the City and County to separate urban and urbanizable land from rural land.
- ~~2.13-2.14.~~ Urban Growth Management Agreement (UGMA): A written agreement between the City and the County pursuant to OAR 660-03010(2)(c) setting forth the means by which a plan for management of the unincorporated area within the urban growth boundary will be implemented and by which the Comprehensive Plan for the Urban Growth Area may be amended.

3. Amendments to the City Plan

- 3.1. All City Plan text or map amendments affecting the UGA shall be enacted in accordance with the procedures established in this Section.

- 3.1.1. All amendments affecting the City plan or map referenced in Subsection 3.1 shall be initially processed by the City, which may hold a joint hearing with the County Planning Commission, where the City Planning Commission Chair shall preside.
- 3.1.2. The City shall notify the County and all other required parties of the proposed amendment at least forty-five (45) days before the Planning Commissions' first hearing.
- 3.1.3. The Planning Commissions' recommendation shall be forwarded to the City Council for their final decision. The Board of Commissioners may provide additional comments prior to the City Council's final decision. In making its decision, the Council shall consider the comments of the Board. The City shall notify the County Board of Commissioners of its decision and request the appropriate hearing(s) be conducted as required under the County's Code.
- 3.1.4. The Board of Commissioner shall establish a hearing date for its review, which shall be held within thirty (30) days from the date the Board is given notice to review. Notice and opportunity to be heard shall be de novo and any person may appear and be heard. The Board shall render a decision on the review within thirty (30) days after the close of its hearing.
- 3.1.5. If the Board of Commissioners disagrees with the Council's decision the Council's decision shall not take effect in the UGA and the City may appeal the County's decision to the Land Use Board of Appeals.

4. Process for Land Use Actions

- 4.1. Subsection 4.2 applies to the following and other quasi-judicial or similar land use actions being considered within or about the UGA:
 - a) Conditional Use Permits
 - b) Planned Unit Developments
 - c) Subdivisions
 - d) Partitions
 - e) Variances
 - f) Alterations or expansions of Non-conforming Uses
- 4.2. All applications for land use actions referenced in Subsection 4.1 shall be processed by the County, unless a valid delayed annexation agreement has been filed on the property, in which case the applications shall be processed by the City. The County shall notify the City of each application and shall give the City at least twenty-one (21) days to comment. The City's review shall address consistency of the proposal with the City Plan and this agreement.
 - 4.2.1. The City's failure to make a timely response to the notice shall mean no comment regarding the proposal.

- 4.2.2. In making its decision, the County shall consider as appropriate all timely filed comments made by the City with regard to the notice. The County shall notify the City in writing of all land use decisions listed in Subsection 4.1, whether or not the City has commented. If a timely response is received from the City, the City shall have standing to appeal the County's decisions. The City will have no such standing if the City does not file timely comments prior to the decision.

5. Process for Building Permits

5.1. Subsection 5.2 applies to the following building permits being considered within the UGA and that have entered into a delayed annexation agreement with the City:

- a) Structural
- b) Mechanical
- c) Plumbing
- d) Electrical
- e) Mobile Home Placement

5.2. All applications for building permits referenced in Subsection 5.1 shall be processed as specified in the current (the date of the agreement) Intergovernmental Agreement between the City and the County.

5.6. Review Process for Activities

5.1-6.1. The City and County shall use the following process for review and action on legislative amendments not covered under Section 3 of this agreement and public improvement projects that affect land use within the UGA.

5.2-6.2. The County shall coordinate with and seek comments from the City with regard to the following items, for which the County has ultimate decision-making authority.

5.2-1-6.2.1. Major public works projects sponsored by the County for transportation improvements, or plan amendments, for sewer, water, drainage, solid waste or transportation.

5.2-2-6.2.2. Proposal for formation of, or changes of organization, boundary, or function of special districts, as these terms are defined in ORS 198.705 to ORS 198.710.

5.2-3-6.2.3. Recommendations for designation of an area as a health hazard.

5.2-4-6.2.4. Road vacations

5.3-6.3. The City shall seek comment from the County with regard to the following items, for which the City has ultimate decision making authority, and which affect land use within the UGA. The County's comments shall address consistency of the proposal with the City Plan and this agreement.

5.3-1-6.3.1. Proposal or plan amendments for sewer, water, drainage, solid waste or transportation.

5.3.2-6.3.2. Proposals for the extraterritorial extension of any City service, utility or facility, or the service area for any of the above.

5.3.3-6.3.3. Major public works projects sponsored by the City for transportation improvements.

5.4-6.4. The initiating jurisdiction shall allow the responding jurisdiction thirty (30) days to comment with regard to the items listed in Subsection 5.2 and 5.3. Failure to timely respond to the proposal shall mean no comment.

5.5-6.5. The initiating jurisdiction shall consider the comments of the responding jurisdiction in making its decision.

6.7.Annexations

6.1-7.1. The City may annex land or enter into agreements for delayed annexation or utility extension in accordance with state and local law.

7.2. City zoning, as provided by the City’s Plan, shall apply to land annexed into the City or subject to a delayed annexation agreement, unless otherwise dictated by the annexation approval.

6.2-7.3. At least twenty (20) days prior to the City's action, the City shall notify the County of any proposed annexation or delayed annexation agreement and permit the County to make comments.

7.4. Proposals for annexations to the City, which are for areas outside the UGB, shall be considered concurrently with a proposal to amend the UGB in accordance with Section 3.

6.3-7.5. The City shall notify the County within twenty (20) days of a completed annexation or delayed annexation agreement.

7.8.Urban Services in the UGA

7.1-8.1. The extension, development and maintenance of sewer, water and storm-drainage facilities shall be consistent with the City Plan and any other applicable agreement that has been made for the extension, development and maintenance of these facilities.

7.2-8.2. The City shall be responsible for urban service planning within the UGA unless other arrangements are provided for as set forth in Subsection 1.9. Other public facility planning shall be coordinated between the City and County in a manner consistent with Section 5.

8.9.Standards for Urban Growth Boundary Streets

8.1-9.1. Standards for Construction of New Streets.

8.1.1-9.1.1. All new streets in the UGA, which are part of a new land division or planned development, shall be constructed to City standards. The coordinated

standards would apply County construction standards that would be coordinated to allow for other amenities or improvements the City may require in the future.

~~8.1.2-9.1.2.~~ All new streets within the UGA that are not part of a land division or planned development shall be constructed to coordinated urban street construction standards. The coordinated standards would apply County construction standards that would be coordinated to allow for other amenities or improvements the City may require in the future.

~~8.2-9.2.~~ Existing Streets Within the UGA.

~~8.2.1-9.2.1.~~ Upon annexation the City shall accept jurisdiction and maintenance responsibility of all public streets except collectors and arterials.

~~8.2.2-9.2.2.~~ The County shall continue to be responsible for operation and maintenance of all collectors and arterials within the County road system unless otherwise agreed to by the City and County.

9.10. Enforcement

~~10.1.~~ In the UGA, the County shall be responsible for enforcement of County implementing ordinances (or codes) ~~and State building codes, unless a valid delayed annexation has been filed on the property, in which case the City shall be responsible for enforcement of City implementing ordinances (or codes).~~

~~9.1-10.2.~~ In the UGA, the County shall be responsible for enforcement of State building codes, unless otherwise specified in the current (the date of the agreement) Intergovernmental Agreement between the City and the County.

10.11. Amendments and Termination

~~10.1-11.1.~~ Both the City Council and County Board of Commissioners may amend this agreement at any time by mutual consent of the parties.

~~10.2-11.2.~~ Either party may terminate this agreement after providing notice of such at least sixty (60) days in advance. Both parties shall use the sixty (60) day period to seek resolution of differences.

~~10.3-11.3.~~ Final action on termination shall not be taken until at least ninety (90) days after the initial notice.

~~10.4-11.4.~~ This Urban Growth Management Agreement is signed and executed this _____ day of _____ 2004

CITY OF PHILOMATH, OREGON

BOARD OF COMMISSIONERS OF

Mayor

Chair

Attest:

Commissioner

City Recorder

Commissioner

Approved as to Form:

City Attorney

County Counsel

Chapter 18.130

MODIFICATIONS TO APPROVED PLANS AND CONDITIONS OF APPROVAL

18.130.010

Purpose.

The purpose of this chapter is to provide an efficient process for modifying land use decisions and approved development plans, in recognition of the cost and complexity of land development and the need to conserve city resources. [Ord. 720 § 7[4.6.1], 2003.]

18.130.020

Applicability.

A. This chapter applies to all development applications approved through the provisions of Division 4, including:

1. Site design review approvals;
2. Subdivisions, partitions, and lot line adjustments;
3. Conditional use permits;
4. Master planned developments; and
5. Conditions of approval on any of the above application types.

B. This chapter does not apply to land use district changes, text amendments, temporary use permits, or other permits. [Ord. 720 § 7[4.6.2], 2003.]

18.130.030

Major modifications.

A. Major Modification Defined. The planning official shall determine that a major modification(s) is required if one or more of the changes listed below are proposed:

1. A change in land use;
2. An increase in the number of dwelling units;
3. A change in the type and/or location of access ways, drives or parking areas that affect off-site traffic;
4. An increase in the floor area proposed for nonresidential use by more than 10 percent where previously specified;
5. A reduction of more than 10 percent of the area reserved for common open space and/or usable open space;
6. A reduction to specified setback requirements by more than 10 percent, or to a degree that the minimum setback standards of the land use district cannot be met; or
7. Changes similar to those listed in subsections (A)(1) through (A)(6) of this section, which are likely to have an adverse impact on adjoining properties.

B. Major Modification Request. An applicant may request a major modification as follows:

1. When the planning official determines that the proposed modification is a major modification, the applicant shall submit an application for the major modification.
2. The modification request shall be subject to the same review procedure (Type I, II, or III) and approval criteria used for the initial project approval, however, the review shall be limited in scope to the modification request. For example, a request to modify a parking lot shall require site design review only for the proposed parking lot and any changes to associated pathways, lighting and landscaping. Notice shall be provided in accordance with the applicable review procedure. [Ord. 720 § 7[4.6.3], 2003.]

18.130.040

Minor modifications.

A. Minor Modification Defined. Any modification to a land use decision or approved development plan which is not within the description of a major modification as provided in PMC 18.130.030, or provides for reduced impacts, shall be considered a minor modification.

B. Minor Modification Request. An application for approval of a minor modification is reviewed using Type II procedure in PMC 18.105.040. A minor modification shall be approved, approved with conditions, or denied by the planning official based on written findings on the following criteria:

1. The proposed development is in compliance with all applicable requirements of the development code; and

2. The modification is not a major modification as defined in PMC 18.130.030. [Ord. 734 § 1, 2005; Ord. 720 § 7[4.6.4], 2003.]

memo

To: Philomath City Council
From: Councilor Ruth Causey
CC: City Staff
Date: Monday, December 9, 2019
Re: Requested Changes to Philomath Municipal Code

Based on discussions during the November 12 City Council meeting, I would like to request the Council's support in recommending the following changes to the Municipal Code be forwarded to the Planning Commission for review and consideration:

Section 18.50.010 Definitions

"Recreational Vehicle Park" means a place where two or more recreational vehicles are located within 500 feet of one another on a lot, tract or parcel of land under common ownership and having as its primary purpose: A) The renting of space and related facilities for a charge or fee; or B) The provision of space for free in connection with securing the patronage of a person. It does not mean A) An area designated only for picnicking or overnight camping; or B) A manufactured dwelling park or mobile home park. (ORS 197.492)

Section 9.15.025 Use of a recreational vehicle as a dwelling. For purposes of this section...nor more than 10 days total in a 30-day period, except when situated in a Recreational Vehicle Park or on a legally permitted campground where overnight camping is allowed.

Chapter 18.45 INDUSTRIAL DISTRICTS

In order to limit the additional development of RV parks in Philomath, one or both of the following changes are suggested:

- Move RV park facilities from the list of allowed uses to conditional uses under Light Industrial, Heavy Industrial and Industrial Park and zones.
- Add the following to **18.45.070 Special standards for certain uses:** C. RV park facilities. The total number of recreational vehicle spaces in all Recreational Vehicle Parks located within the Urban Growth Boundary shall not exceed [X].

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**PHILOMATH PLANNING COMMISSION
MINUTES**

December 16, 2019

1. **CALL TO ORDER:** Chair Stein called the meeting to order at 6:00 pm. at the City Hall Council Chambers, 980 Applegate Street, Philomath, Oregon.

2. **ROLL CALL:**

Present: Commissioners Steve Boggs, Gary Conner, Jeannine Gay, Lori Gibbs, David Stein, Joseph Sullivan and Peggy Yoder.

Staff: Deputy City Attorney David Coulombe, City Planner Pat Depa and City Recorder Ruth Post.

3. **APPROVAL OF MINUTES**

3.1 Minutes of November 12, 2019 – Commissioner Sullivan requested two corrections:
Page 3, first paragraph: strike “without Planning Commission involvement.”
Page 3, last paragraph: add reference to the distributed memorandum. Ms. Post suggested adding “(Supplemental Agenda Item)” and the memorandum would be filed with the agenda packet.

MOTION: Commissioner Gay moved, Commissioner Yoder second, to approve the November 12, 2019 minutes as amended. Motion APPROVED 7-0 (Yes: Boggs, Conner, Gay, Gibbs, Stein, Sullivan and Yoder; No: None).

3.2 Minutes of November 18, 2019 – Commissioner Gibbs requested the following correction:

Page 3, Line 111: Replace “Chair” with “Commissioner.”

Commissioner Sullivan requested the Page 1, Line 25, approval of the minutes, show that he abstained because he was not in attendance at the September 16 meeting.

MOTION: Commissioner Gay moved, Commissioner Yoder second, to approve the November 18, 2019 minutes as amended. Motion APPROVED 7-0 (Yes: Boggs, Conner, Gay, Gibbs, Stein, Sullivan and Yoder; No: None).

4. **NEW BUSINESS**

4.1 Public Hearing on PC19-10

382 N 7th Street / 12-6-11AD #1900

Applicant: Kevin Sullivan

Application Type: Class C Variance for rear yard setback

Chair Stein opened the public hearing at 6:08 p.m. The rules for testimony were read by Mr. Coulombe. Commissioner Joseph Sullivan declared an actual conflict of interest as the applicant is his brother.

Commissioner Joseph Sullivan recused himself at 6:09 p.m. and left the room.

48 Presentation of Staff Report: Mr. Depa summarized the staff report as included in the agenda
49 packet and reviewed the findings of fact. He stated that staff determined that the application did
50 not meet any of the six approval criteria and recommended denial of the application. He
51 suggested a variance request from the front of the property would possibly result in better
52 findings and be more in line with the other homes on the street. There was discussion about
53 potential circulation issues with only a five foot setback on both the rear and south side yards,
54 the footprint of the original house with the lot slope, and the definition of human scale
55 development. Commissioner Yoder questioned if there were other homes with variances in the
56 area and concern for the potential for drainage issues. Mr. Depa stated none of the other
57 homes in the area had variances.

58
59 Presentation of Applicant: Kevin Sullivan, Philomath, OR – Mr. Sullivan described the footprint
60 of the original home, retaining wall issues and the desire to avoid building a house that looked
61 into the backyard of the home behind it. He suggested J.D. McGee engineering did not think
62 ponding was an issue. Mr. Sullivan described the current water drainage from the lot and the
63 driveway grade plans. Mr. Sullivan described occupancy plans for the new house. Mr. Depa
64 explained that lot coverage limitations would only allow for the one car garage. Mr. Sullivan
65 explained the reasoning for selecting the floor plan and footprint that was selected for the lot
66 and the desire to keep the project inexpensive. He stated it is a fairly small house. There was
67 discussion about the reduced rear setback and the location of the current house to the west
68 and possible future development to the west. Mr. Sullivan stated that close doesn't matter as
69 much as visibility and their intent was to reduce that issue. He stated the neighbor doesn't have
70 an issue with the proposed setback.

71
72 Mr. Depa reviewed some options that staff had proposed to the applicant in lieu of the rear-
73 yard setback variance. He explained that the North 7th Street right-of-way is 80 feet wide but
74 would more likely only ever be developed to a 50-foot right-of-way. Mr. Sullivan stated that the
75 neighbor is not interested in an access easement. He described the driveway situation.
76 Commissioner Yoder noted there are no opponents to the request and it is plainly posted. Mr.
77 Depa pointed out the Commission would have to develop new findings that supported approval
78 of a variance to replace the findings in the staff report. Mr. Coulombe reminded the
79 Commission that the decision should be fact driven based on the criteria, not based on
80 opponents or proponents.

81
82 Mr. Sullivan described the information he has received that there is no pooling of water. Mr.
83 Depa described the effect of downspouts draining water away from the house and the need for
84 sufficient area for the drainage to permeate before shedding onto the neighbor's property. Mr.
85 Sullivan stated he could work with an engineer to resolve any issues and suggested a
86 condition of approval to that effect.

87
88 Commissioner Conner suggested working through each of the findings. On Criteria (a), he
89 requested clarification about the five foot setback creating a safety issue. He questioned what
90 type of circumstance would allow a variance under Criteria (a). There was discussion about
91 North 7th Street not being a through street and questioning the criteria to slow traffic down. Mr.
92 Depa explained if the side yard was a larger setback it might not be an issue but it is also a five
93 foot setback.

94
95 Commissioner Conner stated he believed the steep grade is a hardship. Commissioner Gay
96 described steep slope runoff issues on Southwood that don't create adverse impacts. Chair
97 Stein stated his observation is that the runoff from adjacent properties will go right where the
98 house is intended to sit. There was further discussion about slope and runoff. Mr. Sullivan
99 described the driveway issues that result in even a smaller footprint having to be placed in the
100 back of the lot. He stated the engineering opinion he had received didn't think the runoff was an
101 issue. He stated if the variance were approved, they would then review the engineering needs.

102
103 Commissioner Conner stated he felt findings could be developed, with the exception of Criteria
104 (f), questioning if this was the minimum variance that would alleviate the hardship. He stated
105 there may be other possible solutions.

106
107 Chair Stein suggested that an approval to this request could have consequences from a future
108 application. Mr. Coulombe stated it is the applicant's burden to provide the information needed
109 for the Commission to reach an approval. He suggested completing the public hearing process.

110
111 Testimony by Proponents: None.

112
113 Testimony by Opponents: None.

114
115 Testimony by Neutral Parties, including Governmental Bodies: None.

116
117 Rebuttal by Applicant, limited to issues raised by Opponents: None.

118
119 Mr. Coulombe explained there has been no request for a continuance by either the applicant or
120 any other party.

121
122 Commissioner Conner stated he did not believe the Commission was required to completely
123 alleviate the issues. He stated he did not believe sufficient information had been provided to
124 show the variance was the minimum required.

125
126 Chair Stein closed the public hearing at 7:04 p.m. Mr. Sullivan waived the right to submit final
127 written arguments.

128
129 **4.2 PC19-10 Discussion and Possible Decision** – Commissioner Yoder questioned if the
130 only issue is the setback. Mr. Depa explained the lot coverage is not an issue. He explained
131 that cost is not a qualified hardship. Commissioner Conner stated it may not qualify but it is
132 problematic. There was additional discussion. Mr. Depa stated it would probably be easier to
133 make a justification for a front yard setback variance based on the location of the original house
134 and the neighboring houses.

135
136 **MOTION:** Commissioner Boggs moved to table the discussion and consider a front yard
137 setback variance. No second. Mr. Depa stated that would be a major material modification and
138 would require re-notification.

139
140 At 7:15 p.m. Chair Stein reopened the hearing to hear from Mr. Sullivan again. There was no
141 other testimony added. There was further discussion about possible alternatives and the need
142 to revise the findings.

143
144 **MOTION:** Commissioner Gibbs moved, Commissioner Boggs second, to deny the application
145 as proposed. Motion APPROVED 4-2 (Yes: Conner, Boggs, Gibbs, and Stein; No: Gay and
146 Yoder.)

147
148 *Commissioner Stein called a recess at 7:23 p.m. and reconvened at 7:30 p.m. Commissioner*
149 *Joseph Sullivan rejoined the meeting.*

150
151 **4.3 Urban Fringe Agreement discussion** – Mr. Depa distributed a memorandum and draft
152 Urban Growth Management Agreement documents (Supplemental Agenda Item #4.3). He
153 explained that Benton County was conducting a review of their code and there were zoning
154 districts that had been specifically created to address delayed annexation agreements that
155 exist within the Philomath Urban Growth Boundary. He described how those properties were

156 being treated as subject to the Philomath Zoning Code due to future expectation they would be
157 annexed. He stated the revisions were intended to address those delayed annexations and to
158 spell out the process between the two jurisdictions that is already being used. He stated the
159 Benton County Commissioners have reviewed and approved the revisions. He requested the
160 Planning Commission review the revisions and come back with any potential concerns before
161 sending it to the Council for final approval. There was discussion about this formalizing the
162 actual process that has been used.

163
164 Ms. Post provided a history of delayed annexation agreements in Philomath. Commissioner
165 Yoder stated she would like an opportunity to read the document before making a
166 recommendation. It was agreed by consensus to place the agreement on the January Planning
167 Commission agenda.

168 **5. OLD BUSINESS**

169 **5.1 2040 Comprehensive Plan Advisory Group update** – Mr. Depa summarized that the
170 City Council did accept the Planning Commission’s recommendation and added two members
171 of the Commission to the Advisory Group. Ms. Post explained that the City Council approved
172 the nine proposed members and added Commissioners Yoder and Stein.

173 **5.2 Development Code & Annexation Amendments (PC19-08 & PC19-09)**

174
175 **A) City Council decision review** – Chair Stein explained that Mr. Workman was
176 unavailable tonight. Mr. Coulombe reviewed the legislative process, including the public
177 hearing and decision process at the City Council level. Ms. Post reviewed the City Council
178 minutes of November 25 related to the removal of Section “G” from PMC 18.135.030 in the
179 annexation code. Chair Stein stated there is a communication issue because the Council didn’t
180 understand why the Commission put section “G” in, and he was disappointed in the action. Mr.
181 Coulombe suggested in the future adopting a statement to submit with text amendments
182 providing an explanatory statement. Commissioner Yoder questioned if the Planning
183 Commission could have requested the Council respond back if they made any changes. Mr.
184 Coulombe described the lengthening of the process that scenario could create. He stated the
185 goal of code drafting is for it to be clear and concise and doesn’t require further explanation.
186 Commissioner Sullivan described the possibility of having a City Councilor in attendance at
187 future Planning Commission meetings.

188
189 **B) Major/Minor modifications: PMC 18.130** – Chair Stein stated the issue of a major
190 versus minor modification had been raised. Commissioner Yoder stated she and
191 Commissioner Boggs had submitted a letter of objection to the minor modification application
192 for Millpond Crossing. There was discussion about the Commission having an opportunity to
193 review the letter they submitted. There was discussion about the decision being within City
194 Manager Workman’s authority based on the code definition of a minor modification. Mr. Depa
195 stated the staff report on that application is posted on the City’s website and addressed the
196 three issues that were raised by Commissioners Boggs and Yoder. There was discussion
197 about the issues related to the change in phasing for the development and the timing of
198 construction of the extension of South 17th Street. Mr. Depa explained the review of the trips
199 generated showed they were still within the threshold with the change in the phasing.
200 Commissioner Yoder questioned if the language in 18.130.030 should be amended to add
201 changes in phasing. Commissioner Sullivan questioned what the Planning Commission’s
202 response would be if it was felt that the City Manager had overstepped in approving a
203 modification. Mr. Coulombe stated that the Commission’s review authority does not extend to
204 whether an administrative decision-maker exceeded authority. There was further discussion
205 about an appeal process for a modification decision. Mr. Coulombe explained ramifications
206 related to the discussion of a specific case such as the Millpond modification before the appeal
207 period has expired. It was agreed to put further discussion on the January agenda.

208 **C) Recreational Vehicle Park code considerations: PMC 18.50.010, 9.15.025 & 18.45 –**
209 Mr. Depa explained this was a request from a member of the City Council to consider adopting
210 changes related to the specific code sections. He stated this was something that the
211 Commission could consider in further code amendment discussions. There was discussion
212 about the definition for a Recreational Vehicle Park for Section 18.15.010. Commissioner
213 Sullivan stated this appears to be an example of the City Council sending information to the
214 Planning Commission for consideration. There was discussion about this potential language
215 not impacting the existing Lepman project because of the goalpost rules.
216

217 Robert Biscoe, Philomath, OR – Mr. Biscoe described the intentions of the Councilor who had
218 submitted the proposed language. He stated it was a result of the concern from public
219 testimony that was concerned about RV Parks.
220

221 **6. OTHER BUSINESS**

222 **6.1 Communication expectations between Commission, Council & Staff –**

223 Commissioner Stein stated this topic had been sufficiently addressed through earlier
224 discussions in the meeting.
225

226 **6.2 Setting meeting dates: January and February 2020 holiday conflicts –** After
227 discussion about availability, it was agreed to move the January meeting to Tuesday, January
228 21, 2020, and the February meeting to Tuesday, February 18, 2020.
229

230 **7. ADJOURNMENT:**

231 There being no further business, Chair Stein adjourned the meeting at 8:30 p.m.
232

233 SIGNED:

234 *David Stein*
235
236

ATTEST:

Ashley Howell

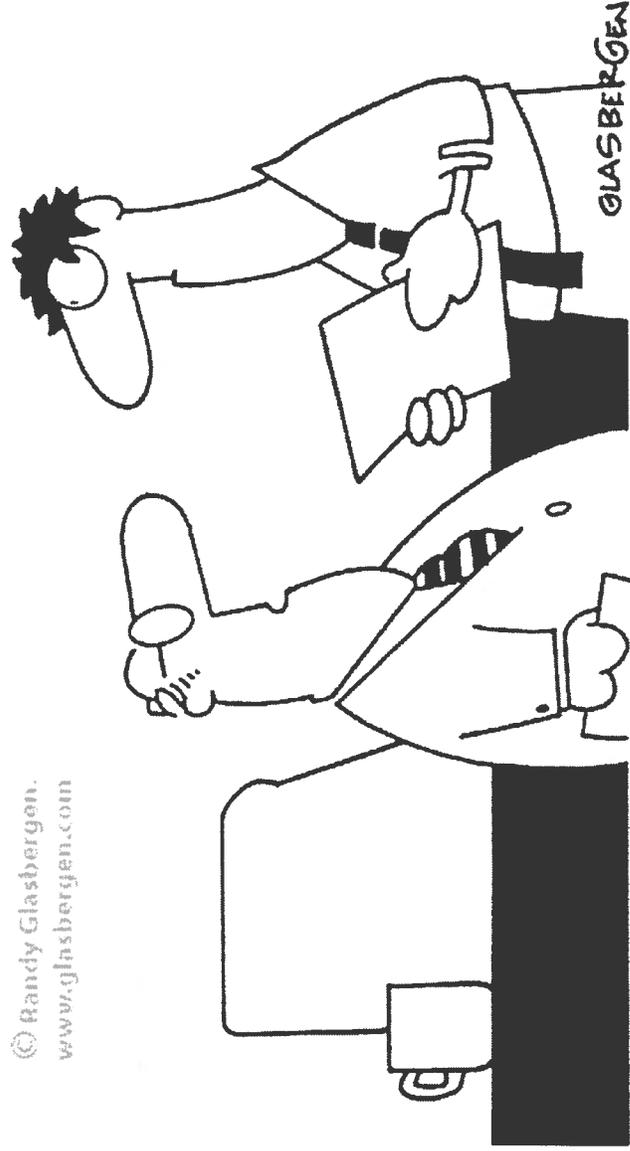
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Actions in an official capacity that “could” have a pecuniary effect on the official, the official’s family, or the official’s business or employer

- At the earliest opportunity before taking action, disclose publicly the nature of the potential conflict
- Once the potential conflict is disclosed, the official may participate and vote

Actual Conflicts of Interest

Actions in an official capacity that “would” have a pecuniary effect on the official, the official’s family, or the official’s business

- At the earliest opportunity before taking action, disclose publicly the nature of the conflict
- Do not participate in discussions or decisions (unless vote is needed for body to take action)
- If vote is needed for a decision to be made, you may vote, but may not participate in discussions or decisions

Oregon Government Ethics Commission

<http://www.oregon.gov/ogec/Pages/index.aspx>

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PHILOMATH
PLANNING COMMISSION
**PUBLIC HEARING
SPEAKER REQUEST FORM**

1

(Testimony time may be limited depending on number of speakers.)

IF YOU WISH TO ADDRESS THE PLANNING COMMISSION:

1. Please complete this form and return it to the City Recorder prior to roll call.
2. When it is your turn, the Chair will call you forward.
3. Address the Commission from the microphone.
4. State your name and city for the official record.

Name Ruth Causey Date 1/21/2020

Mailing Address 515 Fawn Lane

City Philomath State OR Zip Code 97370

PUBLIC HEARINGS:

(Testimony time may be limited depending on number of speakers.)

I wish to speak on PUBLIC HEARING ITEM/FILE # _____
_____ IN FAVOR _____ OPPOSED _____ NEUTRAL

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*City Council - 5.2



②

**PHILOMATH
PLANNING COMMISSION
PUBLIC HEARING
SPEAKER REQUEST FORM**

(Testimony time may be limited depending on number of speakers.)

IF YOU WISH TO ADDRESS THE PLANNING COMMISSION:

1. Please complete this form and return it to the City Recorder prior to roll call.
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3. Address the Commission from the microphone.
4. State your name and city for the official record.

Name Catherine Biscoe Date 1/21/2020

Mailing Address PO Box 848

City Philomath State OR Zip Code 97370

PUBLIC HEARINGS:

(Testimony time may be limited depending on number of speakers.)

I wish to speak on PUBLIC HEARING ITEM/FILE # _____

_____ IN FAVOR _____ OPPOSED _____ NEUTRAL

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