



Approved: August 1, 2023

**PLANNING COMMISSION PUBLIC HEARING MINUTES**  
**4222 NE Old Salem Road**  
**Millersburg OR 97321**  
June 6, 2023  
6:00 p.m.

A. CALL TO ORDER: Chair Anne Peltier called the meeting to order at 6:03 p.m.

B. ROLL CALL:

Members Present: Chair Anne Peltier, Doug Iverson, Alex Patterson and Ryan Penning

Members Absent: Vice-Chair Wil Canate, Commissioners Monte Ayers, and Caryl Thomas

Staff Present: Matt Straite, Community Development Director; Sheena Dickerman, City Recorder; Kevin Kreitman, City Manager; Janelle Booth, Assistant City Manager/City Engineer; Forrest Reid, City Attorney; and Alan Sorem, City Attorney

C. MEETING MINUTE APPROVAL

**6:03 p.m.**

City Recorder Sheena Dickerman pointed out that on the last page, under adjournment it should read "Commissioner Monte Ayers" and not "Commission".

**ACTION: Motion to Approve the May 2, 2023, minutes as amended, made by Commissioner Ryan Penning; seconded by Commissioner Doug Iverson.**

Chair Anne Peltier: Aye  
Commissioner Doug Iverson: Aye  
Commissioner Alex Patterson: Aye  
Commissioner Ryan Penning: Aye

**Motion Passed: 4/0**

D. CODE UPDATE WORKSHOP

**6:04 p.m.**

Community Development Director Matt Straite said the Code update had three major categories of changes: Climate Friendly Equitable Communities, general text and map updates.

City Manager Kreitman introduced new City Attorney Alan Sorem. He said City Attorney Forrest Reid is retiring at the end of the month. The City has been working with Sorem's firm for 3 to 4 years.

City Attorney Alan Sorem shared that he would be attending most Planning Commission and City Council meetings but Margaret Y Gander-Vo would be attending an upcoming

meeting. City Attorney Forrest Reid shared that he had first met Sorem when he was on the opposing side of a case. He said Sorem was very professional and courteous. He shared his appreciation of working with everyone.

Straite introduced new Planning Commissioner Alex Patterson. He announced that this was Planning Commission Chair Anne Peltier's last meeting.

Straite returned to the Code update workshop presentation.

Straite explained the first section of review would be regarding Climate Friendly Equitable Communities, what the State is requiring the cities to do. Cities over 5,000 people are required to designate a climate friendly equitable area. If cities are under 5,000 people there are some changes that must be made, such as parking.

Straite reminded that this was brought to the Planning Commission in November and at that time the Planning Commission decided to wait. The rules went into effect January 1, 2023. The Code changes will acknowledge those changes and the changes that will be required later this year. The proposed changes will get the City up to date with what the State mandates. The bare minimum has been done to comply with the State laws.

Straite said that the State wants cities to remove all parking mandates, address bike parking and add electric vehicle charging areas. The City currently has a table of parking requirements, that table will be removed. The City is not concerned about the removal because business will want adequate parking. He gave examples; Best Buy would build the spaces that they would need and if a restaurant doesn't have enough parking they probably would not survive. He said that the impact would mostly be on multi-family living, as developers would be the ones that could have less parking than needed. The State believes that with less parking it would increase bicycle use.

Straite said the City can keep parking standards, such as landscaping, etc. Most of the standards were in Table 14, all mandatory parking requirements have been removed. He said that most parking regulations will stay the same. There are three changes, one is a requirement for canopy shade. He pointed out that although it shows 50% in the document, the State had made some changes after adoption, and it is actually 40%. The provisions are the same. He will review the latest version to make sure the City is consistent with the changes.

The State now requires carpool and vanpool spaces. The City also has to allow redevelopment of parking areas but only for additional bus stops and bike parking.

Commissioner Doug Iverson asked if all bike parking spaces had to have outlets or could the City make adjustments. Straite explained that these were State mandated requirements. Iverson said that it promotes homelessness and puts a burden on the business owner. Straite agreed. He added that there was nothing in the code that said that they wouldn't be allowed to put them on timers. Iverson said this could stifle potential businesses that would want to come into Millersburg. Straite added that there was also a new requirement that a business must add conduit for vehicle charging stations. They do not have to add the chargers. The State is trying to add more transportation alternatives.

Peltier asked for clarification, if a business owner has to have bike parking and are responsible for electrifying the spot. Straite affirmed; he added that the State does not

say that it must be made available to the public. He used an example that an employee could ride their bike to work and then be able to plug it in, there is value in being able to do that.

City Attorney Alan Sorem asked Straite to double check the rules when they are published. Straite explained that all the changes that were made had been with the first draft from the State and he would review and update before the first public hearing. He will not add anything that the State is not requiring.

Peltier asked what would happen if a business owner determined that they do not need any bicycle spots. Straite explained that vehicle parking spaces are optional, bicycle spaces are not.

Iverson asked if it was for every commercial facility. He used an example of a strip mall. Straite affirmed. He added that if ATI were coming in today they would need to add them. The idea is that it helps the public and the employees.

Commissioner Alex Patterson asked if a business owner would be allowed to charge for electricity. Straite said the State didn't address it but thought the business owner would be able to. Iverson asked to add it into the City's Code. It would allow the owner flexibility. Straite said that he would look at the Code and confirm that it is consistent with the State requirements, and he will talk to the Department of Land Conservation (DLCD). Sorem explained that usually the City is writing out what is prohibited and what is mandated. Currently, they have parking for electric vehicles, and they have to pay to use the electricity. He added that Commissioners may want to clarify but adding too much can create a lot of unexpected concerns. He encouraged Straite to do the research and then it can be looked at to see if there needs to be more clarification.

Iverson asked about Section 330.80.9 if there was an employee count required. Straite replied no. Iverson asked if it was required with only two employees. Straite affirmed.

Iverson said he had looked up ORS 455.417 and the percentage was 20% not 40%. Straite said he would look into it.

Iverson expressed his disapproval of electric vehicles. He shared that J.D. Powers said, there are 250 million cars in the United States and less than 1% are electric. In Oregon there are 1.3 million registered cars and 1% is 13,000 vehicles statewide. He does not believe that 13,000 cars statewide mandates the City to do this. Straite said that the State's first version required chargers, but the State heard that this would chase business away, and the State came up with the compromise of having the conduits. Peltier said that they may be trying to anticipate more electric vehicles in the future. They have been mandating specific distances for charging stations. Commissioners discussed California outlawing gas cars by 2030. No direction was given.

Iverson recommended that the City mandate that the chargers be outside the multifamily units and not inside, as they have a tendency to explode. This would be a safety issue and a disadvantage if the chargers were in the basement of a multifamily unit, if it exploded and took down the building. Patterson asked if a car port would be considered outdoors or indoors. Iverson replied outdoors if it wasn't attached or in the building. Straite will ask the DLCD.

Straite explained that the development standards are reviewed by the Planning Commission every time a new project is approved. After that it becomes a code enforcement issue. This happens with landscaping. There is no active inspection that trees are providing the required canopy. At the design stage the applicant must show that trees would provide at least 50% parking lot coverage in 15 years. Iverson said it says 40% now. Discussion regarding coverage and inspection took place. Straite explained that the City's Code enforcement is complaint driven.

Sorem asked for clarification regarding what uses trigger the standards for bike parking. Straite will review. Sorem said when a subdivision comes in, the City is not reviewing every individual lot to ensure a bike parking spot. New single-family homes are not required to have electric charging ports outside for their bike parking. Straite agreed.

Iverson thought it would be triggered if someone had a parking lot. Sorem replied saying if its multiple-family housing the State does require bike parking. Some jurisdictions will differ for retail, office and commercial based on the number of employees. If a business is being mandated to have a parking space, these are the rules. The City is not changing what types of uses that are required to have bike parking. Straite believed that any type of land use application would need to have bike parking. He plans to review the State's Code update. He said that most cities' requirements for bike parking are based on how many parking spaces someone has. Sorem commented that section 3.03.60 shows dimensions and locations but not what triggers it.

Peltier asked if most jurisdictions were unhappy with the requirements and if there was a venue to discuss with the State. Straite explained that Bend, Eugene and Springfield love these concepts. The smaller cities do not. The City met with the League of Cities (LOC) and expressed disappointment in how they represented us during the process. A couple of smaller cities started a lawsuit with the State, other jurisdictions, including some near Portland are included. The City does not like the Climate Equitable Friendly Communities requirements.

Straite continued to definitions that the City is proposing to revise. One of the changes is for Home Day Care. He gave the example of someone who had said that they wanted to buy a house and run a Day Care out of it but didn't want to live there. Staff didn't want to allow that, but there was nothing in the Code that said it does not allow it. This would say that Day Care must be owner occupied.

Straite continued, saying the Code wouldn't allow a duplex to have an Accessory Dwelling Unit (ADU), which is out of compliance with the State. This would allow them to have an ADU.

Straite explained that for Land Use Expirations the Code wasn't clear if a property was vacant and someone wanted to come back years later to use it. This revision would have a 1-year time stamp. He said the number of year or years is arbitrary. The City wanted to be sensitive to those that have put funds toward infrastructure, so it does say that the City Manager can waive it if it is too onerous. He gave an example that if ATI went out of business and 5-years later someone wanted to put a plant there, they would not be able to meet the requirements of the new codes. The reason why a business does come in for land use approval is so that the City can review and make sure it meets the standards.



Peltier asked about the property that has been occupied on and off. Straite said the Code does have a section that addresses that. They usually have to have building approval, graded, or something coming out of the ground. The City's expiration date is an expiration date for them to start building it.

Sorem said a land use division could be construed as land use development. Straite explained that this section is for a non-conforming use and would not be applied to a subdivision. He said this section is the legal non-conforming use and clarifies when a use is legal non-conforming. Legal non-conforming is when someone has a land use entitlement but after a period of time it no longer conforms to our codes. He used the example of a fast-food restaurant that was built before the City's set back requirements, that would be a legal non-conforming element of that provision. It could be for other uses too. He used the example of instead of operating a fast food, is now operating a junkyard. The legal non-conforming use says how they can grow the business. This addresses how much they can do before they would need to come back for a land use. This is to protect the City, when someone vacates a property, before it deteriorates. This is what requires them to bring it up to land-use Code.

Assistant City Manager Janelle Booth asked if the section, Land Use Expiration 3.21.10 was only for non-conforming uses. Straite replied that was the intent. Once the use sat for more than a year the land use permit would expire. Booth clarified that if a property sat for more than a year they would have to return for land use. Straite asked if Booth was saying that it was problematic because this section says Land Use. Sorem said the City is not adding or amending something to the non-conforming section. The non-conforming section already has the provision. Straite explained this was expanding it. Straite emphasized a subdivision is not land use. Sorem suggested defining land use permits, to understand which permits are included. He listed a few. Straite shared that if a single-family home was left in an industrial zone and someone wanted to move back in after a year, this would allow the City to not allow it because it is an industrial zone.

Discussion followed regarding what non-conforming uses are and codes being updated with uses.

Sorem recommended more drafting for clarity. He approved of the idea of the City Manager having authority, but adding language that an applicant could ask for an extension. He suggested flushing out what the criteria would be for the City Manager to take into consideration to make the decision. The first extension could be free if the person shows that an effort is being made.

Peltier asked if City Manager automatically meant and/or designee. City Attorney Forrest Reid said the City tries to put it in when appropriate. Straite read in the Code where City Manager is defined and includes designee.

Patterson asked if there was a provision if there was a conflict of interest. Reid said the City relies on the ethics of the City Manager to say that he has a conflict of interest. Discussion followed about designee. There is a hierarchy. Iverson said there is no need to designate in the document, as it should be understood.

Straite continued to the Municipal Code tree revision saying that since it was a Municipal Code update, it would not be returning to the Planning Commission. The change will add some clarification for the reasons why someone could request a tree removal. It will make

it harder for individuals that just want to remove trees for aesthetic reasons. It clarifies that during the land use process trees will be looked at. The applicant would not need to return for a tree permit if it was part of the land use process. Booth explained that the City adopted this section a few years ago. Another thing the City will need to discuss is whether a tree needs to be removed because it is causing issues with the road or sidewalk. The section was added so an applicant couldn't cut trees down and then bring in an application. Iverson asked what constituted a "City" tree. Straite stated that all trees over a certain size were applicable. Booth explained that trees in the right-of-way (ROW) have provisions of what you can plant and removal. When this was adopted, it was trees over a certain size required a permit to remove. There was a discussion at Council because there were large Oak Trees that were cut down and the City heard a large outcry from the community. The Council at that time thought it was a good regulation. Someone could have an arborist evaluate their trees.

Commissioner Ryan Penning asked if he decided to remove a maple tree. Booth said it would depend on the size. Iverson clarified that the City was protecting old growth. Peltier asked Booth for clarification regarding sidewalks that are cracking because of a tree. She stated it seemed hazardous. Booth said more discussion was needed. There are incidences where trees are causing issues and should be removed, and new trees planted. Discussion followed regarding trees, no further direction given. Staite continued saying that the City has added mitigation. If someone removes a tree they have to plant a tree.

Sorem clarified that the City was not doing this as a land use decision with noticing. Straite affirmed. City Manager Kevin Kreitman said more discussion was needed at the staff level.

Patterson asked if there was a provision if the tree gets out of natural cycle and the cleanup. He believes that is a good reason for removal.

Iverson returned to the definitions of a Day Care; he said it read that Day Cares would not be allowed in a duplex. He suggested changing it to resident. Staite thought it would be better for it to be a homeowner, to keep it nicer in the community. Patterson like the homeowner definition. Discussion followed regarding the language and intent.

Iverson mentioned that some are doing childcare without being licensed due to needing funds. Staite explained that some childcare could be done. Kreitman recommended further discussion on this topic.

Peltier mentioned that there is a difference between home day care and a commercial facility. Patterson added there was a difference from authorized and unauthorized too.

Staite said the next section added clarification to Land Use Division. He said that the subdivision section was written with residential in mind and doesn't distinguish from residential and commercial. The needs are different. A section has been added to clarify which rules apply to residential only, commercial only and both. He gave an example of how a shopping center and industrial center would have subdivision ability. Previously it would have had setback issues. This clarifies that the footprint can be the size of the building as long as there is an easement, common ownership, regarding parking.

Straite continued to the changes to the Accessory Dwelling Units (ADU) section. The City added clarification between the differences between detached garages and ADU's and codifying a policy that has been in use. If a person has a detached garage it is treated as an accessory structure. Iverson asked if an ADU was a "granny flat". Straite affirmed. He said the code says it is allowed to put a garage on an ADU. This will clarify the rules for both.

The City is proposing to increase the maximum size for a dwelling unit. The current limit is 650 square feet. When the City adopted the ADU rules section the State was requiring it but allowing the City to regulate the size. Staff haven't seen many people requesting them. Those that have requested are concerned about the size being too strict and limiting them on what they can and can't do.

Straite said that when the City was recently working on the Housing section of the Comprehensive Plan, the public requested that the City look at the size of ADU's. There is a policy within the new housing section that the City will revisit ADU size. He showed a table showing surrounding cities ADU sizes. He pointed out that 900 square feet was a popular size. Staff is proposing a sliding scale. The proposal says that an additional 100 square feet can be added for every 1,000 feet over 11,000 square feet lot size. Staff put an arbitrary maximum of 900 square feet. Peltier said that adding square footage defeats the purpose of an ADU. She stated that she agreed with the proposal. Straite said the ADU proposal mirrors the Accessory Structure section. He used an example of someone wanting to build a shop. Peltier asked if most subdivisions max sizes for ADU's 650 feet would be due to the lot sizes. Straite agreed.

Discussion followed about 650 square feet structures and sliding scales. Straite reminded them at the end that this would be brought back to the Commissioners for a public hearing at a later date, they had time to consider what they wanted.

Straite continued to the section on Livestock. The current Code uses the word chicken when it should say fowl, this allows for different kinds of birds. Booth shared that someone had asked if they could have ducks, which triggered the review. In reviewing staff found there was an unlimited number of fowls. Staff didn't think someone should have an unlimited number. He said he attempted to do a list of a standard pet. He asked for their input on the list.

Straite continued to Street Names. He said developers get to pitch the names, traditionally, staff will review with the emergency response team, the Sheriff's department, and GIS staff. Staff have added a provision to allow the City an opportunity to veto bad names. This will not change the process.

Straite moved on to Commercial Office Design standards. The Code technically says that even though a wall would never be seen it required an architectural feature for a minimum of 30%. He asked to remove that requirement. Peltier agreed.

Straite continued to Historic Zoning Overlay saying that it was added when the Code was drafted four years ago but staff didn't think that it would ever be used. Someone has proposed using it and there are areas that need attention. The first change is to change the Historic Committee to a Historic Commission because they would make land use decisions. This also would assign a notice requirement. Staff is proposing to remove special timing requirements to historic designation and added three historic case types.

In addition, adding an appeal process. The three case types help for noticing requirements and keeping things clear.

Staitte said a change happening now is adding a historic zoning overlay section to the Grange. The application happened before this proposed revision and none of this would apply to that specific application, it will be processed to the current code. This update will apply to future changes. Peltier asked about the Millersburg Cemetery. Staitte replied that the cemetery is the only designated landmark. In the past the Grange was mentioned but didn't receive a historic overlay designation.

Staitte continued to the Street Trees section. He said that this is different than tree removal. This section is in the land use code, and he felt there needed to be some clarification on what was needed and that street trees were required.

Staitte said the Code did not have any requirements for skirting on manufactured homes and he is proposing it be added. The City cannot make any rules for manufactured homes that are not required for regular homes. Adding skirting will make the manufactured home look like a regular home.

Staitte explained what street vacations were; a designation on where a street should be, an unbuilt street, a "paper street". There are times when the "paper street" doesn't make sense and needs to be removed. The State has requirements to do this but allows local jurisdictions to adopt their own, and it would trump the states requirements. The City is proposing to mirror the State's system. It plugs it into the infrastructure of the City's Type IV permitting process. Booth added that the City is looking at some ROW that are in need of clean up and this is why staff is looking at this.

Staitte said that the Flag Lot section doesn't address setbacks clearly. The update is that setbacks are required but it would allow the City to designate where the front of the property is. Discussion followed about flag lots; no direction given.

Staitte pointed out a couple illustrated figures that needed to be revised, Figures 1 and 59 because they were wrong and misleading. He had reached out to the artist about making the changes and the artist was fine with the changes. He pointed out that the setbacks were incorrect and the drawing that was attempting to show an accessory structure was connected to a breezeway, making it one structure. He removed the breezeway from the drawing. He added that there are times when someone wants to build a larger accessory building and by adding a breezeway it has been allowed. Iverson clarified that the attachment doesn't have to be enclosed. Staitte affirmed.

Staitte continued to Figure 28 in section 1.2.20, explaining that the figure was trying to show where zero lot lines works. The figure shows row houses and town houses, however, these are not allowed in Millersburg. The figure was confusing and misleading, so it has been removed.

Staitte said Figure 60 is part of the accessory dwelling section and the setbacks that were incorrect were removed. The figure will show that a setback is required but someone must look at the code to see what it is in case it changes. Also, it was called an accessory dwelling but showed the breezeway. The breezeway has been removed to make it clear that it is detached.

Straite showed Figure 63 and explained that there would not be two structures on a flag lot. A second structure could be on a flag lot but two single-family homes could not be. The updated version is showing what a flag lot access would look like.

Straite continued saying there has been a lot of analysis of what the City has for industrial space. The City had a lot of industrially zoned property that was unbuildable as industrial, which is skewing the statistics. He showed zoning map change #1, the Old Simpson Timber property. When Simpson left there was a use restriction that said that it could only be open space. The City is proposing to change it from GI to PF (Public Facilities). This will remove the acreage off the GI inventory. City Manager Kevin Kreitman added that Simpson still owns the property and they put a conservation easement on the property. Listed in the agreement are the State of Oregon and Albany Parks. This occurred in approximately 1989. The City has continued to show it inappropriately since the property is unable to be industrial. Iverson asked if changing it to PF, meant it would allow public access. Kreitman explained that the property is owned by Simpson. The property is part of Simpson Park and there is public access. Peltier asked how it was accessed. Kreitman replied it is accessed off Talking Water Garden. Straite added a reply to Iverson's question, saying that PF zoning does not mean public access. He used the example of the City's lift stations, which are also zoned PF.

Straite showed zoning map change #2, saying this property is in the FEMA floodway and could never be developed. It is not a large piece of property, and the City does want to keep it. He showed zoning map change #3, which was not part of the agenda packet\*. The property belongs to ATI. The City met with ATI, and ATI does not plan to develop on it but uses it as buffer between I-5 and their facility. The City is proposing to change it from GI to Commercial Office (CO). This will remove it from total GI inventory. By changing it, if the current owner wanted to develop it, it would be an appropriate use. This reduces the number of current industrial property; it will allow the City to grow industrially and be more accurate regarding what the City has for industrial property.

Straite explained the next steps in the process. He said if the Commission wanted another workshop, it could happen, but it was more cost efficient to continue with a public hearing. There is a 35-day notice requirement for the DLCD to review it. It will return to the Planning Commission, then go to the City Council for adoption, and would take effect 30 days later.

#### E. PLANNING UPDATE

**7:54 p.m.**

Straite said he didn't have anything, there are rumors that a few land use should be coming soon.

Kreitman commented that when the City was incorporated, in 1974, it was identified as a regional employment hub because of the railroad and I-5 access. At that time the City had almost 1,200 acres of heavy industrial land. Staff has seen that the City has actually contracted industrial land since it was adopted. Straite added jobs have been contracted too. Kreitman said the City has 800 less jobs since 1986. Straite said the City is attempting to correct this, looking at more industrial that will bring the higher tax value to the citizens.

Commission Ryan Penning asked how many jobs were related to the papermill. Kreitman said 300. He listed other businesses that had closed. He said Sofidel was looking to bring in 1,000 jobs. He shared that other industries looking at the City's properties are not close

to that employee count. Sofidel was unique in their proposal of number of employees and wages.

ADJOURNMENT: Meeting adjourned by Chair Anne Peltier at 7:59 p.m.

Respectfully submitted:

Reviewed by:



Sheena Dickerman  
City Recorder



Matt Straite  
Community Development Director