



# PLANNING COMMISSION PUBLIC HEARING

Vancouver City Hall – Council Chambers – 415 W. Sixth Street  
PO Box 1995 – Vancouver, Washington 98668-1995  
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Marjorie Ledell • Steve Schulte • Larry Blaufus • Zachary Pyle • Nena Cavel

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## September 13, 2022

### REGULAR MEETING

Vancouver City Hall - 415 W. Sixth Street, Vancouver WA

### CALL TO ORDER

The September 13, 2022, meeting of the Planning Commission was called to order at 4:03 p.m. by Chair Ledell.

### ROLL CALL

**Present:** Marjorie Ledell, Zachary Pyle, Larry Blaufus, and Steve Schulte

**Absent:** Nena Cavel

**Motion** by Commissioner Schulte, seconded by Vice Chair Pyle, and carried unanimously to excuse the absence of Commissioner Cavel.

### PUBLIC HEARING

#### **6:53 P.M. UPDATES TO FOSSIL FUEL STORAGE REGULATIONS**

Chad Eiken, Director, CDD; Bryan Snodgrass, Principal Planner, CDD; Becky Coutinho, Associate Planner, CDD; Lisa Grueter and Jason Hennessy, BERK Consulting

*Rebecca Kennedy introduced the workshop. Chad Eiken presented background on the fossil fuel facility moratorium and the timeline of workshops with the Planning Commission and City Council. Bryan Snodgrass presented the proposed changes to the fossil fuel code, VMC Title 20, and the details of changes for bulk fossil fuel facilities, cleaner fuel facilities, and small fossil and cleaner fuel facilities. The presentation covered code clean up changes and new special use standards, an overview of existing bulk fossil fuel facilities, the Heavy Industrial (IH) district, and stakeholder outreach.*

*The presentation continued after a brief audio outage with two policy issues resulting from public input regarding small fuel facilities and new cleaner fuel facilities. Staff described the differences between limited and conditional use permits and analysis and staff recommendations of the policy issues for consideration by the Commission. Staff provided details of the proposed code clean up items based on public input.*

Staff described the SEPA (State Environmental Policy Act) timeline for this project, including three comment letters received. Staff presented to City Council on September 12, 2022 and provided the details of Council's recommendations during that workshop.

### Commission Discussion

The Commission and staff discussed the following topics:

- Are the development standards for conditional use permit the same as applied to a limited use permit application? Staff responded they are in both cases.
- For revocation of a conditional use permits (slide 14, item 6), not applicable for a limited use permit? Staff responded there is not a similar approach for a limited use permit. It is a permitted use and they must adhere to the conditions. There is a code enforcement process to deal with an applicant's failure to comply with the conditions of the permit.
- What is the definition of "cleaner fuel"? Staff responded it is specifically defined in the [draft ordinance](#). It includes carbon-free fuels, credit generating fuel, biomass renewable fuels, alcohol fuels, biodiesel fuel, E85 motor fuel, and alternative fuels that are not fossil fuels.
- Regarding the annual report to the City regarding capacity and shipment activity/type (slide 18), what information could become public? Staff responded the information in the report is also reported to Department of Ecology or other federal agencies. The report would include a description of the onsite storage capacity, number of tanks, volumes, and products, number of vessels, transfers of fuels, type and quantity of products transferred and destination, number of rail cars transporting fuels, number of trucks transporting fuels, a document that onsite activity is similar to the established baseline of storage and/or throughput, and conformity with applicable regional, state, and federal reporting or permit requirements.

### Public Testimony

Audrey Leonard, staff attorney for Columbia Riverkeeper, supported the proposed ordinance to prohibit new or expanded large scale fossil fuel facilities. The proposed ordinance must safeguard safety and avoid loopholes for fossil fuel expansions. She urged the Planning Commission and City Council to require facilities converting to cleaner fuels or establishing new cleaner fuel facilities to get a conditional use permit. The small and cleaner fuel facilities carry many risks and have the potential to be dangerous. Requiring a conditional use permit puts a small burden on sophisticated companies whose incentive is the profit of the facility.

Janet Hedgepath supported requiring conditional use permits for cleaner fuel facilities. The moratorium was intended to preserve the health and safety of community and environment. If the Commission is going to consider cleaner fuels with other storage facilities, then she urged the Commission to require conditional use permits, rather than limited use permits, to provide the public a chance to weigh in.

Michael Bomar, Director of Economic Development at the Port of Vancouver, USA. The Port is committed to climate action and supports the transition of Port activities away from fossil fuels and to attract cleaner and clean fuel facilities. We're pleased to see the updates to the definition of cleaner fuels and response to clarify a facility that expands can serve both traditional or clean fuel provided fossil fuel volumes do not exceed the pre-expansion baseline. We appreciate the proposal to allow for new clean and cleaner fuel facilities under conditional use permits; however, the restriction of 1 million gallon/3 acre space limit will be a deterrence for some clean facilities. We encourage a limited use permit for cleaner or small facilities and conditional use permit for any large facilities without an upper volume or acreage limit.

Holli Johnson, Western States Petroleum Association, expressed concerns for the proposed regulations and urged the Planning Commission to amend the code before moving to City Council. The conditional use permit process is appropriate when the use does not match the zoning. The use of conditional permits for industrial use in a heavy industrial zone is not appropriate. This will create uncertainty and likely disincentivize upgrades and improvements to facilities. The proposed language for greenhouse gas mitigation requirements seems to be unlimited to what may or may not for an applicant for reporting and mitigating, and would be left to the City to determine what is required to mitigate. This should be reviewed with other state and federal mitigation requirements. Finally, the annual reporting requirement includes information that is confidential, proprietary and strategic business information which could be used by a competitor to gain an unfair advantage in the marketplace, as well as potential safety risk. She urged the review of public records act exemption in RCW 42.56 as it relates to proprietary business information.

Cathryn Chudy shared her concerns for the impacts to the Fruit Valley neighborhood and supported Option A. Until more careful deliberation and outreach is done by the city regarding cleaner fuels and their potential to harm health and safety, Option A would provide the maximum protection for those most disadvantaged and overburdened and whose voices are not adequately heard in this current ordinance process. The majority Council believes that the City can provide health and safety protections, as well as advanced climate action goals by opening the door to cleaner fuel facilities in the Heavy Industrial Zone. Some of those small, cleaner fuel facilities will be able to use an expedited permit process that leaves out public participation. The unknowns are left to be experienced by those most affected without their input.

Rebecca Ponzio, Washington Environmental Council, supported the Planning Commission in recommending a fossil fuel land use code that is rooted in the protection of the health and safety of Vancouver neighborhoods, and those hardest hit by industrial pollution such as Fruit Valley. The ordinance should clearly ban new and expanded fossil fuel terminal storage and handling facilities and should ensure that conditional use permitting processes, not limited use, are applied to any and all new facilities under the definition of clean fuels and/or changes to existing facilities. A conditional use permit is a common permit type in Vancouver and it is not an unusual or unnecessarily burdensome process. Applying a conditional use permit approach is a way to better understand impacts to ensure the public health and safety issues are evaluated, and that the public has a chance to substantively weigh in. This is particularly important as we learn more about these various potential projects and technologies. We have learned from other jurisdictions like Tacoma and Whatcom County that being clear, concise, and rooted in the intent of the original moratorium language around health and safety is the most effective way to establish code of this significance.

Mark Fitz, Star Oilco, did not support the proposed code amendments. He disagreed with the cleaner fuels definition, as all fuels will soon be cleaner fuels in Washington by law. The cleaner fuels inventory is a major investment which will bring back property tax revenue to the City and to the region.

### **Commission Discussion**

- Are the requirements to expand and/or convert up to 15% tied to both converting to cleaner fuels and seismic upgrades, or just seismic upgrade upgrades and expand with the existing bulk fuel? Staff responded it's both, it would need to convert to cleaner fuels and complete the seismic improvements and upgrades.
- Limited use permits and how it is determined that limited use is appropriate. Staff responded that limited use means that the use is allowed so long as they meet the list of conditions. The approval process would be a site plan review process. The conditions are intended to get at the

known impacts. Staff is recommending a conditional use permit for new cleaner fuel facilities up to one million gallons. We don't know what those specific site impacts might be, because we don't know where there'll be located. Whether it is a limited use or conditional use, any of these tanks would exceed the SEPA threshold and there would be a SEPA review where the public could comment.

- Is there a process difference between a limited use and a conditional use in terms of the amount of public notice for review? There is public notice for both. Limited use is under the site plan application. There's a public notice to properties within 500 feet and is sent to the neighborhood associations. They can comment staff within 14 days. The site plan approval is an administrative process. Staff reviews it, determines whether it meets all the criteria and then makes their decision. The conditional use process involves a slightly longer comment period of 30 days, notice is sent to the same people and neighborhood associations, and it's published in the newspaper. There is a public hearing before the Hearings Examiner, who would make the decision on the application. That decision is appealable to the City Council.

**Motion** by Commissioner Schulte, seconded by Commissioner Blaufus to recommend to City Council adoption of fossil fuel facility standards as recommended by staff in the proposal dated August 11, 2022, with modifications dated September 6, 2022, and based on the findings and conclusions in the staff report for the public hearing dated September 13, 2022.

#### **Commission Discussion and Deliberation**

- Commissioner Schulte acknowledged the long process for this recommendation and supported where this is ending. Timing is imperative to get started with these changes.
- Commissioner Blaufus supported the recommendation as a good middle ground.
- Commissioner Pyle requested a review of the recommendations for the three types of facilities. Staff responded the recommendation prohibits new bulk fuel facilities (60,000 gallon or more capacity), with allowances for maintenance and upgrades to existing facilities. There are also allowances for expansion up to 15% with conversion to cleaner fuels. The recommendation allows for cleaner fuel facilities in the heavy industrial district only and is subject to a conditional use permit. The recommendation allows for small fossil and cleaner fuel facilities in the heavy industrial district, subject to the specific standards, and a limited use permit process. Small fossil fuel facilities would be conditional use.
- Vice Chair Pyle acknowledged the process and input from staff, consultants, and the public to assess the risks and create a comprehensive set of regulations. A conditional use permit for all three types of facilities is repetitive and there is little benefit or additional expertise gained from a conditional use permit versus a limited use permit. The regulations as suggested in the staff report are robust and sufficient to move forward with limited use.
- Chair Ledell was in favor of the motion and the use of conditional permits as it allows for greater public input.

#### **Roll Call Vote**

Larry Blaufus	Yes
Steve Schulte	Yes
Zachary Pyle	No
Marjorie Ledell	Yes

The motion passes 3-1.

**ADJOURNMENT 8:38 P.M.**

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Marjorie Ledell, Chair

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