



Appeal to the Land Conservation and Development Commission on Task 4 Objection Issues regarding Citizen Involvement in the Portland Comprehensive Plan Update

Filed: December 26, 2017

Introduction

The Multnomah Neighborhood Association (MNA) is appealing to the Land Conservation and Development Commission (the Commission) to reverse the Department of Land Conservation and Development's (the Department's) rejection of our May 19, 2017 objection (the Objection) to the exclusion of the word "citizen" from the 2035 Comprehensive Plan (2035 CP) as a violation of Goal 1 of OAR 660-015-0000(1). The Objection is attached for reference and should be considered part of this appeal.

The Department determined that the Objection was valid, however it rejected it for the reasons quoted below in the Department's response. Following the Department's response, we provide counterarguments clarifying our commitment to Goal 1.

The Department Response and MNA Counterarguments

On December 5, 2017, the Department gave the following response to the Objection in the approval letter for Tasks 4 and 5, "City of Portland Periodic Review Tasks 4 and 5 Approval (Order 001892)":

Department Response: *The department rejects this objection. If the city engages communities in the planning process, citizens will be provided the opportunity to participate; broadening the city's program to involve "communities" does not exclude citizens. The objection does not establish that Goal 1 requires that the city involve the public in land use decision-making exclusively through formally recognized groups or associations that comply with open meetings and public records laws.*

Policy 2.14 commits the city to identifying actions that could be affected by public involvement. The objection appears to assume that the city is unable or unwilling to correctly identify those actions, resulting in lost opportunities for public involvement. Policy 2.14 resides in a section of chapter 2 that includes four policies implementing

comprehensive plan goal 2.D, “Transparency and accountability,” related to improving the quality of communication during the planning process. The plan also includes six other goals with implementing policies, and considering this larger context, Policy 2.14 refines and informs, and does not limit, the city’s plan to involve the public in the planning process. See, especially, goal 2.E.⁴ The objection does not demonstrate that the city’s citizen involvement program fails to comply with Goal 1.

⁴ Portland 2035 Comprehensive Plan goal 2.E provides: “Community members have meaningful opportunities to participate in and influence all stages of planning and decision making. Public processes engage the full diversity of affected community members, including under - served and under - represented individuals and communities. The City will seek and facilitate the involvement of those potentially affected by planning and decision making.” Task 4 Record at 209.

The following sections of this appeal state the Department’s arguments for rejection followed by the MNA’s counterarguments.

[Argument and Counterargument #1](#)

Department’s Rejection Argument #1: *If the city engages communities in the planning process, citizens will be provided the opportunity to participate; broadening the city’s program to involve “communities” does not exclude citizens.*

MNA’s Counterargument #1: The Title of Chapter 2 of the 2035 CP is “Community Involvement” and all the chapter’s goals and policies promote engagement between the City and communities and their members. Yet the entry of “community” in the glossary so vague as to be almost undefined, except that it clearly excludes any citizen who does not share a sense of identity or belonging with any group of people:

Community: *A group of people with a shared sense of identity or belonging.*

This glossary entry does not require that a community explicitly state their sense of identity or belonging so that a citizen may determine whether or not they are in the group. Nor does the definition guarantee that the complete list of communities includes all or even most citizens. The Department interprets that by basing the city’s program on community involvement it has been broadened, whereas it may actually have been narrowed. It may result in the exclusion of citizens who form the basis of the current CP but who do not belong to communities.

Chapter 2’s almost exclusive reliance on community groups fails to meet the requirements of the first paragraph of Goal 1, because it is not “...a program that clearly defines the procedures by which the general public will be involved in the on-going land-use planning process.” It is not clear whether community groups are the same as the general public. For the same reason, Chapter 2 also does not fulfill the requirements of Goal 1, Part C.6 that “The general public, through the local citizen involvement programs, should have the opportunity to review and make recommendation on proposed changes in comprehensive land use plans...”. Goal 1 requires a clear definition, but we do not know and we have no way of knowing whether all citizens of Portland are in communities.

Argument and Counterargument #2

Rejection Argument #2: *The objection does not establish that Goal 1 requires that the city involve the public in land use decision-making exclusively through formally recognized groups or associations that comply with open meetings and public records laws.*

Counterargument #2: The Objection points out that the 2035 CP failed to require a process to define how groups of people with shared senses of identity and belonging are given status as communities or even that a list of recognized communities be made public. The Objection also points out that Chapter 2 jeopardizes rather than promotes transparency since communities need not follow established procedures, such as open meetings and public records laws, or that they adhere to bylaws that define how advocacy positions are adopted and how spokespeople are chosen.

Without these or any similar protections, the city is opening itself up to partnering with people who share a sense of identity or belonging that may actually be a community that has unidentified conflicts of interests that cannot be audited. This potential for lack of accountability will make it virtually impossible for citizens to be informed about who is influencing the city and how decisions are being made. Part 3 of Goal 1 requires that “Citizens shall have the opportunity to be involved in the phases of the planning process as set forth and defined in the goals and guidelines for Land Use Planning...” and this implies a requirement for an open, auditable process.

Argument and Counterargument #3

Rejection Argument #3: *Policy 2.14 commits the city to identifying actions that could be affected by public involvement. The objection appears to assume that the city is unable or unwilling to correctly identify those actions, resulting in lost opportunities for public involvement. Policy 2.14 resides in a section of chapter 2 that includes four policies implementing comprehensive plan goal 2.D, “Transparency and accountability,” related to improving the quality of communication during the planning process. The plan also includes six other goals with implementing policies, and considering this larger context, Policy 2.14 refines and informs, and does not limit, the city’s plan to involve the public in the planning process. See, especially, goal 2.E.⁴ The objection does not demonstrate that the city’s citizen involvement program fails to comply with Goal 1.*

⁴ Portland 2035 Comprehensive Plan goal 2.E provides: “Community members have meaningful opportunities to participate in and influence all stages of planning and decision making. Public processes engage the full diversity of affected community members, including under - served and under - represented individuals and communities. The City will seek and facilitate the involvement of those potentially affected by planning and decision making.” Task 4 Record at 209.

Counterargument #3: In Rejection Assertion #3, the Department mischaracterizes the city’s commitment to be to “**public involvement**,” whereas the actual name of Policy 2.14 is “**Community Influence**” and its focus is “**community involvement**” rather than the more general “public involvement” in the Department’s rejection argument:

*Policy 2.14: **Community Influence**. At each stage of the process, identify which elements of a planning and investment process can be influenced or changed through **community** involvement. Clarify the extent to which those elements can be influenced or changed.*

The crux of the Objection is that Goal 1, Part 3 states that “**Citizens shall have the opportunity to be involved in all phases of the planning process...**”, not just in those phases identified by the city. The policy should not restrict any involvement in the planning process. If the policy had been worded, per Goal 1, that “Citizens shall have the opportunity to be involved in all aspects of the planning process...” the MNA would not have requested that the Policy be stricken from the 2035 CP.

Similarly, the Department mentions Goal 2.D as the goal originating Policy 2.14, as well as four other policies. However, Goal 2.D mentions “community interests” and addresses “community input” but not “public interests” or “public input.” The Department then considers the other goals and their implementing policies, and interprets them in a larger context of the city informing and refining the “public involvement” in the planning process. This part of the rejection argument conflates “community” with “public” and then extrapolates that the 2035 CP goals and policies comply with Goal 1. Goal 1 requires citizen involvement, which is not guaranteed by Chapter 2 of the 2035 CP.

[Requested Action](#)

The Commission should reject the Department’s response for the reasons stated above in this appeal.

To correct the deficiencies identified in the Objection, we are requesting that the Commission partially remand Task #4 of the Periodic Review for the 2035 CP to allow for Chapter 2 to be revised to recognize the citizen’s role in the planning process as required by Goal 1.

Chapter 2 should also be revised to clearly define the City’s process for granting planning partnership status to communities based on their adherence to the State’s public meeting law (ORS 192.610 to 192.690) and records laws (ORS 192.450 and 192.460), as well as compliance with the City’s Standards as set forth in City Code Chapter 3.96. Community partners should be publically identified.

Finally Policy 2.14 should be removed from the 2035 CP.

Without these changes, the citizens will not be able to participate the planning process as required by Goal 1.