



CITY OF West Linn

PLANNING COMMISSION

Minutes of July 17, 2013

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

Members absent: Lorie Griffith

Council Liaison:

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

PREMEETING WORK SESSION

The Planning Commission discussed procedural issues and reviewed correspondences related to the upcoming public hearing. They also discussed the status of the Trails Master Plan.

REGULAR MEETING CALL TO ORDER

Chair Babbitt called the meeting to order in the Council Chambers of City Hall at 7:07 p.m.

PUBLIC COMMENT

None.

PUBLIC HEARING

DR-13-02, Class II Design Review for expansion and remodel of existing gas station building, conversion of the portion of the building from automotive service to convenience sales, and associated landscaping and parking changes.

Chair Babbitt opened the public hearing. None of the Commissioners present declared any conflict of interest or bias. Each of them declared a site visit. No one present challenged the authority of the Commission or any individual Commissioner to hear the matter.

Staff Report

Mr. Soppe presented the staff report (see the July 17, 2013 Staff Report and his July 3, 2013 Memorandum). He referred to the site and landscape plans and pointed out where the applicant proposed changes to the existing site, which included expanding the existing footprint by adding new cooler areas; converting some pavement to landscaping; and modifying a driveway. He discussed the elevations and photographs and highlighted where there would be more windowed areas. The staff analysis had found aspects that did not meet code. The proposed ADA parking spaces were not close enough to the entrance; one parking space did

not have the required wheel stop; bike parking did not meet code; the pedestrian walkways were not wide enough; a walkway that was shown on the Lighting Plan was not shown on the most recent site plan; there were actually two parking lots so two more shade trees were required; the recycling/trash container was not adequately screened; and the proposed lighting did not cover the walkway or access to the proposed recycling/trash container. The recommended conditions of approval addressed the identified deficiencies. The applicant was to revise the newest site plan to show the missing walkway; move the disabled parking spaces to two specific spaces closer to the building (one would become the required van-loading area); show the missing wheel stop; widen the pedestrian accessway to 8 feet. locate two bicycle spaces (one had to be covered) to an observable area of the site within 50 feet of the building entrance; show two shade trees in the north parking lot; increase the lighting coverage to cover the recycling/waste facility, parking areas and proposed walkway; and screen the recycling/waste facility with a hedge of at least 36" tall along rear and sides of structure.

13:27

Questions of Staff

Commissioners Martin and Miller were concerned that there would not be enough space when someone backed a long van with a wheelchair on the back out of where the staff proposed to require the van-loading space while another vehicle was at the pump. Mr. Soppe explained that he proposed to move the stall there because the code mandated that the closest space was to be the ADA space. The location the applicant proposed was 9 feet further away. He advised that moving the van-loading space would reduce the number of site parking spaces from 11 to 10, but it would still meet code. The van loading space the applicant proposed did double-duty as access to the trash enclosure. When it was no longer the van-loading space it could not be used as a parking space. He clarified that one driveway would be a one-way driveway and the other would be a two-way driveway. He pointed out the walkway to the building that had been left off the most recent site plan and would have to be on the required revised site plan. Commissioner Axelrod wanted it on the record that the staff report on page 8 that they could not find any evidence of channelization was not consistent with what he had observed in the field. He had observed there was a tributary of McClellan Creek.

26:13

Applicant

Dave Kimmel, PDG Planning Design Group, 1335 SW 66th Ave., Ste. 201, Portland, Oregon 97225, clarified that the Oregon Structural Specialty Code called for the disabled space to be the one nearest to a main entry. He explained the applicant proposed it where they did to address the parking backup issue and because it was often empty and would also serve as a loading zone for the trash enclosure. If someone was using that space the waste service provider would just have to wait their turn. He testified that they agreed to the rest of the conditions of approval, including the requirement to change pathway width to 8 feet. However, they asked the Commission to waive Condition 8 regarding how the trash enclosure was screened, if possible. He argued that putting a hedge around it was redundant because the topography, an existing fence, other buildings, and existing and new landscaping meant it could not be seen from residences behind it or from the sides. He addressed the question regarding

WRA. The applicant had submitted information that showed the developer of the property to the north had studied soils and borings and not found any evidence of a riparian area, creek, or streambed on the north side of their property. The Planning Commission had agreed there was no WRA on that site. Mr. Kimmel related that he had tried to see what was on the adjacent property to the west (which was gated). He did not see any evidence of WRA, but he noted the stream was just south of the property. He understood, but did not know it for a fact, that ODOT had directed flows into pipes about 25 to 30 years ago when it did major upgrades.

30:43

Questions of the applicant

Mr. Kimmel used Photograph 4 (showing the existing site) to point out the location of the trash enclosure for Vice Chair Steel. He confirmed that the only part of it people would see from Highway 43 would be the gate. He confirmed the gate was too high to be concealed by a 36 inch high hedge. Mr. Soppe clarified that the conditions of approval required a hedge around the sides and rear and not in front. Mr. Kimmel clarified the enclosure would be a steel enclosure painted white to match the building siding.

Commissioner Axelrod wanted to know if the Commission should impose a condition that required the applicant to follow DEQ regulations in the event they encountered any environmental contamination. Mr. Kimmel advised the applicant used contractors who were legally obligated to report that to the DEQ. It would have to be dealt with at the time of construction. Ms. Thornton advised that if they found contamination the situation would be covered under state and federal law.

Chair Babbitt wanted to hear the applicant's reasoning for not being obligated to additional screening of the trash enclosure (Condition 8). Mr. Kimmel explained the existing pavement around it was going to be converted to landscaping. Planting arborvitae around it would not fit the landscape scheme. Ms. Thornton advised the code was strict and required, "At a minimum a continuous hedge maintained at a height of 36 inches." Mr. Kimmel then withdrew his request to waive Condition 8. He confirmed for Commissioner Martin that the applicant was asking the Commission not to impose recommended Condition 2 regarding disabled parking and let the applicant have it on the side of the building.

40:20

Deb Morley, 1570 Holly St., was concerned about impacts on her residence. She indicated she was pleased that the site would be improved and just a few tweaks would make their neighbor happy. She asked the Commissioners to consider the following:

- Hours of operation. Noise and light from the parking area could affect their bedroom. Would it be a 24-hour operation? It currently closed about 9:00 p.m.
- Lighting. They had skylights in their bedroom and site light would shine right into it. She asked if the lights could be focused on the area of business so they would not glare into her property.

- Location of the handicapped parking space. Her opinion was it should be located on the left hand side because that would cut down on the number of people who would be pulling into parking spaces where their lights would shine into her home.
- Propane tank. She asked if the tank was going to be removed. Currently they smelled it all the time.
- Access from Holly Street. It was hard to make a left turn in and out of Holly Street. She asked if ODOT had anything to say about ingress and egress.
- Screening. She referred to a large, existing, hedge shown in Photograph 4, "Landscaping parking areas, proposal reconfigures existing parking." It currently shielded practically all of the gas station from her back yard, but only in the summertime. If there was to be no arborvitae in the landscaping she would like the existing hedge to stay there. Otherwise, really high arborvitae, lined up tight, would definitely help a lot. A wall would even be better. She noted she could see the existing flags.

Commissioner Martin asked for clarification that Ms. Morley preferred to have the disabled parking spaces on the left side of the building where vehicle lights would point towards her property. She confirmed that. She knew that handicapped parking stall usage was typically less than regular stall usage. She indicated what she wished for was a hedge, a wall, or some kind of vegetation that would prevent the light from shining into her house. Concern about lights intrusion was why she had also asked about hours of operation. She anticipated the station would have a bell that indicated that someone was at the pump. A bell, so many lights, and the way the traffic flowed would impact her home.

Alice Richmond, 3939 Parker Rd., indicted she was in favor of the applicant improving their service station so they could sell gas, but not the mini-store. She was concerned about the impact of in and out traffic on two sides and the impact on the little creek that flowed under the bridge toward the Willamette River. She stressed the City did not need the mini-store. Mini-stores were connected with crime and disturbances. It would be a place where kids from the nearby high school would hang out and possibly buy cigarettes or alcohol. Central Village shopping was half a block away. She urged the Commissioners to think about safety first.

52:22

Rebuttal

Mr. Kimmel recalled Ms. Morley's concerns. He clarified that he had not discussed hours of operation with the owner, but he believed it would be a 24-hour operation. He referred to the Landscaping Plan and pointed to an area of existing or native vegetation. He indicated that the applicant would be happy to change the landscaping plan and plant other native vegetation that would be evergreen and grow high enough to block lights that could shine into her property or into her home. He said if a light was high enough to be visible from her property they would back-shield it to prevent that. They would do the same thing on the other sides. He clarified the arborvitae that was along the back fence was going to stay. So would most of the existing shrubs in the natural area. He indicated there would be no bell because gas attendants would wait for customers in the kiosk outside the store.

Questions of Applicant

Chair Babbitt inquired about the propane tank. Mr. Kimmel related that he did not know where the existing tank was located and he had not seen it in his photographs or on the proposed site plan. He asked Ms. Morley to point it out. For the record Chair Babbitt noted that she indicated it was located in front of where the three new parking spots on the left were proposed. Chair Babbitt commented that he had not seen any indication on the plans that it was staying. Mr. Kimmel then acknowledged that he did not know the answer. He could confirm the flags would go away.

Commissioner Martin and Chair Babbitt asked staff and the City Attorney to comment on the issue of hours of operation. Mr. Soppe advised that convenience sales was a permitted use in a commercial zone, but an applicant would have to get a Conditional Use Permit if they were proposing to expand the size of an existing building for use as an Extended Hours Business. An Extended Hours Business was one that was open 17 or more hours a day on any given day of the week, or one on a list of businesses (which included convenience sales) that were open between midnight and 6:00 a.m. Ms. Thornton noted the applicant proposed to expand the building for the new use of shopping. That meant they would need to get a CUP to operate as an Extended Hours Business, but they could operate within the 17 hours and midnight to 6:00 a.m. parameters without a CUP. She added that the use was currently operating under a CUP. She did not know what conditions they were already subject to under that permit. Mr. Soppe thought it was gas station use that had existed before they were subject to a CUP. He noted the gas station use was not changing and the convenience store use was a permitted use as long as did not operate as an Extended Hours Business.

Commissioner Martin asked if the business owner was counting on being able to operate 24 hours a day. Mr. Kimmel explained he had not been able to consult the owner about that during the hearing. He indicated they would accept a condition that they would not operate between the hours [that would make them an Extended Hours Business] rather than have to start the application process all over again. If they needed to extend hours of operation they would file a separate CUP application later. He asked the Commission to make that clear in the record.

1:03

Deliberations

Chair Babbitt closed the public hearing and opened deliberations. He polled the Commissioners. Commissioner Miller appreciated that the applicant had responded to the neighbor's concerns. The Commissioner had safety-related concerns about the placement of the ADA parking and the pedestrian pathway. However, if the other Commissioners were not going to move them she was inclined to approve the application. Commissioner King also appreciated the applicant's response to public testimony and willingness to compromise. She was inclined to vote yes. Commissioner Martin indicated he was generally in favor of the application but he was on the fence about the location of disabled parking. He liked it better on

the right side, but he understood the logic of the person who had testified about it. He addressed the WRA issue. He pointed out the proposed landscaping would reduce the amount of impervious surface on the site. He anticipated that a convenience store would generate fewer pollutants than the shop use that was there now. Commissioner Axelrod recalled the neighbor's comment about the ADA parking location and said it might make sense to leave it on the left side. He did not feel strongly either way. Both locations were pretty close. He indicated he would be open to allowing the vegetation plan to be modified to provide a better buffer with an evergreen border that both the applicant and neighbor agreed to. He commented that the WRA might not be a factor here because it was such a highly modified site and it was under an existing Conditional Use Permit. He agreed the proposed plan would improve the impervious surface ratio. He indicated he was inclined to approve the application. He wanted it to be in the record that he did not accept the Montgomery Report finding and interpretation that there was no drainage through the site. He had a general concern that did not affect this decision: This area was an entryway to the City, but one of the first things people saw coming into West Linn was an automotive area with a couple of gas stations. Vice Chair Steel indicated she was inclined to approve the application. She indicated she was inclined to agree to leave the disabled parking space on the south side because there would be a less congested area for a van to be backing up in. She indicated she thought the proposal would improve the economic development picture quite a bit.

1:11

Commissioner Axelrod suggested that Condition 7 (Lighting) could call for adding shielding if necessary. Chair Babbitt recalled the Nuisance Ordinance said there could not be light trespass. Ms. Thornton confirmed that. She recalled the applicant had indicated they could agree to that kind of a condition during rebuttal. Commissioner Axelrod wanted to resolve the question regarding the propane tank. Ms. Thornton advised that if it was already established as part of the existing gas station it was not pertinent to this decision.

Commissioner Miller inquired whether the Commission could keep the ADA parking on the right side of the building where it seemed to be a little bit safer and vegetation would block light trespass onto adjacent property. Mr. Soppe related that his measurements indicated it would be a longer route from the disabled spaces on the south side to the entry than from the staff-proposed ADA spaces location to the entry. Ms. Thornton cited code criteria that said that current federal standards required that parking to be placed "nearest to accessible building entryways and ramps." Vice Chair Steel asked if there was a door on the south end of the building and Commissioner Martin asked if it was an ADA-accessible door and if there was a ramp there, or if the applicant would consider putting a ramp there. Staff and the Commissioners looked for a ramp at the south door in the documentation. Mr. Soppe found a ramp on Sheet A-4 in the staff report. Commissioner Martin referred to Sheet A-2, which showed a door on the right hand side of the building. It seemed to him, looking at that drawing, that the distance from the south side ADA spaces location to that door was less than the distance from the staff-proposed ADA parking location to the front door. If that was an ADA door and there was a ramp there then the code would require the Commission to accept

the ADA spaces shown on the right side of Sheet A-2 (on the south side of the building). Chair Babbitt reopened the public hearing to get clarification from the applicant.

Applicant Response

Mr. Kimmel verified that the door on the south side was ADA accessible. He added that the vast majority of people who used an ADA stall were drivers and did not need the van-accessible space. Approving the spaces where the applicant proposed to put them would be approving the closest route to the closest door. The driver would not have to get out of the car on the driver's side and go around the car to go inside the building. He did not know for certain which location was a little closer for a wheelchair.

Chair Babbitt closed the public hearing and reopened deliberations. He agreed the ADA parking should be where it was proposed on Sheet T-1. He thought the hours of operation question had been resolved. He assumed that the findings would reflect that. He noted the Commission could modify the conditions of approval to address the light shielding asked for in public testimony. That was also covered by the Nuisance Ordinance. It did not sound like there was any action the Commission could take in regard to the propane tank. They did not know if it was going to stay or go. He recalled the applicant had offered to provide some additional hedge buffering to block headlights and other lights. He suggested the Commissioners could address that in a landscape condition to ensure it was done. He noted the ADA parking location issue still had to be addressed.

1:26

Vice Chair Steel **moved** to approve DR-13-02 with the following changes to the conditions of approval:

- Delete Condition 2 (Disabled Parking).
- Modify Condition 7 (Lighting) to add a sentence at the end: "Evergreen vegetation shall be planted to screen residential windows north of the site from light, including headlights, emanating from the site."

She had accepted Commissioner Axelrod's suggestion to say "vegetation" instead of "trees" after he noted a good shrub hedge might be effective. Commissioner Axelrod **seconded** the motion. Chair Babbitt observed that the applicant indicated they understood the modified conditions. The vote was conducted and the motion **passed** 6:0. Ms. Thornton was asked and confirmed that a memorandum would be sent to the applicant to ensure they were aware that there were hours of operation restrictions.

1:32

WORK SESSION

Update on the Trails Master Plan, discussion regarding approach to reach a Planning Commission recommendation

Mr. Sonnen reported the Parks Board was going to hold a public open house on July 23rd, refine the Trails Master Plan, and then forward it to the Commission. He asked how the Commission wanted to go forward after it got the revised plan. Chair Babbitt related the Commissioners

had discussed this at the prehearing meeting. They wanted to make sure that everyone was noticed and all seven members of the Planning Commission were able to participate. The City Attorney was going to suggest options for that. He promised the public that one way or another they would have an opportunity to comment on the plan.

1:36

ITEMS OF INTEREST FROM THE PLANNING COMMISSION

Mr. Sonnen anticipated that the Commissioners would receive electronic tablets in the next couple of weeks. Chair Babbitt related the Commissioners had discussed scheduling a work session on the Cut the Red Tape Project during the pre-meeting work session. He **moved to schedule the work session on July 31**. Commissioner Martin **seconded** the motion and it **passed** 6:0. Commissioner King, who could not attend, planned to provide her comments beforehand.

ITEMS OF INTEREST FROM THE COMMISSION FOR CITIZEN INVOLVEMENT

Commissioner Axelrod wanted everyone to be aware that the Rosemont Trail was finished and open. The public could send comments about whether or not bicycles should be allowed on it to the County or the Parks Director.

ITEMS OF INTEREST FROM STAFF

None.

ADJOURNMENT

There being no other business, Chair Babbitt adjourned the Planning Commission meeting at approximately 8:52 p.m.

APPROVED:



Michael Babbitt, Chair

10-8-13

Date