

**CITY OF WEST LINN  
PLANNING COMMISSION  
AND  
CITIZEN INVOLVEMENT COMMISSION MINUTES**

**Draft**

**Wednesday, January 7, 2009**

Members present: Chair Michael Babbitt and Commissioners Shawn Andreas, Valerie Baker, Robert Martin and Dean Wood

Staff present: Bryan Brown, Planning Director; Tom Soppe, Associate Planner; Khoi Le, PE, Engineering Department; and William Monahan, City Attorney

Members absent: None

**CALL TO ORDER**

Chair Michael Babbitt called the Planning Commission meeting to order at 7:00 p.m.

**APPROVAL OF MINUTES**

Vice Chair Martin **moved** to approve the Minutes of November 19, 2008. Commissioner Andreas **seconded** the motion and it **passed** 5:0.

Commissioner Andreas **moved** to approve the Minutes of December 3, 2008. Commissioner Wood **seconded** the motion and it **passed** 5:0.

**PUBLIC COMMENTS** (None)

**ELECTION OF OFFICERS**

Commissioner Martin **nominated** Michael Babbitt to continue to serve as Chair of the Planning Commission. Commissioner Andreas **seconded** the nomination and Chair Babbitt was **re-elected** by unanimous vote.

Commissioner Wood **nominated** Dr. Robert Martin to serve as Vice Chair of the Planning Commission. Commissioner Andreas **seconded** the nomination and Vice Chair Martin was **elected** by unanimous vote.

**PUBLIC HEARINGS**

(Note: The staff reports and all related documents for the hearings are available through the Planning Department.)

**DR-08-01/VAR-08-01/VAR-08-09/WAP-08-01, Design Review Variances and Water Resource Area Protection for Holiday Inn Express, 2400 Willamette Falls Drive** (Continued from December 3, 2008.

Chair Babbitt opened the public hearing and asked the Commissioners to declare any conflict of interest, bias, or ex parte contact (including site visits) since the previous hearing. Commissioner Andreas reported that he had visited the site again. Commissioner Baker recused herself because

she had been traveling at the time of the previous hearing and had not reviewed that hearing record.

*Staff Report*

**Tom Soppe, Associate Planner**, presented the staff report (see Planning & Building Department Staff Reports dated November 5, 2008 and January 6, 2009). He reported the applicant had submitted a revised site plan and new findings since the previous hearing. He said the staff could agree to the smaller covered entry and to moving several parking spaces further away from the creek. He explained they still recommended approval of the application, but they did not agree with some of the findings submitted by the applicant. One finding was that the code's hardship provision allowed up to 5,000 sq. ft. development in the transition area on each of the multiple tax lots that made up the site. He advised that the applicants also incorrectly showed they were required to have a 50-foot setback, but the code required a 100-foot resource setback. He said the staff considered the entire site a "lot" because it was a group of parcels under common ownership. That meant the hardship provision allowed them to develop up to 5,000 sq. ft. in the transition area on the combined lot. He said the recommendation of approval could be justified by the other findings that the staff and applicant agreed upon. He reworded original Condition 7 so it more clearly specified that all pervious pavement in the parking lot was to be constructed of hard-surfaced materials, not gravel. He corrected Condition 8 to specify that 100 feet of transition area was to be placed in a conservation easement. He reported Planning staff had asked Police officials to comment on the application and the police had asked that the parking areas be well lit and said they hoped that the exterior materials were the kind that discouraged skate boarders.

**Khoi Le, PE, Engineering Department**, reported that ODOT had removed the culvert under the existing driveway during recent flooding, and that area was now an open channel. However, it was not necessary to change the site plan because the conditions of approval required the applicant to install a larger, open bottom culvert there anyway. .

During the questioning period, Mr. Soppe clarified that the staff recommended approval of the variance to allow development of more than 5,000 sq. ft. of transition area on the site as a whole, not on each individual tax lot that made up the site. He said they believed the code hardship provision had been written with residential use in mind, not commercial use. He observed that without the variance the site would be likely be commercially un-developable with a 100 foot resource setback and only 5,000 sq. ft. of developable area in the transition zone. Because of that they recommended approval of the variance to allow more than 5,000 sq. ft. He advised that even though the applicant was justifying the rearranged site plan based on a finding the staff did not agree with, the staff preferred the newer site plan because it put the development further away from the creek and wetland.

*Applicant*

**Brad Kaul, Steven P Elkins, Architects, Inc., P.S., 11000 NE 33<sup>rd</sup> Place, Ste. 101, Bellevue, Washington, 98004; Dale Gulliford, Schott & Associates, 66 Cervantes Cir, Lake Oswego, Oregon 97035, a wetland scientist; and Tim Turner, TRT Engineering, 2636 SE Market**

**St., Portland, Oregon, 97204, a civil engineer**, testified on behalf of the applicant. Mr. Kaul presented slides showing existing site conditions and the locations of the remaining asphalt of vacated Willamette Falls Drive and the 100-foot setback. He said the wetland and riparian areas were low-functioning resource areas featuring invasive species. He explained that the current owner had purchased the site when the code required a much smaller resource buffer. He said the applicant was now proposing a 70-unit hotel with 63 parking spots and the building had been moved away from the resource by one parking bay. He said the revised plan impacted less of the transition area. However, to be limited to 5,000 sq. ft. of developable area (including parking area) in the transition zone limited the economic viability of the facility, so the applicant needed the variance to develop 21,400 sq. ft. in the transition area. He stressed the site included several legal tax lots and three of them were inside the transition zone. He said the applicant's environmental consultant would be on site to monitor the mitigation and erosion control and replanting. He showed an alternative site plan and compared possible uses and how they might fit the site and concluded that hotel impact would be slightly more impact than office and retail use, but hotel use would be the best economically viable use for that kind of size, visibility and access. He stressed the property owner knew how to run a hotel. He showed the building elevations and a perspective rendering of the development. He said the first floor would be about ten feet above the level of Willamette Falls Drive and would not be prone to flooding. He reported the applicant found the neighbors did not need to use part of the parking lot. He argued the development would improve the function and value of the water resource area. It would address the existing gravel and control pollutants and runoff from Willamette Falls Drive. He said the applicant proposed to enhance the transition area with 2:1 mitigation in the on and off site mitigation areas. He said the code would allow the applicant to repair and use the legally established roadway for access, but they were still mitigating for it. He concluded the project would benefit the site, the park and the community in a way that no small, retail project could afford to.

During the questioning period, the applicant's representative was asked to compare the proposed project with the smaller, adjacent law office development. Mr. Kaul observed that project had been built before current code constraints on development that the applicant's project was subject to. To build that small would not be economically viable today for them, or for the applicant, particularly because the price he paid for the land had been based on its ability to accommodate a larger development that generated more revenue. Mr. Kaul said the hardship was that the larger setbacks took away previously buildable area and made it a challenge for the applicant to recoup his investment. The Commissioners then invited public testimony to respond to the applicant's presentation.

*Proponents*

**Alice Richmond, 3939 Parker Rd.**, stressed that the city needed a hotel for tax revenue and to provide lodging for visitors and the site was a good location for it because it was near I-205. She indicated she liked the proposed design.

*Opponents*

The staff clarified for **Karie Oakes, 1125 Marylhurst Dr.**, that the total amount of disturbance area the applicant was asking for was 21,400 sq. ft. Then she read aloud her written testimony (see Exhibit \_\_\_\_). She asked the Commissioners to continue the hearing because the public had not had enough time and opportunity to review the applicant's recent submittals and determine if he had demonstrated that no other alternative could result in economically viable use of the site and the proposed intrusion was the minimum amount necessary for that. She observed that 21,400 sq. ft. of water resource area land was many times greater than the 5,000 sq. ft. allowed by the hardship provision. She advised the code required the applicant to re-vegetate the transition area. She concluded the requested 21,400 sq. ft. disturbance area grossly disrespected and endangered the riparian land and wildlife and thereby threatened the quality of life in West Linn.

During the questioning period, Ms. Oakes clarified that the city's 5,000 sq. ft. standard was based on a Metro standard that was based on a scientific analysis that was the minimum allowable developable area that still maintained harmony with wildlife in a resource area. Vice Chair Martin recalled the Metro report and supporting reference documents discussed protecting salmon with a 100-foot buffer because that was the average height of a Douglas fir tree. He observed that the applicant's site did not have such tall trees. He recalled the applicant's water resource consultant had offered expert testimony about the site that the Commissioners had to consider just before Ms. Oakes had arrived at the hearing. Ms. Oakes recalled that Chapter 32 applied the standards whether or not the land had already been degraded by construction of the roadway, and those standards had to be applied.

*Rebuttal*

Mr. Gulliford confirmed that he was a wetland scientist. He said he had examined the existing conditions on the site and compared them with the result of the proposed 2:1 on and off site enhancement. He said that even though the riparian corridor would be reduced by the development, it would be better off after removal of invasive species and replanting with native plants. When asked, he anticipated that the riparian corridor would be made healthier and that would indirectly improve the quality of the stream. He clarified that the site was mostly degraded, but there was a small area in one corner that featured native species and the roadway featured a few native trees.

The Commissioners generally agreed that the public should be given more time to examine the information submitted since the previous hearing.

Vice Chair Martin **moved** to continue the hearing until January 21, 2009; leave the record open to written testimony for the next seven days; then allow the applicant to submit a written rebuttal up to noon, January 21, 2009. Commissioner Andreas **seconded** the motion and it **passed** 4:0. The applicant agreed to extend the 120-day rule period by 14-days. Chair Babbitt then announced a ten-minute recess and thereafter reconvened the meeting. Commissioner Baker rejoined the other Commissioners to participate in the next hearing.

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**MISC-08-20, Temporary Use Permit Apparatus Bays at Fire Station #59, 1950 8<sup>th</sup> Avenue**

(Continued from December 17, 2008)

Chair Babbitt opened the public hearing, explained the applicable criteria and procedure, and announced the time limits for testimony. He asked the Commissioners to declare any conflict of interest, bias, or ex parte contact (including site visits). Commissioners Baker and Wood and Chair Babbitt each reported they had visited the site. When invited by the Chair, no one in the audience challenged the authority of the Planning Commission or the ability of any individual Commissioner to hear the matter. City Attorney Monahan explained that he would not participate in the hearing because his firm represented Tualatin Valley Fire & Rescue.

#### *Staff Report*

**Tom Soppe, Associate Planner**, presented the staff report. (See Staff Analysis and Recommendation dated December 3, 2008). He explained the applicant proposed to use a temporary asphalt pad and two steel garages to house fire apparatus during construction of the new fire station. Firefighters would live in the existing house behind the fire station. He said the applicant and the staff agreed that the garage could be moved a little further north and the driveway could be configured to avoid the drip line of a significant tree. He said the staff recommended approval.

During the questioning period, Mr. Soppe confirmed that the Engineering Department staff had examined driver sight distance and found it was acceptable.

#### *Applicant*

Gary Wells, 20665 SW Blanton St., Aloha, Oregon, TVFR Division Chief, explained the application as part of a multiyear program to replace both West Linn fire stations, and the response time would be the same as it was today. He said the applicant needed the site to house water rescue team apparatus and a new fire truck that would not fit into the existing station. He said the applicant agreed with the staff recommended conditions of approval.

During the questioning period, he clarified that there would be four firefighters on duty each shift and the house they stayed in had a big RV concrete parking area the applicant would use for parking. He anticipated that in an emergency, the firefighters would drive the route that took them where they had to go in the safest and fastest manner, with lights flashing to warn other drivers. But they knew they were responsible for watching traffic before they entered an intersection.

#### *Proponents*

**Alice Richmond, 3939 Parker Rd.**, stressed the facilities were necessary, and the site was the best location for ensuring fast response time. Chair Babbitt closed the public hearing.

#### *Deliberations/Motions*

Commissioner Andreas **moved** to approve MISC-08-20. Vice Chair Martin **seconded** the motion and it **passed** 4:0.

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**ITEMS OF INTEREST FROM STAFF**

Mr. Brown related that the staff was about to work on a CDC update package to address matters that had come up during the past year in Planning Commission and City Council meeting and other ways. They were also about to arrange for a consultant to offer options related to Goal 5 protection of upland wildlife. They would re-examine Chapter 32 river protection. The biggest project for 2009 would be the Comprehensive Plan update and related CDC implementation measures. A consultant would help in that effort and a task force might be utilized to receive public input to help define the process to be used. He announced the City Attorney had agreed to conduct a "Planning 101" seminar at the next Planning Commission meeting, when there would be two new Commissioners.

**ITEMS OF INTEREST FROM THE PLANNING COMMISSION**

Chair Babbitt said that he had received a Metro announcement of a February 14<sup>th</sup> and 15<sup>th</sup> seminar on land use disputes that he would forward to the other Commissioners.

**ADJOURNMENT OF PLANNING COMMISSION MEETING**

There being no other business, Chair Babbitt adjourned the Planning Commission meeting in order to begin the CCI meeting.

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**COMMISSION FOR CITIZEN INVOLVEMENT**

**Review of current program: Commission for Citizen Involvement**

Chair Babbitt called the Commission for Citizen Involvement meeting to order. The staff had given them a report that described state statutory requirements and guidelines for citizen involvement and inventoried the city's legislative and procedural mechanisms currently in place to encourage citizen involvement. Mr. Brown said that the state emphasized focusing citizen involvement programs on comprehensive planning, and the city was about to update the Comprehensive Plan and the CDC this year, even though the state did not require periodic review until 2011. He advised the city sometimes required wider notice than the state required. He said the state called for involving citizens during the entire process - not just inviting public input at a hearing. He said the state obligated local government to adequately fund citizen involvement program, but he cautioned the Commissioners to be practical and consider what the city could afford to do. He asked the Commissioners if they wanted to solicit a citizen task force to help with the Comprehensive Plan update and determine what it was worthwhile for the task force to work. He recalled that a task force process lengthened the code amendment process. He said the staff would assemble a package of non-controversial, technical updates, but it was important to separate out any controversial items and avoid surprises in order to achieve buy-in from the community in the end.

Commissioner Wood related that most of his neighbors had not been aware that the Holiday Inn was proposed in their neighborhood, or about the Transportation System Plan. He opined that a citizen who was made aware, and cared, would become involved, so the CCI program should promote awareness. He agreed a task force process could prolong the process. Commissioner Andreas said different people had different ideas about what the CCI did. He suggested the first step should be to define its objectives and priorities. . The CCI should ask citizens to suggest what those should be. He said the CCI should look for as many communication methods and channels as possible to help a broader spectrum of citizens understand what an application contained. The CCI should follow up to verify that the city was being accountable, and gave people adequate time.

Vice Chair Martin recalled that task forces had worked well in the past, but they demanded a lot of time from participants. He observed that the city had a lot of smart people, and it was easier for someone to tell you what was wrong. So he suggested building a list of volunteers who were willing to review the work of task forces or city entities at different stages and voice their opinion about what was wrong with it when they had the time. He said that way people could get involved during the process and not just after they were impacted by something. He thought the more ideas people contributed, the better the solution would be. Commissioner Baker suggested the CCI meet more often than once a year. She suggested they begin the year by defining the CCI and fashioning a list of action items and priorities so they could measure their success at the end of the year. She related that the Mayor was also committed to expanding citizen involvement.

#### *Public Input*

**Lynn Fox, PO Box 236, Marylhurst, Oregon, 97036, President of the Hidden Springs Neighborhood Association**, reported that she had not received the CCI material or seen it on the website in time to read it before the meeting, but she was pleased that the Commissioners had identified communication as a key issue. She said her Association had found mailing postcard sized notices did not work well, but flyers and a neighborhood magazine paid for by advertising revenue did encourage more people to participate. They only used mailings to alert members about potential neighborhood developments. She suggested that officers of all neighborhood associations and members of all city boards and commissions get together once or twice a year to share ideas and problems they might be able to solve together. She said one problem in Hidden Springs was that developments were not monitored as they were constructed to ensure that Planning Commission decisions were carried out. One example was that a developer dissolved a homeowners association and then no one was responsible for maintaining the common area.

**Jeff Treece, 1880 Hillcrest Dr., President of the Marylhurst Neighborhood Association**, said his Association wanted the city to “slow down” and give them time to review materials and participate in a hearing. He said his board had examined the staff report and thought it was a good start to creating a better program to find broken links in the chain of communication. He said they had looked at the City of Tualatin website and found that complete packets of materials to be discussed at their January 12<sup>th</sup> meeting were in pdf format on the web. He said that would be nice to offer to West Linn citizens. Mr. Brown explained the staff had begun to do that, but could not sustain that practice due to the logistics and significant staff time necessary to

continually ensure that changes to applicant's submittals were put on the web. He stressed the program needed to be realistic and adequately funded. He advised the Planning Commission had adopted a written policy that material that came in up to ten days before the hearing could be distributed to the Commissioners, but material that came in later was not to be distributed until the night of the hearing. That was to prevent sending out a constant stream of material.

**Alice Richmond, 3939 Parker Road**, observed citizens elected representatives who were trustworthy and informed. She opined that they came when they wanted to participate and did not if they believed things were fine. She cautioned against wasting taxpayer money on staff time to insert material on the web.

Chair Babbitt agreed that awareness promoted involvement. He noted the staff memorandum listed many tools to get people involved. He agreed it was important to define the role and objectives of the CCI. He was concerned that people confused the CCI with the Planning Commission and would come to CCI meetings to talk about land use issues and create ex parte contacts. He suggested the CCI should meet at least quarterly, but more often in the beginning. He suggested that copies of the staff report be distributed to all neighborhood association officers and they should be asked to suggest how to improve the inventory of involvement methods. Commissioner Andreas suggested the CCI invite as many people as possible to bring their ideas to the initial meeting to define the CCI and set its goals. Commissioner Wood suggested a task force might consider how to involve citizens earlier in the process and identify holes in the process. Vice Chair Martin wanted to reach out to the widest spectrum of citizens. He supported putting the report on the web and sending it to all the neighborhood associations and inviting people to tell the CCI what should be done differently.

Chair Babbitt saw a consensus for the CCI to meet again in two months. He directed the staff to put the staff report on the web, distribute it to all neighborhood association presidents; and insert it into the Update. He also suggested alerting the editor of the *Tidings* about what the CCI was about to undertake. Ms. Fox suggested also sending the staff report to homeowners associations, but the staff did not have a list of all homeowners associations in the city. Mr. Brown suggested that even though the staff could not continually insert revisions of documents on the web, they could post the initial application with a disclaimer explaining that changes might be being submitted to the Planning Department; an update would be posted just before the public hearing; but people could also submit written material during the hearing.

#### **ADJOURNMENT OF CCI MEETING**

There being no other business, Chair Babbitt adjourned the CCI meeting at 10:25 p.m.

#### **APPROVED:**

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**Michael Babbitt, Chair**

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**Date**