



CITY OF PENDLETON OREGON

Joint Planning Commission / City Council Periodic Review Work Session

City Council Chambers

May 15, 2013

6:00 – 8:30 PM

Prepared by Winterbrook Planning / Reviewed by City Planner Evan McKenzie / May 2, 2012

Joint Work Session Purpose

The City of Pendleton is now completing Phase II of its locally-generated and state-approved Periodic Review Work Program. The purpose of the May 15, 2013 joint work session is to: (a) summarize where we are in completing Phase II Periodic Review Work Program tasks; and (b) present proposed Comprehensive Plan and Zoning Ordinance amendments that will complete the Periodic Review process. To put things into perspective, the May 2011 staff report is attached as Appendix 1. This two-year old staff report identified progress made in Periodic Review Phase I and outlined policy issues to be addressed and tasks to be completed in Phase II.

This staff report includes revisions to correct a mistake. Winterbrook incorrectly stated that there had been “ongoing communications” with the Confederated Tribes of the Umatilla Indian Reservation (CTUIR) regarding the Periodic Review process. According to CTUIR representatives, this has not been the case. Winterbrook apologizes for this error. CTUIR is concerned that it has not had sufficient time to review Periodic Review documents – especially those related to natural and historic resource preservation. Please see pages 9-10 of this report.

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I. Draft Ordinance 3836

Draft Ordinance 3836 is provided for your review. The exhibits attached to this ordinance implement (a) Comprehensive Plan policies and the recommendations in Tech Memos adopted by Ordinance 3814 (September 2011); and (b) carry out policy direction resulting from the Joint Planning Commission – City Council Work Session held on May 24, 2012.

If recommended by the Planning Commission and approved by the City Council this ordinance would adopt the following Comprehensive Plan and Zoning Ordinance amendments:

COMPREHENSIVE PLAN AMENDMENTS

Exhibit A: Exhibit A includes amendments to the Pendleton Comprehensive Plan Map to show: (1) a new *Central Mixed Use (CMU)* plan designation (replacing a patchwork of Commercial, Industrial and Residential designations in the downtown area); (2) three new *Residential Opportunity Area (ROA)* plan designations (replacing existing Low, Medium and High Density Residential designations in mapped areas); and (3) two new *Mixed Use Opportunity Area (MOA)* plan designations (replacing existing Light Industrial, Commercial and Residential designations in mapped areas).

Exhibit B: Exhibit B includes a new *Pendleton Opportunity Areas* element as part of the Pendleton Comprehensive Plan; this element provides the policy basis for amendments to the Zoning Ordinance found in Exhibit F. Exhibit B also includes two supporting Technical Memoranda that provide the rationale for adopting the *Pendleton Opportunity Areas* element and related Comprehensive Plan Map designations; however, these “tech memos” are not in themselves policy documents:

- *Tech Memo #5.1: Potential Residential Redesignation Areas and Policy Options*
- *Tech Memo #5.3: Commercial Lands and EOA Review*

Exhibit C: Exhibit C is the ***Pendleton Local Wetlands Inventory (LWI)*** which is incorporated into the Pendleton Comprehensive Plan as an inventory document. The LWI has been prepared in accordance with Department of Land Conservation and Development (DLCD) and Department of State Lands (DSL) administrative rules. It is anticipated that minor changes will be made to the LWI in the future based on DSL review and as DSL concurs in more specific wetland delineations.

Exhibit D: Exhibit D is the ***Goal 5 ESEE (Economic, Social, Environmental and Energy) Consequences Analysis*** that supports Pendleton’s riparian corridor and wetland protection program; the policy basis for this program was adopted as part of the Pendleton Comprehensive Plan in 2011 by Ordinance #3814. This ESEE Analysis also supports adoption of the Riparian Corridor and Wetlands Subdistrict found in Exhibit G.

HISTORIC PRESERVATION BACKGROUND DOCUMENTS

Exhibit E: Exhibit E includes two supporting Technical Memoranda that provide background for adoption of a new Historic Preservation Ordinance (based on The State Historic Preservation Office model ordinance) that will replace the existing Historic Conservation Subdistrict (Zoning Ordinance Article XIV).

- *Tech Memo #11.1: Certified Local Government Process; and*
- *Tech Memo #11.3: Pendleton Historic Resources Inventory.*

ZONING ORDINANCE AMENDMENTS

Exhibit F: Exhibit F includes a new ***Article XV: Opportunity Areas (OA) Subdistrict*** and replaces Article XV: Mixed Use Development Regulations Subdistrict. Exhibit F also includes relatively minor but systematic amendments to *Section 5 – Subdistricts, Article IV Residential Zones, Article V General Provisions for Residential Zones, Article VI Commercial Zones, and Article VIII Industrial Zones* of the Zoning Ordinance. These Zoning Ordinance amendments implement the new Opportunity Areas element of the Comprehensive Plan.

Exhibit G: Exhibit G includes a new ***Article XVII: Riparian Corridor and Wetland (RCW) Subdistrict*** that replaces Article XVII (Sections 112-113): Umatilla River Subdistrict. The RCW Subdistrict implements Comprehensive Plan policy adopted in 2011 (Ordinance #3814) and provides local protection for stream corridors inventoried in 2011 and wetlands identified on the Pendleton LWI completed in 2013.

II. Pendleton's Phase II Periodic Review Work Program (2012-13)

A. Background

In September of 2011, the City Council adopted a series of Tech Memos and Comprehensive Plan amendments (Ordinance #3814) that set the stage for Pendleton's Phase II Periodic Review Work Program.

In May of 2012 the Planning Commission and City Council participated in a Joint Work Session that provided further direction to Winterbrook and City staff regarding (a) the City's historic preservation program, and (b) the "Opportunity Area concept" which provides greater development flexibility through a master planning process.

The Phase 2 Periodic Review Work Program originally had six major objectives / tasks as outlined below in II.B (Completed Work Program Tasks).

In March of 2013, the Department of Land Conservation and Development approved a City request to change the work program (and the grant that supports it):

- **Task 3** was amended to remove the final Public Facilities Plan from the Phase 2 grant at the recommendation of Bob Patterson, Public Works Director; and
- **Task 4** was amended to include implementation of the Opportunity Areas and Central Mixed Use planning concepts at the recommendation of the Planning Commission, City Council and Citizens Advisory Committee.

B. Completed Work Program Tasks

In the discussion below, **each work program task is summarized in bold** and then *progress on each task is noted in italic font.*

1. Complete the City's Goal 5 Natural Resources Program

By taking the following steps:

(a) prepare and adopt a Local Wetland Inventory (LWI) for the existing UGB and the Industrial Reserve;

The draft Pendleton Local Wetland Inventory (LWI) is included in your packet as Exhibit C and is part of the amendment package recommended for adoption this month. An Open House was held in Pendleton to review this document in December of 2012. The Division of State Lands (DSL) has conducted a preliminary review of the draft document and Winterbrook has incorporated that agency's concerns into the draft before you. The City hopes to have final comments from DSL in hand prior to the scheduled public hearing.

(b) conduct a City-wide ESEE analysis;

The draft Goal 5 ESEE Analysis is included in your packet as Exhibit D (Goal 5 ESEE Analysis for Developed Stream Corridors and Wetlands). The ESEE Analysis provides background and support for the proposed Riparian Corridors and Wetlands (RCW) Subdistrict.

(c) prepare and adopt a program to protect locally significant wetlands, developed riparian corridors and wildlife movement corridors consistent with the Goal 5 administrative rule.

The draft Riparian Corridor and Wetlands (RCW) Subdistrict is included in your packet as Exhibit G. The RCW Subdistrict carries out Comprehensive Plan policy adopted by the City Council (Ordinance 3814, September 2011). This subdistrict has clear and objective standards, is supported by the ESEE Analysis (Exhibit D) and allows setback reductions (from 50' to 25') in developed areas in exchange for streambank restoration. The RCW Subdistrict would replace the existing Umatilla River Subdistrict. The Confederated Tribes of the Umatilla Indian Reservation, which has a keen interest in maintain water quality in the Umatilla River Basin is reviewing this document.

2. Complete the Buildable Lands Inventory (BLI)

Based on (a) the results of the Goal 5 process; and (b) updated GIS data from the City; and (c) the Goal 9 (Economy) and 10 (Housing) administrative rules.

The Planning Commission and City Council reviewed Tech Memos 3.1: Revised Buildable Lands Inventory and 3.2: Commercial Buildable Lands Inventory at the May 24, 2012 Joint Work Session. This document showed a “surplus” (i.e., there is more than a 20-year supply) of buildable land in all categories. However, it was also determined that much of the City’s multiple-family land supply is located near the edge of the UGB – far from urban services. See discussion under Task 4.

Adopt a new Public Facilities (PF) zone to for schools, parks and colleges within residential zones to streamline the development review process.

*At the May 24, 2012 Work Session the Planning Commission and Council reviewed Tech Memo 5.2: Potential Public Designations and decided **not** to create a new PF Zone because such a zone is not a state requirement as previously believed. The Planning Commission and Council did recommend, however, that similar public and private land uses be reviewed based on their impact – rather than on ownership. This policy direction is carried out in proposed Zoning Ordinance amendments found in Exhibit F.*

3. Prepare and Adopt a Public Facilities Plan (PFP)

For the existing UGB consistent with the Goal 11 administrative rule; the PFP should also address the provision of services to Industrial Reserve areas.

Winterbrook prepared a draft Public Facility Plan outline for City staff review in 2012. In the meantime, the Public Works Department had contracted with an outside engineering firm to prepare updates to sanitary sewer, storm drainage

and water master plans. Public Works Director Bob Patterson recommended that the PFP not proceed until we have up-to-date information on public facilities projects and their location, timing and funding options. This decision freed up grant dollars to implement the Opportunity Areas concept described in Tech Memos 5.1 and 5.3. Please see the discussion under Tasks 4.c and 4.d below.

4. Prepare and Adopt Commercial and Residential Plan Map Amendments

(a) Refine commercial site suitability needs for various types of commercial development opportunities; [At the May 24, 2012 Joint Work Session

Winterbrook introduced the concept of a mixed use plan designation in the downtown area. In Tech Memo 5.3 Commercial Lands and EOA Review Winterbrook developed and applied criteria for determining where various types of commercial plan designations should be placed and recommended no changes to the location of existing commercial zones. Tech Memo 5.3 also provides the basis for residential / mixed use opportunity areas addressed in more detail under Task 4(d) below.]

(b) Re-designating land within the UGB to meet identified commercial land needs consistent with the Goal 9 administrative rule.

Tech Memo 5.3 recommends (a) a new Central Mixed Use Comprehensive Plan Map designation that would be implemented by amendments to the text of existing commercial, residential and industrial zones; and (b) re-designating land in the Goad Road (currently zoned for Residential, Commercial and Industrial) and St. Anthony Hospital (currently zoned Commercial and High Density Residential) areas as “Mixed Use Opportunity Areas” on the Comprehensive Plan Map.

(c) Applying adopted residential plan designation criteria to buildable land within the UGB to create complete residential neighborhoods with buildable High and Medium Density Residential areas.

Based on Tech Memo 5: Residential Plan Amendments (June 2011), the Council adopted Comprehensive Plan criteria for determining the location of Low, Medium and High Density Residential plan designations. (Ordinance 3814, September 2011) In Tech Memo 5.1 Potential Residential Redesignation Areas and Policy Options (June 2011), Winterbrook applied adopted residential designation criteria and determined that much of the City’s Low Density Residential land met Medium or High Density Residential designation criteria, and that much of the City’s High Density Residential land met Low or Medium Density Residential designation criteria.

(d) Provide a concept – residential and mixed-use “opportunity areas” – that would be more streamlined, provide greater flexibility, and remove the necessity of cumbersome rezones.

Rather than attempting to re-designate private property through a legislative process, Tech Memos 5.1 and 5.3 present the idea of Residential and Mixed Use Opportunity Area designations, which would allow the property owner / developer to choose the appropriate land use based on performance objectives in the Comprehensive Plan. The Citizens Advisory Committee reviewed both of these tech memos in November of 2012 and recommended that Winterbrook develop Comprehensive Plan policies and Zoning Ordinance amendments to implement the “opportunity areas” concept.

(e) Provide systematic amendments to commercial, residential, and industrial zones and plan policies to implement both the mixed-use and pure residential concepts; Provide code and plan language consistent with the new concepts, local objectives, adopted natural resources and hazards regulations, and Statewide Planning Goals 9 and 10.

The “opportunity area” concepts presented in Tech Memos 5.1 and 5.3 are implemented by a revised Comprehensive Plan Map showing Opportunity Area boundaries (Exhibit A); a new section of the Comprehensive Plan entitled “Opportunity Areas and Central Mixed Use Plan Designations” (Exhibit B); and a new Opportunity Areas Subdistrict combined with systematic Zoning Ordinance amendments to implement Opportunity Areas policy direction (Exhibit F). As noted in Exhibits B and F: there are two Mixed Use Opportunity Areas (MOAs) and three Residential Opportunity Areas (ROAs):

- (a) East Side MOA (285 gross acres near Hwy 11 Interchange)*
- (b) Hospital MOA (94 gross acres near St. Anthony Hospital)*
- (c) McKay Creek ROA (115 gross acres south of SW 28th Drive)*
- (d) South Central ROA (251 gross acres south of Olney Cemetery)*
- (e) Patawa Creek ROA (191 gross acres south of I-84 / west of SE 3rd St)*

Property owners within a designated Opportunity Area have the choice of (a) developing under existing zoning or (b) developing under the provisions of this Subdistrict under a Master Development Plan or MDP. The MDP for each Opportunity Area would be subject to performance objectives (in the Comprehensive Plan) and performance standards (in the OA Subdistrict).

5. Review the City’s Historic Preservation Program

By –

(a) Applying for Certified Local Government (CLG) status from the State Historic Preservation Office (SHPO) and reinvigorating the Pendleton Landmarks Commission.

Since the May 24, 2012 Joint Work Session, Councilor Keith May has led a subcommittee to study this issue; the subcommittee recommended that the City pursue CLG status. Towards this end, the City Council adopted Ordinance 3834

establishing the Pendleton Historic Preservation Commission on May 7, 2013. Draft Ordinance 3839 includes new Historic Preservation procedures and review standards based on the State Historic Preservation Office (SHPO) Model Code.

(b) Updating the City’s historic landmarks inventory;

Tech Memo 11.3: The Pendleton Historic Resources Inventory, provides an historical overview; a description of historic resources in the Downtown, Southeast Pendleton, Southwest Pendleton and North Pendleton subareas; recommendations for future action; and a Survey of potential additions to the Pendleton Historic Register.

(c) Amending the historic preservation ordinance to comply with state law. *The Periodic Review work program anticipated that Winterbrook would recommend technical amendments to the Historic Conservation Subdistrict. However, under Councilor May’s leadership, a new Historic Preservation Ordinance was developed based on SHPO’s model ordinance. As noted above, The City Council adopted Ordinance 3834 establishing the Pendleton Historic Preservation Commission on May 7, 2013. Draft Ordinance 3839 includes new Historic Preservation procedures and review standards based on the State Historic Preservation Office (SHPO) Model Code.*

6. Implement an effective public and agency outreach program

To ensure an inclusive and fully coordinated review and adoption process as called for in Statewide Planning Goals 1 (Citizen Involvement) and 2 (Land Use Planning).

The City had provided multiple opportunities for public and agency participation, including:

- *Public hearings before the Planning Commission (June 30, 2011) and City Council (September 20, 2011) prior to adoption of Ordinance 3814 (2011 Comprehensive Plan and Zoning Ordinance amendments that served as the foundation for much of the 2013 amendment package);*
- *Two joint Planning Commission / City Council work sessions (May 24, 2012 and May 15, 2013);*
- *CAC meetings to review draft technical memoranda that serve as the basis for this plan amendment package (November 8, 2012, November 15, 2012, and November 22, 2012);*
- ***Although called for in the DLCD Grant, a representative of the Confederated Tribes of the Umatilla Indian Reservation (CTUIR) was not invited to participate in CAC meetings;¹***

¹ The Periodic Review work program reads in relevant part:

“The Project will employ a technical advisory committee (TAC) composed of local government and state agency staff and others identified by the TAC. The role of the TAC is to review Project materials and advise on technical issues throughout the project. TAC members shall consist of representatives from DLCD,

- *An open house to review the draft LWI (December 6, 2012);*
- *Ongoing communications with the Department of Land Conservation and Development, the Department of State Lands, the Umatilla County Planning Department, ~~the Confederated Tribes of the Umatilla Indian Reservation~~, and the State Historic Preservation Office;*
- ***In addition to emails and phone calls beginning in late April, a telephone conference with Winterbrook Planning, DLCD and CTUIR regarding the Periodic Review process and proposed comprehensive plan and zoning ordinance amendments on May 9, 2013;***
- *Scheduled public hearings before the Planning Commission (May 16, 2013); and City Council (May 21, 2013); and*
- *Umatilla County public hearings necessary for co-adoption as required by the Joint Management Agreement between the city of Pendleton and Umatilla County for Comprehensive Plan and Zoning Ordinance amendments affecting unincorporated land within the Pendleton UGB.*

III. Local and State Review, Adoption and Acknowledgement Process

The review, local adoption and Land Conservation and Development acknowledgment process should work as follows:

- A joint Planning Commission – City Council is scheduled for May 15, 2013. Two ordinances will be considered at this work session: Ordinance 3836 (adopting Exhibits A-G) and Ordinance 3839 (adopting historic preservation procedures and standards). **Based on the telephone conference with CTUIR representatives on May 9, 2012, it is likely that CTUIR will request that the Planning Commission public hearing be continued to address concerns related to natural and historic resources (Ordinance 3839 and Ordinance 3836 - Exhibits C, D, E and G).**
- After considering comments from Planning Commissioners and City Councilors at the May 15th joint work session, Winterbrook carry these concerns forward to the Planning Commission public hearing scheduled for May 16, 2013.
- Following the Planning Commission hearing on May 16th, Winterbrook will work with Community Development staff to make any recommended changes for consideration at the City Council’s scheduled public hearing on May 21, 2013. Council changes will be noted and included in the final set of exhibits to both Ordinances.

Governor's IRST, Umatilla County, Confederated Tribes of the Umatilla Indian Reservation (CTUIR), City of Pendleton, PRAT Team, and other identified and affected agencies by the TAC committee, and the Project consultant. The TAC will meet on a regular basis to review technical analysis and recommendations prepared by the City of Pendleton staff and the consultant.”

- The Mayor would then sign the two ordinances and Winterbrook will work with Community Development staff to forward adopted Comprehensive Plan and Zoning Ordinance amendments (excluding Tech Memos) to Umatilla County for its review.
- Following co-adoption by the Umatilla County Court, Community Development staff will work with DLCD representative Grant Young to prepare the notice of final local decision. The City will then be eligible for disbursement of grant funds.
- Following DLCD review and Director approval, the Comprehensive Plan and Zoning Ordinance amendment package will be “acknowledged” and in effect.

~~Of course, it is possible that~~ **After hearing public testimony**, the Planning Commission may decide to continue the May 16th public hearing to address citizen, agency or tribal concerns. In this case, the City Council public hearing would be rescheduled (as least for those exhibits that turn out to be more controversial than expected) and the local adoption and state acknowledgment process would be delayed.

Winterbrook, DLCD and Community Development staff have done our best to minimize the likelihood of this occurring by involving the community and state agencies throughout the process – in public work sessions, open houses, CAC meetings and public hearings. However, **as noted above, CTUIR representatives were not asked to participate in the public review process as called for in the DLCD grant.** Should opposition or coordination problems emerge to one or more exhibits, it is more important to get this right – by addressing legitimate public and agency concerns – than it is to hurry the Comprehensive Plan and Zoning Ordinance amendment package through the process.