



CITY OF
West Linn

PLANNING COMMISSION

Minutes of December 5, 2012

Members present: Chair Michael Babbitt , Vice Chair Gail Holmes, Russell Axelrod, Robert Martin and Christine Steel

Members absent: Holly Miller and Thomas Frank

Staff present: John Sonnen, Planning Director; Tom Soppe, Associate Planner; and Megan Thornton, City Attorney

PREHEARING WORK SESSION

Chair Babbitt opened the work session at 6:30 p.m. in the Rosemont Room of City Hall. The Commissioners examined the hearing material and an email containing Commissioner Axelrod's suggested changes to draft minutes. Vice Chair Holmes suggested asking the applicant to consider installing electric car chargers.

CALL TO ORDER

Chair Babbitt called the meeting to order in the Council Chambers of City Hall at 7:01 p.m.

PUBLIC COMMENTS

Kevin Bryck, 18840 Nixon, thanked the Commissioners for their service.

Bruce Swanson, 2071 Fields Dr., encouraged the Commission to continue to work on sport court regulations. He submitted photographs to show that netting on top of a fence was not the solution.

APPROVAL OF MINUTES

The Commissioners edited the drafts. Commissioner Steel **moved** to approve the Minutes of November 1, 2012 as amended. Commissioner Martin **seconded** the motion and it **passed** 5:0. Commissioner Steel **moved** to approve the Minutes of October 25, 2012 as corrected. Commissioner Axelrod **seconded** the motion and it **passed** 5:0. Commissioner Martin **moved** to approve the Minutes of October 18, 2012 as amended. Commissioner Axelrod **seconded** the motion and it **passed** 5:0. Commissioner Martin **moved** to approve the Minutes of October 17, 2012 as amended. Commissioner Axelrod **seconded** the motion and it **passed** 5:0. Commissioner Martin **moved** to adopt the Minutes of September 19, 2012. Commissioner Axelrod **seconded** the motion and it **passed** 5:0.

Commissioner Axelrod asked that the record reflect that due to an email glitch he had missed the opportunity to provide input into and tweak the final summary before it was signed. He had reviewed it later and found it was pretty consistent with what the Commission had discussed.

28:47

PUBLIC HEARING

CUP-12-05/DR-12-18 - Conditional Use Permit and Class I Design Review for a proposed youth community center and supporting uses at 2015 8th Avenue

Chair Babbitt opened the public hearing. Each of the Commissioners present declared he/she had made a site visit. Commissioner Martin declared an *ex parte* contact.

Staff Report

Mr. Soppe discussed the December 5, 2012 Staff Report. The applicant proposed to change the use of an existing building to a music-oriented community center with accessory retail and café uses. The applicant would continue to use the Willamette Falls Drive and 8th Avenue accesses and keep the existing curbed barrier that blocked the west access. Keeping the west access closed was for kids' safety and to prevent patrons of nearby businesses from using the applicant's lot. Staff agreed with retaining the barrier.

Staff found the application would meet the applicable criteria with the three conditions of approval listed in the staff report. Condition 2 addressed traffic impacts by implementing elements the traffic study recommended. The applicant was to provide an annual Traffic Demand Management report that demonstrated they were complying with specific trip generation limits; limit class start and end times to outside of peak hours; and schedule special events start times so they did not require participants to arrive prior to 6:15 on weekdays. Condition 3 prohibited playing of musical instruments between 7:00 PM and 7:00 AM on all days.

Mr. Soppe reported the applicant had submitted a TDM letter that demonstrated they were generating fewer than 15 weekday AM trips and fewer than 10 weekday PM peak hour trips by complying with the class and special event time restrictions. He noted the recommended conditions would prevent negative impacts on the Level of Service of major 10th Street corridor intersections. They addressed the impact of noise on neighbors. That the Willamette Neighborhood Association had voted unanimously to support the application was an indication that the community would benefit from the proposed uses. Staff recommended approval subject to the three staff-recommended conditions.

43:31

Questioning of Staff

Mr. Soppe could not recall if notice had been sent to the Main Street program. Vice Chair Holmes asked that they be provided with notices in the future.

Commissioner Martin inquired whether the conditions imposed on the previous use of the site called for a one way out left turn at the the 8th Street access. Staff agreed to research that. Commissioner Axelrod noted that would mean it would take three turns to circle around to get to Willamette Falls Drive but it would help avoid a bottleneck at the intersection. He inquired whether the adjacent property was required to use the blocked off access for emergency access. He agreed blocking it made sense for the applicant and noted that a fire truck could go right over the barrier. Mr. Soppe related that he had looked at the approval for the building next door but he could not recall if it said that access was to be blocked. He reported that Engineering Department staff was fine with having it blocked. He clarified that a stormwater drain Commissioner Axelrod had seen at the blocked access did not drain the adjacent property. Vice Chair Holmes wanted it on the record that since the alley had been blocked off there had been more pressure on 12th Street all day long, not just at 5:00 pm. She commented that she understood the safety reason for the barrier but every fix created another traffic issue.

Mr. Soppe clarified that this application did not trigger an Historic Resources Board review. Ms. Thornton advised that the condition restricting times for outdoor music [Condition 3] complied with the current Noise Ordinance and that those time restrictions would still apply if the Noise Ordinance were changed.

55:43

Applicant

Michael Cerbone, Cardno WRG, 5415 SW Westgate Dr., Ste. 100, Portland, Oregon 97221, and Charles Lewis, 1969 Willamette Falls Drive, Executive Director of the Youth Music Project represented the applicant, the Marie Lamfrom Charitable Foundation (MLCF). Mr. Cerbone testified that the applicant agreed in spirit with everything in the staff report and the staff-recommended conditions of approval. However, they would add language to the end of Condition 3 to indicate that musical instruments were not to be played outside between 7:00 PM and 7:00 AM on all days, 'unless otherwise lawfully approved by the City of West Linn.' That would give the applicant an opportunity to coordinate a gathering with the Main Street group if the event was permitted by the City Manager's office. He related that the fire department had seen the proposed site plan and not raised any concerns. He addressed the question of left turn out only onto 8th Street. He reported that neither the 2010 nor the 2012 transportation studies mentioned such a requirement. He opined that a right hand movement was a lot safer than three left hand turns. He reasoned that if there was congestion at the driveway drivers would opt to make the left hand turn.

Mr. Lewis related that 241 kids had signed up for the music program. The applicant had been working with the Main Street Program to obtain a grant. The neighborhood association supported the application.

1:02

Questions of the Applicant

Commissioner Martin recalled a newspaper report that the applicant anticipated having up to 1,000 students. The applicant's representatives explained that as the program grew there could potentially be 1,000 kids per week. They had agreed to a limit of 75 at a time unless they were having a special concert. Commissioner Steel was concerned that special events/concerts would generate more trips and more parking need. The applicant's representatives noted the conditions would not allow that kind of activity during peak traffic hours. Commissioner Axelrod inquired about circulation for drop offs. The applicant's representatives indicated that could be addressed through the Transportation Demand Program. They clarified that the current call center had three shifts per day. The applicant's use would involve people coming and going to multiple lessons during the day. The applicant encouraged drivers to carpool and to patronize nearby shops while their kids were at the center.

Commissioner Axelrod inquired which entrance the applicant planned to use and where the café was. The representatives indicated they would use the lower entrance most of the time but they would open the upper Willamette Falls Drive entrance as well for special events. The café was up there. It was a 'waiting area with coffee.' They clarified that the retail uses were relatively incidental: strings for instruments, picks for guitars, etc.

Commissioner Axelrod was concerned the 7:00 a.m. time parameter for outside music may impact residential neighbors on Saturday and Sunday mornings. Mr. Soppe pointed out which nearby uses were commercial. Mr. Lewis explained it would be rare for the applicant to have outside concerts, but they wanted the flexibility to apply for noise permits for events. Mr. Cerbone noted that the City allowed people to mow their lawns at 7:00 a.m.

Commissioner Axelrod indicated he was disappointed that the applicant did not propose to improve the appearance of the site and the entrance to Willamette. The representatives explained the applicant intended to propose that through another permit process after the current application was approved.

Commissioner Martin asked for more information about when there would be music outside. The representatives anticipated it would only be during a festival, a neighborhood association event, or an event put on by area businesses. They were concerned about the cost and the

time it would take to get an exception to the proposed noise requirements for each individual event. Mr. Sonnen clarified that the City Manager could authorize special events without a notice or hearing. It typically took less than a month to get that kind of permit. Ms. Thornton advised the Commission to be clear about noise restrictions. It could hold the applicant to the currently-recommended condition that said music was not to be played outside between 7:00 p.m. and 7:00 a.m. on all days. Another option could be to add the words, 'unless permitted by a special noise permit.' The current wording would make the condition more restrictive than the Noise Ordinance and probably preclude the applicant from getting a special noise permit.

Vice Chair Holmes suggested the applicant consider playing outdoors on the covered stage in Willamette Park and at Willamette events and the Farmers' Market. She was concerned about parking when there was a concert by 1,000 students. She wanted to know if the cafeteria would compete with local food businesses. The representatives explained recitals would be spread out over the week and held during off peak hours. The café would serve coffee and snacks to people using the site.

Commissioner Axelrod inquired whether there was enough bicycle parking and where it would be. Mr. Lewis related the applicant was thinking about where to put it and they would be happy to put in more bike parking. They could address that when they proposed other changes during the next permitting process.

Commissioner Martin wanted to know if playing music outside that was not associated with a special event was a necessary part of the program. If not, the condition could say, 'Musical instruments shall not be played outside except by special permit.' The applicant observed that would be more restrictive than the city code. The applicants indicated they were more comfortable with the language they had suggested. The applicant were concerned that if kids played acoustical guitars outside the applicant would be in trouble. The applicant could not think of many occasions they would play music outside. Commissioner Martin clarified that he was more concerned about amplified instruments. He differentiated between the impact in summer and the impact in winter. The applicant asked if the Commission had the ability to pull an approval permit back for review later. Mr. Soppe advised the applicant would be required to come back if they wanted to change the use or if they proposed to do something that was outside of what had been approved.

Chair Babbitt was concerned that the noise condition depended on the Noise Ordinance. If the City changed the ordinance hours the annual report would say the applicant was conforming to the condition even if there were complaints. Ms. Thornton advised the Noise Ordinance was in effect at all times, even during the hours the conditions of approval allowed outdoor music. For example, if police got calls reporting unreasonable noise in the middle of the afternoon the Ordinance could be enforced. She anticipated the City Manager would take the conditions of approval into account when he considered granting a special noise permit.

Commissioner Steel recalled the Commission had imposed conditions that did not allow amplified sound on two previous school approvals. She asked if that was why staff added it as a condition of approval. Mr. Cerbone referred to the Special Noise Permit which indicated that unamplified sounds 'are not subject to this action.' He suggested the related condition could call for 'no amplified sound' between the specified hours 'unless otherwise approved by a lawful permit from the City.'

Vice Chair Holmes related that the Main Street Program had discussed the possibility of having two electric car charging stations at the site. She hoped the applicant would consider it in the future. Mr. Lewis indicated he would like to do that. There was no other public testimony.

1:42

Rebuttal

Mr. Cerbone stated that the applicant understood the Commission's concerns and intended to operate within the confines of the City's laws and be a good neighbor. He pointed out notice had been circulated and no one else had submitted testimony.

Staff Comments/Clarifications

Ms. Thornton advised the current code talked about amplified and unamplified noise under the special permit section, but the entire Noise Ordinance did not make that distinction. If amplified noise was a Commission concern it could specify, 'Amplified sound shall not be played outside between 7:00 p.m. and 7:00 a.m. on all days unless allowed by a special noise permit.'

Mr. Soppe advised the proposed noise condition was consistent with other school approvals and with Chapter 60 criteria. He reported that in the previous conditional use case the Commissioners had considered a staff-recommended condition for left turn out only at 8th, but eliminated it prior to approval. Chair Babbitt recalled they had determined it was not really feasible. It would create line of sight issues and affect traffic coming out of the parking lot across the street.

Chair Babbitt questioned that the noise condition as drafted would prohibit the applicant from participating in a local event or concert because the purpose of the special permit was to allow exceptions. He asked about the process for getting a special permit. Ms. Thornton advised the noise code did not require a hearing or list any criteria for the City Manager to consider. She understood past practice was to comply with land use conditions of approval.

2:06

Deliberations

Chair Babbitt closed the public hearing. The Commission recessed for ten minutes and then reconvened for deliberations.

The Commissioners considered whether Condition 3 was necessary. Commissioner Axelrod questioned whether the Commission needed another layer of outdoor noise control. Perhaps the Commission should wait to see if it was a problem. The site was in a mixed use commercial area and near a noisy freeway. Having music would help bring vibrancy to the Willamette Neighborhood. Youth would have needed gathering space. Mr. Soppe pointed out that there were no residential uses directly adjacent to the site. Commissioner Martin indicated he believed the code should be adequate control and a noise condition would just complicate things. Commissioner Steel differentiated between this and past school applications. The schools had been in residential areas and residential lots had been close to the amphitheaters. Proposed Condition 3 was not necessary because this site was different. Vice Chair Holmes agreed it was not necessary. However, if the other Commissioners decided to keep it she would add, 'unless a permit has been filed through the City.' Commissioner Axelrod and Chair Babbitt assumed the applicant would have to go through the special permit process whether or not the condition specified that.

Chair Babbitt clarified for Commissioner Axelrod that it was not unusual to limit operational times in a conditional use approval and that West Linn had a complaint-driven system of enforcement. He noted the applicant was required to provide an annual report that demonstrated they complied with conditions of approval. He related that he would prefer to keep Condition 3, but he would not vote to deny just because the condition was removed. He recalled that the City had addressed noise by imposing operating hours limits on other businesses; the Commission had advised the Council regarding other noise and light related issues the current code did not address; noise was noise sometimes, no matter what was generating it; and there was no formal process for issuing special permits. He questioned how the City could reasonably deny the applicant a special permit when it granted them for other's concerts.

Commissioner Martin commented that one would not expect as much silence at a site that was not in a residential neighborhood and that was near a freeway and a car wash. He recalled when the Commission previously discussed noise it had been in the context of a residential neighborhood sport court. Trying to craft a noise condition for this application that differentiated between summer and winter seasons would be awkward, complicated, and a lot of work for very little benefit. If complaints showed there was a problem it could be dealt with then. Chair Babbitt explained that was why he would not vote to deny the application.

Commissioner Axelrod indicated he saw both sides of the issue. He suggested it might be more reasonable to change the time parameter from 7:00 AM to 9:00 AM on weekends and differentiate between summer and winter dates and hours. However, reasons for removing the noise condition entirely were that crafting the language would be problematic and he did not want to unnecessarily limit the youth center's options. Commissioner Steel would add language to Condition 2.c so it specified '6:15 p.m.'

Commissioner Martin **moved** to approve CUP-12-05 / DR-12-18 subject to Conditions 1 and 2, with Condition 2.c. specifying '6:15 p.m.'; and remove Condition 3 regarding noise control. Commissioner Axelrod **seconded** the motion. The vote was conducted and the motion passed 5:0.

2:27

PLANNING COMMISSION GOALS - Establish Commission goals for 2013

Director Sonnen distributed copies of the Citizen Advisory Group Year-End Report form and Long-Range Planning Projects for 2012-13 (Updated 10-2012). The goals were to be forwarded to the Council in time for the Council's goal-setting retreat in mid-December. Based on the Commission discussion Mr. Sonnen was to complete and submit the report form and revise the project list. During the discussion he advised that the Planning Department could lose another staff member next year due to the budget shortfall. He related that staff believed the Arch Bridge project had a better chance of winning a \$150,000 Metro grant than the Robinwood center. He clarified that the state did not expect West Linn to do periodic review in the next two years. He and the Commissioners considered what was necessary to finish the Infill/PUD, WRA, and Historic code update projects, Substantive code fixes and the Master Trails Plan.

Commissioner Martin advocated prioritizing the Blue Heron and Arch Bridge projects over code updates so the City would not miss those great opportunities. Chair Babbitt would put Infill/PUD code at the top with them. Vice Chair Holmes inquired whether Mr. Kerr's Infill/PUD hours could be reallocated to other staff in order to finish that project. Commissioner Steel and Chair Babbitt stressed the importance of the City finishing and implementing projects after it involved citizens in the process. The Commissioners would roll the unfinished projects from last year forward. Mr. Sonnen encouraged the Commission to move forward with Substantive Code Fixes. He anticipated the Commission would hear the Master Trails Plan in the spring. He confirmed that trails that were actually sidewalks would be moved to the TSP.

Mr. Sonnen was to look into procuring more comfortable microphone ear buds and providing the Commissioners with documents on iPads instead of in voluminous paper packets. He would alert the Commissioners when training opportunities came up. He reported that Public Works was working on master planning water infrastructure and a potential rate increase. The City was applying for a grant to implement part of the Highway 43 Plan. The City had been using new software to track building permits. It had not been able to afford the planning module, but land use conditions of approval were being entered in the building permit module. Commissioner Axelrod related Natural Step Framework training had been rescheduled to February.

3:05

PLANNING COMMISSION POLICIES AND PROCEDURES. Consider amendments to the Planning Commission Policies and Procedures regarding meeting starting times and televising work sessions

Director Sonnen distributed Planning Commission Rules (Revised 9.14.12). He pointed out the rules had been amended to provide that pre-meeting work sessions were to start at 6:30 p.m.; regular meetings were to start at 7:00 p.m.; and the restriction on televising work sessions had been removed.

Commissioner Steel **moved** to change the Planning Commission rules as amended: The meeting times were to be the first and third Wednesday of each month starting at 6:30 p.m. for a work session, followed by the regular Commission meeting beginning at 7:00 p.m. The last sentence under 'Televising of Commission Meetings' that stated, 'Work sessions will not be televised, with the exception of joint work sessions with the City Council or other City boards and when authorized by a unanimous vote of the Commission' was struck. Commissioner Martin **seconded** the motion and it **passed** 5:0.

ITEMS OF INTEREST FROM THE PLANNING COMMISSION

Commissioner Martin conveyed a constituent's request that the Planning Commission sponsor a project by graduate students in Portland State University's Masters of Urban and Regional Planning Program to study two trail alternatives along the north and south sides of I-205 and make a recommendation. The proposed project had already been submitted for consideration in order to meet a December 3 deadline. The Commissioners inquired what sponsorship involved; if there were other sponsors; and if the Planning Department, Parks and Recreation, or the City as a whole could endorse or sponsor it. Commissioner Martin suggested Commission sponsorship would give the proposal the legitimacy and merit of being associated with City government. He did not think there was any additional commitment. The study would offer an objective look at both alternatives. It could be considered at the Master Trails Plan hearing. It would be the capstone project for the graduate students.

Vice Chair Holmes and Commissioner Axelrod indicated they would feel more comfortable if the Commission was more involved in it and received updates along the way. Commissioner Martin recalled the draft Master Trails Plan called for a north side trail, but many citizens had asked for the City to look at a south side trail. The Barrington Heights Neighborhood Association was one of the associations that initiated the proposal. Chair Babbitt was concerned the Commissioners did not know enough about what kind of commitment would be involved. He was concerned that if the Commission sponsored the study and then used it to make a decision it would be perceived as biased. He suggested 'endorse' would be better than 'sponsor.' Mr. Sonnen had not heard of this proposal before. He advised that ODOT was essentially the lead on the trail project. The Planning Department would not have any problem with it if the state was an integral player.

Chair Babbitt polled the Commissioners. Commissioner Steel favored the idea of the Commission endorsing the project. Vice Chair Holmes did not favor it because of her concern about bias. Commissioner Axelrod indicated he did not yet know enough about it. He and Vice Chair Holmes wanted to know if the Planning Department could endorse it. Mr. Sonnen explained it would be inappropriate for him to step into an effort being led by the Parks Department and ODOT. It might be more appropriate for the Parks and Recreation Department or the City as a whole to act. Chair Babbitt indicated he did not have enough information to support or endorse it, but it was a great project and the students could make a presentation to the Commission in the future. Commissioner Martin then acknowledged that Parks and Recreation was the best entity to sponsor the study, not the Planning Commission. The consensus was not to act on the request.

ITEMS OF INTEREST FROM COMMISSION FOR CITIZEN INVOLVEMENT

None.

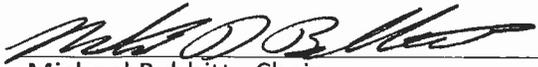
ITEMS OF INTEREST FROM STAFF

None.

ADJOURNMENT

There being no other business, Chair Babbitt adjourned the meeting at approximately 10:30 p.m.

APPROVED:



Michael Babbitt, Chair

2-6-13

Date