



CITY OF West Linn

Memorandum

Date: March 16, 2022

To: Chair Walvatne
West Linn Planning Commission

From: John Floyd, Associate Planner

Subject: Public Comments Received for DR-21-11, MISC-21-14, and SGN-21-20

Three additional comments were received between noon on March 15, 2022 and the closing of the written comment period at noon on March 16, 2022. The additional comments were submitted by Willamette Neighborhood Association President Kathie Halicki, Shannan Knight, and Charley Skee. All are attached for the Commission's review.

Kathy Halicki's comments request clarification on why a neighborhood association meeting was not required for this development review proposal. Summary responses to major points are below. Shannen Knight's and Charley Skee's comments were received too late for a thorough staff response in this memorandum. Ms. Knight's comments are generally in support of the application. Mr. Skee's comments pose a series of questions and concerns that are generally addressed by existing municipal code standards regarding construction hours, noise, and the use of public right-of-way. As noted in Staff Findings 5 and 64 (located on pages 10 and 27 of the staff report), the applicant is not required to provide off-street parking or street improvements along Dollar Street.

1). How is it determined that a Neighborhood Association meeting is not warranted? Clearly this is a design review. It is a non-conforming structure and it went through historic resource design review. It meets specific criteria because the lot is over 1500 sq. ft., nowhere can I find the sq. ft. of the building, review is needed for the food carts, food pods, and outside dining, the changes to the structure that require the historic resource review.

Staff Response: CDC 99.038 requires a neighborhood meeting be held for a number of different types of development review applications. This includes proposed new commercial buildings over 1,500 square feet in size. The applicant has proposed adaptive reuse of existing commercial structures/buildings. No new buildings over 1,500 square feet are proposed, thus a neighborhood meeting was not required.



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During the pre-app ADA parking was discussed and the staff comment was that development may need to provide ADA parking on site. Nowhere do I see this addressed.

Staff Response: The property is located within the Willamette Falls Drive Commercial Design District and is exempt from on-site parking requirements.

2) Again the Neighborhood Assoc. was taken out of the decision making process. This is happening often. WNA has had no voice in this project nor the 10th St. roundabouts, the drinking fountain, nor other projects. Few projects are sent to WNA for input. It seems to me that the more input received the better. Why are NAs being excluded, WNA in particular?

Staff Response: A neighborhood meeting is not part of the development review decision-making process. It is an opportunity for an applicant to glean feedback on a proposal. During the decision-making process for this proposal, which includes a public hearing before both the Historic Review Board and Planning Commission, all neighborhood associations, including the WNA, have the opportunity to provide written or oral comment on the proposal and its conformance to the applicable code criteria.

From: [Willamette Neighborhood Association President](#)
To: [Wyss, Darren](#)
Subject: Dr-21-11/MISC-21-14/SGN-21-20
Date: Tuesday, March 15, 2022 3:38:38 PM

Darren,

Please include this letter in the Planning Commissioner's packet.

Thank you,

Kathie Halicki, WNA President

Dear Commissioners,

This letter is regarding the project before you "the gas station". Please note this letter is not against the project itself, but the process. It has come to my attention that this project **should have come to WNA.**

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2) Again the Neighborhood Assoc. was taken out of the decision making process. This is happening often. WNA has had no voice in this project nor the 10th St. roundabouts, the drinking fountain, nor other projects. Few projects are sent to WNA for input. It seems to me that the more input received the better. Why are NAs being excluded, WNA in particular?

99.038 Neighborhood contact required for certain applications

Prior to submittal of an application for any subdivision, conditional use permit, multi-family project, planned unit development of 4 or more lots, **non-residential buildings over 1500 sq. ft.**, or a zone change that requires a Comprehensive Plan amendment, the applicant shall contact and discuss the proposed development with any affected neighborhood as provided in this section. **Although no required for other or smaller projects, contact with neighbors is highly recommended.** The Planning Director may require neighborhood contact pursuant to this section.

I want to re-iterate that I am not against this project, just the lack of inclusion from the city process. This is happening in WNA neighborhood and I feel we should have had some input. To be clear the developers of this project are currently on the April agenda of the WNA meeting on 4/13.

Kathie Halicki, WNA President

Willamette Neighborhood Association President

President

Neighborhood Association Presidents

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Dear Planning Commission,

I'm writing in support of DR-21-11/MISC 21-14. Let me start by saying I'm writing as an individual, not in any official capacity as Vice-Chair to the EDC.

EDC was in the middle of working on code specific to food carts in 2020 in anticipation that this parcel was ripe to develop as a food cart pod. As you may know, the issue with this parcel has always been that the underground tanks make it difficult to do anything on the property except for things that basically leave it as a parking lot. This is why food carts made sense as it would be "parking of a vehicle" which would not disturb the tanks.

Due to staff turnover at the time, the code EDC was working on was never finalized. Our new staff liaison told us that the code was not needed because the current code does allow for food carts, as you are seeing with the staff's review of this application. Thus, it was taken off our docket. If carts become a problem in the future for other parts of town, we could always revisit the draft code. As my research showed, food carts are technically vehicles regulated by the DMV. Parking of vehicles on private property is not really regulated by the CDC. The "activity" in the vehicle is that of an eating and drinking establishments. Eating and drinking establishments are permitted outright in the commercial zone. Thus, no additional code is required at this time. Should you approve this application and issues arise with this or other locations that may be considered in the future, EDC can then revisit regulating food carts. However, there is nothing in the code that specifically does not allow for food carts. Just because there is no language for food carts, doesn't mean that they are not allowed by code.

I will also add that all the things EDC was trying to address in the draft code language, this application meets. The main concerns of the draft code were as follows:

- Only allowed in commercial zone. This is zoned commercial.
- Only allowed on private property which this is (though our draft code did allow carts on public streets for up to 8 hours per day, no overnight parking).
- Bathrooms—this application has adequate bathroom facilities
- Trash receptacles—this application has an enclosed trash area. However, something that PC can condition for that we had in the draft code is that each cart has its own designated trash can near their cart.
- Covered seating should have no sides. This application has covered seating areas no sides
- Specific sign code—The Historic Commercial Overlay zone has code specific to signs that will regulate overuse of too many signs, but PC can also condition for what we had in our draft code which was no more than one A frame sign per cart
- Setback for carts from other buildings and each other—this plan shows decent setbacks from other buildings, and good separation between carts. I believe the closest setback may be on the side fence line, but I believe the neighboring property is several feet from the property line
- Screening when located within 20 feet of a residential zone. The main building in and of itself offers proper screening from the residential units behind it. The street offers the buffer to the residential units on the side. The side of the property already has arbor vitae I believe screening from that property line. I also believe that

property is currently being used as a business, not residence. That could have changed since I last checked. But it looks like fencing is also proposed for the perimeter.

- Setback from vehicular and pedestrian use. Carts don't appear to be positioned too close to the sidewalk.
- Carts must be on hardscape—they are on asphalt
- Proper lighting—lighting is addressed in the application
- Carts must remain mobile—this is where the “parking” comes into play. As mentioned, food carts are regulated by the DMV. While some places have more permanent type carts with a kind of foundation built up around the cart, the proposed code EDC was working on required that they be temporary in nature, with wheels and nothing surrounding the wheel base so that it is not easily moveable. I don't know if the applicants have really thought about this or not. But it is something Planning Commission could condition for.
- Utilities: Our draft code required that the food carts have their own power like a generator or if carts did not have their own power, utilities must be underground. This application does have the utilities underground.

As the chair of EDC at the time, I was the one that did most of the research on food carts, wrote the mock code, and then brought that to the EDC to work on. The draft code combined the code of other suburbs like Oregon City and Happy Valley, not Portland. I felt like Portland was too different from us so I didn't want to use any of their code. That is why I focused on cities similar to us in size, and suburban. The reason why EDC wanted specific code for food carts is to encourage them. Making them specifically allowable in code we hoped would encourage more property owners to develop them. Food carts are important for several reasons. First, they provide opportunities for small business owners. Secondly, those small business owners are often minorities. Essentially, food carts provide a low cost way for minorities to own their own business. Lastly, they bring in “tourism” in the form of necessary dollars and foot traffic from nearby communities. Our town also seriously lacks fast casual dining options, especially healthy ones. Food carts are a way to bring in fast casual dining, and offer more variety than the current options of McDonalds and Burgerville.

I would also like to address the testimony Mr. Boyd sent in regard to why the code was not changed back in 2018. The Willamette Falls Working Group (which I was also the chair of at the time) was tasked only with code updates for the Mixed Use zone. This property is in the commercial overlay zone. Code updates to the commercial zone were not part of our scope of work. The mixed-use zone is to provide a buffer from the commercial area to the residential areas. We did not vote to allow eating and drinking establishments outright in the mixed-use zone. The working group felt that this should be a conditional use. Something like a food cart would probably not be allowed as a conditional use because of the extra noise it generates. Something like a tea shop may because it doesn't create as much noise or traffic. That is why eating and drinking establishments were added as a conditional use only. But this is neither here nor there because this application for a commercially zoned property, not mixed use. Eating and drinking establishments are permitted outright in the commercial zone.

As far as the carts being trailers, Mr. Boyd is right. They are trailers which is why they are allowed per code. This parcel is essentially a parking lot. When it was an auto shop, vehicles would be parked there

for months at a time. If the proposed use was RV parking, for instance, would that be a problem? The fact that these parked vehicles also serve food doesn't change the fact that they are just the same as parking autos or trailers on a parcel that is essentially a parking lot.

As to Mr. Boyd's claim that food cart code was no longer a priority as if that means something, as explained food cart code was a priority of EDC with approval from council in 2020. Then staff determined that our code allowed for food carts so there was no immediate need for code. This is the only reason it was taken off the "priority" list.

If I'm understanding this application correctly, it is less about use, and more about the non-conforming structure per Chapter 58, as well as other structural improvements. Chapter 58 requires the Western false front and this will not conform to that part of the code. If no changes were being proposed to the building and the owners simply applied for a business license to have food carts as eating and drinking establishment, would this require public hearings? Perhaps a question staff could answer. I know when I applied for my business license, since I wasn't changing the building, it didn't require any kind of public hearing. Maybe eating and drinking establishments are different. But if you look at it that way, if the public hearing is really more about the building improvements, then I'm not sure what the issue is about them being food carts other than this is not something we have seen in West Linn up until now.

Mr. Boyd's references to "temporary uses" is also not really relevant. These are not temporary structures like tents for fireworks. These are vehicles. You don't need a temporary permit to park a vehicle in a private parking lot.

In regard to handwashing stations, when I was researching code on food carts, this is really for those food cart pods where there is no bathroom. Some food cart pods have Port-a-potty's only. Thus, the need for hand wash stations. There will be a full working bathroom inside the building for hand washing. I also used to run the farmers market where we had food carts. I do believe each cart is required to have hand washing inside their cart for the Clackamas County food service permit. I think the hand washing station is more for the patrons, and as mentioned, they will have a facility to wash hands.

It looks like the only other public comments are in regards to noise. Again, this is commercially zoned, but I understand that this particular use will create more outdoor eating and drinking than the typical restaurant may have. Though I'm not sure it is any larger than what the Ale House has set up with their outdoor space. I believe the applicant has created some barriers to help buffer noise. If this is a concern, more buffers could be conditioned for, or hours of operation may be limited. I don't know if that is within the scope of what PC can do though.

I will say with the Mixed Use Working Group, most of the concerns the neighbors who testified had to do with noise. Things like rolling out trash cans and clanking of bottles and cans at midnight was one of the louder activities, not necessarily the people noise, as well as drunk people stumbling through the neighborhood. The food carts won't really contribute to this. The inside pub will, but not the outdoor carts. I do think the food carts shut down earlier than a brick and mortar restaurant. They are typically small, single owner businesses, and the owners don't want to be there until midnight. The main building (pub) will serve alcohol so my guess is people will still be out there late at night. But that would be the case if this permit was only for the pub. My guess is that the food carts shut down around 9pm which may limit the crowds and will not contribute any more to noise than the pub itself will.

Parking may also be an issue. I have been asking the city for years to make one spot per block a 15 minute parking spot for deliveries and pick ups. I envision many people using the cart as more “take out” dining, and grabbing food to go. Having a 15 minute spot would be ideal to make for this type of thing and limit parking in the immediate neighborhood streets. I do think the applicant has a few parking spaces on site. Maybe a spot could be devoted to take out only.

As to the building design itself, as I testified in the HRB hearing, this building was built in the 50’s and the new design is staying true to the historic era it was built in. The western false front code needs to be amended to allow for these non-conforming buildings that are historic in nature to remain true to their historic roots. I think the owners have done a good job making the building look like the old service station, but modernizing it to make it not look like the eyesore it is now. Several years ago, PC approved similar renovations to the Youth Music Project which was also a non-conforming building. I’m hoping PC will see fit to do that with this property.

Overall, this business will bring much needed foot traffic to Willamette that our other small businesses so desperately need after being hit hard by Covid. It will provide more opportunities for minority small business owners, and give West Linn more fast food options. I hope Planning Commission will see the need to approve this application.

Thank you as always for your time.

Shannen Knight

Resident and Business Owner in the Willamette District of West Linn

From: [1791](#)
To: [Floyd, John](#)
Cc: [charley](#)
Subject: File No. DR-21-11 / MISC-21-14 / SGN-21-10
Date: Wednesday, March 16, 2022 11:44:24 AM

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Hello,

Please accept this email for consideration with file number DR-21-11 / MISC-21-14 / SGN-21-10.

With regards to the alteration of the structure at 1590 Willamette Falls Drive for the reuse of the vacant gas and service station into a food cart pod with an indoor pub and indoor and outdoor seating the following points for consideration are noted as a residential neighbor sharing a property line with the proposed.

Construction (prior to being open to the public)

- *What hours of the day/week are permitted for construction of the project?
- *What is the timeframe in which to have the project completed?
- *What fencing will be erected to create a sound barrier/privacy barrier between the property lines?
- *What type of structure and where will said structure be built to house trash/recycling bins?
- *Where will the heating and cooling system be located? If it is located near our shared property line will it be far enough away to stop noise pollution?

Parking:

We see no plan to add street parking, provide on-site parking, or to designate specific parking areas to handle the increase in neighborhood parking needs. During the evening all street parking is currently completely taken by residents. Without specific parking being added for the business, customers will be taking valuable parking spaces away from residents.

- *Concerns with street parking specifically in front of my house on 1684 Dollar Street:
- *Blocking of the USPS mailbox that prevents the mail carrier from being able to drive-up with direct access to the mailbox will result in NO mail delivery service. What is being proposed to prevent this from happening?
- *Blocking of the driveway that prevents household residents from accessing their vehicles? What is being proposed to prevent this from happening?
- *What measures will be implemented to prevent customers from parking on our grass along 8th Ave.?

Health & Welfare:

Smoke. This is a major concern for us as homeowners and neighbors to Main Street.

- *Is smoking of any sort allowed on the premises?
- *Where will customers and employees of the site go to smoke?
- *Is there a City ordinance that prevents smoking in public?
- *How do you propose to keep people from congregating in front of our house to smoke?

Noise pollution. What types of activities will be hosted onsite and if said activities include

music, live or otherwise, the use of speakers to project sound and what consideration will be given to residents of the neighborhood?

*Is there a restriction on the decibel levels or on the hours in which said activities may take place?

*What measures will be taken to ensure customers obey City noise ordinance hours?

Especially regarding the outdoor eating area.

*Will the outdoor area be closed during “quiet” hours?

*Are alcoholic beverages allowed in the outdoor areas?

*Will loud raucous behavior be curtailed before quiet hours or will it be allowed?

Pedestrian traffic. There is no sidewalk on the southwest side of Dollar Street to prevent people from walking on our property to stay out of the roadway. Is there a proposal from the City to add a sidewalk (to be maintained by the City) to provide ease of access to the public should they decide to park within the neighborhood?

Lighting. Will additional street lights be added for safety measures?

Hours of Operations:

*What hours of operation are permitted by the City?

*What hours are you proposing to be open? Will hours vary on the day/season?

We thank you for your consideration. Any insight of the above would be greatly appreciated.

We wish the best to the new owners in their endeavor and welcome the Willamette Garage to the neighborhood.

Your neighbor,
The Skee Family
1684 Dollar Street

Charley Skee
