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**CITY OF LAKE OSWEGO
Planning Commission Minutes
EXCERPT OF LU 17-0066**

January 8, 2018

CALL TO ORDER

Chair Heape called the meeting to order at 6:30 p.m. in the Council Chamber of City Hall, 380 A Avenue, Lake Oswego, Oregon.

ROLL CALL

Members present were Chair Robert Heape, and Commissioners Randy Arthur, Skip Baker, Ed Brockman, Vickie Hansen, Nicholas Sweers, and Bill Ward. Jackie Manz, City Councilor was also present.

Staff present were Scot Siegel, Planning and Building Services Director; Evan Boone, Deputy City Attorney; Leslie Hamilton, Senior Planner; Bill Youngblood, Code Enforcement Specialist; and Iris McCaleb, Administrative Support.

Arthur **seconded** the motion and it **passed 6:0:1**. Vice Chair Ward abstained.

PUBLIC HEARING

Community Development Code Amendments to Standardize Setbacks for Noise-Producing Accessory Structures (LU 17-0066). This hearing was continued from November 27, 2017.

A request from the City of Lake Oswego for proposed amendments to the Community Development Code [LOC 50.03.004.2, Accessory Structures] to standardize setbacks for noise-producing accessory structures (i.e., air conditioners, heat pumps, pool motors, etc.) in residential zones. Staff coordinator was Leslie Hamilton, Senior Planner.

Chair Heape opened the hearing. Mr. Boone outlined the applicable criteria and procedures. At time of declarations no conflicts of interest were reported. No one challenged any Commissioner’s right to consider the application.

Staff Report

Ms. Hamilton provided the staff report, including a brief PowerPoint presentation. She noted Exhibit G-1, a letter from a citizen that had arrived after 5pm that afternoon.

She showed a slide of Table 50.04.001-1, Accessory Structure Setbacks, and noted that there were additional standards that were not in the Code that could be overlooked, including Planned Development (PD) Setbacks. She showed a slide of Accessory Structure Setbacks/Information not in the Development Code – PD Setbacks:

- PDs Approved before August 2003: Same as primary structure setbacks established by the PD
- PDs approved after August 2003: Same setbacks as described in Table 50.04.001-1
- Setback Reduction, per LOC 50.03.004.2.b applies to all PDs.

She explained that the discrepancy was that there could be some very similar developments next to each other with very different setbacks.

Ms. Hamilton reviewed the three options presented for the Commission's consideration:

Option 1 – Standardized residential setbacks for noise-producing accessory structures. Applied to outdoor heat pumps, air conditioners, and pool equipment.

Front setbacks:	No changes
Side setbacks (interior)	Some decreases from 10 ft. to 5 ft.
Side setbacks (street)	Some increases from 7.5 ft. to 10 ft. Some decreases from 15 ft. to 10 ft., 20 ft. to 15 ft.
Rear setbacks:	Some increases from 5 ft. to 10 ft. Some decreases from 15 ft. to 10 ft.
Pool equipment:	Must be located within an enclosed structure

No change was more than 5 feet.

Option 2 –

- Same standardization as Option 1
- Pool equipment must be located within an enclosed structure
- All new mechanical equipment must be rated at 55 decibels (dBA) or less

Option 3 –

- Same standardization as Option 1
- Pool equipment must be located within an enclosed structure
- All new mechanical equipment to be rated at 45 dBA or less if located 5-9.99 feet from interior side property line

Ms. Hamilton summarized that Option 1 was the easiest to administer and nothing new had to be provided by the applicant for a building permit. Options 2 and 3 had additional documentation that the applicant would have to submit, it would take more time to get a mechanical permit, it would increase processing time and potential cost. For Options 2 and 3, the 55 dBA was based on codes from several other jurisdictions, with the dBA being measured at the property line and requiring that someone be available to take noise measurements. She added that she had found two heat pump units and two air conditioning units with a dBA of 55 and less; more units were available when the dBA was in the range of 55 to 60. If the Commission were to go with either Option 2 or 3 there may need to be additional requirements for baffling or noise attenuation blankets. She pointed out that another wrinkle with Options 2 and 3 was that dBA was a weighted noise measurement that reduced low-frequency sounds, where most unit specifications were listed in DB, which would need to be addressed.

She noted that Bill Youngblood, Code Enforcement Specialist, was in attendance to answer questions about code enforcement and how he addressed noise complaints. Mr. Siegel noted that staff's research found other communities ranged from a 1-foot minimum setback for mechanical equipment to 5 feet. He indicated there was variation and not all had decibel limitations, however the Commission had suggested this option be researched. If the Commission were to consider Option 2 or 3, they might want to ask staff to do further research.

Questions of Staff

Commissioner Brockman expressed concern that Options 2 and 3 would require someone to purchase a new unit that was more expensive than what they might be able to afford. Ms. Hamilton responded that typically the quieter units were more expensive. Mr. Siegel noted that it was usually the compressor that generated the most noise. In response to a question if the City differentiated between disturbing the peace and noise reduction, Mr. Youngblood provided detail on the noise ordinance, which focused on noise that was loud, disturbing, and unnecessary and one example of how it was used related to dog barking. In response to a question from the Commission, he stated that the City did not have a device to measure decibel levels because the City did not have any requirements related to decibels.

Mr. Boone advised the noise code addressed noise that was loud, disturbing, and unnecessary; if a noise was loud and disturbing, the City would look at the standard for the type of equipment that was being used to determine if it was unnecessary noise. In response to a question if the Commission was being asked to create objective or subjective standards, Mr. Boone noted that Option 1 was only relevant to the placement; there was already a code in place that dealt with the unnecessary, which could be more subjective. He clarified that Options 2 and 3 would impose noise regulations relative to accessory equipment, in addition to the existing noise code. Commissioner Brockman asked if a machine was older and in need of replacement or repair because it had become noisier than it should be, would that noise be deemed unnecessary, which Mr. Boone concurred with. In response to a question from the Commission, Mr. Youngblood indicated that in the ten years he had worked with the City he had received 10 complaints of this sort. Vice Chair Ward commented that manufacturers were aiming to reduce the sound levels. He added he would be inclined to impose decibel limits.

Public Testimony

None.

Rebuttal

None.

Questions of Applicant

None.

Deliberations

Chair Heape opened deliberations.

Commissioner Brockman noted he was in favor of Option 1 – if it wasn't broken don't fix it. Commissioner Baker noted he liked the idea of Option 2 prior to the hearing but after hearing more information he was inclined to support Option 1 and to leave any changes related to noise up to the Council. Chair Heape stated he would like to see there be an objective standard; he noted the written testimony also suggested making it as objective as possible. However, he also had concerns related to the availability of units that met the objective standards being proposed in terms of decibels, from the 45- to 60-dBA range and the amount of burden that could be placed on homeowners; there could be unintended consequences. Ms. Hamilton reviewed the types of equipment and decibel levels she found in her research, in response to a question from Vice Chair Ward. Vice Chair Ward opined it would be very difficult to meet. Mr. Siegel added that the manufacturer's rating was "as low as" and the sound level could vary based on siting, topography, fencing, etc. Vice Chair Ward wondered if it would be worthwhile to set a level at 60 dBA. Ms. Hamilton clarified that the sound level would be

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based on what was submitted with the application, not field measurements. Chair Heape asked if under other options, was it possible they were being too aggressive in setting the decibel level? Ms. Hamilton indicated that one option would be to increase the decibel range and another option would be to require above a certain decibel level some sort of sound attenuation, either blankets that wrap the units or baffling panels. She clarified that this could be an additional requirement over a certain decibel level.

Commissioner Baker **moved** to approve and recommend the City Council approve Community Development Code Amendments to Standardize Setbacks for Noise-Producing Accessory Structures Option 1 (Ordinance 2766, LU 17-0066), returning with Findings, Conclusion, and Order on January 22, 2018. Commissioner Sweers **seconded** the motion. The motion **passed 7:0.**