



# CITY OF West Linn

## PLANNING COMMISSION

Minutes of April 4, 2012

Members present: Chair Michael Babbitt , Vice Chair Gail Holmes, Russell Axelrod, Thomas Frank, Holly Miller and Christine Steel

Members absent: Robert Martin

Council Liaison: Mayor John Kovash

Staff present: John Sonnen, Planning Director; Tom Soppe, Associate Planner; Damien Hall, City Attorney

### Call to Order

Chair Babbitt called the meeting to order at 7:30 p.m. in the Council Chambers of City Hall, 22500 Salamo Road, West Linn, Oregon.

### Public Comments

None.

### Public Hearings

#### CUP-12-03/DR-12-07, Building and site modifications at Willamette Primary School, 1403 12<sup>th</sup> Street

Chair Babbitt opened the public hearing and outlined the applicable criteria and procedure. He asked the Commissioners to declare any conflict of interest, bias or *ex parte* contact. Commissioners Miller, Steel, Frank, and Axelrod and Vice Chair Holmes and Chair Babbitt each declared a site visit. No one present challenged the authority of the Planning Commission or any individual Commissioner to hear the matter.

### Staff Report

Mr. Soppe had distributed the April 4, 2012 staff report. He pointed out on an aerial view of the site the locations where the applicant proposed to install the Learning Garden and make the other proposed changes. He outlined the applicable criteria. The existing school was a Conditional Use in the R-10 zone. The Learning Garden was subject to additional Conditional Use review because it would intensify the use. He discussed the elevation drawings, pointing out the proposed changes in each elevation. He described how the applicant proposed to screen and enclose the trash/recycling/emergency generator area. He reported the staff found that the proposed walls and enclosure gate as well as the other changes related to a new window and ADA-related requirements would be compatible with the existing architecture. He showed photographs of the side of the site where the Learning Garden would be. He reported that the staff found conditional use and design review criteria could be met by limiting use of the Learning Garden so noise was only generated from that area during regular school hours. A similar condition had been imposed on Bolton School. Staff recommended requiring the chain link fencing be screened with arborvitae to buffer it from neighbors' views. Mr. Soppe advised that the emergency generator was exempt from noise standards. The applicant had reported the trash compactor would meet City noise standards. The staff did not propose a condition of approval related to noise because a test would be required any time there was a complaint or if TVF&R identified a noise issue during periodic testing.

Charles Awalt had written to advise that whenever a public building over 50 years old was to be modified the state required the proposal to be reviewed by the State Historic Preservation Office (SHPO). The Willamette Neighborhood Association reported the Association voted

unanimously to support the application. The staff found that all conditional use and design review criteria could be met. They recommended approval of the application subject to the three conditions of approval recommended in the staff report, plus new condition 4 to require the applicant to go through the SHPO process.

During the questioning period the Commissioners suggested the new condition should ensure the work could not proceed until SHPO approved it. Mr. Sonnen advised the staff would ensure that no building permit was issued until the matter was resolved.

#### *Public Testimony*

##### *Applicant*

Tim Woodley, Director of Operations, West Linn-Wilsonville School District, PO Box 35 (97068), and Travis Butler, AIA, Dull Olson Weekes Architects, testified for the applicant. Mr. Woodley explained the Learning Garden would promote outdoor learning for kids. The applicant would make ADA-related sidewalk changes to challenging grades. Having a trash compactor meant the refuse truck would come less often. That area would be screened to improve the appearance of the front of the school. The new emergency generator was critical for safety. All schools were designated to serve as emergency shelters during community emergencies. The replacement windows would be insulated, energy-saving units. Mr. Butler said the replacement windows would be of similar design to existing windows. The entries were being modified to create ADA-level access to the playgrounds and gardens. The gardens were an aesthetic improvement to the site that might help lower the impact of the school on the neighbors. The trash enclosure would help mitigate noise and improve the aesthetics in front of the building. The materials used would be similar to existing materials.

During the questioning period Mr. Woodley confirmed for Chair Babbitt that the applicant would be amenable to a requirement to notify the City of the results of the SHPO review. Mr. Butler clarified that the old single-pane windows would be replaced with new insulated glass windows; that the garden would have raised beds; that the applicant did not propose to do anything in the sloped area between the fence and arborvitae; and that the 'masonry wall' would be of the same brick as on the existing building. He said the wall would be just high enough to hide the recycling bins. He advised the higher it was the better it would be at blocking noise. The applicant's representatives clarified that the windows behind the wall were non-classroom windows to a utility area. The generator would only be used during emergencies. Mr. Woodley agreed with the Commissioners that the arborvitae would grow very tall and could block sunlight. He explained the staff had suggested arborvitae, but the applicant would plant whatever type of tree the Commission specified. Chair Babbitt suggested the staff consider what other type of bush could be used instead of arborvitae.

##### *Proponents*

Alice Richmond, 3939 Parker Rd., supported making the proposed alterations. They would renew the school; enhance the neighborhood; save energy; help the community prepare for emergencies; and benefit the children.

##### *Opponents*

Gary Hitesman, 2188 Clubhouse Dr., asked the Planning Commission to deny the application. He held the trash compactor should be relocated away from the front of the school. Having it so close to the street was unprecedented. Its scale and massing could have a negative impact. It destroyed the vision of an urban street and a school. He questioned why the City should be celebrating the trash. Traffic on 12<sup>th</sup> was exacerbated by traffic to and from Pete's Mountain. The TSP did not address negative impacts to the school and the neighbors. This proposal just added to the inadequacies. He discussed the findings. He compared the current application to CUP-10-03 where many things, including massing, had not been properly addressed. Those

were potentially appealable to LUBA. In general the findings did not adequately link to the intent of ORS 197. For example provisions under CDC 60.070 called for adequate area for aesthetic site design treatment. The staff overlooked that the trash enclosure was not compatible with the street. He referred to Findings 6 and 8 and questioned that there was any need for a trash enclosure and trash pickup on 12<sup>th</sup>. He referred to Finding 11 and indicated the trash enclosure did not meet what the code intended to achieve. He said the trash enclosure did not meet Chapter 55 in general. He indicated the walls did not meet provisions of Chapter 44. They posed a security issue. Someone could hide behind the trash enclosure. Kids could bully other kids behind the enclosure. He advised the Commission not to approve the application until SHPO had reviewed it. He referred to Finding 28 and observed the staff ignored how the proposed changes related to the context of the neighborhood. He indicated it was a policy issue and a shame that the emergency generator was being proposed at the front on the street. He concluded the trash enclosure was a large oversight and did not meet code. The Commission should deny the application.

*Rebuttal*

None.

*Questions of staff*

The Commissioners referred to drawing L-101 and asked how far the trash enclosure would be set back from the street. Chair Babbitt invited the applicant to offer additional clarification. Mr. Butler estimated that the gate would be 2.5 to 3 feet back. Mr. Woodley responded to a query regarding whether the applicant could locate it somewhere else besides in front. He pointed out there were streets all around the site. The trash enclosure was close to where most of the trash was generated and the trash would be picked up once a week. He confirmed it would be gated, so it was secure. Commissioner Axelrod was concerned that installing fencing could damage the roots of the maple tree. Mr. Soppe pointed out there was some existing fencing there and he assumed the posts for the new fencing would be outside of the tree's drip line.

*Deliberations*

Chair Babbitt closed the public hearing. The Commissioners took five minutes to review their notes. Commissioner Miller then related that the modifications that had been made to the application addressed any concerns she had. Mr. Soppe clarified for the Commissioners that if SHPO required a modification the Commission - not the staff - would hear the request to modify the approval. Commissioner Axelrod suggested requiring a mixed variety of shrubs as screening. He wanted to know if the compactor fence could be set back further from the curb. Commissioner Frank indicated he would agree to the revised conditions of approval if the building permit was withheld until the SHPO requirement was fulfilled. He agreed that a mix of shrubs next to the Learning Garden would be of more benefit to the community than just one type. Vice Chair Holmes indicated she would approve the application with the conditions that had been discussed. She clarified that she wanted to ensure the historic aspects of the building were appropriately preserved. It appeared from the function of the building that there was no better way to handle trash. She suggested that it would be nice for the kids if the vegetative screening was edible. Bolton gave its excess edibles to the Food bank. Mr. Soppe confirmed that the work could not begin until a building permit was issued. Chair Babbitt indicated he agreed the vegetation should be fruit-bearing. He agreed to add Condition 4. He remarked that he was glad the City was changing the process to ensure that applicants went through the SHPO process before their applications were heard by the Commission.

Commissioner Steel **moved to approve** CUP-12-03/DR-12-07 with condition 3 modified to specify fruit or flower bearing vegetation rather than arborvitae and with new condition 4



regarding state historic review. Commissioner Miller **seconded** the motion and it **passed** 6:0. The Commission took a five minute recess and then reconvened for the next hearing.

**CUP-12-01/DR-12-03, Booster Pump Station at Bland Reservoir site, 23120 Bland Circle**

Vice Chair Babbitt opened the public hearing and outlined the applicable criteria and procedure. He asked the Commissioners to declare any conflict of interest, bias, or ex parte contact. Commissioners Steel, Axelrod, Frank, Miller, Holmes and Vice Chair Babbitt each reported a site visit.

Gary Hitesman, 2188 Clubhouse Dr., challenged Commissioner Frank's ability to hear the matter because Frank had been reported to have indicated that he wanted to see infrastructure move ahead in West Linn. Commissioner Frank stated he had no bias and had not predetermined the application.

Commissioner Steel **moved** to allow Commissioner Frank to participate in the hearing. Vice Chair Holmes **seconded** the motion and it **passed** by unanimous vote.

***Staff Report***

Mr. Soppe had distributed the April 4, 2012 staff report. He advised the proposed pump station was subject to conditional use approval because it was a change to an existing conforming conditional use site, and because it would be a new conditional use on the site as well. The site was in the R-7 zone, but the Commission had the discretion to determine and apply dimensional requirements to a conditional use in that zone. Class 2 design review was required because it was a new public building. The City's Water Master Plan called for the new pump station at the Bland reservoir to help ensure an adequate water supply for the Rosemont pressure zone

Mr. Soppe pointed out on the map where access to the site was to be via an easement with a shared driveway over an adjacent parcel that was not in the City. It had an existing house on it. Another parcel on the east side of the site was dividable and developable. Therefore, houses could eventually be up to the east boundary of the site. He referred to the site plan and pointed out the proposed location of the pump station building. He advised that the City was currently negotiating an easement with adjacent property owners for electric and sanitary lines. He showed elevations for the pump station. It was proposed to be painted green to match the existing tank. Arborvitae were proposed to provide screening. Fencing would be extended around the entire perimeter of the site. He showed photographs of the existing site. A small clump of mostly alder trees would be removed to accommodate the building footprint. The City Arborist had found the trees proposed to be removed were not significant trees. Positioning the building there would avoid significant trees further back on the site. The staff recommended a condition of approval to install the fencing behind the new arborvitae so the arborvitae would screen the fence. The fence would be five feet back from the property line. The staff found the application met conditional use criteria. With the fencing behind the arborvitae it would meet screening and landscaping criteria. To position the new building further back would mean that the access and parking would impact larger trees' roots. The applicant's noise study found ambient noise would not be an issue. The staff found that for compatibility reasons the signage should be similar to that required for parks. They recommended a condition to plant a shade tree by the parking area to meet the landscaping requirement related to the required ratio of shade trees to parking spaces. The applicant proposed to install lighting fixtures that directed light downward so it stayed onsite. The conditions of approval required the applicant to get easements for connecting infrastructure such as the sanitary and electric. The staff recommended approval subject to the recommended conditions of approval.

During the questioning period Commissioner Steel expressed concern that people would not know where the property line was if the fence was not on the line. Mr. Soppe advised the Commissioners could decide to put the fence right on the line and in front of the landscaped strip, but the staff recommended using the landscaping to screen the chain link fence. He clarified that there are two separate utility corridors. One would get the water to the zone it was serving via the most direct route through the properties to the north if easements could be obtained. The alternative was to route it down the existing driveway easement and through public right-of-way. If the City could not negotiate them it could potentially use its condemnation authority. The staff clarified the site did not contain any natural creeks or springs.

*Public Testimony*

*Applicant*

Dennis Wright, Engineering Manager, testified that the adopted Water Master Plan anticipated that an additional pump station and eventually another, larger, reservoir would be necessary to provide water to the Rosemont pressure zone. Construction of Trillium School had triggered the need for the pump station. Different locations had been considered during the master planning process before the Bland site was selected. It had room for the pump station and it was logical and economical to locate the pump station next to the reservoir. 4B Engineering had designed the project. The City was currently negotiating easements with three adjacent property owners so the line could tie into a Weatherhill Road line. It already had tentative agreements with two of them. Another easement would be necessary to bring electric power to the station. It would be along the west side of Mr. Omlor's property, where development had once been approved but had since lapsed.

Adam Butts and Edward Butts, 4B Engineering, submitted updated materials showing they had made the changes recommended in the staff report. Mr. Butts testified the consultants originally proposed to locate the station on the northeastern portion of the site, but the Water Supervisor had asked them to change it to where it was proposed now. The proposed location would make it easier to access. The engineers explained the design encased the turbine in a way that helped mitigate noise. They had designed over 200 similar facilities. They took the needs of the community and the environmental issues into consideration when they designed this type of infrastructure. They also did modeling to ensure a location would offer the proper hydraulics so the facility would function properly. They had looked at several different locations on the site for the pump station and found the proposed location was the best location for it.

During the questioning period the engineers clarified they had not been asked to look at alternative sites to the Bland site. They clarified that the parking area would be in front of the pump station and it would be graveled, not paved. It would be large enough to bring in a crane to service the pumps and large enough for City vehicles to turn around. They recalled that a similar Salem facility used paving stones instead of gravel. They clarified some alder trees would be impacted in both the originally proposed plan and the plan they had just submitted. They clarified they had repositioned the station at the direction of City staff. The new location was better for hydraulic reasons and because it would avoid significant large Douglas fir trees. They proposed chain link fencing because the health division required a security fence and typically approved chain link fencing for that purpose. Any alternative fencing would have to provide as good or better security. They advised that cities typically made one to three trips a week to check on such facilities.

*Proponent*

Alice Richmond, 3939 Parker Rd., testified that all City pump stations were automated. All reservoirs were in residential neighborhoods. This one was at a higher altitude and put more

stress on the pumps. It was a much needed facility, especially now there was a new school to serve. It was already paid for by school SDCs. She urged the Commission to approve it.

#### *Opponents*

Kathie Halicki, 2307 Falcon Dr., advocated using the \$1.25 million to repair the existing system and putting the pumps in later. She understood the pump station was intended to serve future development, not the school. She related the area experienced episodes of insufficient electricity. She was concerned the new facility would put even more strain on the electrical system.

Charles Mathews, 2305 Crestview Dr., testified the pipe easement ran across the end of Crestview, right behind his house. It would be about 15' to 20' above his property. He was concerned the pipe would rupture and create a landslide. He asked for an opportunity to contest the easement before the Commission approved the project.

Roberta Schwarz, 2206 Tannler Dr., submitted written testimony. She pointed out that several Douglas firs would be at risk as well as the ash (alder) trees. She contended the City had not distributed the required public notice of its intention to put an industrial facility in the middle of a residential neighborhood in 2008 when the Water Master Plan was adopted. That could be a violation of state statutes. She advised the application did not meet code requirements to maintain the existing character and quality of West Linn; enhance the appearance of the City; make every effort to preserve and protect trees; and to buffer above-ground utilities to obscure them from view and reduce noise levels. She had surveyed her neighbors. All 41 who responded indicated they wanted the trees saved. She testified that people at the neighborhood association and preapplication meetings had been told that not a single tree would be harmed. She considered it 'bait and switch' that the consulting engineers were attributing changes in the location of the station to the City staff and vice versa. She asked the City to start the water master planning process over and seek input from the neighbors first. She cautioned that systems failed. Last year's pump failure and resulting un-potable water problem was a good example of that. The area would soon be living with over 800 gallons of water literally on top of it.

Gary Hitesman, 2188 Clubhouse Dr., asked that the hearing be held open to allow more time to evaluate the new information.

#### *Neither for nor Against*

Johnny Coppedge, 23128 S Bland Cir., related that his house was just below the water tower and the access easement was across his property. He explained that after listening to the proceedings he felt there was too much uncertainty. He was concerned about noise and about the fence. He testified that when work was done on the tower last year there had been so much noise he could not sleep at night. He noted the chain link fence would be right next to his property. He noted the position of the pump station had suddenly been changed. He was concerned about having hundreds of thousands of gallons of water there. He asked the City to make sure the pump station was in the right spot.

Commissioner Frank **moved** to continue CUP-12-01/DR-12-03 to April 25, 2011 and leave the record open for additional oral and written testimony. Commissioner Axelrod **seconded** the motion and it **passed** 6:0.

#### **Items of interest from the Planning Commission**

Commissioner Steel had observed development activity where the winery on Salamo Road used to be. Mr. Sonnen advised it was a phased development that been approved by the Commission about four years ago. The plat had been finalized last year. The 30-lot development would be the location of this year's Street of Dreams show.

**Items of interest pertaining to the Commission for Citizen Involvement**

None.

**Items of interest from staff.**

None.

**Adjournment**

There being no other business, Chair Babbitt adjourned the Planning Commission meeting at 10:20 p.m.

APPROVED:



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Michael Babbitt , Chair

6-6-12

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Date