

July 28, 2021

VIA EMAIL

Chair Walvante and Planning Commission
c/o Chris Myers, Associate Planner
City of West Linn
22500 Salamo Rd.
West Linn, OR 97068

Re: Applicant's Final Written Argument Athey Creek Middle School at Dollar Street Conditional Use Application – CUP 21-02/DR 21-04/WRG 21-02/MISC 21-04/ VAR 21-01/ VAR 21-06/LLA 21-02

Honorable Chair Walvante and Planning Commissioners:

This firm represents the applicant West Linn-Wilsonville School District (the "District") in the above-referenced case. What follows is the applicant's final written argument. Although lengthy, it responds to the issues raised in writing and orally at the Planning Commission hearing on July 7th. This response is based solely on information contained within the record. Record documents are referenced by their title as set forth in the Commission agenda packet along with the pdf page number as posted along with the document page number. No new evidence is provided.

Development of a 21.4 acre vacant site for a middle school that will serve 850 students complete with sports field, children's playground, arts, theater and music facilities, along with the transportation infrastructure necessary to safely serve all modes in a way that is sensitive to and compatible with the surroundings is complicated. Compliance with the long list of highly varied approval criteria required a thoughtful and balanced approach. Understanding the complications, the District embarked in this effort as thoughtfully as possible, engaging the planning, architectural, engineering and environmental expertise necessary to understand the existing conditions and design a proposal that was responsive and complimentary to the surroundings rather than simply additive.

Understanding and listening to the community that would be affected was critical to this effort. The design process included community outreach, student feedback, staff and administrator conversations and study of lessons learned from recent school projects in the area. District

experts not only listened, they responded by providing answers but also testing and re-testing assumptions and altering its proposal as necessary. From traffic calming measures to parking lot locations, this design directly responds to feedback received. Athey Creek Middle School Application pdf p 5.

Where concerns regarding impacts to neighborhood livability were raised, the District modified its proposal, including increased setbacks, lowered site improvements and enhanced landscape plantings to increase compatibility, going above and beyond what the code requires. Setting the sports field and track back 31 feet from Dollar Street, when only a 15-foot setback is required, will maximize the area for landscaping softening any visual impacts, particularly locating the track 10 feet or more below grade. The District was similarly forced to balance other competing interests, while still complying with code requirements. More off-street parking spaces, responding to concerns over overflow during occasional events, were balanced against the cost of greater removal of the existing tree canopy.

In summary, the proposed design responds to neighbor concerns while providing substantial benefits to West Linn, most directly by relieving enrollment pressure, allowing greater access to academic amenities and providing opportunities for safe non-vehicular access. Qualified, professional analyses show that these objectives can be realized in a way that will not adversely affect the surrounding neighborhood. This development will satisfy all of the applicable approval criteria and therefore, these applications should be approved.

Neighborhood Outreach and the Timing of the Pre-Application Meeting

During the hearing, Neighborhood Chair Halicki objected to the timing of the pre-application conference. In accordance with the Governor's Executive Order 20-12 requiring social distancing, a web-based virtual meeting was held with neighboring property owners within 500 feet of the site and members of the Willamette Neighborhood Association as required by West Linn Community Development Code (CDC) 99.038(C). The required neighborhood meeting was held November 18th, 2020. Application Narrative p 7, pdf p 13. Under a separate process, the City scheduled pre-application conference was also held on November 18, 2020. Pre-application notes at pdf 115-117. There is no code dictating when a pre-application meeting can be held in relation to the neighborhood meeting.

This November 18, 2020, neighborhood meeting was the fifth of six total community meetings held regarding the project. In addition to these meetings, 35 listening sessions were held with community members that requested them. The presentations, recordings and technical studies discussed in the community meetings were made publicly available on the District website and directly through an email list-serve including 442 individuals and families. The question and answer page for the project addresses 129 questions raised by community members during community meetings, listening sessions and through online surveys posted after community meetings. Application Narrative Page 7 - PDF Page 13. These question and answer pages are in the record under the link "Public Comments Received on 7.7.21," pdf p 113-148. In addition, in

March 2021, Program Manager Remo Douglas personally knocked on doors and met with those residents located directly adjacent to or directly across Dollar Street from the property. The majority of the neighbors that responded were supportive of the project. For more detail about the outreach efforts see also the memo from Remo Douglas in the “Application Narrative” file, pdf 6-10.

Not only were all of the procedural requirements for a neighborhood meeting satisfied, the District did everything it could to be responsive and transparent, going above the minimum neighborhood meeting requirements to respond to the neighborhood and public concerns. The community involvement requirements for this proposal were satisfied.

The Conditional Use Criteria – CDC 60.070

Most of the testimony received in opposition related to the conditional use criteria set forth in CDC 60.070. The application provides a detailed response supported by detailed study and analysis by qualified and trained experts in their field, explaining how impacts from this development will be mitigated. Based on this expert testimony, the Planning Commission should find that this development will be accomplished sensitively and without significant disruption to the surrounding neighbors. More specifically, the applicant offers the following response to the following CDC 60.070 criteria set forth in italics below:

1. *The site size and dimensions provide:*
 - a. *Adequate area for the needs of the proposed use; and*
 - b. *Adequate area for aesthetic design treatment to mitigate any possible adverse effect from the use on surrounding properties and uses.*
2. *The characteristics of the site are suitable for the proposed use considering size, shape, location, topography, and natural features.*

CDC 60-070(1) and (2) both deal with whether the site is adequately sized to accommodate the use including “design treatments” directed to mitigate “possible adverse effects.” As explained in the application, the 21.4-acre site is adequate to accommodate a 110,972 square foot building, outdoor hardscape play areas, an athletic track and field, walking paths, and two parking areas. This two-story design buried below grade represents the smallest, most compact footprint that will meet the students’ needs while minimizing visual impact to the greatest degree possible. The total building lot coverage is 8.5%, well below the required 35% lot coverage requirement set forth in CDC 11.070. Application Narrative pdf p 16. Although the lot coverage limitation relates solely to buildings, the total impermeable surfaces from this proposal at 32.4% is below the City’s 35% standard as well. Exhibit 12, p 13 (Ex A). As a result, the site is certainly large enough to accommodate the needs and impacts from the proposed use and complies with these standards.

One of the central arguments raised in opposition is that this is the wrong “location” for a school. To the contrary, this development is entirely consistent with and supportive of the surrounding uses in this location. A suitable location would be one that can be safely and proximately accessed by students travelling on foot or by bike, and also offers arterial adjacency for convenient vehicle access. Locating next to Fields Bridge Park will essentially provide enhanced park amenities in the form of sports field, track and playground available to the public during non-school hours. This property was acquired by the District in 1994 putting neighbors on notice that it was not only possible, but likely that someday this land would be put to school use. A bond measure was passed in November 2019 authorizing the District to proceed with this improvement that was passed by a majority of West Linn voters. For detailed explanation of the chronology of events leading up to this application see the Remo Douglas Memorandum in the “Athey Creek Middle School Application,” pdf 6-10. The District’s lengthy tenancy, deliberation and public vote expressing support for this site support a finding that this is the right location for a school.

The District used the natural topography of the site to minimize impacts. As noted, the building is below grade to increase the compatibility with the residential neighborhood. The school building and track are set back from Brandon Place and Dollar Street beyond the minimum yard requirements to provide additional buffering and enhanced landscaping. Although the code requires a setback of only 15 feet, the track is set back 31’ from Dollar Street right-of-way allowing for enhanced landscaping to provide additional visual buffering.

Some neighbors raised concerns over impacts from light and noise resulting from evening sporting events. While the record includes a photometric study verifying that light will not trespass onto neighboring properties, perhaps the best evidence in the record illustrating the lighting impacts comes from the photograph of Wood Middle School, which uses the same MUSCO TLC for LED stadium lighting that will be used in this case. Applicant Power Point Presentation 7.7.21, p 11. This image shows a lighted field surrounded by darkness. It is also notable that the nearest neighboring properties are on the far side of Dollar Street, which is and will continue to be illuminated by pole-mounted street lighting. Light Coverage Plan (Sheet LU 4.01) at “Plan Set 2 or 2”, pdf p 27.

Beyond light trespass, opponents have identified concerns that the lighted field will appear to glow making it visible from neighboring properties. Sinking the field below the adjacent Dollar Street elevation will provide vertical buffering, as well as a 30-foot setback containing enhanced landscaping will make the field less visible, particularly at night. See site section drawing LU 3.04 in “Plan Set 2 of 2,” pdf p 14.

It is important to keep in mind that CDC 60.070(1)(b) requires that adverse effects need only be “mitigated.” The term “mitigate” is defined by Webster’s Third New International Dictionary as “to lessen in force or intensity, as wrath, grief, harshness, or pain” or “moderate.” CDC 2.010.D. The term “mitigate” does not mean “eliminate.” Satisfying this criterion does not require a finding that the school will be invisible. Rather, it requires a finding that the site is large enough

to provide room for treatments that will lessen or reduce adverse effects. A full and complete landscape buffer surrounding a sports field sunk 10-feet below Dollar Street will mitigate any adverse impacts resulting from nighttime field lighting. In fact, it is quite common for a residential neighborhood to be lit at night through street lights or other LED lighting attached to houses, patios or walkways making the surroundings visible from adjoining residences suggesting that the ability to see nearby uses alone would not rise to the level of being “adverse.”

With respect to noise from the athletic field, the record includes a noise evaluation completed by a licensed sound engineer Tobin Cooley of Listen Acoustics. Mr. Cooley found that the ambient sound levels in the neighborhood vary between 41-55 dBA, with an average of 44 dBA. Mr. Cooley’s testimony explains that the typical anticipated average game noise predicted to be 45-50 dBA at the closest residences on Dollar Street. This means that nearly all of the noise from the track will not be audible above the ambient, background noise. The only noise that will be audible will be short-term peaks from whistles or yelling of up to 60 dBA, 5 dBA over ambient levels. Noise Assessment page 2. The significant grade change, enhanced landscaping and the use of retaining walls at the children’s play area will provide additional buffering to mitigate these noise impacts. Again, the obligation is to mitigate impacts and not to eliminate them. Occasional momentary noise from yelling, children squealing, sirens, the beeping of backing garbage trucks are all part of residential living within a city. Sporadic crowd cheering or whistles from sporting events will be similarly short-lived. All games will be over and the lighting turned off no later than 10:00 PM so as to not interfere with typical sleeping hours and will comply with the City’s nuisance noise standards set forth in Municipal Code 5.487.

What is clear from the opposition testimony is that the neighbors enjoy the peace and quiet resulting from the existing vacant-land condition. Yet, the conditional use criteria do not require a finding that any development will retain the status quo with respect to impacts or that any impacts will be eliminated. Any development of this land brings with it lighted streets, structures, tree removal and noise in excess of existing conditions. What the criterion requires, and what the District has shown, based on qualified expert evidence, is that the property is sufficiently sized and located to serve the proposed middle school needs while, at the same time, mitigating adverse effects. These criteria are satisfied.

3. The granting of the proposal will produce a facility that provides an overall benefit to the City.

This criterion requires an analysis of how the “City” will benefit from this development. The term “City” is defined as “the City of West Linn.” Some opponents argue that in order for this criterion to be met, every West Linn resident must benefit equally. However, it is difficult to identify any use that is not going to confer some greater benefit on some than others and nothing suggests that all city residents must be equally burdened and benefited for this criterion to be satisfied. Rather, the lack of additional modifiers in the term “City” suggests an expansive view of benefits taking into account amenity improvements that may more directly benefit the adjacent Willamette Neighborhood residents, as well as a larger look at how increased overall

school capacity throughout the District provides greater opportunity, flexibility and access for school-aged students throughout the City as well. This criterion does not require any evaluation of whether other alternative proposals might provide greater community benefit or whether this proposal reflects the “best fit” for the City of West Linn. As a result, other potential sites or alternative approaches that may provide greater benefits to the City or be available at less cost to city tax-payers need not be exhausted in advance. Rather, the relevant inquiry is whether the City will realize an “overall benefit” from granting this request. If the answer is “yes,” this criterion is satisfied.

As explained in the Remo Douglas Memorandum in the Application Narrative, pdf p 6-10, the answer is a resounding “yes.” The existing Athey Creek school does not have adequate capacity to meet the projected enrollment numbers. The new school building will provide capacity for 850 students, enough to address anticipated middle school enrollment growth. Testimony was submitted that this extra-capacity will be subsumed with students from Wilsonville conferring no benefit to the City of West Linn. See email with Figures 20 thru 24 which include corresponding page numbers from Long Range Plan. Figure 22 shows a 2018 demographic survey shows that, contrary to opponent testimony, most of the students attending the existing Athey Creek Middle School live in West Linn and that the Dollar Street campus will move this school closer to where these students’ homes. Although it is true that the Dollar Street campus will continue to serve portions of Wilsonville as well as rural Clackamas County, the District does project that middle school enrollment in West Linn is already over-capacity and by 2028, this overage will exceed 100 students. This additional capacity at the new Dollar Street campus will address enrollment growth in West Linn for years to come. “Public Comments Received on 7.7.21,” pdf p 117.

Further, moving the middle school students to Dollar Street makes room for a new Third Option high school to move into the existing Athey Creek school building making it more proximate for West Linn high school students, rather than making them travel to Wilsonville. This Third Option high school will relieve enrollment pressure on the two comprehensive high schools within the District. Further, this Third Option high school will give West Linn students equal access to on-site sports and field amenities that are sorely missing from its current converted commercial space within Wilsonville Town Center.

Relocation of Athey Creek Middle School to the Dollar Street site will provide a school that is more centrally located for students who reside in West Linn. See Figure 22. Located outside of the city limits, the current Athey Creek Middle School lacks Safe Routes to School and has no walking boundary. The traffic study assumes that somewhere between 100-250 students will walk or bike to school. The new Dollar Street campus will allow for safe pedestrian and bicycle access for City-resident students and parents. Public street improvements will improve bike and pedestrian access to and through the site. The City’s planning goals acknowledge that the only meaningful way to address vehicle congestion is to make alternative transportation safe and efficient for residents. Final Traffic Impact Study, June 2021, p 37. This project furthers that goal.

Benefits to the larger community beyond just school-age students, the Dollar Street campus will offer on-site facilities that are available for public use during non-school hours, including walking paths, playground, premium outdoor recreation facilities, and indoor recreation and meeting spaces. The facility includes emergency generator power capacity that will be available to serve city residents in the event of emergency. The project will also include right-of way improvements that will calm traffic and enhance pedestrian-focused connections to Fields Bridge Park.

These are all examples of how the City will benefit as a whole from this development. This criterion is satisfied.

- 4. Adequate public facilities will be available to provide service to the property at the time of occupancy.*

Traffic Facilities

The Planning Commission heard a number of concerns that the existing transportation system was not adequate to accommodate additional traffic generated by the proposed middle school. As explained at the hearing, school start and ending times do not conflict with peak travel times for commuting traffic. All parent pick-up and drop-off will occur in the western parking lot. The parent drop-off/pick-up loading area is approximately 450 feet (20 to 24 vehicles) at its peak. Therefore, sufficient storage for all parent drop-off/pick-up activity is estimated to be contained on-site. Traffic Impact Study, June 2021, p 32. Additionally, the driveway to the western parking lot is designed to accommodate efficient loading and unloading of students by providing two travel lanes along the student loading area to allow for the continuous forward flow of vehicles.

Impacts to Dollar Street

Concerns over adverse impacts to Dollar Street were expressed including adverse impacts from cut-thru traffic resulting from the new Brandon Place connection as well as a desire for school entrances to be located on Willamette Falls Drive as a way to minimize traffic. The Brandon Place extension project is not essential to the operation of the middle school. It is, however, required by the City as identified in the City Transportation System Plan (TSP). As stated in the City TSP, cul-de-sacs and dead-end streets result in longer trip distances, increased reliance on arterials for local trips, and limited options for people to walk and bike to the places they want to go. The Local Street connections enhance accessibility between various travel modes and balance traffic levels among various streets. Additionally, improved connectivity will reduce public safety-response time. The Brandon Place Extension is desired by Tualatin Valley Fire and Rescue (TVF&R) as an additional emergency access route into the neighborhoods.

CDC 48.025.B.5 requires that where a parcel has more than one street frontage, access must be provided from the street with the lowest classification. These are all code requirements that the

District cannot control or otherwise avoid. That said, the District has taken steps to minimize traffic on Dollar Street such as a proposed reduced posted speed limit of 20 mph on Dollar Street and curb extensions to narrow the street. Final Traffic Impact Study June 2021, p 36. A fence will be installed along the property frontage along Dollar Street to discourage parents from stopping, blocking traffic and dropping students off along Dollar Street.

Roundabout Rationale

Some of the Planning Commissioners asked for further explanation about why a roundabout was recommended at the Willamette Falls Drive/Brandon Place/Fields Bridge Park. The evaluation of each option, as set forth in the record, explains:

- Minor Street Stop-Controlled: The minor street approach (Brandon Place) would experience high delays and would not meet the City's level of service (LOS) standard after middle school build-out.
- Traffic Signal: In order for a traffic signal to operate effectively, a left turn lane on Willamette Falls Drive would be required. However, due to the proximity to the bridge, it is infeasible to widen the road to add a left-turn lane at this location. Therefore, the traffic signal was no longer considered.
- Roundabout: A single-lane roundabout will provide adequate capacity and will meet the City's level of service (LOS) standard. Roundabouts can reduce the risk of fatal or serious injury crashes by up to 80% and result in lower vehicle speeds (15 mph – 25 mph).

After reviewing these three traffic control options, a single-lane roundabout was found to be the only option that would satisfy the capacity and safety needs at this intersection. The roundabout has been sized to accommodate emergency vehicles, school buses, and trucks. Despite the uphill and downhill grades of the fields bridge approach and Brandon Place approach, respectively, the roundabout itself will be level and the sight distance on all approaches will be adequate. Final Traffic Impact Study June 2021, p 25.

Willamette Falls Drive / Ostman Congestion

Opponents accused the District of number manipulation in order to achieve a passing LOS grade at the Willamette Falls Drive / Ostman Road intersection. The Willamette Falls Drive/Ostman Road intersection was originally calculated to operate at LOS E with or without the school in 2023 during the afternoon peak hour (3:10 – 4:10 PM). Even though modest diversion of local traffic on to Dollar Street via Brandon Place is expected, the traffic engineer assumed no traffic diversion to the Brandon Place extension and Dollar Street to evaluate a worst-case scenario at the Willamette Falls Drive/Ostman Road intersection.

However, at the request of an opponent's traffic engineer V-naught, as well as through the City's consulting engineer review of the traffic impact analysis, it was recommended that the traffic diversion to Brandon Place be considered in the analysis. By rerouting traffic to Brandon Place, the resulting operations showed that the intersection would operate at LOS D standards during the afternoon peak hour (3:10 -4:10 PM) with the full buildout of the school. No number manipulation occurred.

Adequacy of Off-Street Parking

Project opponents believe that more parking will be necessary to accommodate special events. The proposed Middle School will provide 186 on-site parking stalls, which is the required amount based on CDC Section 46.090.G. For events, on-street parking will be available along the south side of Dollar Street and a portion of Brandon Place. There will be approximately 43 to 54 parallel parking spaces on Dollar Street and 8 to 12 parallel parking stalls on Brandon Place. Final Traffic Impact Study June 2021, p 31.

Additionally, the Middle School was eligible for a parking reduction of up to 10% because of its proximity to a transit corridor. The design was also eligible for a parking reduction of up to 10% because of the proximity to a Water Resource Area. However, the School District chose not to request any parking reductions so as to provide as much on-site parking as possible for events. Although the District could have sought an increase to a greater number of parking spaces, doing so would come at a cost in terms of loss of trees and natural areas. The loss of additional trees was of concern to a number of community members. In an effort to maintain an appropriate balance, the Code required number of spaces is proposed.

Request for Wider Curb Cuts to Enhance Safety

The proposed driveway on Brandon Place has a width of 24 feet. The driveway has been designed to meet Brandon Place with a curb return with a 28-foot radius rather than a driveway apron to accommodate both bus and fire truck traffic into the site. The proposed driveway on Dollar Street has a width that tapers from 28 feet to 24 feet. The driveway has been designed with a curb return with a 28-foot radius rather than a driveway apron to accommodate both bus and fire truck traffic into the site. The proposed driveway is preferred by the District to prevent buses from having to oversteer into oncoming traffic to turn into the site. The width of the curb cut at Brandon Place is 71.2 feet. The width of the curb cut at Dollar street is 83.8 feet. The City's standard street width standards do not contemplate the turning radius of larger vehicles. Although the District is willing to accommodate the staff recommended condition of approval narrowing these aprons, the Planning Commission has discretion to allow these wider driveways and should do so in this case because the proposed design will improve traffic flow and safety. Application narrative p 46, pdf p 52.

Stormwater Facilities

Concerns were raised over the preliminary nature of the drainage report and encouraging the use of permeable pavement. The preliminary drainage report establishes that compliance with the standards is feasible and will occur. Preliminary Drainage Report, p 8 “Engineering Conclusions.” The final drainage report will be provided with the permit submittal and reviewed against City standards. The preliminary report identifies treatment coverage of the site, sizing, and conveyance standards that shall be met by the onsite development. Further development of the onsite stormwater design will elaborate on individual basin conveyance. However, the primary stormwater facilities, discharge points, and approaches to meeting the standards will match the methodology described in the preliminary report. Note that offsite development (under separate permitting) is being coordinated directly with the City of West Linn Public Works to meet their standards and requirements.

The West Linn Public Works Design Standards identify the 10-year storm as the minimum design storm for pipe conveyance (2.0013.C.6). The proposed swale must meet conveyance requirements of the City of Portland Stormwater Management Manual (SWMM) which is the 25-year storm for in-line facilities. In order to provide a robust stormwater network, the piped conveyance system was designed to convey the 25-year storm while the grassy swale can safely convey the 50-year storm.

All on site basins with impervious areas are piped to a water quality facility as described in the Methodology “Water Quality (Onsite)” Section of the Report with the receiving facility as shown in Table 2. A grassy swale will manage the majority of the site, while a vegetated filtration basin picks up a small area below the swale. The only onsite stormwater that is proposed to be collected and not treated is associated with the geotechnical engineer’s recommended slope stability drainage piping along the southern edge of the development. There is no impervious area being collected with that piping and thus no requirement to treat the runoff.

Stormwater canisters are not proposed for onsite use and will be avoided to the maximum extent feasible for offsite applications, in which case they will require explicit approval by the City Engineer. These were included in the report as a potential option for offsite application along Willamette Falls Drive where LID treatment facilities are infeasible due to grading and right of way constraints. Use of canisters are only applicable with city approval and only for off-site (public right of way) applications under a separate permit.

As described in the above response, infiltration rates do not support permeable infrastructure. As explained during the hearing, if permeable paving were to be implemented, the design would still require similar runoff and the piped conveyance to downstream treatment facilities. In addition to their inefficiencies on this site, the additional cost, maintenance, and drawbacks to accessibility that permeable paving present are additional reasons this was not included in the design.

7. The use will comply with the applicable policies of the Comprehensive Plan.

Project opponents identified a number of Comprehensive Plan policies that they claim are violated by this proposal. The District responds by explaining how these standards are met or otherwise do not apply to this proposal:

- Goal 2, Section 1, Residential Development, Goal 1 urges the City to maintain diversity in residential densities and living environments. This obligation to maintain residential densities is a planning policy directed to City long-range planning efforts and cannot be used to otherwise restrict development that is otherwise conditionally permitted. Schools require a conditional use approval in every zone throughout the City; approving a school at any location will result in making these lands unavailable for permitted uses.
- Goal 2, Section 1, Residential Development Policy 6 urges the City to “minimize” the use of local streets for pass through traffic. It is the City’s Transportation System Plan, rather than District preference, that drove the creation of the Brandon Street connection to Dollar Street. Dollar Street has been specifically and deliberately designed to discourage cut-through traffic and includes expanded pedestrian improvements at intersections that will serve to narrow Dollar Street coupled with a 20 mph speed zone.
- Goal 11, Section 7, Schools, Policy 1 encourages the District to build schools adjacent to collector or arterial streets. The proposed Dollar Street campus is adjacent to Willamette Falls Drive, an arterial. Nothing in this policy requires that the school be accessed via an arterial. This plan policy is satisfied.
- Goal 12, Policy 1 requires protecting the right-of-way for public use and requiring development to make street improvements along the project frontage to offset impacts. Here, the applicant will be providing full half-street improvements along the full length of every street frontage including pavement, curb, sidewalk and bike lane to City standards along with street trees and streetlights. Furthermore, the applicant will be providing the full width of the Brandon Place extension. These improvements are sufficient to offset impacts.
- Goal 12, Policy 2 provides that all public transportation facilities must satisfy ADA standards. In addition to meeting ADA standards, the roadway improvements will satisfy Safe Routes to School requirements as well. Traffic Impact Study p 37.
- Goal 12, Policy 3 requires that infill development provide their fair share of infrastructure improvements. As noted above, this development will include infrastructure improvements that enhance neighborhood connectivity to the maximum extent allowed by code.

Tree Retention

CDC 56.100.B.2 sets forth the standards governing the protection of heritage trees, significant trees and tree clusters impacted from new development. Determining which trees qualify as significant, either individually or within a cluster, as well as heritage trees are solely within the purview of professional arborists, subject to review and a final determination by the City Arborist. CDC 56.100.B.2. In this case, the consulting arborist surveyed the whole of the property and determined that 42 significant trees exist on the site. No heritage trees or other tree clusters were identified. The City Arborist agreed and the record reflects that the City Arborist deemed this approach compliant with city standards.

CDC 56.100.B.2 provides: “It is important to acknowledge that all trees are not significant and, further, that this code section will not necessarily protect all trees deemed significant.” Rather, development of lands designated on Type I and II lands “shall protect” significant trees “by limiting development in the protected area.” CDC 56.100.B.2.a. The Type I and II lands on this property, as well as most of the existing tree canopy are located along the eastern and southern property lines. Shifting development toward Dollar Street results in the protection of the greatest number of these existing significant trees. Only five significant trees located on Type I and II lands will be removed. Development on non-Type I and II lands “must set aside up to 20 percent of the protected areas for significant trees. CDC 56.100.B.2.b. A total of 45 percent of the significant trees on site will be maintained. Overall, a total of 57 percent of the tree canopy on site will be retained. Tree Assessment, pdf p 11.

Concerns were raised that more effort should be taken to preserve the existing trees along Dollar Street to maintain existing residential views. As noted above, the majority of the existing significant tree canopy is located on the south side of the property and not along Dollar Street. Application p L1001. Of the existing trees located along Dollar Street, a majority of them must be removed to accommodate right-of-way improvements that would be required for any development of this site and not just for a school. The District has provided a robust plan for on-site landscaping that will soften the development, increase overall development compatibility, mitigate impacts from light and noise and also make up for any loss of existing tree canopy. A total of 283 trees are proposed for planting on the site. Of the proposed trees, 177 will be landscape trees, 48 will be planted as street trees and 58 will be planted as restoration planting.

None of the Comprehensive Plan policies identified by project opponents impose any greater restrictions on development with respect to tree removal than what CDC 56.100 provides. Plan Goal 5, Section 2, Policies 3 through 5 require an adequate buffer around trees slated for retention, urge the preservation of trees near waterways as a means to protect wildlife. All of these policies are fully implemented by the more stringent Type I and II tree protection standards set forth in CDC 56.100.B.2.a. This proposal satisfies all of the applicable regulatory standards with respect to tree preservation and protection.

Natural Areas, Open Space and Historic Preservation Issues

Opponents identify a number of plan policies that they argue call for the preservation of natural resource areas or open space that they believe would prohibit development. Only lands that have been planned and zoned for preservation may be protected for these purposes. Natural resource protections, including preserving land for wildlife, are provided through Water Resource Area designation and regulations. Open space is provided through its Parks Master Plan and CDC standards regulating development therein. CDC 56. Historic landmarks or sites must be designated in order to be protected. CDC 25. The only designated resource areas on this property are Tualatin River Protection Area and a Water Resource Area associated with Stream 1. Compensatory mitigation planting of native plants across 6,465 square feet on the eastern portion of the property and 2,194 square feet on the west is proposed to compensate for the disturbed area. Natural Resource Review p. 11.

Some individuals raised concerns over the existence of historic hand-dug brick well that must not be damaged. The subject property does not include any designated historic resources. With respect to archeological resources, the City code only requires confirmation that the site has not been deemed historic or of archaeological importance. Regardless, in response to community concerns an archaeological firm was retained to survey the site, particularly where the historical Fields House was located. The report was submitted to the Grande Ronde Tribe, and is now under review with the State Historic Preservation Office (SHPO). The school district will contract with archaeological experts for construction observation services during excavation near the Fields House site. All site design and construction will cooperate with applicable laws concerning historical sites. Public Comments Received on 7.7.21, pdf p 128.

Slope Stability

The applicant submitted testimony from a licensed and qualified geo-technical engineer showing that the proposed grading and development activity within sloped areas will not increase the risk landslides, soil erosion, flooding or other property damage to adjacent property owners. Applicant Geotechnical Report for 945 Dollar Street 10.21.20 In response to opposition testimony that this proposal violates Statewide Land Use Goal 7, which requires local comprehensive plans to address natural hazards, no comprehensive plan amendment is proposed as part of this request and therefore Goal 7 does not apply. To the extent that Goal 7 does apply, the geotechnical analysis indicates that the risk to people and property resulting from this development are minimal.

Building Orientation

The Planning Commission heard testimony that CDC 55.100.B.7.f requires that at least one building entrance be located abutting a main street and that the curving driveway separating Brandon Place from the front door violates this standard. This standard requires that the building be located “as close as possible to the main street.” Locating building entrances behind a long

curvilinear driveway off of Brandon Street as well as Dollar Street is necessary to ensure that none of the vehicular or bus traffic serving this development will interfere with or otherwise delay thru-traffic. Locating the entrances closer to streets would encourage vehicles to stop for drop-off and impede traffic. This criterion is satisfied.

Issues Unrelated to Land Use

Finally, the Planning Commission heard more general challenges to District policy-making including its motivations to proceed with constructing a new middle school, what type of facilities are necessary to meet student needs and questions about the use of bond funds for this purpose. This is a land use review of a proposed development and not a review of the efficacy of District decision-making more generally. Decisions about the need for this development and where to locate it are not relevant to any of the applicable approval criteria. The decision to proceed with development at Dollar Street, at this time was the result of extensive public outreach, followed by an election wherein a majority of West Linn voters, instructed the District to proceed with construction of a new middle school. The text provided to voters included: “Construct an enlarged Athey Creek Middle School on District-owned property in West Linn to meet enrollment needs.” Application Narrative, Remo Douglas Memorandum, pdf p 3. No criterion allows the Planning Commission to revisit these policy decisions.

Opponents argue that this application cannot be approved until the District has shown that it has exhausted other alternatives based on a side-by-side comparison of overall cost, increased traffic congestion and environmental impact. As noted above, nothing in the applicable CDC or plan policies require that the District explore alternatives or select one that confers the greatest benefit at the lowest overall cost. Regardless, restricting the site selection criteria to those supported by opponents of the project ignores years of study and community conversation regarding the best solution for the educational opportunities of students in secondary school into the future. That said, as Mr. Douglas stated at the hearing, the District does not know of another 21.4 acre, relatively flat and vacant piece of property anywhere in the City that could accommodate this use, let alone one in a suitable location, as the proposed site. The subject property is the best choice for this middle school in terms of its size, topography, and location.

Conclusion

Over the past two years, the District has been studying the Dollar Street site, conducting public outreach, and designing Athey Creek Middle School at Dollar Street in a way that will meet student needs while, at the same time, conferring concrete benefits on the adjacent neighborhood as well as the City of West Linn as a whole. Detailed analyses of impacts and mitigation recommendations offered by qualified, professional and licensed land use planners, architects, transportation, civil, geotechnical, noise, and lighting engineers, archeologists, an arborist, a wetland consultant and wildlife specialist, resulted in a middle school design that goes beyond the minimum applicable standards set forth in Code. This proposal will enhance pedestrian and bicyclist safety for students and the public through a new roundabout and Dollar Street

improvements that will minimize through trips to the maximum degree possible. All siting and design decisions were made with an eye to mitigating impacts that allow for continued neighbor livability. These efforts were enhanced by input offered by the public and adjacent neighbors. The Planning Commission should feel comfortable relying on these expert analyses whose opinions were supported by City staff, coupled with the extended deliberation and transparent process as a basis to conclude that the applicable approval criteria are satisfied and that these applications should be approved.

Sincerely,



Carrie A. Richter

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cc: Client