



**AGENDA BILL 2010-11-29-01**

**Subject:** The Savanna Oaks Neighborhood Association's appeal of the Planning Commission's decision to authorize a two-year extension of an approval for an office development and approval of an associated lot line adjustment at the northwest corner of Tannler Drive and Blankenship Road.

**For Council:** November 22, 2010

**Land Use Case Number:** AP-10-03

**Public Hearing:** Yes

**City Manager's Initials:** *CJ*

**Attachments:**

1. Staff Memo to City Manager
2. Public hearing notice
3. Savanna Oaks Neighborhood Association (SONA) appeal application
4. Correspondence received following the Planning Commission's decision
5. Planning Commission's decision
6. Correspondence and information received prior to the Planning Commission's decision
7. Planning Commission Meeting draft minutes of October 13, 2010
8. Staff Report to the Planning Commission

**Initiated by:**

- SONA

**Budget Impact:**

- Staff time and the cost of noticing and copying.

**Sustainability Considerations:**

- N/a

**Policy Question(s) for Council Consideration:**

- Did the Planning Commission's decision to approve MISC-10-14 comply with the applicable standards in CDC Sections 99.325 and 85.210?

**Summary:**

On March 1, 2007, the City Council voted unanimously to deny a neighborhood association's appeal of an office development proposed for the northwest corner of Tannler Drive and Blankenship Road. CDC Section 99.325 allows extensions of approvals provided that the application is in conformance with applicable CDC provisions and relevant approval criteria enacted since the application was initially approved; there are no demonstrated material misrepresentations, errors, omissions, or changes in facts that directly impact the project, including, but not limited to, existing conditions, traffic, street alignment and drainage; or the applicant has modified the approved plans to conform with the above criteria

## Memorandum

Date: November 15, 2010

To: Chris Jordan, City Manager

From: Zach Pelz, Planner

Subject: The Savanna Oaks Neighborhood Association appeal of the Planning Commission's decision regarding MISC-10-14/LLA-10-03 – Approval of a two-year extension for an office development at the northwest corner of Tannler Drive and Blankenship Road.

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### **Purpose**

On November 29, 2010 the City Council will hear the Savanna Oaks Neighborhood Association's (SONA) appeal of the Planning Commission's decision to approve a two-year extension of an office development and an associated lot line adjustment at the northwest corner of Tannler Drive and Blankenship Road (MISC-10-14). The following is staff's evaluation of the arguments presented by the SONA as they relate to the applicable extension and lot line adjustment criteria in West Linn Community Development Code (CDC) Sections 99.325 and 85.210, respectively.

### **Background**

The project in question has been the subject of three local land use decisions since December 2006: Planning Commission approval of DR-06-24, City Council denial of the appeal of the Planning Commission's decision (AP-07-01), and Planning Commission approval of an extension request and associated lot line adjustment (MISC-10-14). These cases are described below.

The Planning Commission originally approved the applicant's request for Design Review approval (DR-06-24) on December 28, 2006. On January 3, 2007, the Tanner Basin Neighborhood Association (TBNA) filed an appeal (AP-07-01) of the Planning Commission's approval of DR-06-24 on the following grounds: inadequate traffic mitigation, per CDC 55.100(I)(1); an improper lot line adjustment, per CDC 85.210(A)(3); an inadequate noise study, per CDC 55.100(D); drainage way and slope issues, per CDC 55.100(B)(3); project phasing, deferred compliance with approval criteria, improper building location; and, subsequent completion of the Tanner Basin Neighborhood Plan which included goals and policies in conflict with the applicant's proposal.

On March 1, 2007, the City Council voted unanimously (5-0) to deny the TBNA's appeal and uphold the Planning Commission's approval of the project. The City Council's final decision included additional conditions of approval addressing tree protection, pedestrian connectivity, and noise impact. The City Council's decision became effective on March 23, 2007.

On March 22, 2007, TBNA filed notice of intent to appeal the City Council's decision to LUBA. The appellant later withdrew their appeal (LUBA no. 2006-067), which LUBA dismissed on May 4, 2007.

On June 11, 2010, the applicant requested an extension of the project approval. (The three-year expiration date for the approval granted in AP-07-01 was March 23, 2010. The applicant's proposal satisfies the eligibility criteria for a two-year extension established in CDC Section 99.325, as it was

approved between July 1, 2006 and December 31, 2009 and as the applicant applied for the extension prior to the June 30 deadline.)

On October 13, 2010, the Planning Commission approved a two-year extension (MISC-10-14) of the developer's previously approved project, subject to conditions that addressed new regulations enacted since the original approval and minor omissions in the original decision. The Planning Commission applied conditions to accommodate changes in the Transportation System Plan (TSP) which require additional right-of-way width along Collector roadways, new requirements for accessible and bicycle parking, and new driveway width standards (see Attachment 8, pages 16-21 staff Findings 8, 12, 13, 14, 15, 18). In addition, conditions of approval have been recommended to correct omissions during the original approval. These conditions pertain to the location and amount of car- and vanpool parking (see staff Findings 7 and 9), site drainage across designated pedestrian walkways (see staff Finding 11) and the location of bicycle parking (see staff Finding 16 in Attachment 8, pages 16-19). The Planning Commission also added Condition 7 to bring the proposed lot line adjustment into compliance with CDC Section 85.210 (see staff Finding 27).

On November 3, 2010, the SONA (formerly the TBNA) appealed the Planning Commission's decision.

### **Analysis**

The SONA appeal of the Planning Commission's decision to approve a two-year extension and lot line adjustment for an office development (MISC-10-14/LLA-10-03) includes many of the same arguments raised by the TBNA in AP-07-01. The SONA asserts that the applicant has not adequately addressed traffic concerns, staged development, noise, drainage/slope issues, the "canyon effect" created on Blankenship Road resulting from building size and proximity to the roadway, underground stormwater detention, and the long-term viability of the open space at the northern edge of the property (see Attachment 3, page 5, President's Report). These arguments and staff's response are detailed below.

In deciding upon the appeal, the Council must determine whether the Planning Commission's decision conforms to the applicable criteria contained in CDC sections 99.325 and 85.210:

1. Ensuring conformance with applicable CDC provisions and relevant approval criteria enacted since the application was originally approved;
2. Ensuring that there are no demonstrated material misrepresentations, errors, omissions or changes in facts that directly impact the project which have not been adequately addressed;
3. Ensuring the applicant has modified, or been conditioned to modify their plans as warranted to conform with current approval criteria and remedied inconsistencies listed in (2) above; and
4. The lot line adjustment criteria in CDC Section 85.210.

**Traffic.** The appellant indicates that they continue to have traffic concerns. Their testimony presented at the Planning Commissions hearing on October 13, 2010 included an assertion that the applicant's traffic impact analysis update did not adequately describe the traffic generated by the recently opened Veteran's Administration (VA) Clinic nearby and that the applicant had purposefully conducted their analysis prior to the opening of the Clinic.

The applicant's engineer responded to the assertion above by stating that the counts conducted in May 2010, did account for some of the new trips from the VA Clinic which opened in April 2010.

The applicant presented a comprehensive analysis of the project's anticipated impact to the 10<sup>th</sup> Street corridor and has proposed countermeasures to mitigate that impact. In its Final Decision on AP-07-01, the West Linn City Council found that the proposed traffic mitigation measures were appropriate and that the applicant's analysis correctly examined the 10<sup>th</sup> Street Corridor on a scale appropriate to the magnitude of the project. Furthermore, the Council found that the applicant's traffic mitigation (a new traffic signal, lane widening, increased queue storage and additional turn lanes) would significantly benefit the Tenth Street corridor.

At the Planning Commission hearing, the applicant's traffic engineer presented evidence, in the form of a traffic analysis update dated July 11, 2010, indicating that traffic volumes in the area had declined since the original traffic analysis. The applicant's engineer stated that this decline was consistent with traffic volume trends throughout the region and that a number of factors, including; increased unemployment and a struggling economy, contributed to this decline. The applicant's engineer explained to the Planning Commission that the methodology used to conduct this traffic analysis update was consistent with accepted standards and that it normalized vehicle counts to account for surrounding land uses, time and day of week and other environmental conditions.

The applicant's engineer admitted that while a decline in traffic volumes from the original traffic analysis did represent a change in fact, per the language in CDC Section 99.325(2), the traffic mitigation measures were unlikely to change and therefore a complete traffic impact analysis was not warranted.

The Planning Commission's Final Decision, Finding No. 5, addresses this issue:

*"The Planning Commission found the applicant's traffic analysis update, dated June 11, 2010, with traffic counts conducted in May 2010 (pp.112-133 of staff report), adequate to support the validity of the applicant's original traffic impact analysis prepared August 2006 and adequate to satisfy criterion 99.325(A)(2) regarding "changes in fact that directly impact the project". The Planning Commission further determined that because the Veteran's Administration (VA) clinic opened in April 2010, the traffic analysis update did include at least a portion of the new trips generated by that facility."*

Phased Development. The appeal lists staged development as one of the appellant's concerns. They argue that the approved project phasing could allow for long term, partially developed properties (Attachment 3, page 5, President's Report).

In its Final Decision in AP-07-01, the City Council dismissed the TBNA's argument that the project was improperly phased. The City Council found that the applicant's proposal to construct Building "A" next to Blankenship Road in Phase I was appropriate because, "if the later stage of the development was never constructed, the first stage standing alone would satisfy all relevant CDC approval criteria." The Council also determined rough proportionality between project impacts and mitigation measures mandated the allowance of staged transportation improvements.

Staff has discovered no material misrepresentations, errors, omissions, or changes in facts regarding phased development that directly impact the project and therefore found the applicant's request for a two-year extension to be consistent with CDC Section 99.325.

Noise. The appeal lists noise as one of the appellant's concerns

In its Final Decision in AP-07-01, the City Council found that the applicant's noise analysis was appropriate. The Council also noted that noise from service vehicles would be screened from residences to the north by the development's two northernmost buildings. The Council added a condition of approval requiring that HVAC equipment be directed away from existing residences to the north.

Staff has discovered no material misrepresentations, errors, omissions, or changes in facts regarding noise that directly impact the project and therefore find the applicant's request for a two-year extension consistent with CDC Section 99.325.

Building Location/"Canyon Effect". The appellant contends that the size and location of the proposed 55-foot tall Building "A" on Blankenship Road (see Attachment 8, page 60, site plan) is inconsistent with adopted standards of the Community Development Code (CDC). They argue that since it is proposed to be located on a 24-foot tall, terraced retaining wall it will effectively be an 80-foot tall building. (Attachment 3, page 5, President's Report).

The project site is within the City's Office Business Center (OBC) zone which provides for groups of businesses and offices in centers to accommodate transitional uses between residential districts and areas of more intense development, to provide opportunities for employment in close proximity to residential neighborhoods and major transportation facilities, to expand the City's economic potential, and to locate office employment where it can support other commercial uses.

CDC 21.070(A)(7) allows a height limit of up to 3 ½ stories or 45-feet for buildings in the Office Business Center (OBC) zoning district. All three of the applicant's proposed buildings comply with this standard. Per the standard of measurement in CDC Section 2.030, all three buildings will be 45-foot tall (building height from grade is 55-feet; as measured per CDC 2.030, the reference elevation datum for steeply sloped lots is a point 10-feet above grade). Additionally, all proposed retaining walls are consistent with CDC Section 44.020.

CDC 55.100(B)(7)(a) requires new office development to be oriented toward the street, with public entrances facing the street. Even when internal orientation is allowed for a multi-building development, at least 20 percent of the street frontage must have buildings oriented toward the street. Subsection (c) requires new office development to be built as close to the adjacent main right-of-way as is practical to facilitate safe pedestrian and transit access. Subsection (f) requires at least one primary building entrance to be facing the main street. Subsection (g) requires safe access from any adjacent transit stop (Blankenship Road contains transit stops for TriMet Route 154). Subsection (h) states that projects must bring buildings close to the street to provide a ratio of approximately 1:1 between building height and street width. Subsection (h) also states, "the height-to-width ratio is an architectural term used to emphasize the height of buildings adjacent to streets. The higher and closer the building is, and the narrower the width of the street, the more attractive and intimate the streetscape becomes."

Staff has discovered no material misrepresentations, errors, omissions, or changes in facts regarding building size or proximity to Blankenship Road that directly impact the project and therefore finds the applicant's request for a two-year extension consistent with CDC Section 99.325.

Stormwater Drainage/Slope. The appeal expresses concern regarding a covered catch basin noting that the City's preference is for open catch basins as they are easier to monitor and maintain (Attachment 3, page 5, President's Report).

In its Final Decision in AP-07-01, the City Council found that an above-ground stormwater detention facility was impractical due to the site's significant grade and the anticipated need for extensive retaining walls to accommodate an above-ground facility. The City Council also found that the applicant had prepared alternative site designs and had chosen the site plan that minimized grading disturbance on this site by terracing buildings up the slope from Blankenship Road and concentrating the required 835 parking spaces into a 4-level structure on a substantially reduced footprint. The resulting site plan preserves the northern 1/3 of the site as undisturbed open space.

Staff has discovered no material misrepresentations, errors, omissions, or changes in facts regarding site drainage or slope that directly impact the project and therefore finds the applicant's request for a two-year extension consistent with CDC Section 99.325.

Long-term Viability of Open Space at Northern Edge of Property. The appellant argues that the viability of the proposed open space would be much better in "Parks Department hands rather than the developer."

In its Final Decision on AP-07-01, the West Linn City Council issued a Condition of Approval (#6) to protect trees in the northern portion of the project site:

*"In accordance with Section 55.100(B)(2)(b), the applicant shall place a tree conservation easement over the significant trees within the northern, undeveloped portion of the site that prohibits any disturbance or improvements without approval of the City of West Linn. Alternatively, the applicant may choose to dedicate this area to the city."*

The City is authorized to impose exactions on development to a degree that is roughly proportionate to the impact from that development and where it can demonstrate a rational nexus between the impact of the development and the need for the exaction. The City understands that trees and open space contribute to long-term physical and psychological health benefits for its residents and has enacted legislation to ensure these resources are protected. The City Council's Condition of Approval No. 6, ensures that significant trees in the northern portion of the site are protected and prohibits any disturbance of the undeveloped portion of the site without additional City approval.

Staff believes the City has exercised its authority to protect significant trees while respecting the legal development interests of the property owner. Additionally, staff has discovered no material misrepresentations, errors, omissions, or changes in facts regarding the preservation of open space in the undeveloped northern portion of the site that directly impact the project and therefore find the applicant's request for a two-year extension consistent with CDC Section 99.325.

#### **Options**

1. Deny the appeal from the Savanna Oaks Neighborhood Association and uphold the Planning Commission's decision in MISC-10-14/LLA-10-03.
2. Approve the appeal from the Savanna Oaks Neighborhood Association upon finding that the applicant has not or cannot, through additional conditions of approval, remedy any material misrepresentations, errors, omissions, or changes in facts discovered since the approval of AP-07-01.

**Recommendation**

Staff recommends upholding the Planning Commission's decision in MISC-10-14/LLA-10-03.

**ATTACHMENT 2: Public hearing notice**



**CITY OF WEST LINN  
CITY COUNCIL  
PUBLIC HEARING NOTICE  
FILE NO. AP-10-03**

The West Linn City Council is scheduled to hold a public hearing on **Monday, November 29, 2010, at 6:30 p.m.** in the Council Chambers of City Hall (located at 22500 Salamo Road, West Linn, OR) to consider the request of the Savanna Oaks Neighborhood Association to appeal the Planning Commission's decision in MISC-10-14/LLA-10-03, to grant a lot-line adjustment and a two-year extension of a previously approved 289,000 square foot office campus on a site located at the northwest corner of Blankenship Road and Tannler Drive.

The Savanna Oaks Neighborhood Association provided oral and written testimony during the public hearing of MISC-10-14 and is therefore entitled to standing in this decision consistent with CDC Section 99.140. The Savanna Oaks Neighborhood Association is appealing the Planning Commission's decision of MISC-10-14 based on concerns related to traffic, staged development, noise, stormwater drainage/slope, a canyon effect created by the location of the building along Blankenship Road, the underground detention basin, and the long-term viability of the undeveloped open space in the northern portion of the site.

This appeal is not limited to those grounds for appeal previously stated; all relevant issues may be considered. The hearing on appeal will be conducted de novo. New testimony and information may be submitted for the City Council's consideration in addition to the Planning Director's record. Approval or disapproval of the appeal by the City Council will be based upon the Design Review criteria in Community Development Code (CDC) Chapter 55, the extension criteria in Section 99.325 and the lot line adjustment criteria in CDC Section 85.210.

You have been notified of this proposal because City records indicate that you are a person with standing per CDC Subsection 99.140(B), because County records indicate that you own property within 500 feet of the proposal site located at tax lots 100, 102, 200 and 801 of Clackamas County Assessor's Map 2-1E-35C, and/or as required by Chapter 99 of the West Linn Community Development Code. You are welcome to attend the hearing to testify and/or to submit written material into the record at, or before, the hearing.

The complete application and record in the above noted file is available for inspection at no cost at City hall or via the City's web site at <http://westlinnoregon.gov/planning/appeal-planning-commission-decision-extend-approval-three-build-office-complex-corner-tannl> 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. For further information, please contact Zach Pelz, Special Projects Planner, at City Hall, 22500 Salamo Road, West Linn, OR 97068, [zpelz@westlinnoregon.gov](mailto:zpelz@westlinnoregon.gov), or (503) 723-2542.

The hearing will be conducted in accordance with the rules of Section 99.170 of the Community Development Code, 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 City Council will receive a staff report presentation from the City Planner; and invite both oral and written testimony. Failure to raise an issue in person or by letter at some point prior to the close of the hearing, with sufficient specificity to afford the governing body and the parties an adequate opportunity to respond to the issue precludes an appeal to the Land Use Board of Appeals (LUBA) based on that issue.

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5375 SUMMERLINN WAY  
WEST LINN OR 97068

TAUBE MARY E  
4755 SUMMERLINN WAY  
WEST LINN OR 97068

THOMAS BRADLEY R  
2390 FALCON DR  
WEST LINN OR 97068

TRIBOU THOMAS R & DELORES J  
3070 REMINGTON DR  
WEST LINN OR 97068

TROSS ROBERT P & DOROTHY M  
4630 SUMMERLINN WAY  
WEST LINN OR 97068

VALENTINE BYRON  
4505 SUMMERLINN WAY  
WEST LINN OR 97068

VIECELI GREGORY R & KATHERINE  
622 TIMBER CREEK DR NW  
ISSAQUAH WA 98027

WALSH LAWRENCE P  
5890 SUMMERLINN WAY  
WEST LINN OR 97068

WEAVER LISA M  
5195 SUMMERLINN WAY  
WEST LINN OR 97068

WEST CURTISS E  
18938 CATHY ADAMS DR  
OREGON CITY OR 97045

WEST LINN ASSOCIATES LLC  
2625 NORTHRUP WAY  
BELLEVUE WA 98004

WILCH RICHARD  
6030 SUMMERLINN WAY  
WEST LINN OR 97068

WOODHOUSE KATIE E  
4250 SUMMERLINN WAY  
WEST LINN OR 97068

WYATT MARVIN L TRUSTEE  
2340 TANNER DR  
WEST LINN OR 97068

YOUNG TODD M  
1500 SW 11TH AVE UNIT 1401  
PORTLAND OR 97201

ZANDER STEPHEN R A TRUSTEE  
2333 FALCON DR  
WEST LINN OR 97068

ZIMMERMAN ROBERT R  
678 RIDGEMONT CIR  
ESCONDIDO CA 92027

BLACKHAWK, LLC  
1750 BLANKENSHIP RD STE 200  
WEST LINN OR 97068

MIRANDA BATESCHELL  
METRO  
600 NE GRAND AVE  
PORTLAND OR 97232

PROJECT PLANNING DEPT  
TRI-MET  
710 NE HOLLADAY  
PORTLAND OR 97232

GAIL CURTIS  
ODOT REGION 1  
123 NW FLANDERS  
PORTLAND OR 97209

BETH KIERES WILLAMETTE NA  
PRESIDENT  
1852 4TH AVE  
WEST LINN OR 97068

DAVE RITTENHOUSE SAVANNA  
OAKS NA PRESIDENT  
2101 GREENE ST  
WEST LINN OR 97068

RHYS KONRAD  
GROUP MACKENZIE  
1515 SE WATER AVE STE 100  
PORTLAND OR 97212

AMAN CATHY A  
1964 HALL ST  
WEST LINN OR 97068

BAILLIF ALLEN K TRUSTEE  
1827 BARNES CIR  
WEST LINN OR 97068

BANASKY STEPHEN & JAY DEE  
3212 SW 319TH PL  
FEDERAL WAY WA 98023

BERRETT JUDY M  
1843 BARNES CIR  
WEST LINN OR 97068

BEVILACQUA LOUIS A TRUSTEE  
415 LAMBIANCE DR APT 504  
LONGBOAT KEY FL 34228

BIRENBAUM GEORGES & MARY E  
1806 BARNES CIR  
WEST LINN OR 97068

BLOCKHUS CRAIG SWEN & LISA M  
2238 GREENE ST  
WEST LINN OR 97068

CAMPBEL PAUL & DAWN R  
1980 SW HALL ST  
WEST LINN OR 97068

COMARD MATTHEW J & TAMORAH A  
2121 GREENE ST  
WEST LINN OR 97068

DEBLASIO PAUL E & LINDA G  
1850 BARNES CIR  
WEST LINN OR 97068

FAGLIANO ALICE L  
1970 HALL ST  
WEST LINN OR 97068

FIWEGER JOSEPH D  
239 MARKETVIEW  
IRVINE CA 92602

FISHER ALAN M & MARLENE A  
1910 HALL ST  
WEST LINN OR 97068

FLANNIGAN CYNTHIA L  
1950 HALL ST  
WEST LINN OR 97068

FRANKEL JOHN D JR & ANDREA  
CHEK  
1990 HALL ST  
WEST LINN OR 97068

GRANT MARILYN KATHLEEN  
TRUSTEE  
2131 GREENE ST  
WEST LINN OR 97068

HENRIOT PHILIPPE  
1826 BARNES CIR  
WEST LINN OR 97068

HUMPHREY ROBERT D  
2539 REMINGTON DR  
WEST LINN OR 97068

JACOBS MICHAEL A TRUSTEE  
2243 GREENE ST  
WEST LINN OR 97068

JOHANSEN LEE R & COLLEEN R  
1930 HALL ST  
WEST LINN OR 97068

JORDAN KARA C  
PO BOX 339  
CAROLINA BEACH NC 28428

KINGZETT EDWARD P & SUSAN M  
1811 BARNES CIR  
WEST LINN OR 97068

KOCZIAN JOZSEF I  
1817 BARNES CIR  
WEST LINN OR 97068

LACEY VALERIE ANITA  
2239 GREENE ST  
WEST LINN OR 97068

LEVIN MARVIN P TRUSTEE  
1955 HALL ST  
WEST LINN OR 97068

LOHSE BRUCE WARREN TRUSTEE  
2123 GREENE ST  
WEST LINN OR 97068

MATTECHECK FRANK P & MARYANN  
PO BOX 42  
WEST LINN OR 97068

MCGUIRE PATRICK  
1841 BARNES CIR  
WEST LINN OR 97068

MCMURTRIE ALEXANDER  
1803 BARNES CIR  
WEST LINN OR 97068

NEWMAN RICHARD A & CAROL  
1832 BARNES CIR  
WEST LINN OR 97068

ONEIL MURRAY PATRICK & DIANE  
2245 GREENE ST  
WEST LINN OR 97068

PETERSEN CANDACE L & RICHARD  
1925 HALL ST  
WEST LINN OR 97068

PICKETT ED & LINDA  
1945 HALL ST  
WEST LINN OR 97068

ROYAL RIDGE HOMEOWNERS  
ASSOC  
1964 HALL ST  
WEST LINN OR 97068

SANDILANDS BRIAN S  
1920 HALL ST  
WEST LINN OR 97068

STEIN GARY D  
1935 HALL ST  
WEST LINN OR 97068

SUNDSTROM PAUL E & JUDY K  
1984 HALL ST  
WEST LINN OR 97068

TIGANESCU FLORICA  
2125 GREENE ST  
WEST LINN OR 97068

UNION BANK OF CALIFORNIA N A  
1805 BARNES CIR  
WEST LINN OR 97068

WATTS CODY R & CONNIE M  
2236 GREENE ST  
WEST LINN OR 97068

WIEGAND ERIC M & FRANCES L  
1852 BARNES CIR  
WEST LINN OR 97068

WILLIAMS BERNICE L TRUSTEE  
2235 GREENE ST  
WEST LINN OR 97068

ZADAN ZENA  
1901 HALL ST  
WEST LINN OR 97068

ALICE RICHMOND  
3939 PARKER RD  
WEST LINN OR 97068

MICHAEL ROBINSON  
1120 NW COUCH ST 10TH FLR  
PORTLAND OR 97209-4128

ED & ROBERTA SCHWARZ  
2206 TANNLER DR  
WEST LINN OR 97068

STEVE GARNER BHT NA  
PRESIDENT  
3525 RIVERKNOLL WAY  
WEST LINN OR 97068

SALLY MCLARTY BOLTON NA  
PRESIDENT  
19575 RIVER RD # 64  
GLADSTONE OR 97027

ALEX KACHIRISKY HIDDEN  
SPRINGS NA PRESIDENT  
6469 PALOMINO WAY  
WEST LINN OR 97068

JEFF TREECE MARYLHURST NA  
PRESIDENT  
1880 HILLCREST DR  
WEST LINN OR 97068

BILL RELYEA PARKER CREST NA  
PRESIDENT  
3016 SABO LN  
WEST LINN OR 97068

THOMAS BOES ROBINWOOD NA  
PRESIDENT  
18717 UPPER MIDHILL DR  
WEST LINN OR 97068

DEAN SUHR ROSEMONT SUMMIT  
NA PRESIDENT  
21345 MILES DR  
WEST LINN OR 97068

KRISTIN CAMPBELL SKYLINE RIDGE  
NA PRESIDENT  
1391 SKYE PARKWAY  
WEST LINN OR 97068

TROY BOWERS SUNSET NA  
PRESIDENT  
2790 LANCASTER ST  
WEST LINN OR 97068

ALMA COSTON BOLTON NA  
DESIGNEE  
PO BOX 387  
WEST LINN OR 97068

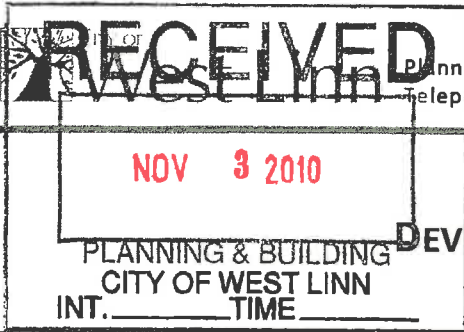
SUSAN VAN DE WATER HIDDEN  
SPRINGS NA DESIGNEE  
6433 PALOMINO WAY  
WEST LINN OR 97068

KEVIN BRYCK ROBINWOOD NA  
DESIGNEE  
18840 NIXON AVE  
WEST LINN OR 97068

DOREEN VOKES SUNSET NA  
SEC/TREAS  
4972 PROSPECT ST  
WEST LINN OR 97068



**ATTACHMENT 3: Savanna Oaks Neighborhood Association (SONA) appeal application**



Planning & Development • 22500 Salamo Rd #1000 • West Linn, Oregon 97068  
 Telephone 503.656.4211 • Fax 503.656.4106 • westlinnoregon.gov

## DEVELOPMENT REVIEW APPLICATION

FOR STAFF COMPLETION	
PROJECT NO.	AP-10-03
STAFF CONTACT	Tracy PELZ
NON-REFUNDABLE FEE(S)	NA
REFUNDABLE DEPOSIT(S)	NA
TOTAL FEES	NA

Type of Review (Please check all that apply):

- |  |   |   |
|--|---|---|
| <input type="checkbox"/> Annexation                              | <input type="checkbox"/> Historic Review                            | <input type="checkbox"/> Quasi-Judicial Plan or Zone Change     |
| <input checked="" type="checkbox"/> Appeal and Review *          | <input type="checkbox"/> Legislative Plan or Change                 | <input type="checkbox"/> Street Vacation                        |
| <input type="checkbox"/> Conditional Use                         | <input type="checkbox"/> Lot Line Adjustment */**                   | <input type="checkbox"/> Subdivision                            |
| <input type="checkbox"/> Design Review                           | <input type="checkbox"/> Minor Partition (Preliminary Plat or Plan) | <input type="checkbox"/> Temporary Uses *                       |
| <input type="checkbox"/> Easement Vacation                       | <input type="checkbox"/> Non-Conforming Lots, Uses & Structures     | <input type="checkbox"/> Tualatin River Greenway                |
| <input type="checkbox"/> Extraterritorial Ext. of Utilities      | <input type="checkbox"/> One-Year Extension *                       | <input type="checkbox"/> Variance                               |
| <input type="checkbox"/> Final Plat or Plan                      | <input type="checkbox"/> Planned Unit Development                   | <input type="checkbox"/> Water Resource Area Protection/Wetland |
| <input type="checkbox"/> Flood Plain Construction                | <input type="checkbox"/> Pre-Application Conference *               | <input type="checkbox"/> Willamette River Greenway              |
| <input type="checkbox"/> Hillside Protection and Erosion Control |   |   |

Home Occupation, Pre-Application, Sidewalk Use Application\*, Sign Review Permit Application\*, and Temporary Sign Permit Application require different or additional application forms, available on the City Website or at City Hall.

Site Location/Address Clackamas Co. Assessor's Map 801 21E 035C tax lots 100, 102, 200, <del>800</del>	Assessor's Map No. 21E 035C
	Tax Lot(s) 100, 102, 200, <del>800</del> 801
	Total Land Area 10.7 acres
Brief Description of Proposal Appeal of MISC-10-14/LLA10-03	
Owner Name & Address Savanna Oaks Neighborhood Association 2101 Greene St. West Linn OR 97068	<input type="checkbox"/> Check if this is the applicant. Phone (503) 635-0800 Email dave@europa.com
Consultant Name & Address	<input type="checkbox"/> Check if this is the applicant. Phone Email

- All application fees are non-refundable (excluding deposit).
- The owner/applicant or their representative should be present at all public hearings.
- A denial or approval may be reversed on appeal. No permit will be in effect until the appeal period has expired.
- Three (3) complete hard-copy sets (single sided) of application materials must be submitted with this application. One (1) complete set of digital application materials must also be submitted on CD in PDF format. If large sets of plans are required in application please submit only two sets.

\* No CD required / \*\* Only one copy needed

The undersigned property owner(s) hereby authorizes the filing of this application, and authorizes on site review by authorized staff. I hereby agree to comply with all code requirements applicable to my application. Acceptance of this application does not infer a complete submittal. The applicant waives the right to the provisions of ORS 94.020. All amendments to the Community Development Code and to other regulations adopted after the application is approved shall be enforced where applicable. Approved applications and subsequent development is not vested under the provisions in place at the time of the initial application.

Applicant's signature <i>David E. R. [Signature]</i>	Date Nov 3 2010
Owner's signature	Date

CITY OF WEST LINN  
 22500 Salamo Rd.  
 West Linn, OR. 97068  
 (503) 656-4211

PLANNING RECEIPT  
 Receipt: # 936170  
 Date : 11/03/2010  
 Project: #AP-10-03  
 BY: SR

\*\*\*\*\*  
 NAME : SAVANNA OAKS, PRES DAVID RITTENHOUSE  
 ADDRESS : 2101 GREENE ST  
 CITY/STATE/ZIP: WEST LINN OR 97068  
 PHONE # : 503-635-0800

SITE ADD. : TANNLER W, 21E035C, TL100, 102, 200, 800<sup>1</sup>

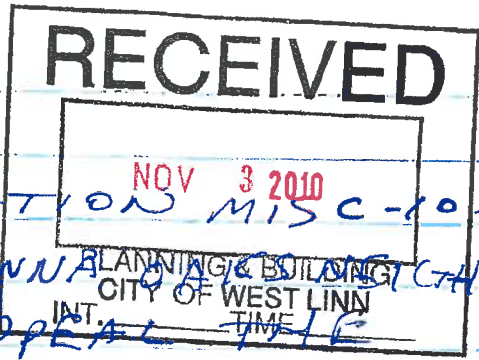
\*\*\*\*\*  
 TYPE I HOME OCCUPATIONS HO \$  
 PRE-APPLICATIONS Level I ( ), Level II ( ) DR \$  
 HISTORIC REVIEW Residential Major ( ), Minor ( ), New ( ) DR \$  
 Commercial Major ( ), Minor ( ), New ( )  
 SIGN PERMIT Face ( ), Temporary ( ), Permanent ( ) DR \$  
 SIDEWALK USE PERMIT DR \$  
 APPEALS Plan. Dir. Dec. ( ), Subdivsion ( ), DR \$ 0.00  
 Plan Comm./City Coun. (X), Nbhd ( )  
 LOT LINE ADJUSTMENT LA \$  
 CITY/METRO BUSINESS LICENSE BL \$

\*\*\*\*\*  
 The following items are paid by billing against the up-front deposit estimate.  
 If the amount of time billed to your project exceeds the amount covered by the  
 deposit, additional payment may be required.

DESIGN REVIEW Class I ( ), Class II ( ) RD \$  
 VARIANCE Class I ( ), Class II ( ) RD \$  
 SUBDIVISION Standard ( ), Expedited ( ) RD \$  
 ANNEXATION "Does Not Include Election Cost" RD \$  
 CONDITIONAL USE RD \$  
 ZONE CHANGE RD \$  
 MINOR PARTITION RD \$  
 MISCELLANEOUS PLANNING RD \$  
 Boundry Adjustments ( )  
 Modification to approval ( ) Water Resource ( )  
 Code Amendments ( ) Area Protection ( )  
 Comp. Plan Amendments ( ) Street Vacations ( )  
 Temporary Permit Admin. ( ) Easement Vacations ( )  
 Temporary Permit Council ( ) Will. River Greenway ( )  
 Flood Management ( ) Tualatin River Grwy. ( )  
 Inter-Gov. Agreements N/C ( ) Street Name Change ( )  
 Alter Non-Conforming Res. ( ) Code Interpretations ( )  
 Alter Non-Conforming Comm. ( ) Type II Home Occ. ( )  
 Measure 37 Claims ( ) Planned Unit Dev. PUD ( )

TOTAL REFUNDABLE DEPOSIT RD \$ 0.00  
 GENERAL MISCELLANEOUS Type: PM \$  
 \*\*\*\*\*  
 TOTAL Check # Credit Card ( ) Cash ( ) \$ 0.00

NOVEMBER 3, 2010



PER THE APPLICATION MISC-10-14  
CLA-10-03 THE SAVANNA OAKS NEIGHBORHOOD ASSOC.  
WISHES TO APPEAL THE PLANNING COMMISSIONS DECISION TO  
APPROVE THIS EXTENSION OF THIS APPLICATION.

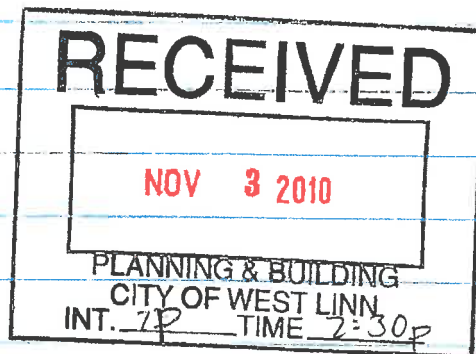
THE SAVANNA OAKS NEIGHBORHOOD ASSOC. (SONA) TESTIFIED AT THE PLANNING COMMISSION HEARING OF THIS APPLICATION AND THEREFORE HAS STANDING ON THIS ISSUE PROVIDED BY SECTION 99.140 IN THE WEST LINN CDC. THEREFORE WE HAS SATISFIED THE REQUIREMENTS OF 99.250 CDC.

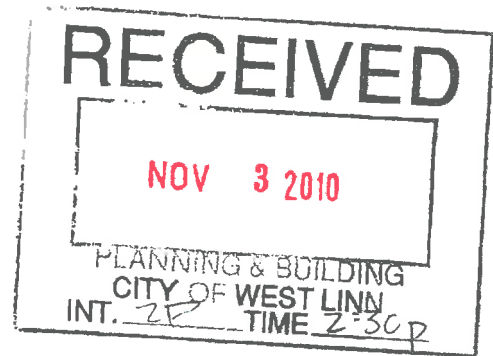
*David E. Rittenhouse*

DAVID E. RITTENHOUSE

PRESIDENT SAVANNA OAKS NEIGHBORHOOD ASSOC.

NOV 3, 2010





## *Savanna Oaks Neighborhood Assoc.*

*2101 Greene Street West Linn OR 97068*

**2010-11-01**

### **SAVANNA OAKS NEIGHBORHOOD ASSOCIATION MINUTES EMERGENCY MEETING OF NOVEMBER 1, 2010**

**CALL TO ORDER.** President David Rittenhouse called the meeting to order at 7:00 PM at the Rosemont room in the West Linn City Hall. Other officers in attendance: Ken Pryor, Vice President, and Toby Koldstad, Secretary.

**QUORUM DATA.** SONA Quorum number is eight ten members where present. Members present David Rittenhouse, Alex Mc Murtrie, Jeff Hudson, Toby Kolstad, Ken Pryor, Sherry Pryor, Barbara Udell, Roberta Schwarz, Jin Lue, Fanny Zhen.

**TREASURER'S REPORT.** n/a

**POLICE REPORT.** n/a

**ANNOUNCEMENTS.** n/a

**PRESIDENTS REPORT.** David Rittenhouse SONA President, explained that it had been discovered that the timing of the Tannler West application would not allow the membership at a regular meeting to vote to discuss the application and to continue to oppose and or appeal as the deadline fell one day ahead of the normal first Thursday of the month meeting time. Therefore, an emergency meeting was required. Notice of the emergency meeting was emailed out over a week in advance to membership on Sunday October 24, 2010.

The concerns of the Neighborhood Association have not been corrected at the Planning Commission. The concerns were Traffic CDC 55.100(I)(1), Noise CDC 55.100(D), Drainage/Slope CDC 55.100(B)(3), Staged development, CDC sections 85.110 or 99.125 which allow projects to be built in stages and could allow for long term partially developed properties. The "canyon" effect on Blankenship. Building "A" is proposed to be located very near to Blankenship Road. Building "A" is proposed at 55 feet tall-the maximum allowed by code. It will sit atop a 24-foot multi-level retaining wall. What will result is a nearly 80 foot tall structure (effectively 7 stories) that towers over Blankenship Road. Worse than Blackhawk 2 blocks down the street creating a canyon effect. The concern for a closed water treatment facility. The application calls for a covered catch basin, city preference is for an open catch basin, open catch basins are easier to monitor and maintain. Lastly the Neighborhood Assoc. is concerned about the open space on the Northern edge of the property. We feel that the continued viability of the green-space is much better in City Parks Department hands than the developer.

The resolution is as follows: We the Savanna Oaks Neighborhood Association appeal the West Linn Planning Commission approval of the two year extension of Tannler West MISC-10-14 LLA-10-03 for traffic concerns, staged development, noise, drainage/slope, canyon effect on Blankenship Road, lack of a open catch basin and concern of the long term viability of the green-space on the northern edge of the property.

Motion: Roberta Schwarz

Second: Ken Pryor

Vote outcome: Approved unanimous 10-0

Submitted by SONA President David Rittenhouse 503-635-0800,  
daver@europa.com.

SONA Emergency Meeting November 1, 2010

**ATTACHMENT 4: Correspondence received following the Planning Commission's decision**



**Pelz, Zach**

---

**From:** Robinson, Michael C. (Perkins Coie) [MRobinson@perkinscoie.com]  
**Sent:** Wednesday, November 10, 2010 8:47 AM  
**To:** Pelz, Zach  
**Cc:** rkonrad@grpmack.com  
**Subject:** RE: AP-10-03 CC Hearing Notice and Application Submittal  
**Attachments:** image85f51f.gif@3c52c92f.8aa44385

Thanks, Zach

---

**From:** Pelz, Zach [mailto:zpelz@westlinnoregon.gov]  
**Sent:** Wednesday, November 10, 2010 8:40 AM  
**To:** Robinson, Michael C. (Perkins Coie)  
**Cc:** rkonrad@grpmack.com  
**Subject:** AP-10-03 CC Hearing Notice and Application Submittal

Mike,

Attached is a copy of the appeal application submitted by the Savanna Oaks Neighborhood Association as well as the public hearing notice that went out yesterday. Please let me know if you have additional questions.

Have a great day,

Zach

---

 Zach Pelz, AICP  
[zpelz@westlinnoregon.gov](mailto:zpelz@westlinnoregon.gov)  
Special Projects Planner  
22500 Salamo Rd.  
West Linn, OR, 97068  
P: (503) 723-2542  
F: (503) 656-4106  
Web: [westlinnoregon.gov](http://westlinnoregon.gov)

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## Pelz, Zach

---

**From:** Robinson, Michael C. (Perkins Coie) [MRobinson@perkinscoie.com]  
**Sent:** Monday, November 08, 2010 9:16 AM  
**To:** Pelz, Zach; rkonrad@grpmack.com  
**Subject:** RE: Minutes

Thanks, Zach-this is great

-----Original Message-----

**From:** Pelz, Zach [mailto:zpelz@westlinnoregon.gov]  
**Sent:** Monday, November 08, 2010 9:14 AM  
**To:** Robinson, Michael C. (Perkins Coie); rkonrad@grpmack.com  
**Subject:** RE: Minutes

Good morning Mike,

The public notice that will be sent tomorrow notices a City Council Hearing for Monday, November 29, 2010; I do not anticipate this date being changed between now and tomorrow afternoon. Also, I have word that minutes from the Oct. 13 Planning Commission hearing on MISC-10-14 will not be ready for at least two weeks. In the meantime, please find the video of this hearing, posted on our website (<http://westlinnoregon.gov/planning/tannler-drive-and-blankenship-road-intersection-willamette-corporate-center-phase-ii>), as an alternative.

Thank you,

Zach

Zach Pelz, AICP  
<mailto:zpelz@westlinnoregon.gov>  
Special Projects Planner  
22500 Salamo Rd.  
West Linn, OR, 97068  
P: (503) 723-2542  
F: (503) 656-4106  
Web: <http://westlinnoregon.gov>

West Linn Sustainability Please consider the impact on the environment before printing a paper copy of this email.  
Public Records Law Disclosure This e-mail is subject to the State Retention Schedule and may be made available to the public.

-----Original Message-----

**From:** Robinson, Michael C. (Perkins Coie) [mailto:MRobinson@perkinscoie.com]  
**Sent:** Monday, November 08, 2010 6:00 AM  
**To:** Pelz, Zach; 'rkonrad@grpmack.com'  
**Subject:** Minutes

Zach, do you have an update on the hearing date? Also, can you send me the minutes from the Planning Commission hearing for Blackhawk, even if in draft form?

Thanks. Mike

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\* \* \* \* \*

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## Pelz, Zach

---

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**Subject:** RE: Minutes

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**Sent:** Monday, November 08, 2010 6:00 AM  
**To:** Pelz, Zach; 'rkonrad@grpmack.com'  
**Subject:** Minutes

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Thanks. Mike

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\* \* \* \* \*

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**Pelz, Zach**

---

**From:** Pelz, Zach  
**Sent:** Tuesday, November 02, 2010 10:35 AM  
**To:** 'Robinson, Michael C. (Perkins Coie)'  
**Subject:** RE: Blackhawk

The appeal window for MISC-10-14 closes tomorrow, November 3, at 5pm. The link to the PC final decision is below.

[http://westlinnoregon.gov/sites/default/files/projects/pc\\_final\\_decision\\_misc-10-14.pdf](http://westlinnoregon.gov/sites/default/files/projects/pc_final_decision_misc-10-14.pdf)

Please let me know if you have additional questions.

Zach

---

**From:** Robinson, Michael C. (Perkins Coie) [mailto:MRobinson@perkinscoie.com]  
**Sent:** Tuesday, November 02, 2010 9:57 AM  
**To:** Pelz, Zach  
**Subject:** Blackhawk

Zach, can you remind me of the date that the appeal period ends? Thanks.

---

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\*\*\*\*\*

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**ATTACHMENT 5: Planning Commission's decision**

**WEST LINN PLANNING COMMISSION**

**FINAL DECISION NOTICE**

**MISC-10-14/LLA-10-03**

**IN THE MATTER OF THE PROPOSAL OF A TWO-YEAR EXTENSION OF APPROVAL  
AND LOT LINE ADJUSTMENT FOR A 289,000 SQUARE FOOT OFFICE COMPLEX  
(PREVIOUS APPROVAL FILE AP-07-01) AT THE NORTHWEST CORNER OF THE  
INTERSECTION OF TANGLER DRIVE AND BLANKENSHIP ROAD**

At their meeting of October 13, 2010, the West Linn Planning Commission held a public hearing to consider the request by Blackhawk, LLC to approve a two-year extension of development entitlements for a 289,000 square-foot office complex, originally approved as AP-07-01, as well as a new lot line adjustment, at the northwest corner of Tannler Drive and Blankenship Road. This proposal required approval of a two-year extension and lot line adjustment. The approval criteria regarding Extensions are found in Community Development Code (CDC) Section 99.325. The criteria for lot line adjustments are found in CDC Section 85.210. CDC Chapter 55 establishes the provisions for Design Review and Chapter 21 establishes the provisions for development in the OBC zone. The hearing was conducted pursuant to the provisions of CDC Chapter 99.

The hearing commenced with a staff report presented by Zach Pelz, Special Projects Planner. Rhys Konrad and Brent Ahrend of Group Mackenzie and Michael Robinson of Perkins Coie gave the applicant's presentation. Alice Richmond spoke in favor of the application. David Rittenhouse presented arguments in opposition to the application on behalf of the Savanna Oaks Neighborhood Association. Ed and Roberta Schwarz also testified in opposition to the application. Messrs. Konrad, Ahrend and Robinson provided the applicant's rebuttal.

A motion was made, seconded, and passed to approve the application with seven new findings, with revisions to Conditions of Approval 3(a) and 3(b), and with the removal of Condition of Approval 5.

The new findings are as follows:

1. The Planning Commission found that the provision of bumper stops near walkways adjacent to interior parking spaces was unnecessary as the applicant's plans indicated that such walkways were proposed to be 2-feet wider than the required minimum width of 6-feet; therefore, satisfying the criterion in CDC Section 46.150(A)(11). The Planning Commission further determined that because Condition of Approval 3(a) is still relevant to staff finding number 4 (regarding the need to submit signage detail and detail for possible bumper guards elsewhere on site), the condition would be modified to only remove that language requiring consistency with 46.150(A)(11).

2. The Planning Commission found that Condition of Approval number 3(b) included a scrivener's error and modified the reference in that condition from CDC Section 46.080(H) to 46.090(H).
3. The Planning Commission found that the City lacked the necessary authority to enforce Condition of Approval 5, which required the applicant to modify the proposed location of the site access onto Tannler Drive. CDC Section 48.025(B)(6) requires that established driveways which have access onto collector roadways be spaced a minimum of 150-feet apart. The Planning Commission found that although the existing configuration of the Tannler East property limited their future access to a point along Tannler Road that would be less than 150-feet from the applicant's proposed driveway location on Tannler Road, the access separation requirement refers to established driveways and therefore the applicant's proposal satisfied CDC Section 48.025(B)(6).
4. The Planning Commission determined that testimony presented in opposition to the application regarding building location, inadequate noise study, improper phasing, deferred compliance with CDC criteria, underground stormwater detention, and traffic mitigation, was adequately discussed and decided upon in the City Council's findings in AP-07-01, and was not subject to further review in this decision per CDC Section 99.325 as it did not pertain to errors and omissions, code changes, or other changes in fact.
5. The Planning Commission found the applicant's traffic analysis update, dated June 11, 2010, with traffic counts conducted in May 2010 (pp.112-133 of staff report), adequate to support the validity of the applicant's original traffic impact analysis prepared August 2006 and adequate to satisfy criterion 99.325(A)(2) regarding "changes in fact that directly impact the project". The Planning Commission further determined that because the Veteran's Administration (VA) clinic opened in April 2010, the traffic analysis update did include at least a portion of the new trips generated by that facility.
6. The Planning Commission determined that 2-year extensions of land use entitlements as granted under CDC Section 99.325 were not limited to small projects or individual homeowners as raised during public testimony, as no text in Section 99.325 provides for such limitations in the applicability of extensions.
7. The Planning Commission found that the City's notice satisfied CDC Section 99.090 and reflected the City Council's intent of de novo hearings for 2-year extension requests.

The approved conditions of approval are as follows:

1. Site Plan. With the exception of modifications required by these conditions, the project shall conform to the site plan in Exhibit PC-3, sheet C2.1, dated August 4, 2010.



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 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 46.090(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. Curb Cuts. The applicant shall modify their plans to show a curb cut width for the access driveway onto Tannler Drive no greater than 36-feet, as measured at the face of the curb from curb wing-tip-to curb wing tip. These plans shall be submitted with the construction plan package.
6. Lot Line Adjustment. The applicant shall modify the proposed configuration of lots 801 and 200 to reduce the number of deviations from generally straight segments per CDC Section 85.210(A)(4) while maintaining consistency with the dimensional standards in 85.210(A)(2), as approved by the Planning Director.

This decision will become effective 14 days from the date of mailing of this final decision as identified below. Those parties with standing (i.e., those individuals who submitted letters into

the record, or provided oral or written testimony during the course of the hearings, or signed in on an attendance sheet or testimony form at either of the hearings, or who have contacted City Planning staff and made their identities known to staff) may appeal this decision to the West Linn City Council within 14 days of the mailing of this decision pursuant to the provisions of Chapter 99 of the Community Development Code. Such appeals require a fee of \$400 and a completed appeal application form along with a discussion of the specific grounds for appeal to the Planning Director prior to the appeal-filing deadline.

  
\_\_\_\_\_  
ROBERT MARTIN, CHAIR  
WEST LINN PLANNING COMMISSION

10/19/2010  
DATE

Mailed this 20 day of October, 2010.

Therefore, this decision becomes effective at 5 p.m., November 3, 2010.

**ATTACHMENT 6:** Correspondence and information received prior to the Planning Commission’s decision

Presented @  
Meeting 10/13  
- for record -

Alice Richmond



CITY OF  
West Linn

the Holiday Inn ?

phases =

Memorandum

Date: October 13, 2010

Pick trips

To: Planning Commission

From: Zach Pelz

50 second delay?

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.

it is an extension - the necessary tool to meet the crisis in national economy.

Traffic light - staff explained very logically and mathematically the issue of flow of car from parking lots into st.

- this controls traffic before gridlocks

this building, also, will bring and increase W.L. economy from these offices - aside good tax revenue in our coffers - and plus business we can patronage without driving to other city and burning more gas

fuel that necessary - decrease pollution - so - we have an up economy we have asst no longer unproductive and lastly sewing W.L.

Received  
@ 10/13

10/13/2010

Good evening Planning Commissioners.

My name is Ed Schwarz and I live at 2206 Tannler Drive in West Linn.

I request that you deny this application and allow this flawed project to die so that a new, better application can be brought forward by the developer.

The original intent of the two year extension process was to assist small projects or individual homeowners who were suffering the effects of the recession and couldn't afford to move ahead with their project within the three-year approval window. I specifically remember City Councilor Carson mentioning several small projects which would benefit from the extension. I doubt she envisioned allowing such a flawed project as this an additional two years.

As you have already heard from David Rittenhouse, this project has been opposed by the Savanna Oaks Neighborhood Association for over three years. I concur with all of the issues presented by David tonight. Our major concerns are aesthetics and traffic, traffic, traffic.

As far as aesthetics, one building will tower over Blankenship Road. It will make the Blackhawk building look like a one-story ranch house by comparison. This project can be better designed to move that building away from Blankenship and make it more compatible with the surrounding area.

Another major concern is traffic. The original application included some mitigation for the additional traffic this development will create but it was not sufficient. Now, over three years later and with the addition of traffic from the VA Clinic, a new, one day traffic "study" included in the application you are reviewing tonight tells us that traffic flow has actually decreased. Try selling that to the people who drive on both Blankenship and Tannler. There is no question that traffic at the intersection of Blankenship and Tannler continues to get worse and is now worse than it was three years ago.

I would like to point out to you that the application for just this two year extension contained 469 pages of information. Does this sound like a simple project which can be granted an additional two years time without a significant public and staff review process? I know that the applicant will say that it has undergone a review process and it has, but this review is nothing like the process a project of this size undergoes when it is first submitted. The project has changed and the surrounding area has changed – a new, thorough review of this project is warranted. As I stated during the original application process, "This is the wrong project, at the wrong place, at the wrong time."

The two year extension is not required to be granted. That is why we are here tonight. You can decide that this project is not deserving of an additional two years. I encourage you to reach that decision.

Please deny this application and ask the applicant to come back at a future date with a new project which better suits the area. West Linn deserves it.

Thank you.

Ed Schwarz



CITY OF

# West Linn

## PLANNING COMMISSION SIGN IN/TESTIMONY FORM

Each agenda item requires separate form

# PLEASE PRINT

NAME	<u>MICHAEL ROBINSON</u>	DATE	<u>10.13.10</u>
STREET ADDRESS	<u>1120 NW Couch St, TENTH FLOOR</u>		
CITY	<u>PORTLAND</u>	STATE	<u>OR</u>
		ZIP	<u>97209.4128</u>
REQUIRED INFORMATION TO RECEIVE ADDITIONAL NOTICE OR COPY OF FINAL DECISION			

I wish to testify on the agenda item listed below or offer information during community comments.

I do not wish to testify but request standing on the agenda item and subject listed below.

AGENDA # AND SUBJECT MISC 10-A

IN SUPPORT  NEITHER FOR NOR AGAINST \_\_\_\_\_ IN OPPOSITION \_\_\_\_\_

NAME OF ORGANIZATION (if applicable) \_\_\_\_\_

\*If group, please list people you represent.

- Rhys Konrad - Group Mackenzie \_\_\_\_\_
- Brent Ahrend " " \_\_\_\_\_
- Math Butts " " \_\_\_\_\_
- Paul Price - Blackhawk \_\_\_\_\_

**PLEASE BE PREPARED TO IDENTIFY THE SPECIFIC APPROVAL CRITERIA YOU ARE ADDRESSING.**

PLEASE NOTE: Testimony or information on any agenda item shall be heard only during the time set aside for public hearings. The Chairman will control the time of testimony and may vary procedures. A majority vote of the Hearing body (i.e., Planning Commission, City Council) may permit variance from standard procedures. Testimony or information on non-agenda items may be accepted for placement on a future agenda.



CITY OF  
**West Linn**

**PLANNING COMMISSION  
SIGN IN/TESTIMONY FORM**

Each agenda item requires separate form

**PLEASE PRINT**

NAME <u>David RITTENHOUSE</u>	DATE <u>OCT 13 2016</u>
STREET ADDRESS <u>2101 GREENE ST</u>	
CITY <u>WEST LINN</u>	STATE <u>OR</u> ZIP <u>97068</u>
REQUIRED INFORMATION TO RECEIVE ADDITIONAL NOTICE OR COPY OF FINAL DECISION	

I wish to testify on the agenda item listed below or offer information during community comments.

I do not wish to testify but request standing on the agenda item and subject listed below.

AGENDA # AND SUBJECT MISC 10-14/LLA 10-3/PUBLIC COMMENTS

IN SUPPORT \_\_\_\_\_ NEITHER FOR NOR AGAINST \_\_\_\_\_ IN OPPOSITION X

NAME OF ORGANIZATION (if applicable) SAVANNA OAKS NA

\*If group, please list people you represent.

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

**PLEASE BE PREPARED TO IDENTIFY THE SPECIFIC APPROVAL CRITERIA YOU ARE ADDRESSING.**

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p:\devrvw\forms\testimony-hearing



# WEST LINN PLANNING COMMISSION MEETING

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October 13, 2010

6:45 PM - Work Session

Rosemont Room

7:30 PM – Regular Session

Council Chambers

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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>





CITY OF

# West Linn

**I wish to speak during Community Comments.**

Please specify topic (required):

*in favor*

**I wish to speak during a Public Hearing.**

Please specify agenda bill number or topic (required):

*MISC 10-14 -*

**I do not wish to speak however, I would like to have standing on this item.**

Please specify agenda bill number or topic (required):

Please print:

Name: *Alice Richmond*

Date: *10-13-10*

Phonetic spelling, if difficult to pronounce: \_\_\_\_\_

Address (Optional): *3939 Parker R.*

Phone (Optional): *503 723 0106*

Email address (Optional): \_\_\_\_\_



CITY OF  
**West Linn**

**I wish to speak during Community Comments.**

Please specify topic (required): \_\_\_\_\_

**I wish to speak during a Public Hearing.**

Please specify agenda bill number or topic (required): MISC-10-14

**I do not wish to speak however, I would like to have standing on this item.**

Please specify agenda bill number or topic (required): \_\_\_\_\_

**Please print:**

Name: ED SCHWARZ

Date: 10/13/2010

Phonetic spelling, if difficult to pronounce: we have it

Address (Optional): \_\_\_\_\_ Phone (Optional): \_\_\_\_\_

Email address (Optional): \_\_\_\_\_



CITY OF  
**West Linn**

**I wish to speak during Community Comments.**

Please specify topic (required): ~~MISC-10-14~~

**I wish to speak during a Public Hearing.**

Please specify agenda bill number or topic (required): EV MISC-10-14

**I do not wish to speak however, I would like to have standing on this item.**

Please specify agenda bill number or topic (required): \_\_\_\_\_

**Please print:**

Name: Roberta Schwarz

Date: 10/13/2010

Phonetic spelling, if difficult to pronounce: We have it

Address (Optional): \_\_\_\_\_ Phone (Optional): \_\_\_\_\_

Email address (Optional): \_\_\_\_\_



## Memorandum

Date: October 13, 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.

**Pelz, Zach**

---

**From:** Robinson, Michael C. (Perkins Coie) [MRobinson@perkinscoie.com]  
**Sent:** Sunday, October 10, 2010 7:40 AM  
**To:** Pelz, Zach; Sonnen, John  
**Subject:** Jeff Parker Extension Application

Zach and John,

Thanks for placing my two letters (on the notice issue and on the driveway issue) before the Planning Commission. Rhys and I will call Zach on Wednesday morning.

Mike

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**Pelz, Zach**

---

**From:** Le, Khoi  
**Sent:** Friday, October 08, 2010 10:34 AM  
**To:** Sonnen, John; Wright, Dennis  
**Cc:** Pelz, Zach  
**Subject:** RE: City of West Linn File No. MISC-10-14

John,

I would prefer Zach to elaborate on this subject. Mike may have his point that there is no driveway existing at this point. I also looked at the Tannler East site lay-out, if a driveway is allowed onto Tannler, this driveway will not meet the 500 foot spacing indicating in the TSP either. If this is the case, would Tannler East should be the one providing an access driveway that would meet the City requirements at the time of their development? They can also apply for variance if there is no other way to accommodate these requirements at the time of their application.

Thanks,

Khoi

Khoi Le, Public Improvement Program Manager  
*Public Works, #1517*

West Linn Sustainability Please consider the impact on the environment before printing a paper copy of this email.

Public Records Law Disclosure This e-mail is subject to the State Retention Schedule and may be made available to the public.

**From:** Sonnen, John  
**Sent:** Thursday, October 07, 2010 4:36 PM  
**To:** Wright, Dennis; Le, Khoi  
**Subject:** FW: City of West Linn File No. MISC-10-14

FYI

John Sonnen, Planning Director  
*Planning and Building, #1524*

West Linn Sustainability Please consider the impact on the environment before printing a paper copy of this email.

Public Records Law Disclosure This e-mail is subject to the State Retention Schedule and may be made available to the public.

**From:** Ryan, Corinne F. (Perkins Coie) [mailto:CRyan@perkinscoie.com] **On Behalf Of** Robinson, Michael C. (Perkins Coie)  
**Sent:** Thursday, October 07, 2010 4:14 PM  
**To:** Sonnen, John; Pelz, Zach  
**Cc:** Robinson, Michael C. (Perkins Coie)  
**Subject:** City of West Linn File No. MISC-10-14

Dear John and Zach,

Please find attached a letter addressed to John. Zach called me before he left to say we would talk when he returned on October 13. Rhys and I would appreciate the chance to discuss Condition of Approval 5 with you.

Mike

<<sonnen ltr.PDF>> <<exh 1.PDF>> <<exh 2.PDF>> <<exh 3.PDF>>

**Michael C. Robinson | Perkins Coie LLP**  
1120 N.W. Couch Street  
Tenth Floor  
Portland, OR 97209-4128  
PHONE: 503.727.2264  
MOBILE: 503.407.2578  
FAX: 503.346.2264  
E-MAIL [mrobinson@perkinscoie.com](mailto:mrobinson@perkinscoie.com)

**sent by Corinne F. Ryan | Perkins Coie LLP**  
LEGAL SECRETARY TO:  
**Michael C. Robinson | Roger A. Alfred | Seth J. King**  
1120 N.W. Couch Street  
Tenth Floor  
Portland, OR 97209-4128  
PHONE 503.727.2137  
FAX 503.727.2222  
E-MAIL [cryan@perkinscoie.com](mailto:cryan@perkinscoie.com)

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CITY OF  
**West Linn**

## 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

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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.



1120 N.W. Couch Street, Tenth Floor  
Portland, OR 97209-4128  
PHONE: 503.727.2000  
FAX: 503.727.2222  
www.perkinscoie.com

Michael C. Robinson  
PHONE: (503) 727-2264  
FAX: (503) 346-2264  
EMAIL: MRobinson@perkinscoie.com

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)."<sup>1</sup> (**Exhibit 3**). Table 3-9 requires that driveways on collector streets must be separated by 150 feet.

---

<sup>1</sup> 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
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(Urban Area)	2,650	600	300
(Opportunity Area)	1,320	NA	NA
Collector	1,320	200	150
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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](mailto:laura@easystreet.net)

Begin forwarded message:

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

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Roberta

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

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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**

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**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>



Michael C. Robinson  
PHONE: (503) 727-2264  
FAX: (503) 346-2264  
EMAIL: MRobinson@perkinscoie.com

1120 N.W. Couch Street, Tenth Floor  
Portland, OR 97209-4128  
PHONE: 503.727.2000  
FAX: 503.727.2222  
www.perkinscoie.com

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



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](mailto: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;

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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.
-

## Pelz, Zach

---

**From:** Ryan, Corinne F. (Perkins Coie) [CRyan@perkinscoie.com] on behalf of Robinson, Michael C. (Perkins Coie) [MRobinson@perkinscoie.com]  
**Sent:** Thursday, October 07, 2010 4:14 PM  
**To:** Sonnen, John; Pelz, Zach  
**Cc:** Robinson, Michael C. (Perkins Coie)  
**Subject:** City of West Linn File No. MISC-10-14  
**Attachments:** sonnen ltr.PDF; exh 1.PDF; exh 2.PDF; exh 3.PDF

Dear John and Zach,

Please find attached a letter addressed to John. Zach called me before he left to say we would talk when he returned on October 13. Rhys and I would appreciate the chance to discuss Condition of Approval 5 with you.

Mike

<<sonnen ltr.PDF>> <<exh 1.PDF>> <<exh 2.PDF>> <<exh 3.PDF>>

**Michael C. Robinson** | Perkins Coie LLP

1120 N.W. Couch Street  
Tenth Floor  
Portland, OR 97209-4128  
PHONE: 503.727.2264  
MOBILE: 503.407.2578  
FAX: 503.346.2264  
E-MAIL: [mrobinson@perkinscoie.com](mailto:mrobinson@perkinscoie.com)

**sent by Corinne F. Ryan** | Perkins Coie LLP

LEGAL SECRETARY TO:

**Michael C. Robinson** | **Roger A. Alfred** | **Seth J. King**

1120 N.W. Couch Street  
Tenth Floor  
Portland, OR 97209-4128  
PHONE: 503.727.2137  
FAX: 503.727.2222  
E-MAIL: [cryan@perkinscoie.com](mailto:cryan@perkinscoie.com)

---

IRS CIRCULAR 230 DISCLOSURE: To ensure compliance with Treasury Department and IRS regulations, we inform you that, unless expressly indicated otherwise, any federal tax advice contained in this communication (including any attachments) is not intended or written by Perkins Coie LLP to be used, and cannot be used by the taxpayer, for the purpose of (i) avoiding penalties that may be imposed on the taxpayer under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein (or any attachments).

\*\*\*\*\*

NOTICE: This communication may contain privileged or other confidential information. If you have received it in error, please advise the sender by reply email and immediately delete the message and any attachments without copying or disclosing the contents. Thank you.



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FAX: 503.727.2222  
www.perkinscoie.com

Michael C. Robinson  
PHONE: (503) 727-2264  
FAX: (503) 346-2264  
EMAIL: MRobinson@perkinscoie.com

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)."<sup>1</sup> (**Exhibit 3**). Table 3-9 requires that driveways on collector streets must be separated by 150 feet.

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

61061-0001/LEGAL19331547.1

ANCHORAGE · BEIJING · BELLEVUE · BOISE · CHICAGO · DENVER · LOS ANGELES · MADISON  
MENLO PARK · PHOENIX · PORTLAND · SAN FRANCISCO · SEATTLE · SHANGHAI · WASHINGTON, D.C.

Perkins Coie LLP and Affiliates

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.

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## Pelz, Zach

---

**From:** Sonnen, John  
**Sent:** Tuesday, October 05, 2010 8:17 AM  
**To:** Zak, Teresa  
**Cc:** Pelz, Zach  
**Subject:** FW: 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

Teresa, please make sure this goes to the PC. Zack please get this in the record.  
John

John Sonnen, Planning Director  
Planning and Building, #1524

*West Linn Sustainability* Please consider the impact on the environment before printing a paper copy of this email.

*Public Records Law Disclosure* This e-mail is subject to the State Retention Schedule and may be made available to the public.

**From:** Laura Horsey [mailto: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

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](mailto:laura@easystreet.net)

Begin forwarded message:

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

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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

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

Teresa Zak

## **WEST LINN PLANNING COMMISSION MEETING**

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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>

## Pelz, Zach

---

**From:** Ryan, Corinne F. (Perkins Coie) [CRyan@perkinscoie.com] on behalf of Robinson, Michael C. (Perkins Coie) [MRobinson@perkinscoie.com]  
**Sent:** Monday, October 04, 2010 2:21 PM  
**To:** Sonnen, John  
**Cc:** Pelz, Zach; rkonrad@grpmack.com; jeff@parkerdev.com; Robinson, Michael C. (Perkins Coie)  
**Subject:** City of West Linn File No. MISC-10-14  
**Attachments:** martin ltr.PDF; exh 1.PDF; exh 2.PDF; exh 3.PDF

Dear John and Zach,

Please find attached my letter regarding Mr. Rittenhouse's letter concerning the Jeff Parker extension application. Please place my letter and its attachments in the official Planning Department file and before the Planning Commission at the public hearing scheduled for October 13, 2010.

Mike

<<martin ltr.PDF>> <<exh 1.PDF>> <<exh 2.PDF>> <<exh 3.PDF>>

**Michael C. Robinson** | Perkins Coie LLP

1120 N.W. Couch Street  
Tenth Floor  
Portland, OR 97209-4128  
PHONE: 503.727.2264  
MOBILE: 503.407.2578  
FAX: 503.346.2264  
E-MAIL: [mrobinson@perkinscoie.com](mailto:mrobinson@perkinscoie.com)

**sent by Corinne F. Ryan** | Perkins Coie LLP

LEGAL SECRETARY TO:

**Michael C. Robinson** | **Roger A. Alfred** | **Seth J. King**

1120 N.W. Couch Street  
Tenth Floor  
Portland, OR 97209-4128  
PHONE: 503.727.2137  
FAX: 503.727.2222  
E-MAIL: [cryan@perkinscoie.com](mailto:cryan@perkinscoie.com)

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IRS CIRCULAR 230 DISCLOSURE: To ensure compliance with Treasury Department and IRS regulations, we inform you that, unless expressly indicated otherwise, any federal tax advice contained in this communication (including any attachments) is not intended or written by Perkins Coie LLP to be used, and cannot be used by the taxpayer, for the purpose of (i) avoiding penalties that may be imposed on the taxpayer under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein (or any attachments).

\*\*\*\*\*

NOTICE: This communication may contain privileged or other confidential information. If you have received it in error, please advise the sender by reply email and immediately delete the message and any attachments without copying or disclosing the contents. Thank you.



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PHONE: 503.727.2000  
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Michael C. Robinson  
PHONE: (503) 727-2264  
FAX: (503) 346-2264  
EMAIL: MRobinson@perkinscoie.com

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

ANCHORAGE · BEIJING · BELLEVUE · BOISE · CHICAGO · DENVER · LOS ANGELES · MADISON  
MENLO PARK · PHOENIX · PORTLAND · SAN FRANCISCO · SEATTLE · SHANGHAI · WASHINGTON, D.C.

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,

A handwritten signature in black ink, appearing to read "Michael C. Robinson". The signature is fluid and cursive, with a long horizontal stroke at the end.

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](mailto: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.
-

**Pelz, Zach**

---

**From:** Pelz, Zach  
**Sent:** Friday, October 01, 2010 8:25 AM  
**To:** 'Rhys Konrad'  
**Subject:** FW: FYI and Posting Planning Commission Agenda October 13, 2010 and AP-10-01 Final Decision of City Council  
**Attachments:** pc agenda.pdf

Rhys,

The City's website has been updated with the latest information regarding your client's application. Please let me know if you have questions. Again, I will be out of the office from Wednesday, October 6, through Tuesday, October 12.

Thanks,

Zach

---

**From:** Zak, Teresa  
**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.

Please note CUP-10-03 the new primary school project on Rosemont Road advertised for the October 13, 2010 PC meeting will be re-advertised to November 3, 2010 after an [extension from the applicant](#).

Project AP-10-01 an appeal of the Planning Directors decision of denial for a swimming pool, fence and gate at 1215 9<sup>th</sup> Street has also been updated with [City Councils decision to uphold the Planning Directors decision of denial](#). The appeal period ends on October 21, 2010 at 5:00PM.

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

Teresa Zak

Teresa Zak, Administrative Assistant  
Planning and Building, #1533

*West Linn Sustainability* Please consider the impact on the environment before printing a paper copy of this email.

*Public Records Law Disclosure* This e-mail is subject to the State Retention Schedule and may be made available to the public.

## Pelz, Zach

---

**From:** Pelz, Zach  
**Sent:** Thursday, September 30, 2010 12:21 PM  
**To:** Cummings, Teri; Jordan, Chris; City Council  
**Cc:** Sonnen, John  
**Subject:** RE: De novo hearings and land-use extensions

Thank you for your question Ms. Cummings;

As I understand it, the City's decision-making authority regarding quasi-judicial land use matters is established in Oregon Revised Statutes (ORS) Sections 215.416(8) and (9) and 227.173 and West Linn Community Development Code (CDC) Chapter 99.

### **§ ORS 215.416**

*(8)(a) Approval or denial of a permit application shall be based on standards and criteria which shall be set forth in the zoning ordinance or other appropriate ordinance or regulation of the county and which shall relate approval or denial of a permit application to the zoning ordinance and comprehensive plan for the area in which the proposed use of land would occur and to the zoning ordinance and comprehensive plan for the county as a whole.*

*(b) When an ordinance establishing approval standards is required under ORS [197.307 \(Effect of need for certain housing in urban growth areas\)](#) to provide only clear and objective standards, the standards must be clear and objective on the face of the ordinance.*

*(9) Approval or denial of a permit or expedited land division shall be based upon and accompanied by a brief statement that explains the criteria and standards considered relevant to the decision, states the facts relied upon in rendering the decision and explains the justification for the decision based on the criteria, standards and facts set forth.*

### **§ ORS 227.173<sup>1</sup>**

*(1) Approval or denial of a discretionary permit application shall be based on standards and criteria, which shall be set forth in the development ordinance and which shall relate approval or denial of a discretionary permit application to the development ordinance and to the comprehensive plan for the area in which the development would occur and to the development ordinance and comprehensive plan for the city as a whole.*

### **The City's decision-making authority regarding quasi-judicial land use matters is established in CDC Chapter 99.**

CDC Section 99.060 explicitly identifies the authority of the City's various decision-making bodies (i.e., City Council, Planning Commission, Historic Review Board, Planning Director). 99.060(B)(2)(I) - The Planning Commission shall have the authority to: [2] Approve, deny, or approve with conditions the following applications: [I] Extensions of approval when the Planning Commission acted as the initial decision-making authority.

Furthermore, CDC Section 99.325(B) states that, "The Planning Commission may grant an extension from the effective date of approval of two years pertaining to applications listed in Section 99.060(B), consistent with [Section 99.325](A)(1) through (3)." The text of CDC Section 99.325(A)(1) through (3) is included in full below:

#### **99.325 EXTENSIONS OF APPROVAL**

**A.** *The Planning Director may grant an extension from the effective date of approval of two years pertaining to applications listed in Section 99.060(A) upon finding that:*

- 1. The applicant has demonstrated, and staff and the Planning Commission concur, that the application is in conformance with applicable CDC provisions and relevant approval criteria enacted since the application was initially approved; and*
- 2. There are no demonstrated material misrepresentations, errors, omissions, or changes in facts that directly impact the project, including, but not limited to, existing conditions, traffic, street alignment and drainage; or*

*3. The applicant has modified the approved plans to conform with current approval criteria and remedied any inconsistency with subsection (A)(2) of this section, in conformance with any applicable limits on modifications to approvals established by the CDC.*

Please let me know if you have additional questions regarding this matter.

Thanks, and have a great afternoon,

Zach

-----Original Message-----

From: Cummings, Teri  
Sent: Wednesday, September 29, 2010 8:29 PM  
To: Jordan, Chris; City Council  
Cc: Pelz, Zach; Sonnen, John  
Subject: RE: De novo hearings and land-use extensions

Zach could you please help familiarize me with the codes which pertain to how "City's decision-making authority is limited to certain approval criteria;"

Thank you,  
Teri

Councilor Teri Cummings  
mailto:tcummings@westlinnoregon.gov  
West Linn City Councilor  
22500 Salamo Rd  
West Linn, OR, 97068  
P: (503) 657-0331  
F: (503) 650-9041  
Web: <http://westlinnoregon.gov>

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---

From: Jordan, Chris  
Sent: Monday, September 27, 2010 2:47 PM  
To: City Council  
Cc: Pelz, Zach; Sonnen, John  
Subject: FW: De novo hearings and land-use extensions

Council – Please see Zach's response below. Please note that this is a pending land use application.

Chris

From: Pelz, Zach  
Sent: Monday, September 27, 2010 1:21 PM  
To: Rittenhouse, David; City Council City Council  
Cc: Sonnen, John  
Subject: RE: De novo hearings and land-use extensions

David,

Thank you for your comments. Your letter will be included in the record of proceedings regarding file MISC-10-14.

I wanted to follow-up with you regarding our conversation last week about the issue of De Novo hearings and our newly established extension process. After speaking with the Planning Director and other planning staff, I would like to



reassert that the process is De Novo in that it opens testimony to consider errors, omissions, changes in fact, etc. which may have occurred since the original approval and does not limit testimony to only those persons with standing or issues raised in the original decision. However, as with any other development review procedure, the City's decision-making authority is limited to certain approval criteria; in this case, errors, omissions, changes in fact, etc.

Please feel free to contact me to discuss the matter further. Have a great afternoon,

Zach

Chris Jordan, City Manager

Administration, #1422

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From: David Rittenhouse [mailto:daver@europa.com]

Sent: Monday, September 27, 2010 1:02 PM

To: City Council City Council; Pelz, Zach

Subject: De novo hearings and land-use extensions

## Pelz, Zach

---

**From:** Cummings, Teri  
**Sent:** Wednesday, September 29, 2010 8:29 PM  
**To:** Jordan, Chris; City Council  
**Cc:** Pelz, Zach; Sonnen, John  
**Subject:** RE: De novo hearings and land-use extensions

Zach could you please help familiarize me with the codes which pertain to how "City's decision-making authority is limited to certain approval criteria;"

Thank you,  
Teri

Councilor Teri Cummings  
<mailto:tcummings@westlinnoregon.gov>  
West Linn City Councilor  
22500 Salamo Rd  
West Linn, OR, 97068  
P: (503) 657-0331  
F: (503) 650-9041  
Web: <http://westlinnoregon.gov>

West Linn Sustainability Please consider the impact on the environment before printing a paper copy of this email.  
Public Records Law Disclosure This e-mail is subject to the State Retention Schedule and may be made available to the public. \_\_\_\_\_

**From:** Jordan, Chris  
**Sent:** Monday, September 27, 2010 2:47 PM  
**To:** City Council  
**Cc:** Pelz, Zach; Sonnen, John  
**Subject:** FW: De novo hearings and land-use extensions

Council – Please see Zach's response below. Please note that this is a pending land use application.

Chris

**From:** Pelz, Zach  
**Sent:** Monday, September 27, 2010 1:21 PM  
**To:** Rittenhouse, David; City Council City Council  
**Cc:** Sonnen, John  
**Subject:** RE: De novo hearings and land-use extensions

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raised in the original decision. However, as with any other development review procedure, the City's decision-making authority is limited to certain approval criteria; in this case, errors, omissions, changes in fact, etc.

Please feel free to contact me to discuss the matter further. Have a great afternoon,

Zach

Chris Jordan, City Manager

Administration, #1422

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Public Records Law Disclosure This e-mail is subject to the State Retention Schedule and may be made available to the public.

From: David Rittenhouse [mailto:daver@europa.com]

Sent: Monday, September 27, 2010 1:02 PM

To: City Council City Council; Pelz, Zach

Subject: De novo hearings and land-use extensions

## Pelz, Zach

---

**From:** Jordan, Chris  
**Sent:** Monday, September 27, 2010 2:48 PM  
**To:** City Council  
**Cc:** Pelz, Zach; Sonnen, John  
**Subject:** FW: De novo hearings and land-use extensions

Council – Please see Zach’s response below. Please note that this is a pending land use application.

Chris

**From:** Pelz, Zach  
**Sent:** Monday, September 27, 2010 1:21 PM  
**To:** Rittenhouse, David; City Council City Council  
**Cc:** Sonnen, John  
**Subject:** RE: De novo hearings and land-use extensions

David,

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I wanted to follow-up with you regarding our conversation last week about the issue of De Novo hearings and our newly established extension process. After speaking with the Planning Director and other planning staff, I would like to reassert that the process is De Novo in that it opens testimony to consider errors, omissions, changes in fact, etc. which may have occurred since the original approval and does not limit testimony to only those persons with standing or issues raised in the original decision. However, as with any other development review procedure, the City’s decision-making authority is limited to certain approval criteria; in this case, errors, omissions, changes in fact, etc.

Please feel free to contact me to discuss the matter further. Have a great afternoon,

Zach

Chris Jordan, City Manager  
Administration, #1422

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**From:** David Rittenhouse [mailto:daver@europa.com]  
**Sent:** Monday, September 27, 2010 1:02 PM  
**To:** City Council City Council; Pelz, Zach  
**Subject:** De novo hearings and land-use extensions

**ATTACHMENT 7: Planning Commission draft minutes of October 13, 2010**



CITY OF  
**West Linn**

PLANNING COMMISSION / COMMISSION FOR CITIZEN INVOLVEMENT

Minutes of October 13, 2010

*- Draft -*

Members present: Chair Robert Martin, Vice Chair Michael Jones and Commissioners, Michael Babbitt, Laura Horsey, Christine Steel  
Members absent: Dean Wood  
Staff present: John Sonnen, Planning Director; Zach Pelz, Special Projects Planner; Khoi Le, Civil Engineer; and William Monahan, City Attorney

CALL TO ORDER

Chair Martin called the Planning Commission meeting to order in the Council Chambers of City Hall at 7:30 p.m.

APPROVAL OF MINUTES (N/A)

PUBLIC COMMENTS

David Rittenhouse, 2101 Greene St., President of the Savannah Oaks Neighborhood Association questioned whether MISC-10-14 was a *de novo* hearing. City Attorney Monahan advised it was a *de novo* (open) hearing on the question of whether the development approval met the applicable criteria for an extension of time. The Planning Commission would not reconsider the development review approval.

Alice Richmond, 3939 Parker Rd., invited people to donate children's toys for a benefit event.

PUBLIC HEARINGS

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

**MISC-10-14, Lot line adjustment and extension of previously approved 289,000 sq. ft. office campus and parking structure near 1870 Blankenship Drive**

Chair Martin 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. All the Commissioners present had visited the site. Commissioners Jones and Babbitt served on the Planning Commission when it decided the original application. Commissioners Horsey and Steel each reported an *ex parte* contact. 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.

### *Staff Report*

**Zach Pelz, Special Projects Planner**, presented the staff report (see Planning Staff Report dated October 13, 2010). In 2007 the City Council had heard an appeal of the Planning Commission decision to approve the development and upheld the decision after adding more conditions of approval. The staff found the approval qualified for a two-year extension to March 23, 2012. Extension provisions in CDC Chapter 99 called for making the proposal consistent with current code and correcting for errors, omissions or changes in fact since approval. But the City could not reverse previous judgment calls.

Pelz described the development. It was to be constructed in two phases. The approval required the developer to make street improvements. One improvement was to install a new traffic signal where the driveway intersected with Blankenship Road. The original lot line adjustment had been approved by the Planning Director in a separate review process, but never recorded, so it needed to be approved in the current process. Since the development had been approved the City had adopted new standards related to right-of-way and curb cut width, and ADA parking and signage. The current review dealt with those aspects and other things that had not been considered during the original approval process, including the location of bicycle parking, drainage across a walkway, and the location and amount of carpool and van pool parking. It also considered changes in surrounding properties. The applicant had modified the location of the access across from Tannler East. That met recommended Condition 5, Access Spacing. The staff had added Condition 7, Lot Line Adjustment, so the proposed lot line between lots 801 and 200 would be composed of straighter segments than the applicant proposed. The staff revised Condition 3(a) so it did not call for bumper guards. Interior sidewalks were wide enough that no bumper guards were required. Condition 4 was necessary to ensure the applicant corrected a situation where drainage crossed a walkway.

During the questioning period, Pelz confirmed that part of the proposed lot line adjustment was along infrastructure, but staff was recommending a different, straighter, demarcation because the code called for generally straight segments. He explained the new traffic signal was to be where the driveway met Blankenship Road because ODOT did not want it to be at the Tannler/Blankenship intersection where it might cause traffic to back up and block another intersection. He was not sure in which phases the street improvements would be constructed.

### *Applicant*

Reece Conrad, Group Mackenzie, 1515 SE Water Ave. Ste. 100, Portland, Oregon 97214, stated that the applicant had no objection to the staff-recommended conditions of approval as long as the typographical error in Condition 3(b) was corrected to refer to "CDC Section 46.090(H)." During the questioning period Conrad indicated the applicant was willing to work out a straighter lot line adjustment that eliminated a zigzag, but they preferred to keep the segment they proposed along the driveway. He clarified that the applicant did not yet know how they would phase the roadway improvements. They would likely start with the traffic mitigation improvements associated with the building on the lower part of the hill because they planned

to build that building first. He clarified that the applicant did not know exactly when they would start the project because they had not yet found an occupant. But they had so much invested in the development already that they wanted to reach the point of “substantial construction” before the extension expired. He clarified the property owner and the City still had to work out how who would own the conservation easement area. He explained the applicant had not recorded the originally approved lot line adjustment because they had failed to keep track of that requirement.

Brent Ahrend, Group Mackenzie, the applicant’s traffic engineer, anticipated that the signal at the driveway exit would cause the largest percentage of drivers to choose to exit there. Trip generation estimates were that if all 830 parking spaces were occupied, almost half of those drivers would exit the site during the PM Peak hour. The signal and turn lane were designed to accommodate that. Babbitt questioned the conclusion that traffic volume had decreased significantly between the 2006 and 2010 studies. Ahrend explained that 2006 study projections had factored in future volume generated by future new development in the area that had now been built. While traffic volume on Tannler had not changed much, traffic volume on Blankenship was lower now, likely because of the economy. The left turn from Tannler onto Blankenship was rated Level of Service (LOS) F because the delay there was greater than 50 seconds. But the signal at the site driveway would create more gaps in traffic on Blankenship and give drivers turning left onto Blankenship from Tannler more opportunities to make that turn.

#### *Proponents*

Alice Richmond, 3939 Parker Rd., observed that the extension was necessary due to the economic crisis. The applicant’s representatives had explained how they would control traffic. She was not concerned about a 50-second delay at the intersection because the development would place offices and businesses where West Linn residents could patronize them without having to drive to another city. It would also generate tax revenue.

#### *Opponents*

David Rittenhouse, President of the Savannah Oaks Neighborhood Association, explained the neighborhood was concerned about traffic, an inadequate noise study, drainage/slope issues, the proximity of Building A to Blankenship Road, and the underground catch basin. He observed that the applicant did not propose any improvements to the Tannler/Blankenship intersection, which was failing. He questioned whether a “one-day study” of traffic was adequate. He suggested the proposed traffic mitigation was much less likely to be adequate now and when the economy improved than when the application was approved. He based that conclusion on the traffic study the applicant had submitted four years ago that anticipated a 3% annual growth rate in traffic and on the fact that traffic improvements had been made in a couple of other places along the corridor since then that improved the flow. He observed the proposed signal was across from an Albertson’s center entrance and would cause congestion problems there as more and more drivers opted to turn at the signal rather than at the



Tannler/Blankenship intersection. He contended the noise study was inadequate because it did not offer proof that noise would meet the code standard. He said the application did not meet the code that called for looking for ways to preserve the existing topography. He advised the code called for all offsite improvements to be completed before any building permit was issued – it should not be allowed to be done in stages. He objected to allowing deferred compliance with the conditions of approval. He held that Building A was too tall and too close to Blankenship Road. The resulting “canyon” effect would affect pedestrians and the ambiance of the area. He advised the underground catch basin should be open because the City preferred such facilities to be outside where they were easier to monitor and maintain.

Rittenhouse testified that he had just received a packet containing many conditions of approval that neither he nor the Willamette Neighborhood Association had time to examine. But during the questioning period, he explained he would not ask for a continuance because that would extend the process another two weeks. Babbitt advised that the conditions of approval that the staff was recommending that related to the current extension request were in the staff report. The others Rittenhouse was referring to were likely the conditions of approval of the development application that had been in the record for several years since the original development application hearing and appeal. He recalled the development review process had addressed the issues that Rittenhouse raised. The original application contained a noise study that concluded the development met the code. The Planning Commissioners had initially been inclined to locate the signal at the Tannler/Blankenship intersection, but they had agreed to locate the signal at the driveway because ODOT did not want it at the intersection (where it would cause queuing issues). Rittenhouse served on the Tenth Street Task Force. He recalled the Task Force had considered alternatives and then recommended realigning Tannler to the west, through the complex. He explained he was not fighting the theory of having a light where it was proposed, but he was opposed to the actual application because the street that was to go through the complex was not a public street. He did not think it would work as ODOT said it would.

Ed Schwarz, 2205 Tannler Dr., asked the Commissioners to deny the extension and allow the “flawed” project to die so the applicant would have to submit a better application. His main concerns were that Building A would loom over Blankenship Road and that the application did not sufficiently mitigate traffic. He perceived that traffic was worse than it was three years ago, especially with the additional traffic generated by the new vet clinic. He held that a project the size the applicant proposed should have a much more extensive public and staff review. It was “the wrong project in the wrong place at the wrong time.” He advised that the code allowed the Commission to deny it because it said the Planning Commission “may” grant an extension. He recalled the expert the Savannah Oaks Neighborhood Association had hired to review the applicant’s noise study had found it inadequately demonstrated the development would meet the code.

Roberta Schwarz, 2206 Tannler Dr., pointed out the applicant had conducted the traffic study about a week before the vet clinic opened. She reported that the lot line adjustment had never been presented to the Savannah Oaks Neighborhood Association. She reasoned that because

the proposed development was worse than a similar, earlier, development that people disliked, the City did not intend to allow developments as large as the applicant's project to have an extension of approval time. She stressed that the applicant would build a seven-story building right next to the sidewalk. She stressed that the intersection had a Level of Service F and would continue at that rating. Her own experience was it had gotten harder to make a left turn there. She questioned why the City should make it harder for residents to get in and out of their homes in return for empty office space. The applicant did not have anyone ready to move in and did not know when they would have an occupant. She asked the Planning Commission to deny the application.

*Rebuttal*

Conrad recalled the previous development approval process had examined noise and drainage so those issues were not pertinent to the extension hearing. The building along Blankenship complied with all the height and setback requirements and the applicant had used terracing and landscaping to minimize its appearance. Ahrend said traffic volume had decreased since the 2006 study. He clarified that the May traffic count did include vet center traffic. The center had actually opened in April, but the opening ceremony was not until June. Even if it had not been counted, that use would generate about 20 Peak Hour trips, which would not be enough to bring the volumes back up to where they were in 2006. He observed that Rittenhouse had testified that he and the Tenth Street Task Force liked the alternative that directed traffic through the site, but he did not want it there because it came out at the Albertson's driveway. He pointed out that one condition of approval of the development permit was that the applicant would work with the City to change their traffic mitigation plan if the City and ODOT found a better way to mitigate traffic in the Tenth Street corridor.

Mike Robinson, Perkins Coie LLC, 1120 N.W. Couch Street, Portland, Oregon 97209-4128, advised that the application met Chapter 99 criteria for an extension and the applicant agreed with the staff report and recommendations. The applicant was seeking to preserve their investment in a bad economy. The extension ordinance was being properly used. There was nothing in the record of City Council approval of the extension ordinance that showed they intended it to only apply to small projects. The City had had three years to write code to ensure a development like this could not be approved again, but it had not done that. The development met the applicable approval criteria three years ago and still did. No one had proved otherwise. Staff had done a thorough analysis that looked at every new CDC criterion that had been adopted since the original development approval. The fact that Rittenhouse was able to say everything he wanted to say that night showed the hearing was a *de novo* hearing. He held the application met the applicable criteria and it was the Planning Commissioners' duty to approve the extension.

During the questioning period, Robinson advised that if the project reached the point of "substantial construction" before the extension period expired the developer was allowed to continue and finish the project. The entire project did not have to be finished and occupied by the expiration date. He pointed out the CDC defined "substantial construction." Pelz

projected the code definition onto the large meeting room screen for all to read. It said any of the following had to have taken place to be "substantial construction:"

- Utilities installed to serve the project
- Approved grading had been undertaken representing at least 25% of all the required preliminary grading
- Foundation excavation had occurred
- Foundation or building construction had occurred
- Street improvements were being installed, or,
- Major physical improvement required as part of the approved permit had clearly begun.

When asked, Pelz said he understood that reaching "substantial construction" by the extension expiration date would vest the entire development, not just one phase of it. He observed the original development approval did not establish any time limits for phasing and the Section 99.325 extension provision did not mention phasing. Monahan confirmed that once vested, the developer had an indefinite time in which to finish the development.

Horseley observed the City Council approval record showed they talked about the phases. Section 99.125 required an applicant to set the scope of phases. She suggested the Planning Commission require the applicant to tie each of the street, sidewalk, trail, landscaping, lighting and other improvements called for in the conditions of approval to a phase. Monahan and Sonnen pointed out that the Council decision imposed Condition 9, which connected some improvements to phases.

Condition 9. Prior to occupancy of the lower building on the site, the applicant shall have completed all street and traffic improvements listed as "Phase I mitigation" in the application, particularly, the November 3, 2006 letter from the applicant's traffic engineer, including the recommendations from city traffic consultant Carl Springer in his memorandum dated October 30, 2006, and the recommendations of the Oregon Department of Transportation (ODOT) contained in their letters of November 21, 2006. Prior to occupancy of either of the two upper buildings on the site, the applicant shall have completed all improvements listed as "Full Development Mitigation" in the application, as stated in the same letter as above, and as modified or amended by the recommendations of Carl Springer and ODOT dated October 30, 2006 and November 21, 2006 respectively. All improvements must be coordinated with and approved by the City, and ODOT in their areas of responsibility.

Horseley suggested there might be an omission in the application itself to be addressed in the extension hearing, because it did not conform to Section 99.125 requirements that an applicant who proposed a project in phases had to set forth the timing of each phase in the application. Pelz recalled that appellants had based part of their appeal (AP 07-01) on a contention of improper phasing. The Findings explained why the Council had dismissed that argument. Horseley asked how the staff connected improvements to phases in practice. Sonnen explained they were guided by Section 99.125 regarding project phasing: "Each phase shall also install all necessary improvements to serve the development within that phase." Anything necessary to support the demands of what was to be built in each phase would also have to be built. That would include stormwater facilities and offsite work. **Khoi Le, Engineering Department**, pointed out that Condition 9 required Phase 1 mitigation (the major traffic improvements) to be done prior to occupancy of Building A. He advised that the City typically

required the other street, lighting and sidewalk improvements connected with it to be done as well. Robinson said he thought the applicant would not only do what Condition 9 required but would work with the staff to do everything that fit the lower stage before the building was occupied.

Babbitt asked for clarification that each individual phase had to reach the point of "substantial construction." Robinson said that was not his understanding. A staged development had been approved and an extension would extend the multiphase development approval. So if the project reached the point of substantial construction within the extension period, both phases were vested. That was consistent with Oregon vesting law. After vesting the developer had as much time as they needed to build Phase 1 and Phase 2. Monahan confirmed that. Robinson distinguished between how the code treated land divisions and other applications, such as design review. Land divisions had to be platted and recorded by the approval expiration date. Since the City did not allow bonding, all the improvements had to be installed by that date because a plat could not be recorded without the related improvements. But design review was different. The applicant just had to substantially complete the development (not each phase) before the expiration date. Then they could do their staged development. In this case there was no land division.

Pelz confirmed that the findings in West Linn City Council Final Decision Notice AP 07-01 addressed every issue that Rittenhouse had raised in his testimony that night. Among them were findings that the applicant's noise analysis was adequate; phasing of the development was appropriate; the underground detention tank was appropriate; and the applicant's traffic mitigation measures were appropriate. He acknowledged that the staff report did not include a copy of the Planning Commission decision or the minutes of the Planning Commission hearing.

Babbitt asked how the City would handle the situation if the Albertson's site were redeveloped and that applicant had to make street improvements, but the current applicant's site was still undeveloped and they had not made their street improvements. Monahan advised the City could only look at each individual application and apply rough proportionality to determine what level of improvements that applicant should be required to make.

#### *Deliberations*

Chair Martin closed the public hearing and polled the Commissioners. Babbitt indicated he did not feel his questions had been adequately answered. He was concerned about partial completion of only one phase. His personal feeling was that traffic in the area of the site had gotten worse. Steel indicated that her questions had been answered and she believed the application met Section 99.325 requirements for granting an extension. She observed that the hearing had ranged far afield from the applicable criteria. Commissioner Jones observed the Commissioners had spent much of the hearing discussing the original application, which had been approved, and issues that were not relevant to the extension decision. He had heard that traffic had not increased and there was no evidence to the contrary; and that the original conditions of approval were not "omissions." He had heard nothing that demonstrated the

extension should not be granted. He said it should be granted. Horsey related that she was inclined to approve the extension. She liked the way the plan used open space to buffer the nearby residential area. She accepted that the issues of noise, drainage, building height and setback were not pertinent to the extension decision. She appreciated that the applicant was willing to work with the City if a new solution for Tenth Street corridor traffic was found. But it was not clear enough which improvements were going to be connected to which phase and she was wrestling with the prospect that the development would reach the minimum necessary for vesting and then remain unfinished for an indefinite period. Chair Martin was not completely convinced there was less traffic now. When the economy rebounded traffic would become worse. The intersection was at LOS F. ODOT and the Tenth Street Task Force had not yet determined how to fix that, but the applicant had testified a signal at the driveway would improve the flow. That was the practical thing to do to bring about a better traffic situation. He saw no reason not to grant the extension. The applicant had done all they could to mitigate the traffic problem. To deny the extension and force the applicant back to the drawing board was not ethical and they would likely not be able to solve the traffic problem.

Commissioner Jones **moved** to approve MISC 01-04/LLA -10-03 with the modifications recommended by the staff and with the reference in Condition 3(b) corrected to "CDC Section 46.090(H)." Steel **seconded** the motion and discussion followed. Babbitt confirmed that he did not see anything in the code that would address the issue that once vested, the project could remain unfinished for a very long time. Horsey shared his concern. The vote was conducted and the motion **passed** 4:1. Babbitt voted against.

ITEMS OF INTEREST FROM STAFF (None)

ITEMS OF INTEREST FROM THE PLANNING COMMISSION

Babbitt and Horsey suggested the Planning Commission schedule a work session to discuss issues the extension hearing had raised, including, what was "substantial construction" and how should it be related to phased development? Horsey suggested the CCI should look into the notice issue that Rittenhouse had raised. Babbitt suggested the minutes of the Planning Commission development approval hearing should be should be part of the record in an extension application because they showed how the Commissioners had resolved issues.

ADJOURNMENT

There being no other business, Chair Martin adjourned the Planning Commission meeting at 10:42 p.m.

APPROVED:

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Robert Martin, Chair

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Date