PHILOMATH PLANNING COMMISSION
MINUTES
March 18, 2019

1. **CALL TO ORDER:** Chair Stein called the meeting to order at 6:00 pm

2. **ROLL CALL:**
Present: Commissioners Garry Conner, Lori Gibbs, Steve Boggs, Jeannine Gay, Peggy Yoder, and Chair David Stein.

Staff: Chris Workman, City Manager; Amy Cook, Deputy City Attorney; Patrick Depa, Planner; and Ashley Howell, Building Permit Clerk.

3. **APPROVAL OF MINUTES:**
3.1 March 4, 2019, Minutes –
3.1.1 Correction- Commissioner Conner requested to replace the word, "meeting" with "public comment section" of the meeting.

MOTION: Chair Stein moved, Commissioner Boggs second, the March 4, 2019, minutes be approved as amended. Motion APPROVED 6-0. (Yes: Conner, Gibbs, Boggs, Gay, Yoder, Stein; No: None.)

3.2 February 19, 2019, Minutes Clarification – Chair Stein
3.2.1 Chair Stein stated a clarification to the February 19, 2019 minutes, page 7, line 2. He explained that he would like developers to provide all funds for all necessary studies the city needs, not just traffic**.** He listed examples such as water, environment, etc. There was further clarification of Commissioner Conner's comment on page 7, line 5, objective criteria pertaining to the level of service.

4. **OLD BUSINESS**
4.1 Annexation Criteria – Chair Stein stated that he was sent annexation criteria from Mayor Niemann for Ashland, Hood River and Eugene. All commissioners were given copies of annexation criteria from each city.

The committee reviewed annexation criteria prepared by City Attorney Amy Cook. There was discussion regarding language proposed by Chair Stein as to the placement, within annexation criteria, of his suggested criteria of developers paying for analysis studies that are approved by the city. Ms. Cook noted that after the committee develops annexation criteria language, then a review will be held as to which section(s) the new criteria will be added.

Commissioner Conner spoke to Section II on page 2. He asked for clarification regarding the line, "capacity will be conclusive as to that agency." Ms. Cook clarified that this criterion applies to entities such as the School District, Library and other outside services that are not part of the city. She clarified that during the annexation process the agency decides their capacity and that no response from the agency means they do not have an issue. She explained that each agency has a certain period of time to respond and if they do not respond, then it will be deemed that such

agency does not have a capacity issue. She explained further that if an agency responds that they do in fact have an issue, then such issue will need to be dealt with between agency and developer. Mr. Workman explained that currently, when an annexation application is received and deemed complete it is sent out to agencies such as the Fire and School Districts, Benton County, Public Works, etc. Comments made by these agencies will then be listed in the staff report. He explained that this criterion allows for a timeline for the process.

Commissioner Conner asked for clarification on Section III, “applicant may contract with the agency,” and what “contract” means in terms of this statement. Ms. Cook explained that it would be an agreement between the applicant and agency as to how they would meet capacity, if that was an issue. Commissioner Gay asked why the application would have to go under contract to achieve capacity. There was discussion about the language of this criteria. Chair Stein suggested that the word, “agreement,” or something similar may be more appropriate than the word, “contract.” Ms. Cook explained section one, two and three. She stated that she can change the language to, “agreement,” or whatever the committee approves of.

Commissioner Yoder asked for clarification regarding the criteria addressing the benefits of an annexation to the city. She asked who determines such benefit and how. Ms. Cook clarified that the Planning Commission would determine if the annexation was in fact beneficial, and if not, then the applicant could then enter into an annexation agreement specifying what they would need to do in order to meet that criteria.

Commissioner Conner asked about the scenario in which the City of Philomath could encounter legal issues if the city denies an annexation application due to it not being beneficial to the city. Ms. Cook explained that it would depend on the circumstance, but that Planning Commission would need to list their reason for denial, objectively. Mr. Workman spoke to clear and objective standards, and that this criterion opens the door for conditions of approval. He explained that all other criteria are ensuring that annexation is not going to harm the city. However, this criterion allows the applicant to explain how such annexation is going to benefit the city. He explained that Planning Commission will need to develop objective criteria to deny or approve an application on these grounds. He explained that this criterion will also be beneficial to the public ensuring that an annexation is not going to inhibit the city in any way.

Commissioner Yoder asked for clarification of the term, “run with the land.” Ms. Cook explained that if a property that was previously annexed in to the city was and then sold, the annexation agreement is applicable to the buyer and stays with the property.

There was discussion around what happens when developers do not meet their annexation agreement criteria, but have already been granted annexation. Mr. Workman gave hypothetical scenarios explaining how each scenario would be handled by the city.

Commissioner Conner asked for clarification as to the one-acre minimum environmental study when a property is changing from industrial to residential. Ms. Cook explained that this was due to Commissioner Sullivan’s suggested minimum.

She further explained that this criterion is a draft and that the minimum can be changed or removed. Mr. Workman explained that perhaps part of the concern was the cost that is being put on the developer. Commissioner Conner stated that he believes there should not be a minimum, due to the severity of the issues and given the cost of a single family lot compared to a phase one environmental study. Mr. Workman added discussion addressing the Commission as to what level would it want such a study done, at the annexation stage or at the development stage. Commissioner Conner stated that he would like the decision to be made at the time of annexation, rather than any later in the process.

There was discussion regarding the 20-year time period that precludes annexed property from applying for a zone change within 20 years of annexation approval. Mr. Workman gave the example of rodeo grounds being recently annexed in to the city as residential, but it is now used as a public park. He explained that after it was annexed in to the city it was then donated to the city. He further explained that if this 20-year time period was implemented, it could not be rezoned as public, event though the use had changed. He explained that if this time period was imposed then the Commission would be tying the hands of future Commissioners. He explained that each annexation goes through a public hearing allowing public comment. Commissioner Conner stated that he believes 20 years is too long, but that he would also be fine with no time length. Mr. Workman gave an example of a developer that may annex a property as low-density residential, but then once annexation is granted, requested a change to high-density residential for financial gain. He further explained that he would be hesitant to implement criteria that tied the hands of future Commissions and Councils. Commissioner Gibbs added that she would also like to remove the time limit. The committee agreed to remove the time limit.

Commissioner Yoder asked for clarification of line item stating, “the city is under no obligation to condemn, exercise eminent domain, or extend services to an annexed property.” Mr. Workman explained that if a property is within city limits that there is a right to city services. He explained further that the city does not have to provide the means to the annexed property to connect with city services, but annexed properties do have the right to access them. He discussed that having such language allows the city to be clear with the applicant as to accessibility and utilization of city services.

Chair Stein adjourned the meeting until 7:05 pm for a short break.

Chair Stein called the meeting back to order at 7:05 pm.

5. PUBLIC HEARING

5.1 Sapp Type III Class C Variance PC19-01 – Chair Stein opened the public hearing and introduced the applicant as Kathleen Sapp.

5.1.1 Staff Report -- City Planner, Patrick Depa read the Staff Report. He explained that with a Class C Variance there are six items of criteria in which the application must meet all six criteria. He explained that based on the Class C Variance criteria, the application did not satisfy all criteria. He stated that his recommendation is to deny the application’s request. However, if the Planning Commission disagrees with his findings, they can choose to approve the variance but would then have to establish approval criteria for

the application. He further explained that the code already allows for a four (4) foot fence and although corner lots do in fact face more noise disruption and head lights from traffic, those complaints may not be sufficient for approval.

Commissioner Yoder asked for clarification of line item A: encouraging the uses of extra wide sidewalks. Mr. Depa explained that a sidewalk may seem more crowded due to the height. He added that it also creates blind spots for the public and perhaps emergency services.

Presentation of Applicant

Kathleen Sapp, Philomath, Oregon -- Ms. Sapp explained that in her experience living in her home that there are a lot of people walking by her house that can see into her home. She also stated that lights from traffic shine in to her home. She explained that she would just like more privacy and safety for her family.

James Lamb, Philomath, Oregon – Mr. Lamb stated that on the main street side of the property, the intent was not to build right up to the sidewalk line but give a buffer for increased space. He explained that with the slope, or change in elevation on the property, that a four (4) foot fence does not necessarily stop or block anything. He explained that with the 45 degree angles on the property, transitioning from main street to 21st street, he believes that there would be enough space for sightline and does not believe there would be any interference in regard to vision.

Commissioner Yoder asked for clarification in regard to fence placement. She clarified with Mr. Lamb that the fence would not be placed right next to the sidewalk but have some space and seem less crowded. Mr. Lamb confirmed that he could set the fence back somewhat allowing for more space.

Chair Stein addressed the applicant and stated that she bought the house knowing that the house was on the highway. Ms. Sapp agreed, but explained that she was hoping to install a higher fence and was not aware that she would have to apply for a variance to do so.

Mr. Depa explained that since 21st Street is the applicant's established front yard, they could build a six (6) foot fence up to Main St., although that may not satisfy their desire for more privacy and shield from traffic lights coming from Main Street.

Commissioner Gibbs asked the applicant if Mr. Depa's suggestion would be helpful. Ms. Sapp explained that it would be helpful but she was hoping to block sight into her living room from pedestrians on Main Street.

Commissioner Boggs read the variance criteria confirming that fences may not exceed a height of four (4) feet. There was discussion around suggestions of planting shrubbery to allow for more privacy.

Chair Stein asked if there were any other questions, proponents, opponents or neutral parties; there were none.

Ms. Sapp chose to waive her seven-day appeal period.

The Public Hearing on Sapp Type III Class C Variance PC19-01 was closed at 7:29pm.

5.2 PC19-01 Discussion & Decision

Commissioner Boggs explained that there was a significant amount of time put in to creating the fence criteria and he cannot go back and vote against such criteria. He recommended to deny the application.

Commissioner Yoder explained that although she feels that on a personal level she understands the motivation behind the application, she cannot find any support in criteria to approve such application.

MOTION: Commissioner Boggs moved, Commissioner Yoder second, to deny the variance finding that none of the approval criteria has been met.
APPROVED: 5-0 (Yes: Conner, Gibbs, Boggs, Yoder, Stein. Abstaining: Gay)

This is the final decision of the Planning Commission.

Chair Stein announced that there will be another meeting to discuss annexation criteria on April 1, 2019. The meeting will be a work session at 6:00 pm. Mr. Workman explained that the meeting scheduled on April 15, 2019 at 6:00 pm, there will not be a quorum discussion, but a time to hear form and speak with the public.

6. <u>ADJOURNMENT</u>:
There being no further business, Chair Stein adjourned the meeting at 7:44 p.m.

SIGNED:	ATTEST:
David Stein, Chair	Ashley Howell, Clerk