



PLANNING COMMISSION
Meeting Notes of February 21, 2024

<u>Commissioners present:</u>	Gary Walvatne, Kevin Bonnington, Joel Metlen, David D. Jones, and Bayley Boggess (left early)
<u>Commissioners absent:</u>	John Carr and Tom Watton
<u>Applicant present:</u>	Scott Sutton, SGR Architecture
<u>Public Present:</u>	Audra Brown, Ian Brown, Yarrow Currie, Maria Blanc-Gonnet, James Estes, and Danny Schreiber
<u>Staff present:</u>	Planning Manager Darren Wyss, City Attorney Bill Monahan, Senior Planner John Floyd, and Administrative Assistant Lynn Schroder

The meeting video is available on the [City website](#).

Pre-Meeting Work Session

Senior Planner Floyd provided a brief procedural overview of DR-23-01 and answered process questions. Commissioner Walvatne asked about subsequent permit approvals. Commissioner Jones asked about process of the HRB's recommendation to the Planning Commission related the change in the application.

1. Call To Order and Roll Call

Vice Chair Metlen called the meeting to order at 6:30 pm. Planning Manager Wyss took roll.

2. Public Comment related to Land Use Items not on the Agenda

None.

3. Public Hearing (Quasi-Judicial): [DR-23-01, Class II Design Review for a proposed commercial building at 1919/1949 Willamette Falls Drive](#)

Vice Chair Metlen introduced DR-23-01, a Class II Design Review to construct a new commercial building at 1919 & 1949 Willamette Falls Drive. Metlen explained the hearing procedures and opened the public hearing.

City Attorney Monahan addressed legal standards and appeal rights. The substantive criteria that apply to the application are Community Development Code (CDC) Chapters 19, General Commercial, Chapter 41, Building Height, Chapter 46, Off-Street Parking, Chapter 48, Access, Egress and Circulation, Chapter 55, Design Review, Chapter 58, Willamette Falls Drive Commercial Design District; and Chapter 99, Procedures for Decision Making: Quasi-Judicial.

City Attorney Monahan addressed Planning Commission (PC) conflicts of interest, ex-parte contacts, jurisdiction, and bias challenges. No member declared conflicts of interest or bias. Commissioner Jones declared that he had a conversation about the application with Danny Schreiber, a member of the Historic Review Board (HRB). Jones asked Schrieber for clarity about the November 2023 HRB hearing on the application. Jones stated that he did not learn anything that was not in the hearing record. Monahan asked if any audience member wished to challenge the PC's jurisdiction, impartiality, or ex-parte disclosures of any members of the PC. No challenges were made.

Senior Planner John Floyd presented the staff report. The applicant requests approval for the demolition of two existing structures, to be replaced with a two-story commercial building with underground parking and a

rooftop deck at 1919 and 1949 Willamette Falls Drive. The site is zoned General Commercial and is within the boundaries of the Willamette Falls Drive Commercial Design District Overlay (WFDCDD). The project backs up to R-7 zoning. The existing buildings to be demolished are not located within the Willamette Historic District, listed as a local historic resource, or listed on the National Register and are not historically protected under CDC 25.020(A).

The current scope of the project, as amended by the applicant on January 29, 2024, includes:

- Demolition of two existing commercial structures;
- Construction of a two-story commercial building with approximately 26,215 square feet of speculative commercial space. No specific uses or tenants are proposed, but they could eventually be tenanted with office, service, retail, and/or restaurant uses;
- Underground parking for 33 automobiles and 14 bicycles will be constructed at 1993/1969 Willamette Falls Drive, which will be accessed through an adjacent underground parking garage. Vehicular access would occur through the existing driveway fronting 11th Street to the east;
- An approximately 745 SF rooftop deck screened with decorative planters, a 5.5-foot-tall screening wall, and an approximately 605 SF mechanical screening room in the approximate roof center for sound attenuation. The deck and rooftop area would be accessed from a stairwell and elevator;
- Frontage improvements along 12th Street and Knapps Alley, to include four parallel parking spaces along Knapps Alley;
- Two Design Exceptions as approved by the Historic Review Board:
 - Use of James Hardie fiber cement instead of wood siding and trim; and
 - Brick masonry is used in lieu of wood siding along selected portions of the façade.

Design features proposed in the original application that have been removed or replaced include the following:

- A Design Exception to allow support columns for an extended metal awning over the public sidewalk has been withdrawn, and the canopy has been redesigned to be fully cantilevered from the building;
- A 2,235 SF lounge on the roof, described by the applicant as a “mezzanine” and defined in the CDC as a third story. This area has been replaced by a 605 SF mechanical equipment space for screening and noise reduction located in the center of the rooftop to reduce visual impact; and
- Rooftop access has been reduced from an elevator and two stairwells to an elevator and a single stairwell.

Floyd presented the procedural history of the project, the HRB recommendations, an explanation of the design changes, and a summary and staff response to written testimony received after publication of the staff report.

The HRB held the first evidentiary hearing on June 13, 2023. At that hearing, the building height issue was a central point of deliberation, including the definition of “story” and whether a proposed rooftop lounge and restroom constituted a mezzanine or a third story. The definition of story was significant as the Willamette Falls Drive Commercial Design District (WFDCDD) limits new construction to no more than two stories (CDC 58.080.B.3). After considering testimony and deliberations, the HRB could not decide on the project’s compliance with the two-story height limit. The HRB chose to defer the matter to the PC and voted 3 to 2 to recommend approval of the project, subject to five conditions of approval and a recommendation of further analysis of the mezzanine area (aka third-story) by the PC.

On August 15 and September 13, 2023, the applicant submitted revised plans and findings that reduced the size of the third story and requested a new design exception to exceed the two-story height limit. These materials were later withdrawn and superseded by materials provided by the applicant on January 29, 2024.

On October 4, 2023, the PC opened its first hearing on the project but did not take testimony. It was determined that only the HRB has authority to decide design exceptions in the WFDCDD. Because a new design exception was introduced after the HRB made its recommendation on June 13, the PC voted to remand the new design exception back to the HRB so they could decide on exceeding the two-story limit.

On November 14, 2023, the HRB considered the new design exception to exceed the two-story height limit in the WFDCDD. After receiving testimony and deliberation, the HRB denied the design exception because it failed to satisfy the approval criteria.

On January 29, 2024, the applicant rescinded their request for a design exception to exceed the two-story height limit, including associated materials submitted after the first HRB hearing on June 13, and stated their intent to move forward with a revised application that directly responded to feedback provided by the HRB and commenting parties at the June 13 HRB hearing and associated recommendation. Floyd noted that CDC lacks clear guidance on how to process modifications between HRB Recommendation and PC Decision.

Licensed Architect Scot Sutton presented on behalf of the applicant. In response to comments about the proposed building at previous hearings, the applicant made the following revisions:

- The ultimate tenant mix for the building has not been determined;
- Eliminate the roof level windows on 12th Street;
- Eliminate the rooftop lounge, second elevator and stair, and restrooms;
- Enclose the HVAC units to minimize noise from the units;
- Redesign the windows along Knapps Alley to reduce their size and match the size and spacing of those same windows from the 1969 building;
- Eliminate the canopy support columns at the request of the Engineering Department;
- Reduce the height of parapets to fall fully beneath the 35' height maximum in the zone; and
- the outdoor roof deck will be for general use by tenants and guests and will have a 5'-6" tall screen surround to reduce potential noise and light issues.

Vice Chair Metlen open public testimony. Audra Brown, Ian Brown, Yarrow Currie, Maria Blanc-Gonnet, James Estes, and Danny Schreiber testified in opposition to the proposed application. Some of the community concerns included:

- Height of the structure, including concerns that the proposed elevator and stairwell for rooftop access were not in compliance with the two-story height standard, and whether they qualified for a height exemption as unoccupied space per CDC Chapter 41.020.
- The indeterminate future use of the rooftop deck, and potential noise impacts generated by use of this space.
- Potential light impacts associated with rooftop lighting and the bright conditions created by the existing building next door, whose design closely matches the proposed application.
- Preserving the structure located at 1919 Willamette Falls Drive, to be demolished as part of the project, due to its age and association with figures of local historical significance.
- Whether the process standards of CDC Chapters 58 and 99 had been met in regard to compliance with the WFDCDD, and whether the HRB had been provided adequate opportunity to provide a recommendation on the revised plans submitted on January 29, 2024.

Scot Sutton provided applicant rebuttal. John Floyd and City Attorney Bill Monahan provided staff rebuttal and answered questions from the PC.

There were no requests for continuances.

Vice Chair Metlen closed the public hearing. Deliberations were opened. The PC found that the application did

not meet the requirements of CDC 55.070.D.2(g) and 55.100.J(6) based upon the written and verbal testimony of Ian and Audra Brown and the lack of a lighting plan that included the rooftop area. Additionally, the PC found that the application did not meet the requirements of 55.100.D.4, which requires the preparation of a noise study when there are businesses that can reasonably be expected to generate noise in violation of Municipal Code Chapter 5.487. The PC considered additional conditions of approval to mitigate their new findings.

Vice Chair Metlen re-opened the public hearing to consider additional conditions of approval to address noise and light impacts. Scot Sutton, applicant representative, requested clarification of the lighting condition by replacing the word “features” with “fixtures.” Sutton indicated the applicant had no objections to the noise condition. Ian Brown noted his concerns replacing the work “features” with “fixtures” because he is concerned about the glow from the rooftop deck. Audra Brown noted that she did not have adequate time to consider and respond to the proposed new conditions of approval.

Vice Chair Metlen closed the public hearing and re-opened deliberations. The PC found that with the imposition of a required lighting plan, the requirements of CDC 55.079.D.2(g) and 55.100.J(6) could be met. As the applicant could not confirm the ultimate tenant mix or future use of the rooftop deck, the PC found the future provision for noise studies would result in compliance with CDC 55.100.D.4.

Commissioner Walvatne moved to approve DR-23-01 with the eight conditions of approval recommended in the February 21, 2024 staff report and two additional conditions pertaining to light impacts and noise impacts:

1. Condition of Approval 9, Revised Lighting Plan showing: (1) the location and type of lights to be used to illuminate the rooftop deck, and no part of these fixtures will be visible from neighboring properties;(2) the use of full cutoff fixtures on the rooftop deck and the rear elevation that are directed down with an luminescence area that does not reach beyond the edge of Knapp’s alley and includes glare guards that block glare from the sides; and (3) that a qualified lighting designer has reviewed the revised plan and concluded that, overall, the exterior lighting scheme will be less bright than the companion 1969 building. The plan shall be submitted prior to building permits.
2. Condition of Approval 10, Required Noise Study for Rooftop Deck. The applicant shall submit a noise study upon 50% of the total floor area of the building being occupied. Subsequent to the first noise study the applicant shall submit a new noise study, not more than once per year, in response to a noise complaint associated with the rooftop deck. The noise study must address the provisions of West Linn Municipal Code Chapters 5.487(3) and be conducted in July or August.

Staff were directed to prepare a Final Decision and Order based on the findings in the February 21, 2024, hearing staff report and the February 21, 2024 PC hearing. Commissioner Bonnington seconded. **Ayes: Jones, Walvatne, Bonnington, and Metlen. Nays: None. Abstentions: None. The motion passed 4-0-0.** (Commissioner Boggess had left the hearing before consideration of approval).

4. Planning Commission Announcements

None.

5. Staff Announcements

Planning Manager Wysse reviewed the upcoming Planning Commission schedule.

6. Adjourn

Vice Chair Metlen adjourned the meeting at 10:08 pm.