



**Agenda Bill 2019-04-08-02a**

Date: April 5, 2019

To: Russ Axelrod, Mayor  
Members, West Linn City Council

From: John Williams, Deputy City Manager/Community Development Director *JRW*

Through: Eileen Stein, City Manager *ES*

Subject: **Supplemental Information** – Review of Condition of Approval No. 2 in the Final Decision and Order of File CUP-18-01/DR 18-04/VAR-18-02/03 for the Marylhurst School at 19915 and 19803 Old River Drive (Appeal File AP-19-02)

---

**Purpose:**

To provide additional background and Council options for the Marylhurst School Appeal File AP-19-02, including information on public works standards and the Robinwood Neighborhood Plan, requested by Council.

**Question(s) for Council:**

1. Should the Council retain the Final Decision and Order signed by the Planning Commission of February 11, 2019, or
2. Should the Council amend Condition of Approval 2 in the Final Decision and Order of File CUP-18-01/DR 18-4/VAR-18-02/03?

**Public Hearing Required:**

Yes.

**Background & Discussion:**

Staff seeks to provide additional background information, perspective and options to amend the previously provided staff recommendation contained in the original Agenda Bill 2019-04-08-02 and Staff Report to City Council for Appeal AP-19-02.

The proposed private school project is anticipated to be constructed in two phases. Phase one of the project includes minor modifications to the existing onsite buildings, onsite improvements to reconfigure the parking lot and associated utility construction, and installation of a portable building designed to accommodate up to 115 primary/middle school students. Phase one of the project is anticipated to be complete prior to the start of the 2019-2020 school year.

Phase two of the project includes the construction of a new 16,300 square foot, two-story building to accommodate up to 194 pre-school/primary/middle school students. Construction of phase two is dependent on the applicant meeting their fundraising goal, anticipated by the applicant to occur in two years. The Planning Commission was concerned about the length of time the modular building could remain in use and added Condition of Approval 11 to the Final Decision and Order requiring a check-in on the phase two progress within two years of the date of the land use approval.

The Council has called up Condition #2 relating to timing and design of street improvements. The Planning Commission approved street improvements including concrete curb, gutter and sidewalk required as proposed by the applicant for each phase of the project.

Based on correspondence to Council from Robinwood NA and other citizens subsequent to the Planning Commission approval, and Council conversation when the decision to call this item up was made, there are alternate proposals for design, materials and timing of improvements. Staff's recommendation in the staff report to Council proposed a condition reflecting this anticipated direction. The purpose of this supplemental report is to provide new information and context prior to the Council's decision on April 8.

Considerations:

- Via this call-up, Council wishes to discuss and consider delaying street improvements. The Council should know CDC 96.020 specifically requires the installation of street improvements prior to the issuance of any occupancy permits. This requirement ensures that there are adequate public facilities at the time the facility becomes operational. As noted above, the proposed use is a fully functional school with over 100 students at startup. The City has required street and sidewalk improvements for other school projects in West Linn.
- Should the Council wish to allow the delay of off-site street improvements, staff recommends requiring a bond or other guarantee rather than linking the requirement to a particular inspection. Linking public improvements to building inspections has proven difficult to enforce in the past because under state law, city building officials are not able to withhold inspections for compliance with land use decisions not related to actual construction/Building Code items.
- Regarding materials, all sidewalks and curb ramps in the public right-of-way are required by federal law to be constructed to provide accessibility for pedestrians with disabilities. This includes specific smoothness and cross-slope requirements related to accessibility. Asphaltic material and hard-packed rock has been proven to be not effective in meeting these requirements. Thus concrete is typically required on all public facilities per the City Municipal code.
- Removal of curb and gutter is not recommended at this location due to the commercial nature of the facility and daily drop off/pickup trips associated with the facility which greatly exceeds prior uses. If removal of curb and gutter is desired, the applicant would be required to redesign the site to accommodate a ditch for drainage and paved shoulder for proper access consistent with city code requirements for low impact developments. This would require additional right-of-way dedication and a possible modification to on-site design features previously approved in the submitted application.
- Note that reducing requirements for this application without an identified unique variance request and evaluation of variance approval criteria could be considered precedent setting for future similar land use applications and make it difficult to condition changes on future projects. Should the Council wish to move ahead with changes to the standard requirements, it would be helpful to identify the features of this project that separate it from other development projects. The ongoing policy conversation about alternative street designs befitting the Robinwood Neighborhood could be one such factor. The Council and RNA have raised the Robinwood Neighborhood Plan (RNP), which was adopted by Ordinance 1597 on May 12, 2008. The Plan does

not have goals or policies specific to Old River Road, but has general statements regarding residential streets, including:

- a. RNP Goal 3 Policy 3.3 calls for “...appropriate pedestrian facilities...”
- b. RNP Goal 3 Policy 3.4 calls for “... ‘green street’ concept for residential streets.”
- c. RNP Policy 3.7 calls for “...pedestrian shortcuts to connect existing streets.”
- d. Goal 3 Action Measures for Policy 3.3:
  - i. “Provide sidewalks on streets leading to and from the Robinwood Main Street Area (Hwy 43/Willamette Drive)
  - ii. “On streets with topographic or environmental constraints, accommodate pedestrians with grade separated asphalt paths in lieu of sidewalks on at least one side of the street.”

Goal 3 Action Measures for Policy 3.4 identify that CDC/CIP amendments are required to implement this measure. To staff’s knowledge these amendments have not been made, but Council has been discussing alternative street standards for various neighborhoods. These amendments would still need to ensure compliance with Federal ADA requirements.

**Budget Impact:**

No current impact as approved by the Planning Commission. Reduced improvement standards or requirements, or delayed improvement requirements, could result in additional expenditures at a later date to address deficiencies in public infrastructure.

**Sustainability Impact:**

There is the potential for a fiscal sustainability impact with accepting a lower level of materials standard for a public improvement.

**Revised Council Options:**

- 1) Retain the Final Decision and Order signed by the Planning Commission, or
- 2) Amend the Final Decision of the Planning Commission as proposed in the original staff report, or with changes reflecting the above information.

**Staff Recommendation:**

Staff recommends that Council uphold the Final Decision and Order signed by the Planning Commission on February 11, 2019. This represents the most straightforward interpretation of, and application of, West Linn’s adopted Community Development Code, Municipal Code and Public Works Standards.

Should Council wish to grant delayed improvements or alternative construction designs, staff recommends the Council clearly delineate the conditions in this location or project that warrant the change. The ongoing policy conversation about alternative street designs befitting the Robinwood Neighborhood could be one such factor.

**Potential Motion:**

- 1) Move to uphold the Final Decision and Order signed by the Planning Commission on February 11, 2019, or
- 2) Move to amend the Final Decision and Order as proposed in Agenda Bill 2019-04-08-02 (or with additional changes).