

CLACKAMAS COUNTY BOARD OF COUNTY COMMISSIONERS

Study Session Worksheet

Presentation Date: September 21, 2010 Time: 10:15 Length: 45 minutes
Presentation Title: Report on interest group meetings, Proposed Zoning and Development Ordinance Amendments to Encourage Sustainable Practices (ZDO-224 -- Sustainability Phase I)
Department: Department of Transportation and Development, Strategic Planning & Sustainability
Presenters: Kay Pollack, Maggie Dickerson

POLICY QUESTION

Seeking policy direction from the Board on several specific choices.

ISSUE & BACKGROUND

As part of the implementation of the BCC's adopted Action Plan for a Sustainable Clackamas County, Division of Strategic Planning and Sustainability staff have been working on a number of proposed Zoning and Development Ordinance amendments to encourage sustainable development practices (ZDO-224 -- Sustainability Phase I). This project was reviewed with the BCC at a study session on June 8, 2010 and staff received direction to conduct a review process with citizens and interest groups. This process was conducted in August of this year. During the course of ten meetings, staff met with 99 people and collected many pages of comments and suggestions on the proposed ordinances. The attached report summarizes the results of the contacts, and includes a spreadsheet of concerns and suggested additions and deletions, nine meeting summaries, additional verbatim comments submitted by individuals via email, and the ZDO-224 PowerPoint presentation.

At each meeting, four discussion questions were posed to the participants.

1. *What areas do you support and why?*
2. *What are your major areas of concern and why?*
3. *What, if any, additions or deletions would you make to the Phase I proposals?*
4. *What additional sustainability measures would you like the County to consider in the future?*

There was a great deal of general support for the effort to incorporate sustainability into the County Zoning ordinance. Participants offered thoughtful critique and many suggestions of ways to improve the proposed amendments. There were also concerns and criticisms of specific items. All the responses are included in the attached Report on the Review Process.

Staff will attempt to incorporate suggestions and address concerns raised in the review process by modifying the proposals being submitted to the Planning Commission. A few issues raise policy choices for which we request direction.

QUESTION(S) PRESENTED FOR CONSIDERATION

Staff requests direction on specific policy questions, as follows:

Solar Access proposals:

Issue: The proposal would eliminate current ordinance provisions that allow a resident to apply for a permit to require a neighbor to cut a tree blocking the resident's solar access. Most agreed this provision was extreme, but there were concerns about a neighbor's ability to infringe on solar access after a resident has made a large financial investment in a solar array. Examples:

- Solar panels, a \$20,000 – 30,000 investment to operate over a useful life of 20-30 years, need protection from a neighbor planting trees afterwards that would block solar access. Should there be some protection for the resident investing in solar technology?
- A concept similar to vested rights was mentioned several times – if the tree predated the solar array, should the tree be allowed to stay? If the solar array came first, then should the neighbors' trees be restricted.

Options: (recommendation is in **bold**)

1. Stay the course; eliminate any restrictions on neighbor's trees.
2. **Do not eliminate Section 1019 at this time. Forward the responsibility to subsequent phases of the Sustainability Ordinance project to consider limiting a neighbor's ability to plant trees that impact solar access after a solar array has been installed and investigate policies that could achieve this goal in an equitable manner:**

Parking lot and space standards for (large format) retail:

Issue: Large-format retail developers expressed concerns about how the following parking standards do not fit their formulas for success. They told us that parking is the lifeblood of retail. The majority of shoppers come by car, and convenience is critical for them. If it is not convenient to park or access the store, they will not come, and the development will fail. This proposal:

- a) Requires parking to be located to the side or rear of buildings. This creates several problems:
 - "Double loading" – when a building has to have two doors, one facing the street and one facing the parking lot, the business must also have cash registers, or at least surveillance, at each of those locations. Many businesses fail in these buildings. Businesses need to be able to organize check-out systems that work with their own format. This is why the front door of these buildings is often locked.
 - It is difficult to provide police and other surveillance of parking located behind buildings. Women will be afraid to park there, and, since the majority of shoppers are women, this can kill a business.

Options: (recommendation is in **bold**)

1. Stay the course; require parking to the side or rear of buildings.

2. **Add criteria that if the parking area cannot be located so that it is visible from a street, so as to provide for surveillance of the parking lot, this requirement may be waived.**
 3. Apply the provision only in centers, corridors, neighborhood commercial station areas
- b) Allows smaller parking spaces for up to 100% of the required spaces, and allows no more than 50% of spaces to be larger than 8 ½' X 16'. However, grocery stores, Costco, buildings supply stores and others need larger than normal spaces, not smaller, to prevent "door dings" and allow people to manage loaded shopping carts.

Options: (recommendation is in **bold**)

1. **Stay the course; this allows 50% of the spaces to be larger than 8 ½' x 16'.**
2. For retail development only, allow a larger percentage of parking spaces to be larger than 8 ½' X 16'.

Small livestock on urban lots

Issue: There was both lively support and opposition for increasing the opportunity for backyard livestock in the urban area. The proposal would modify the standards for backyard hens, ducks and rabbits by reducing required setbacks in zones for single family residences and some duplexes. The current setback from other residences is 100'; the proposal is for a 5' setback from the property line. Citizens and staff saw potential for poorly cared for animals, odor and other nuisance problems, and enforcement problems.

- Will they attract coyotes, rats, be a public health hazard?
- How do you control the number of animals kept?
- What do you do if people don't keep them up and it starts to smell?

Options: (recommendation is in **bold**)

- Stay the course; maintain the proposal for a 5' side and rear yard setback and 12 adult animals.
- **Reduce the numbers of animals allowed to 6 adult animals.**
- Increase the setback from side property lines.

OPTIONS AVAILABLE

Options are listed above.

RECOMMENDATIONS

Recommendations are shown above in bold font.

SCHEDULE FOR STUDY SESSION

Division Director/Head Approval *RJP*
Department Director/Head Approval *Car Gilman*
County Administrator Approval _____

For information on this issue or copies of attachments, please contact Kay Pollack @ 503-742-4513.