

City of Springfield
Work Session Meeting

MINUTES OF THE WORK SESSION MEETING OF
THE SPRINGFIELD CITY COUNCIL HELD
MONDAY, OCTOBER 4, 2004.

The City of Springfield council met in a work session in the Jesse Maine Meeting Room, 225 Fifth Street, Springfield, Oregon, on Monday, October 4, 2004 at 6:32 p.m., with Mayor Leiken presiding.

ATTENDANCE

Present were Mayor Leiken and Councilors Ballew, Fitch, Lundberg and Woodrow. Also present were City Manager Mike Kelly, City Attorney Meg Kieran, City Recorder Amy Sowa and members of the staff.

Councilor Ralston was absent (excused).

1. Council Review of Response to Remand of Metro Plan and Gateway Refinement Plan Amendments and Council Initiated Amendments to the Commercial Lands Study and Development Code (PeaceHealth).

City Planner Colin Stephens presented the staff report on this item. The City Council is asked to review the city's response to the Land Use Board of Appeals (LUBA) and the Oregon Court of Appeals decisions on the PeaceHealth plan amendments that were approved by the City Council on April 21, 2003.

Upon a request from PeaceHealth, the City Council initiated the above listed applications by motion on June 28, 2004. Subsequent to that action, LUBA remanded the Metro Plan and GRP amendments to the city for additional findings in respect to Statewide Planning Goal 9 (Economic Development), Goal 12 (Transportation) and, as instructed by the Court of Appeals, consistency with Metro Plan policies regarding auxiliary uses in the residential designations. The Court of Appeals decision was never appealed to the Supreme Court and was returned to LUBA. LUBA remanded it back to the city on August 19, 2004.

The LUBA remand returns the jurisdiction of the Metro Plan and GRP amendments to the City. It is the staff recommendation that the council act on remand for the Metro Plan and GRP amendments. Since the Development Code and Commercial Lands Study amendments were not part of the original applications, but are necessary to respond to the remand, they will proceed under council initiation. It is also the recommendation of the staff that the Metro Plan site-specific text amendment initiated by the council on June 28th is unnecessary and should be withdrawn.

Staff presented the council with the city's response to the Court's decision. The City Council and the Planning Commission are scheduled to reopen the public hearing to accept testimony on these applications at a joint Regular Session on November 1, 2004.

Mr. Stephens asked City Attorney Meg Kieran to give a brief description of what it means to be on remand.

City Attorney Meg Kieran said remand occurs when an appellate body, such as LUBA or the Court of Appeals, makes a decision and sends it back. It is a jurisdictional word meaning we now have jurisdiction of the ordinances. We can do nothing and decide we do not want to enact these ordinances, or look at the direction the appellate bodies have provided, make the changes and enact the ordinance that includes those fixes. The city has chosen to fix the ordinances. The original plan amendments were sent back to the city because of challenges to Statewide Planning Goal 9, economic development, and Statewide Planning Goal 12, transportation. The challenge to Goal 9 was regarding language in our Springfield Commercial Lands Study that we were unable to reconcile with the action that was in the plan amendment. Direction was given to reconcile the action with the language in the Springfield Commercial Lands Study. The challenge to Goal 12 was regarding the fact the city only did an analysis in our findings based on the year 2018, which is the out year of the planning horizon. The remand directed the city to show there is no interim, or temporary failure, of facilities caused by the change in the land use designation. The city was also remanded because the city had interpreted the auxiliary uses authorized in residential zones under the Metro Plan designation to allow hospitals. Given the size of this hospital, it would dominate a residential use and is more appropriately a commercial use because it is not auxiliary to the residential use. The city has addressed that on the remand. Those issues that were before the appellate body in round one, in which the city prevailed, which include whether or not this is a site specific amendment to the Metro Plan or if there is a violation of Goal 10 related to housing and the other challenges, cannot be brought forward. According to the instructions of the appellate body, those are the only issues that challengers to our action can bring forward.

Councilor Ballew said previously there was some thought that we couldn't interfere or interrupt the flow of traffic during the building phase. She noticed that the city has now established points in time where acceptable traffic counts are established. She asked if the city had been wrong in interpreting the earlier decision to mean we couldn't have interruption at any time during construction.

Ms. Kieran said LUBA and Court of Appeals did not address the specific conditions during construction. They did say that the city has to show that there will not be interim or temporary degradation in the volume to capacity ratio or level of service on the impacted transportation facilities. That language isn't specific guidance. It certainly does apply once the use that is approved by the plan amendment is in affect. The city has looked at our transportation planning periods, which for the city is one year Capital Improvement Program (CIP) and for the state is State Transportation Improvement Program (STIP) which is every two years. At this time, there is no ruling that states it has to be built before the use. It appears to Ms. Kieran that it needs to be funded, and that is why the city has focused on the CIP and STIP. The city is trying to make sure we have funded those improvements that are needed.

Councilor Ballew said the city is dependent on Federal financing. She asked if the changed plan, if approved by council, would go back for review.

Ms. Kieran said only if someone challenges it, which is likely to happen.

Mayor Leiken said this is up to the interpretation of attorneys.

Ms. Kieran said they have worked hard to have more than one legal opinion involved. Her confidence in the city's approach is that the next interpretation would be to require jurisdictions to build transportation facilities. The language of the rule the city has now would support that interpretation.

Mr. Stephens discussed the joint public hearing with the Planning Commission on November 1, 2004. This should save time and facilitate the process. It is a legislative process, but Springfield will reopen the public hearing and allow citizens an opportunity to testify and submit evidence in the record. The record will remain open for a period of time following the public hearing, with a rebuttal period to follow. The Planning Commission will meet and have a deliberation on a recommendation, which will be forwarded to the council for their consideration. This should occur sometimes before council goes on recess in December.

Mr. Stephens said the court told the city there is additional analysis needed in those three general areas. The first would be the plan diagram. Originally, council approved redesignation of thirty-three acres of Medium Density Residential (MDR) property at the Gateway site to Community Commercial (CC) plan designation. That is where the Mixed Use Commercial (MUC) zoning district would apply. The additional sixty-six acres of area where the hospital and several other medical office buildings were to be located would be zoned Medical Services. That zoning would be put on the MDR plan designation. The courts determined the regional hospital on the residential plan designation was contrary to several policies within the Metro Plan. He referred to page 1 of the Council Briefing Memorandum included in the agenda packet which states *“***If the city wishes to use the area in question for the commercially-related uses authorized by the ordinances, it will have to undertake a zone change or other change authorized by the plan.”* That is the direction the city is following. He referred to attachment 2-1 in the agenda packet. This map shows the land where the hospital is to be located. Staff is proposing to designate that property, which is approximately forty-four acres, to Community Commercial (CC) plan designation. Another forty-nine and a half acres would be designated to Mixed Use (MU). Policies would be adopted into the refinement plan that would allow only the medical services zoning district to implement the Community Commercial plan designation and the Mixed Use Commercial (MUC) and the Medical Services (MS) zoning to implement the Mixed Use (MU) plan designation. The intent of the policies would be to allow for the same zoning that was tentatively approved by council in April 2004.

Councilor Ballew asked why it wasn't all zoned Community Commercial (CC).

Mr. Stephens said the Metro Plan description of the CC plan designation states that it should normally be forty acres and they tried to keep within those guidelines.

Ms. Kieran said it is the text of the Metro Plan regarding the description of what is CC.

Councilor Ballew said there is a lot of MDR designated on the map.

Ms. Kieran said that is consistent with the master plan proposal.

Mr. Stephens said the second area the court gave the city direction on was Goal 9, economic development. The court said the city's findings did not adequately explain how the amendments were consistent with the Springfield Commercial Lands Study and one particular implementation strategy. That strategy called for fifteen acres of neighborhood commercial at the Gateway MDR site. The court said the city didn't connect the action we had taken with the direction of the implementation strategy. The answer to the court is two-fold. The implementation strategy was not made sufficiently clear to LUBA. The implementation strategies within that plan are not binding. The resolution that adopted the Commercial Lands Study had language in the actual text which stated "nothing in here limits the City Council from using a variety of strategies to implement the policies in this document". The other response to this is to amend that particular implementation strategy to specifically identify health services at the Gateway MDR site. That language is shown in Attachment 4 included in the agenda packet.

Mayor Leiken asked if there were nineteen total goals. There are.

Ms. Kieran said the court asked the city to look at two goals and the plan designation. The city was not challenged on all nineteen goals.

Mr. Stephens said on June 28, 2004 council agreed to initiate Metro Plan site specific text amendment that would also identify the Gateway MDR site as appropriate for health related uses. In the city's subsequent review of that text, staff has determined that text amendment is no longer necessary. Staff would like to proceed with the Metro Plan amendment just on the diagram.

Mr. Stephens said the last direction from the court was on Goal 12, the transportation planning goal. There are opinions around the state regarding the implications. Prior to the decision, it was the common understanding for plan amendments to show consistency with the planning goal, the transportation impact analysis that accompanied the plan amendment would demonstrate that no impact to transportation facilities would fall below an accepted level of service at the end of planning period. In the case of the PeaceHealth amendments, that was 2018. Now, according to the LUBA decision, we cannot show any temporary degradation in the level of service at any time during that planning period. The new PeaceHealth Transportation Impact Analysis (TIA), which would be submitted to support the new plan amendments, will have a different approach. The city will look at phasing the hospital development to line up with planned transportation infrastructure improvements. The planned infrastructure improvements are shown in the CIP and the STIP. In 2008, the hospital will open. That will coincide with the completion of construction of phases 1 and 2 of the Beltline/I-5 intersection. The next phase of development that would be allowed on the PeaceHealth site would not occur until 2010, which is when the Beltline/Gateway intersection is scheduled for completion. Once that is built, it will allow for the balance of the development on the PeaceHealth site. At the end of the project, everything will need to function well. They are looking at the year 2020 for the fifteen year planning period.

Councilor Fitch asked if there would have to be a delay in the development of the different phases if there was a delay in any of the transportation projects.

Mr. Stephens said he is not sure the court decision was specific enough to say that a delay in a construction project would invalidate a plan amendment.

Ms. Kieran said at this point, the city is looking at funded projects and making the analysis on that basis. The city hopes to hear from the Oregon Department of Transportation (ODOT). There are no thoughts of a concurrency condition, which means the infrastructure has to be built. At this point, we will rely on funding.

Councilor Woodrow asked when the construction of the Martin Luther King Jr. (MLK) Parkway was scheduled to begin.

Civil Engineer Pam Ownbey said the start date would be June 2005.

Mr. Stephens said the construction of MLK Parkway would be in conjunction with the construction of PeaceHealth, if they are able to begin during the next construction season. The MLK Parkway will need to be open prior to any development.

Mayor Leiken asked if the Bus Rapid Transit (BRT) would play a role in this.

Mr. Stephens said it would. That type of transportation service will be available.

Councilor Ballew said it would not be surprising if this was challenged again, which would have an impact on PeaceHealth's ability to start construction. She asked what that would do regarding their plans in terms of time.

Ms. Kieran said there is normally a four month turnaround with LUBA. Staff will do their best to move this forward through public hearings and decisions. Acting on remand may speed it up.

Mr. Stephens said because plan amendments were remanded to the city, the master plan and zone change must be resubmitted once the new applications are resolved. There will be another public hearing process while under appeal with LUBA. He is hopeful to get that going in January of 2005.

Mr. Stephens referred to attachment 5, page 1 regarding Article 22. If the plan diagram is approved as shown, the city will want to apply the Medical Services zone, during the rezoning process, both to the Community Commercial and the Mixed Use plan designations. Some of the language on attachment 5, page 1 allows this to occur and also clarifies that it is appropriate to zone properties on collector streets. The purpose statement for health services has also been added.

Councilor Ballew asked if there would still be an issue having a hospital in or adjacent to the Medium Density Residential.

Mr. Stephens said the court decision was based on a regional hospital. It was their determination that utilizing this zoning district to site a large hospital and attached medical office building was inconsistent with the auxiliary uses. It didn't go so far as to say that no medical uses could be in a residential plan designation if all the other criteria were to be met. The city is not going to apply the Medical Services district to the residential designation in conjunction with this development.

Ms. Kieran said the action Councilor Ballew is referring to is not action the city is taking on remand. On remand, the city is putting the Medical Services on Community Commercial and Mixed Use property.

Mr. Stephens said it would not preclude someone from doing that in the future.

ADJOURNMENT

The meeting was adjourned at 7:02 pm.

Minutes Recorder – Amy Sowa

Sidney W. Leiken
Mayor

Attest:

Amy Sowa
City Recorder