

MINUTES

Creswell Planning Commission
Creswell Community Center – 99 South First Street
Creswell, Oregon

November 15, 2012
7:00 p.m.

PLANNING COMMISSIONERS PRESENT: Bruce Oelke, Alan Pointer, Lloyd Safley, Gary Ludeke, David Christopher, Dennis Grice, Commissioners; Denise Walters, Creswell Planning, Staff

PLANNING COMMISSIONER ABSENT: Dan Stockbarger

Commissioner Oelke convened the meeting of the Creswell Planning Commission (CPC) at 7:00 p.m.

I. MINUTES OF October 18, 2012

The heading of the minutes was amended to delete the word “and”.

Commissioner Christopher, seconded by Commissioner Grice, moved to approve the October 18, 2012 meeting minutes as amended. The motion passed unanimously.

II. AUDIENCE (comments on anything NOT on the agenda)

None.

III. COMMISSIONER COMMENTS

Commissioner Safley commented that the October 18, 2012 minutes were again very well written.

Commissioner Christopher welcomed Mayor Stram to the meeting.

IV. POLL MEMBERS FOR CONFLICTS OF INTEREST

None.

V. CONTINUED BUSINESS – Year Round Mobile Food Vendors

- **Sample Municipal Code**
- **Commissioner Discussion**

As a point of clarification, Ms. Walters said a vote from the Commission was not expected at this meeting. She had provided a sample ordinance entitled “An Ordinance Relating to Mobile Food Units, Creating a New Municipal Code Chapter ____, _____.” The sample ordinance was based on the City of Corvallis’s ordinance as it addressed many of the components that Creswell had discussed. There were still a lot of issues to be discussed and addressed, but Ms. Walters wanted to make sure she was proceeding in the direction the Commission wanted and that she had not missed any of the components the Commission wanted. She said she still needed to talk with Building Officials, the Fire Marshall’s Office and the Circuit Court to make sure the ordinance made sense with how those agencies did business. Once the ordinance was figured out there would also be a companion piece of determining how to deal with other types of mobile vendors.

The sample ordinance contained a purpose statement which addressed General Commercial and Downtown Commercial Zones on a year-round basis. This is where the types of use, whether bricks and mortars or a mobile unit, would be allowed to occur.

The next section of the ordinance stated that a permit would be required. The words “Building Official” was in italics as Ms. Walters envisioned the permit would be a shared building/planning responsibility and she still needed to talk with Building Officials.

Commissioner Safley asked if the owner of a property was responsible for the permit, and was there any responsibility of the vendor to also have a permit.

Ms. Walters responded that that was an area of the language that still needed to be worked on. She said the City of Corvallis developed its ordinance for multiple mobile food units on a lot and she had asked how they handled a single unit on private property. Corvallis said they were under a temporary use permit because in their area it was a university town and most of the vendors were on the university strip Thursday through Saturday nights. Creswell was not in that circumstance. The purpose of linking the property owner was that they were ultimately the responsible party for the property. She said she did not want the City to be in the middle of issues between the property owner and the vendor. The vendor and the property owner could be joint applicants. She would ask for the City Attorney’s assistance on the permit issue and determine if it could be the property owner, the vendor, or both.

A short discussion ensued regarding parking requirements and Ms. Walters said she would talk with the City Attorney to determine at what point in time the parking requirement would be factored in. In response to Commissioner Ludeke’s question about another activity taking place on the lot and would that change the parking requirements, Ms. Walters said she would ask that question of the City Attorney as well.

Commissioner Oelke asked if the Commission was in agreement that the food vendor would be responsible in the permit process. He asked that as part of the permit process would it be known who the food vendor was and did that vendor have the necessary permits.

Ms. Walters responded that was one of the submittal requirements she had added in, which was proof of the vendor's Lane County permit which would be required at the time of application.

Commissioner Grice offered his opinion that the vendor should be required to go through the process of acquiring the required permits and then the property owner could be the co-signor as a responsible party.

Commissioner Ludeke asked if a mobile vendor was located on a state highway would Oregon Department of Transportation (ODOT) become involved. Ms. Walters said she would check with ODOT's permitting agencies to see if that would trigger anything for the property owner.

The next section of the sample ordinance discussed was Definitions. Under Definitions the sample ordinance stated that mobile food units were limited in size to 16 feet in length and/or 128 square feet. Commissioner Safley thought interior and exterior should be defined in regard to overall size. He also asked if they could look at vision clearance.

The Permit Application of the sample ordinance addressed what the City would want require:

- Total square footage of the area proposed for mobile food unit use and circulation
- Location of mobile food unit on the site
- Existing development on the site
- # and dimension of parking spaces (if any) to be occupied by the mobile food unit and customer seating if applicable
- Consistency with all setback and separation requirements
- ADA clearances into and through affected areas of the property
- Auto circulation throughout the affected areas of the property and adjacent roadways
- Number and location of waste receptacles
- Size, location, and clearances of customer seating areas, if proposed
- Copy of Lane County Health and Sanitation permits

The next section of the sample ordinance was Location Rules and Review Criteria. The Commissioners discussed how much space there should be between mobile food units. The sample ordinance stated there should be at least six feet from the outermost edge of the unit to an adjacent public sidewalk or public right-of way. The minimum space between mobile food units was discussed. Requiring 250 feet, approximately a city block, would discourage "food courts". After discussion, there was a consensus there should be a 100 foot separation, approximately one-half block, between food vendor units.

Commissioner Safley reminded the Commission they were not setting the guidelines, but making a recommendation to the City Council.

Commissioner Oelke expressed his concern with the 100 feet separation was that of access and traffic concerns. Ms. Walters said they would need to determine the cumulative transportation impacts. She said there could be adjustments when ODOT weighed in. Ms. Walters said on the permit application it could ask if there were other vendors within 100 feet.

Under Section d. restrooms was discussed. The sample ordinance stated there would be public restroom facilities located within ¼ mile of the site. The Commission agreed with that requirement.

Other sections of the sample ordinance acceptable to the Commission were:

- trash receptacles required on site
- maintaining accessible routes
- vision clearances
- parking requirements

Commissioner Oelke asked if awnings could hang into the vision area or not. Ms. Walters said the sample ordinance should state that no part of the awning could hang into the vision area. It was also clarified that the awning was not part of the total square footage of the mobile unit. Ms. Walters said she would better clarify and define awnings in the ordinance as not a seating area, but a walk-up area. Seating would be included in the square footage permitted.

Seating at the mobile food units was discussed. The Commission agreed there should be a maximum seating space of 10 x 10 feet, and Ms. Walters said she would add that to the ordinance.

The Commission agreed with the language of Section k. of the ordinance prohibiting the storage of supplies outside of the mobile unit. If an existing business on the site agreed to store supplies for the mobile vendor that would be acceptable.

The next section of the ordinance was Forms and Conditions of Permit. The sample ordinance stated each permit was an annual permit and would terminate on December 31st. The permit would not be transferable.

Next in the sample ordinance were requirements for properties containing a mobile food unit. This section stated the property be kept in a clean and orderly condition to support the public health and aesthetics of the community. Only those components included in the approved site plan could be stored in areas on the subject property. No use of City fixtures would be allowed. Ms. Walters said she would check with Public Works regarding the integrity of the system.

Next the Commission discussed what the hours of operation of mobile food units should be. Ms. Walters said the noise ordinance would cover anything after 10:00 p.m. Some Commissioners thought it was dictated by the customer base and sales. Commissioner Grice said in the summer it could be 10:00 p.m., but in the winter the vendors would probably close by 5:00 p.m. Commissioner Christopher thought they should let the market determine the hours, or the property owner. Ms. Walters said this reminded her that in the submittal requirements, if the vendor were to have lighting, to make sure the lighting was not glaring into traffic. Ms. Walters said she would add lighting as one of the requirements for site plan and review and let the market decide the hours of operation.

The next conditions of permit referenced the Lane County Food Unit certification and licensing process and Ms. Walters said they wanted to make sure vendors were current and in good standing.

In response to a question from Commissioner Safley regarding storage, Ms. Walters said she would talk to Lane County and she would add language to the ordinance that storage would be completely contained so the property owner could not store supplies outside in plain sight. She also said she would talk with Lane County Health and Sanitation about its requirements.

The next sections of the sample ordinance dealt with penalties or fine for persons not complying with their permits. Ms. Walters said she needed to cross reference with the citation process and check in with the Court Judge and get City Attorney input. She asked the Commission what they thought the fines should be for violations of a permit. As written in the sample ordinance, for each non-compliance the levy would increase in increments of \$500; the first fine being \$500. Ms. Walters said at the point of egregiousness, or three separate instances of violations, the permit could be revoked. The Commission agreed with the language regarding fines/penalties.

Ms. Walters said she would bring back a revised version of the ordinance at the next meeting.

Commissioner Grice asked if there was a time frame for getting a recommendation to the City Council and Ms. Walters said there was not a time frame; they were trying to work through it in good faith to put together something that made sense.

The Commission discussed and decided it would not meet in December due to the holidays. The next meeting would be in January 2013. Ms. Walters agreed that was a good decision because she could also have the companion piece, a draft for other types of vendors, at that time.

Larry Duncan, 629 Mary Neal Lane, Creswell, asked what the distance between mobile food vendors would be.

Ms. Walters said they were considering 100 feet, but she wanted to check with the Fire Marshall, Sheriff and Building Officials to see if they had information that would help the Commission make a better judgment.

Mr. Duncan had a concern that a large site like I-5 Tires could have a mobile unit on each end of the property.

Commissioner Oelke explained that the Commission had a long way to go before solidifying a recommendation to the City Council and this was only a starting point. He said the Commission was not firm on the 100 foot requirement and he personally thought that could be too close.

Mr. Duncan then asked about the restrooms and would the food vendors be sending people to other businesses. Ms. Walters said the person with the mobile food unit must provide a signed consent from someone for their restroom to be used, unless there was a public restroom within a certain distance.

Bob Selner, 650 Pine Court, Creswell, said up until this time Creswell had no ordinances on mobile vendors. Nothing had been done in the past refusing or accepting mobile vendors and he wondered why it was being considered now.

Ms. Walters explained that what brought this issue forward was that usually it would be a temporary use permit with a 30-day limit, but the City had heard from people that wanted to do business year round and the temporary use permit did not allow that.

Mr. Duncan asked why the City was making special arrangements for Jimmy Dogs.

Ms. Walters responded that it was not making special arrangements for either Jimmy Dogs or Cowabunga. Both businesses had asked the City what they needed to do to operate year round, but the

City could not tell them because there was nothing on the books. Both businesses had property owner permission and Lane County Health Permits, but Creswell had nothing on the books to allow or prohibit them from year round operations. There was no process for them. In good faith the City was allowing them to operate while the City figured it out.

Commissioner Oelke said the key statement was the City had nothing to prohibit them from operating without something in the City Ordinance.

Mr. Duncan said they should only be allowed temporary use permits until the City could figure out how to allow them year round.

Commissioner Christopher said at the last CPC meeting the City Attorneys told them that landowners have a constitutional right to do what they want with their property; to allow mobile food units on their private property. He said his landowners had allowed Cowabunga to set up their business for a certain amount of money per month.

Mr. Duncan said he was talking about Jimmy Dogs, not Cowabunga. Jimmy Dogs was sitting at the middle of the busiest intersection in Creswell and he cared what Creswell looked like.

Ms. Walters said she had noticed that Jimmy Dogs had a new larger structure. She and the Code Enforcement Officer checked on his licensing, and would continue to check on him. They informed him of setback areas, which he was obstructing, and told him how and where to locate. She said they would visit him again. He was keeping his food unit distant from that corner and his unit was certified and inspected by Lane County.

Commissioner Oelke asked if the City could allow mobile food units in commercial zones except certain properties, and if so, would that be discrimination? He said the Commission continued to bump up against the fact that they could not just do whatever they wanted with a person's private property.

Ms. Walters said what the Commission could recommend was to allow food units only in the general commercial zone, but she would have to learn more from ODOT to be sure of that.

It was asked if downtown Creswell, Oregon Avenue, had aesthetic design standards and Ms. Walters said they had general architectural design standards for new development.

Commissioner Oelke said aesthetic design standards for mobile food units was something Ms. Walters should look into.

Commissioner Oelke asked if they could designate there could be no mobile food vendors from the railroad tracks to Fifth Street. Ms. Walters said they could possibly limit locations based on transportation. Commissioner Oelke then asked the Commissioners their opinions on limiting the locations of the food units. The response was that they needed time to think about it.

Commissioner Oelke said at last month's meeting he was not sure if mobile food units should be allowed just anywhere and he had not yet arrived at how to do that, but he still felt the same way.

Karen Aman, 204 W. Oregon Avenue, Creswell, asked if the Commission was concerned that if mobile food vendors were not allowed year round would the City be sued by Jimmy Dogs. She asked if Jimmy Dogs decided to move to Cottage Grove, because of all the time spent on the issue of mobile food units, could the City sue Jimmy Dogs.

Commissioner Safley said if Jimmy Dogs left Creswell because business was not good enough would they have to go through that process? He said the point here was to come up with something that would accommodate everyone.

Commissioner Grice commented that a few years ago they discussed how they viewed downtown Creswell and how they wanted it to look. They discussed the parking on the streets and putting in the street lights. He said he wondered why they would bring down the downtown area which they were trying to build up so much by not being able to say what something should look like or how it should be painted. He said maybe they should not have anything on Oregon Avenue. The basis of downtown was Oregon Avenue so maybe they still wanted to keep control of it. A mobile food vendor was not going to help the appearance of Oregon Avenue. He was leaning toward recommending mobile food units but having restrictions on where they could be located.

Commissioner Safley said if they were located just a block off of Oregon Avenue they would still get the same business.

Ms. Walters said she would find out if the City could limit locations. If so a schematic map could be attached to the ordinance.

Commissioner Oelke said it was not their responsibility to help a food vendor with its success. Their responsibility was to determine what downtown Creswell should look like.

VI. NEW BUSINESS

None.

VII. ADJOURNMENT

The next meeting was scheduled for January 17, 2013 at 7:00 p.m.

Commissioner Oelke adjourned the meeting at 8:35 p.m.

Planning Commission:

Date:



1-17-13

(Recorded by Ginger Morton)

