



CITY OF  
**West Linn**

PLANNING COMMISSION

Minutes of April 3, 2013

Members present: Chair Michael Babbitt, Vice Chair Christine Steel, Russell Axelrod, Lorie Griffith, Nancy King, Robert Martin and Holly Miller

Members absent: None

Council Liaison:

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

**PREMEETING WORK SESSION**

Staff reviewed the procedures for the continued meeting. Staff also introduced possible amendments to the draft code to address comments that had come in from Metro and ODOT staff.

**CALL TO ORDER – REGULAR MEETING**

Chair Babbitt called the meeting to order in the Council Chambers of City Hall at 7:00 p.m.

**PUBLIC COMMENT**

None.

**PUBLIC HEARING**

DR-13-01/WAP-13-01/VAR-13-01/VAR-13-02/VAR-13-03/VAR-13-04/MISC-13-01, Class II Design Review, Water Resource Area approval, approval to Expand/Alter a Non-Conforming Structure, and four Class II Variances for construction of a parking lot for the West Linn Public Library and a path between the parking lot and library, at 1595 Burns Street and 5750 Hood Street. Continued from March 13, 2012 to receive additional written testimony and for deliberations.

**Deliberations**

Chair Babbitt opened deliberations. Staff confirmed the applicant's memorandum of March 27, 2013 indicated they would agree to four additions to the conditions of approval related to screening, moving the rain garden, signage, and lighting.

Commissioner Axelrod had questions related to security at the rear entrance and how existing parking lot runoff was addressed. Vice Chair Steel inquired if there was any barrier to stop the wheels of a vehicle backing out of the space closest to the path from going over the edge. Mr. Soppe was not sure where the runoff from the existing library and parking lot went to. He reported that Library staff was stationed at the back door proposed to be accessed by the proposed walkway and that the recommended conditions called for the path to it to be lighted. A curb is proposed around the parking lot. Chair Babbitt did not to reopen the hearing to hear from the applicant to respond to questions. He then polled the Commissioners.

Vice Chair Steel discussed a list of pros and cons she had compiled. Pros were that the Library needed parking; there was little public opposition; and the applicant only asked to be allowed to develop 611 square feet more of the WRA than they were allowed to under the hardship clause. Cons were the question of adding to the existing nonconformance; that she was not convinced by the economic viability related argument that the only thing that could be done with the parcel was to make it a parking lot because the Library needed a parking lot; there was a safety issue because Hood Street was narrow and difficult to maneuver in and drivers might drive into the ravine when they were backing out after finding the lot full; she did not feel the applicant had fully explored negotiating for use of the parking at Central Village; and she questioned that the staff needed to park in the library lot at all when they could find on-street or paid parking or take the bus. She suggested that if the Commission approved the application at the very least the lot should be a staff parking lot. That would help address the safety issue related to maneuvering on Hood Street.

Commissioner Miller related that she had a similar list of pros and cons. She was willing to consider approving the application because she thought the cultural value of the Library was important enough to set the cons aside. The Library was underutilized partly because of the parking situation. She discussed her list. She questioned making something that was currently nonconforming a little bit worse. She suggested that nearby businesses might be more willing to let Library patrons use their customer parking. She was not persuaded by the economic viability argument that there was nothing else that could be placed on the parcel. She worried about setting a precedent of allowing an expansion of a nonconforming use.

Chair Babbitt clarified that the proposed addition of 12 parking spaces would lessen the amount of nonconforming use, not increase it. Whether Central Village agreed to let the Library use their parking or not was not related to applicable approval criteria. Commissioner Miller acknowledged that as far as she could tell, the application met the code, but she was not happy about allowing further disturbance of the WRA. Vice Chair Steel talked about aspects that related to code. She saw a nonconforming use being alleviated by a variance. She noted economic viability was an approval criterion for WRA encroachment and 'need' was part of conditional use approval criteria. Commissioner King agreed the variance would make it more conforming. She talked about a balance between trying to solve issues stemming from when the Library was built and getting closer to something that was positive and was making it better. She indicated it was unlikely that the applicant could solve the parking issue by negotiating with Central Village. They had to solve it themselves.

Commissioner Axelrod commented that the proposal did not meet the spirit of the WRA hardship clause because the City knew it was buying the parcel for a parking lot and the lot would be in a WRA. He was concerned about the precedent this would set. Nevertheless, the quality of the WRA was already disturbed and it was not interrupting a wildlife corridor. The mitigation aspects of the proposal would actually improve conditions there. The overall design was good for a parking lot and captured contaminants so they were not directed right into the

waterway. He said he would not approve the application with a rain garden across the street because that made no sense. It needed to be down gradient of where material would flow. It needed to be where the sidewalk to the north of the driveway was planned. He noted this was alleviating, but not solving, the parking problem for the Library and at huge cost. He highlighted the turnaround issue. It was a tight parking lot and a dead end street. He suggested an alternative pathway location that might mitigate the impact on the WRA if the applicant could do it. That was not critical. The only critical thing was relocating the rain garden. He had no problem with the variance to required driveway separation. He could agree to the variance to eliminate required interior parking lot landscaping. He saw a need to address light trespass on the neighbors and across the creek. He would support the application if the conditions of approval addressed his concerns.

Commissioner Martin related that the application accomplished the core reason for WRA code - to protect streams - better than anything else he could imagine on the site. The permeable parking lot would filter runoff. He understood this would not solve the parking problem and there were potential safety issues related to backing out. However, he trusted Engineering staff to build it in a way that made it safe. He believed the overall increase in parking spaces for the Library increased the safety of parking at the Library and it was a "plus" for the community to have the additional parking there.

Chair Babbitt saw the question of who could park in the new lot as more of a Library management issue. He recalled the Holiday Inn Express application and the application for an office building on this site. The Commission had struggled with defining 'economic viability' for years. It was very subjective. He agreed the new parking lot would help the parking situation. It would not do further damage to the WRA, but improve the situation. He recalled the Commissioners had talked about how to address light trespass with more and shorter light poles. He was not sure he wanted to do that because of the testimony about having lighting at a height that made the area safe. He suggested the Commissioners might address light trespass by imposing conditions that called for things like proper shielding.

Commissioner Axelrod indicated he favored using the new lot for staff parking so they could go in the rear entrance. However, he understood the applicant planned large size stalls there that families with SUVs would use. Vice Chair Steel asked if there was conditional use code that allowed conditions that limited things like hours of operation. Mr. Soppe advised this was not conditional use. Ms. Thornton cautioned about imposing conditions that would require certain vehicles to park in a staff parking lot behind the Library. Such additional conditions of approval could only be imposed if they would address applicable criteria that had not been met.

Chair Babbitt observed general consensus to move forward with the application by conditioning it. He recessed the hearing for ten minutes until 8:15 p.m. in order to allow time for staff and Commissioner Axelrod to work on modifying the recommended conditions of approval and incorporating the additional conditions the applicant agreed to in their March 27, 2013 memorandum.

Chair Babbitt reconvened the hearing and Mr. Soppe went over the newly modified recommended conditions with the Commissioners. The results were as follows:

1. Site Plan. The site plan would be identified as the Site Plan dated September 1, 2012 on page 167 of Exhibit PC-4.
2. Paths. Alternative b was struck.
3. Conservation Easement and Signage. No change.
4. Street trees and Clear Vision Area. No change. (See also new Condition 4.)
5. Re-vegetation and Mitigation Plant Survival. Commissioner Axelrod questioned only calling for the applicant to ensure 80% plant survival for three years. Ms. Thornton advised the crafted condition met the code criterion that specified three years. Chair Babbitt then observed the Commissioners were all generally satisfied with this language.
6. Delineation of Parking Spaces. No change. Commissioner Axelrod inquired if it allowed painting of pavers. Mr. Soppe advised this condition had been worded to satisfy specific code criteria.
7. Lighting on Site. Staff had inserted language regarding shielding. It addressed light trespass on across the street residential properties and into the WRA. Vice Chair Steel recalled testimony asking for lighting to be limited to the hours of operation of the Library. Staff related the Library site lights were on 24/7 for safety reasons on the advice of the Police Department. Chair Babbitt observed consensus to agree to this wording.
8. Re-vegetation Plan Tree and Plant Sizing and Spacing. Staff had added 8.d. at the request of Commissioner Axelrod. Chair Babbitt observed general agreement with the wording.
9. Vegetative Screening (new condition). Staff reported this language came from the applicant's memorandum. It called for screening in the northeast corner of the lot to shield adjacent residences from car and parking lot lights.
10. Rain garden Relocation (new condition).

Chair Babbitt observed the applicant indicated they would agree to the revised conditions of approval.

Commissioner Miller **moved** to approve DR-13-01/WAP-13-01/VAR-13-01/VAR-13-02/VAR-13-03/VAR-13-04/MISC-13-01 subject to the ten conditions of approval the Commissioners had agreed on. Commissioner Martin **seconded** the motion and it **passed** 7:0.

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CDC 12-02, Proposed unrelated substantive CDC amendments See the March 22, 2013 Staff Memorandum. Chair Babbitt opened the public hearing. There were no declarations of challenges.

### **Staff Report**

Mr. Sonnen reported that staff proposed to modify the sidewalk use amendments to acknowledge that DOT permission was necessary prior to using sidewalks in the state right-of-way. Staff proposed alternative language to consider regarding cul-de-sacs. That was in

response to Metro's request to keep the standards related to cul-de-sacs close to Metro's requirements.

### **Public Testimony**

Jason Daily, President of West Linn Youth Baseball, spoke to the proposed amendments regarding signs. He explained they relied on their sponsors for revenue necessary to play baseball. It allowed them to keep their registration fees low; the equipment updated and safe; maintain the fields and offer scholarships. Many other sports programs relied heavily on the revenue from fence signs as well. Other communities allowed the signs. It was not advertising, but their way of telling their sponsors thank you. They had been doing it for years. He testified that his program supported and would abide by the proposed amendment. They already did. They ensured their signs and banners looked nice; were uniform; were in good condition; and they took them down when the season was over. They were typically 5' x 3' or 3' x 4' size. They wanted the ball park to look nice. They were a 100% volunteer organization where all the revenue went into the program and the kids.

Elizabeth Rocchia, 957 Willamette Falls Drive, spoke against allowing signage in neighborhood parks. West Linn had a long standing rule against off-premise advertising signs. She did not favor bending that rule to accommodate a particular group for a particular purpose. It was private use of public space for signs that were meant to sell. There were other ways to show appreciation of sponsors. These signs served no recreational or educational purpose. She questioned whether the West Linn Baseball Association or the Parks and Recreation Department had referred to the sign code before the signs went up in 2010. She questioned that this was appropriate use of a public park. She urged the Commission to maintain the ban on off-premises advertising signs.

### **Questions of staff**

Mr. Sonnen confirmed that one of the objectives of the amendments was to address signs in parks. Ms. Thornton advised the Commission to modify the wording of sports field signs Exemptions - F. so it said 'content' instead of 'lettering' which would address pictures and graphics as well as lettering. Mr. Sonnen clarified that the Stormwater Management amendment eliminated exceptions that were inconsistent with Chapter 33. He reported that staff had not received any comments about the three docketing options. It was up to the Commission to decide what they wanted to recommend to the Council. Vice Chair Steel recalled the Commissioners had previously decided to leave all three options on the table but state that their preference was Option 3. She indicated she supported the proposed amendments related to sports field signage. Like public radio and other organizations, sports programs needed the support of sponsors. Chair Babbitt agreed and hoped it just stayed on the fences and did not get all over the park.

### **Deliberations**

Chair Babbitt closed the public hearing. The Commissioners discussed the following sets of amendments.

Sidewalk Use.

Commissioner Axelrod **moved** to adopt new item A.3. Commissioner King **seconded** the motion and it **passed** 7:0.

Cul-De-Sacs.

Commissioner Axelrod **moved** to adopt the proposed additional modifications to Item A. Streets (a. - d.). Commissioner Miller **seconded** the motion and it **passed** 7:0.

Signs – Exemptions.

The Commissioners considered Ms. Thornton's suggested wording changes for the first sentence of F:

**F. Signs that are oriented toward spectators at play fields or the interior of community recreation facilities provided that the lettering content is no larger than necessary to be legible visible to the spectators.**

She explained that 'content' referred to pictures and graphics as well as lettering; and 'visible' related to 'content' better than 'legible.' Commissioner Martin was concerned the proposed language would make the code too difficult to administer and someone opposed to signs might use it to require a sponsor to reduce the letters unreasonably. Vice Chair Steel observed the 'test' was whether the content was large enough to be seen by the spectators.

Chair Babbitt **moved** to modify CDC 52.109 Exemptions to read:

**F. Signs that are oriented toward spectators at play fields or the interior of community recreation facilities provided that the content is no larger than necessary for the spectators.**

Commissioner Martin **seconded** the motion and discussion followed. The Commissioners and staff discussed other approaches such as putting a size limit on the signs or applying a different type of 'test' that would be whether the content was clearly visible to and would distract motorists and pedestrians in the public right-of-way. Chair Babbitt did not support the latter suggestion. He explained that it would eliminate any signs at Rosemont Ridge Middle School. The vote was conducted and **the motion passed 7:0.**

Vice Chair Steel **moved** to approve CDC 12-02 with the changes the Commission had voted to accept. Commissioner Miller **seconded** the motion and it **passed** 7:0.

Commissioner Martin offered a general comment about his discomfort with the docketing proposal. If it had been in place last year the Commission would have never discussed sports courts and other issues would never have seen the light of day. There had to be a process to allow people to influence and create the code. This amendment precluded that. He explained he could support the amendment because he knew no code was approved except by the City

Council. It made sense for the Council to control the resources used to develop code. His discomfort was that the docking concept could be abused. It did allow citizens to suggest things every six months and at public meetings but their eloquent pleas might be ignored. He hoped the Council would approve Option 3 because that gave the Commission a window of opportunity and some ideas could see the light of day. Commissioner Axelrod indicated he shared those concerns. He suggested recommending Option 3 and dropping the other options. Vice Chair Steel and Commissioner Miller favored leaving all of the options on the table. Vice Chair Steel suggested Commissioner Martin talk to the Council about his concerns. Commissioner Axelrod suggested highlighting Option 3 as the Commission preference. Chair Babbitt agreed.

#### **WORK SESSION**

Discuss draft CDC amendments regarding sport courts

The Commissioners discussed how to move forward. They considered waiting to hear how the Council dealt with the hours of operation in the Nuisance Ordinance or moving forward with a Commission hearing. They agreed the amendments would refer to the time limit Council set in the Nuisance Ordinance. They asked staff to schedule a hearing on April 17. Bruce Swanson had given Chair Babbitt a map that showed a large, recently paved backyard area next door to his house.

#### **ITEMS OF INTEREST FROM THE PLANNING COMMISSION**

The Commission asked Mr. Sonnen to schedule training and a case debriefing work session.

#### **ITEMS OF INTEREST FROM THE COMMISSION FOR CITIZEN INVOLVEMENT**

Commissioner Axelrod asked that CCI actions be documented to show more accountability. Chair Babbitt would provide him with the CCI memo to Council after the Trails Master Plan hearing and the brochure on how to testify.

#### **ITEMS OF INTEREST FROM STAFF**

Mr. Sonnen advised that the proposed budget showed one less Planning Department FTE.

#### **ADJOURNMENT**

There being no other business, Chair Babbitt adjourned the Planning Commission meeting at 9:55p.m.

APPROVED:



Michael Babbitt , Chair

5-3-13

Date