



Memorandum

Date: October 8, 2010

To: Planning Commission

From: Zach Pelz

Subject: New Material for MISC-10-14 for October 13, 2010 Planning Commission hearing

Attached are additional submittals and communication that have been received since the publication of the staff report for project MISC-10-14, a three building office complex at the corner of Tannler Drive and Blankenship Road.



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October 7, 2010

VIA EMAIL

John Sonnen, Director
City of West Linn Planning Department
22500 Salamo Road, #100
West Linn, OR 97068

Re: City of West Linn File No. MISC-10-14

Dear John:

This office represents Jeff Parker, the applicant in this matter. I am writing concerning proposed Condition of Approval 5.

Condition of Approval 5 is entitled "Access Spacing" and provides in relevant part: "The applicant shall modify the location of the proposed access onto Tannler Drive to accommodate a minimum access separation of 150-feet, as measured from driveway centerline to driveway centerline, between this access and an *eventual* Tannler East access on Tannler Drive." (Emphasis added.) (**Exhibit 1**).

The staff report at page 20 (Finding 17) (**Exhibit 2**) recites the requirement in West Linn Community Development Code ("CDC") 49.025(B)(6), "Access Spacing". This section requires that "The access spacing standards found in Chapter 8 of the adopted Transportation System Plan (TSP) shall be applicable to all newly established public street intersections, private driveways, and non-traversable medians." The relevant Transportation System Plan (TSP) standard is in the December, 2008 TSP at Page 3-22, Table 3-9, "West Linn Spacing Standards (feet)."¹ (**Exhibit 3**). Table 3-9 requires that driveways on collector streets must be separated by 150 feet.

¹ This TSP standard has not changed since the submittal for and approval of the application proposed to be extended.

John Sonnen, Director
October 7, 2010
Page 2

Finding No. 17 states that: "The proposed driveway onto Tannler Drive would be at least 500 feet from the nearest *established intersection*. The proposed location of this driveway would not however, allow the Tannler East development to satisfy the standard when that property develops, see Figure 5. Therefore recommended Condition of Approval 5 calls for the applicant to modify the location of the proposed access onto Tannler Drive to accommodate a minimum access separation of 150-feet, as measured from driveway centerline to driveway centerline, between this access and an *eventual* Tannler East access on Tannler Drive." (Finding No. 17 at Page 20.) (Emphasis added.)

It is undisputed that there is no other driveway within 500 feet of the applicant's driveway location as approved in 2007 and as proposed to be extended in this application. Both Finding No. 17 and proposed Condition of Approval 5 refer to an "eventual" driveway on the Tannler East property. However, the relevant standard in CDC 49.025(B)(6) and TSP Table 3-9 does not refer to *eventual* driveways. Because the Tannler East driveway is neither approved nor even proposed, and because there is no driveway in that location now, the application must be found to satisfy the TSP driveway separation standard. Therefore, proposed Condition of Approval 5 should not be adopted because the application meets the standard. It will be the burden of the developer of the Tannler East property to meet the spacing standard if and when that property proposes a driveway at this location. However, given the fact that there is no driveway there now and one is not proposed, let alone approved, this applicant cannot be required to move his previously approved driveway which met the TSP spacing standard in 2007 and continues to meet it today.

For these reasons, the applicant respectfully requests that the Planning Department modify its staff report and delete recommended Condition of Approval 5.

Very truly yours,



Michael C. Robinson

MCR:sv

Enclosures

cc: Mr. Zach Pelz (via email) (w/encls.)
Mr. Jeff Parker (via email) (w/encls.)
Mr. Paul Price (via email) (w/encls.)
Mr. Rhys Konrad (via email) (w/encls.)
Mr. Tom Wright (via email) (w/encls.)

RECOMMENDATION

Staff recommends approval of the extension application subject to the conditions 1-6 below and approval of the requested lot line adjustment subject to condition 7.

1. Site Plan. With the exception of modifications required by these conditions, the project shall conform to the site plan (sheet C2.1, dated August 4, 2010) located in Exhibit PC-3.
2. Previous Approval. Unless modified by these conditions, the project shall conform to the conditions of original approval contained in file AP-07-01.
3. Parking.
 - a. The applicant shall provide to the City Engineer detailed specifications for signage and bumper guards, consistent with CDC Subsection 46.150(A)(11) and local Public Works and Building Department standards, with the submittal of the construction plan package.
 - b. The applicant shall identify the quantity and location of car/vanpool parking, consistent with CDC Section 46.080(H), at time of submittal of the construction plan package.
 - c. The applicant shall sign 3 of the 17 ADA accessible parking spaces as "Wheelchair Use Only," and include a clear aisle of at least 96 inches in width per CDC Subsection 46.150(B)(5). Detail regarding the location and design of these spaces, including the required signage, shall be submitted with the construction plan package.
 - d. The applicant shall indicate the location and design of on-site signage directing bicyclists to appropriate bicycle parking facilities at time of submittal of the construction plan package. Also, prior to the construction plan submittal, the applicant shall modify their plans to ensure that no bicycle parking is located more than 50-feet from the entrances to the three proposed buildings. The applicant shall maintain at least 15 covered bicycle parking spaces upon the relocation of these facilities to within 50-feet of the proposed building entrances.
4. Drainage. Prior to the issuance of grading permits, the applicant shall modify the drainage plan to prevent storm water drainage from crossing the designated walkway between the north entrance to proposed Building A and the proposed parking structure, subject to the City Engineer's approval consistent with Subsection 46.150(A)(17).
5. Access Spacing. The applicant shall modify the location of the proposed access onto Tannler Drive to accommodate a minimum access separation of 150-feet, as measured from driveway centerline to driveway centerline, between this access and an eventual Tannler East access on Tannler Drive. The applicant shall submit these plans with the construction plan package.

3. *Access Options. When vehicle access is required for development (i.e., for off-street parking, delivery, service, drive-through facilities, etc.), access shall be provided by one of the following methods (planned access shall be consistent with adopted public works standards and TSP). These methods are "options" to the developer/subdivider.*

b) *Option 2. Access is from a private street or driveway connected to an adjoining property that has direct access to a public street (i.e., "shared driveway"). A public access easement covering the driveway shall be recorded in this case to assure access to the closest public street for all users of the private street/drive.*

c) *Option 3. Access is from a public street adjacent to the development parcel. If practicable, the owner/developer may be required to close or consolidate an existing access point as a condition of approving a new access. Street accesses shall comply with the access spacing standards in Subsection 7, below.*

6. *Access spacing: The access spacing standards found in Chapter 8 of the adopted Transportation System Plan (TSP) and shall be applicable to all newly established public street intersections, private drives, and non-traversable medians:*

FINDING NO. 17

The applicant proposes access to a public street via options 3(b) and (c) above. The applicant's plans show direct access to Tannler Drive at the site's east property line and access to Blankenship Road via a shared driveway with Willamette Corporate Park Phase I. Condition of Approval 2 from AP-07-01 requires that the applicant provide satisfactory legal evidence establishing joint use per Subsection 49.025(B)(3)(b) above. Furthermore, the TSP requires that private driveways accessing collector roadways be spaced at least 150 feet apart.

The proposed driveway onto Tannler Drive would be at least 500 feet from the nearest established intersection. The proposed location of this driveway would not however, allow the Tannler East development to satisfy this standard when that property develops, see Figure 5. Therefore recommended Condition of Approval 5 calls for the applicant to modify the location of the proposed access onto Tannler Drive to accommodate a minimum access separation of 150-feet, as measured from driveway centerline to driveway centerline, between this access and an eventual Tannler East access on Tannler Drive.

Access spacing standards identified in the 1998 West Linn TSP are summarized in Table 3-9.

Table 3-9: West Linn Spacing Standards (feet)

Facility	Access Requirements		
	Signal Spacing	Street	Driveway
Arterial			
(Urban Area)	2,650	600	300
(Opportunity Area)	1,320	NA	NA
Collector	1,320	200	150
Local Residential Street	NA	100	50
Local Commercial Street	NA	100	50

Source: West Linn Transportation System Plan, Table 3-25.

Motor Vehicle Volumes

An inventory of peak hour traffic conditions was performed in the fall of 2006 as part of the West Linn TSP Update. Thirty-four study intersections were selected for focused analysis in coordination with the City of West Linn and ODOT staff in order to address areas of concern along major roadways. PM peak hour turn movement counts between 3:30 to 6:30 PM were conducted at the study intersections for establishing current traffic performance.

Figures 3-8 and 3-9 show the average daily two-way existing traffic volumes on roadways in the West Linn area. These two-way traffic volumes can vary from day to day and month to month based on weather, surrounding roadway conditions (such as construction), and holidays.

The figure indicates that the highest vehicle volumes (not including I-205) in West Linn occur along the principal arterial, Highway 43. Vehicle volumes on this roadway are over 20,700 vehicles per day.

Traffic count data was used as a basis for evaluating traffic performance at the study intersections during PM peak hour conditions. To analyze operating conditions it is necessary to determine peak hour volumes for each turning movement, lane configurations, and traffic signal timings at signalized intersections. The existing PM peak hour traffic volumes at study intersections are illustrated in Figures 3-10a through 3-10c.

Sonnen, John

From: Laura Horsey [laura@easystreet.net]
Sent: Monday, October 04, 2010 10:27 PM
To: Sonnen, John
Subject: Fwd: FYI and Posting Planning Commission Agenda October 13, 2010
Attachments: image95b8f7.gif@5132f6e3.80b74581; ATT00001.htm; image95b8f7.gif@5132f6e3.80b74581; ATT00002.htm; pc agenda.pdf; ATT00003.htm

HI John:

Just wanted to let you know I received this email ex parte. Nothing prejudicial in my opinion. FYI. Best,
Laura

Laura Horsey
laura@easystreet.net

Begin forwarded message:

From: "Roberta Schwarz" <roberta.schwarz@comcast.net>
Date: October 4, 2010 4:38:11 PM PDT
To: "Roberta Schwarz" <roberta.schwarz@comcast.net>
Subject: FW: FYI and Posting Planning Commission Agenda October 13, 2010

Hello folks,

Several of you asked me to let you know when the Planning Commission is scheduled to hear the application on the three office building project that was approved previously, not built within the three years allowed, requested a two year extension, and is now going to ask for a new approval from the Planning Commission on October 13th at City Hall. This is the property that is associated with Jeff Parker and is across the street from the White Oak Savanna. I hope that you will let people know who may not be on the City's list to get emails on Planning Commission hearings. The details are below and you can click on the link to see them.

Thanks so much,

Roberta

From: Zak, Teresa [<mailto:tzak@westlinnoregon.gov>]

Sent: Thursday, September 30, 2010 4:12 PM

Subject: FYI and Posting Planning Commission Agenda October 13, 2010 and AP-10-01 Final Decision of City Council

Good Afternoon,

The City web site has been updated with the [Planning Commission October 13, 2010 agenda information](#) for MISC-10-14 a project of a three building office complex at the Tannler DR & Blankenship Road. When linking to this related land use case you will find five sections to this 2010-10-13 staff report of 699 pages; the table of contents is on page 3 of the first section.

I have attached a pdf of the agenda for posting for your convenience, wonderful weekend to all.

Teresa Zak



WEST LINN PLANNING COMMISSION MEETING

October 13, 2010

6:45 PM - Work Session

Rosemont Room

7:30 PM – Regular Session

Council Chambers

1. Call to Order
2. Approval of Minutes – N/A
3. Public Comments
4. Business Meeting
 - a. **Public Hearing-** Request extension of the approved final decision for a three building office complex at the corner of Tannler Drive and Blankenship Road; MISC-10-14
Staff: Zach Pelz
5. Items of Interest from staff
6. Items of Interest from the Planning Commission

Note: CUP-10-03, a New Primary School at 1025 Rosemont Road, advertised for this meeting is rescheduled for November 3, 2010

Tentative Agenda for Next Planning Commission Meetings

October 20, 2010: *Debriefing and discussion regarding prior cases and Planning Commission procedures*

November 3, 2010: *CUP-10-03 New Primary School at 1025 Rosemont; Discuss work program for updating the Water Resource Area regulations*

The Council Chambers is equipped with an induction loop and a limited number of neck loops for the hearing impaired. Please let the City know if you require any special assistance under the Americans with Disabilities Act, please call City Hall 48 hours prior to the meeting date, 503-657-0331 or TDD 503-657-7845.

Projects are available for review on the City web site at <http://westlinnoregon.gov/projects>



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October 4, 2010

VIA E-MAIL

Mr. Robert Martin, Chair
West Linn Planning Commission
22500 Salamo Road, #100
West Linn, OR 97068

Re: City of West Linn File No. MISC-10-14

Dear Chair Martin and Members of the Planning Commission:

This office represents Jeff Parker, the applicant. I am writing to respond the undated letter submitted by David Rittenhouse regarding the City's notice of public hearing for this application.

Mr. Rittenhouse complains that the notice of public hearing (**Exhibit 1**) does not provide for a *de novo* hearing. West Linn Community Development Code ("CDC") Section 99.280.A provides for a *de novo* hearing for all reviews such as this. Mr. Rittenhouse confuses a *de novo* hearing with the statutorily required language found in ORS 197.763(3)(b) and CDC 99.090.A.2, which requires the notice to list the applicable criteria from the ordinance and the plan that apply to the application. (**Exhibits 2 and 3**). The City is required by state law to list in the notice of public hearing all relevant local approval criteria. The City's notice does this. Mr. Rittenhouse apparently believes that a *de novo* hearing means a hearing without any criteria what so ever. This, of course, is inconsistent with state law. See ORS 227.173(1) (Planning Commission to make decision based on applicable approval criteria).

61061-0001/LEGAL19296378.1

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Perkins Coie LLP and Affiliates

Mr. Robert Martin, Chair
October 4, 2010
Page 2

The Planning Commission can find that Mr. Rittenhouse's letter does not raise a relevant issue for this hearing. Mr. Rittenhouse and others have received a legally appropriate notice of public hearing and their substantial rights to a full and fair hearing and an opportunity to make their case have not been prejudiced.

Very truly yours,



Michael C. Robinson

MCR/cfr

Enclosures

cc: Mr. Jeff Parker (w/encls.) (via email)
Mr. Rhys Konrad (w/encls.) (via email)
Mr. John Sonnen (w/encls.) (via email)
Mr. Zach Pelz (w/encls.) (via email)

**CITY OF WEST LINN
PLANNING COMMISSION
PUBLIC HEARING NOTICE
FILE NO. MISC-10-14**

The West Linn Planning Commission is scheduled to hold a public hearing on Wednesday, October 13, 2010, at 7:30 p.m. in the Council Chambers of City Hall (located at 22500 Salamo Road, West Linn, OR) to consider the request of Blackhawk, LLC for a lot-line adjustment and a two-year extension of a previously approved 289,000 square foot office campus near the intersection of Blankenship Road and Tannler Drive. This site is within the City's Office Business Center (OBC) zoning district and as such, is subject to the provisions and standards contained in CDC Chapter 21. Approval standards pertaining to lot-line adjustments may be found in CDC Section 85.210. Furthermore, the provisions of CDC Section 99.325 limit the City's review authority, as it regards this extension request, to those applicable standards which have been enacted since the applicant's original submittal as well as errors, omissions, misrepresentations or changes in fact occurring during the original review. A decision to approve or deny the applicant's request will be based on the applicable CDC provisions as set forth in CDC Sections 85.210 and 99.325. During the public hearing, it is imperative that comments relate specifically to the applicable criteria listed.

Proposal site is located on tax lots 100,102 and 200 of Clackamas County Assessor's Map 2-1E-035C in West Linn, Oregon.

The complete application in the above noted file is available for inspection at no cost at City hall or via the web site <http://westlinnoregon.gov/planning/tannler-drive-and-blankenship-road-intersection-willamette-corporate-center-phase-ii>, or copies can be obtained for a minimal charge per page. At least ten days prior to the hearing, a copy of the staff report will be available for inspection. A site plan is attached. For further information, please contact Zach Pelz, Special Projects Planner, at City Hall, 22500 Salamo Road, West Linn, OR 97068, zpelz@westlinnoregon.gov, or (503) 723-2542.

The hearing will be conducted in accordance with the rules of Section 99.170 of the CDC, adopted December 14, 1987, Ordinance 1129. Anyone wishing to present written testimony on this proposed action may do so in writing prior to, or at the public hearing. Oral testimony may be presented at the public hearing. At the public hearing, the Planning Commission will receive a staff report presentation from the City Planner; and invite both oral and written testimony. The Planning Commission may continue the public hearing to another meeting to obtain additional information, or close the public hearing and take action on the application. If a person submits evidence in support of the application, any party is entitled to request a continuance of the hearing. If there is no continuance granted at the hearing, any participant in the hearing may request that the record remain open for at least seven days after the hearing. Failure to raise an issue in person or by letter at some point prior to the close of the hearing, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue, precludes an appeal to the Land Use Board of Appeals (LUBA) based on that issue.

TERESA ZAK
Planning Administrative Assistant

(publish west linn tidings 9.30.10)

P:\Development Review\Projects Folder\Projects 2010\MISC-10-14 Ext Tannler West\MISC-10-14 Tidings Notice.docx

EXHIBIT 1

197.763 Conduct of local quasi-judicial land use hearings; notice requirements; hearing procedures. The following procedures shall govern the conduct of quasi-judicial land use hearings conducted before a local governing body, planning commission, hearings body or hearings officer on application for a land use decision and shall be incorporated into the comprehensive plan and land use regulations:

(1) An issue which may be the basis for an appeal to the Land Use Board of Appeals shall be raised not later than the close of the record at or following the final evidentiary hearing on the proposal before the local government. Such issues shall be raised and accompanied by statements or evidence sufficient to afford the governing body, planning commission, hearings body or hearings officer, and the parties an adequate opportunity to respond to each issue.

(2)(a) Notice of the hearings governed by this section shall be provided to the applicant and to owners of record of property on the most recent property tax assessment roll where such property is located:

(A) Within 100 feet of the property which is the subject of the notice where the subject property is wholly or in part within an urban growth boundary;

(B) Within 250 feet of the property which is the subject of the notice where the subject property is outside an urban growth boundary and not within a farm or forest zone; or

(C) Within 500 feet of the property which is the subject of the notice where the subject property is within a farm or forest zone.

(b) Notice shall also be provided to any neighborhood or community organization recognized by the governing body and whose boundaries include the site.

(c) At the discretion of the applicant, the local government also shall provide notice to the Department of Land Conservation and Development.

(3) The notice provided by the jurisdiction shall:

(a) Explain the nature of the application and the proposed use or uses which could be authorized;

(b) List the applicable criteria from the ordinance and the plan that apply to the application at issue;

99.090 CONTENTS OF THE NOTICE

A. Notices mailed pursuant to this code shall comply with applicable provisions of the Oregon Revised Statutes (ORS). Except for expedited land division review, for which ORS Chapter 197 shall apply, notice given to persons entitled to mailed or published notice pursuant to Section 99.060 shall:

1. Explain the type of application and what proposed uses could be authorized.
 2. List the applicable criteria from the ordinance and plan.
-