WEST LINN PLANNING COMMISSION

FINAL DECISION NOTICE

DR-12-08/VAR-12-01

IN THE MATTER OF A CLASS II DESIGN REVIEW AND A CLASS II VARIANCE FOR CONSTRUCTION OF A CHASE BANK AT 19080 WILLAMETTE DRIVE

At their regular meeting of June 6, 2012 and a special meeting on June 26, 2012, the West Linn Planning Commission held a public hearing to consider the request to approve a 4,335 square foot Chase Bank Branch with parking and remote three-lane drive through at the rear of the building at 19080 Willamette Drive. This required a Class II Design Review permit and a Class II Variance. The variance was to waive the transparency requirement that the front elevation has 60 percent transparency and the side elevations have 30 percent. The approval criteria for design review are found in Chapter 55 of the CDC. The approval criteria for the variance are found in Chapter 75 of the CDC. The hearing was conducted pursuant to the provisions of CDC Chapter 99.

The hearing commenced with a staff report presented by Peter Spir, Associate Planner. Hans Christiansen, of Callison Architects, spoke for the applicant. Stephen Cary and Rod Jones also spoke on behalf of Chase Bank. The staff report made the following findings appropriate to the design review and variance approval criteria:

Approval criteria from CDC section 55.100(B) (6) (a).
The predominant architecture of West Linn identified in the West Linn vision process was contemporary vernacular residential designs emphasizing natural materials: wood with brick and stone detail. Colors are subdued earth tones: grays, brown, off-whites, slate, and greens. Pitched roofs with overhanging eaves, decks, and details like generous multi-light windows with oversized trim are common. Also in evidence are the 1890s Queen Anne style homes of the Willamette neighborhood. Neo-traditional homes of the newer subdivisions feature large front porches with detailed porch supports, dormers, bracketed overhanging eaves, and rear parking for cars. Many of these design elements have already been incorporated in commercial and office architecture.

FINDING 1:

The applicant has proposed night time illumination of the exterior of the building with blue lighting. Blue is apparently Chase Bank's corporate color and part of their branding or identity strategy. Staff finds that whereas the building uses earth tones per this code section for the building, the use of blue light effectively changes the building color at night time to deep blue. For that reason, staff recommends Condition of Approval 2 which would prohibit blue or other colored exterior lighting.

55.100(B) (6) (b).

The proposed structure(s) scale shall be compatible with the existing structure(s) on site and on adjoining sites. Contextual design is required. Contextual design means respecting and incorporating prominent architectural styles, building lines, roof forms, rhythm of windows, building scale and massing, materials and colors of surrounding buildings in the proposed structure.

FINDING 2:

At the pre-application conference, staff emphasized that the extended awnings found on the commercial properties to the north of the site should be replicated, not only for the purpose of contextual design but also because they provide the very real benefit of shade from the sun and shelter from the rain. Staff finds that the applicant's design satisfies that requirement with 4-6 foot deep awnings running along most of the front elevation. The flat roof with parapets as well as the brick facing on the building also reflects the commercial designs, material choices and color schemes to the north of this site.

55.100(B) (6) (e)

Human scale is a term that seeks to accommodate the users of the building and the notion that buildings should be designed around the human scale (i.e., their size and the average range of their perception). Human scale shall be accommodated in all designs by, for example, multi-light windows that are broken up into numerous panes, intimately scaled entryways, and visual breaks (exaggerated eaves, indentations, ledges, parapets, awnings, engaged columns, etc.) in the facades of buildings, both vertically and horizontally. The human scale is enhanced by bringing the building and its main entrance up to the edge of the sidewalk. It creates a more dramatic and interesting streetscape and improves the "height and width" ratio referenced in this section.

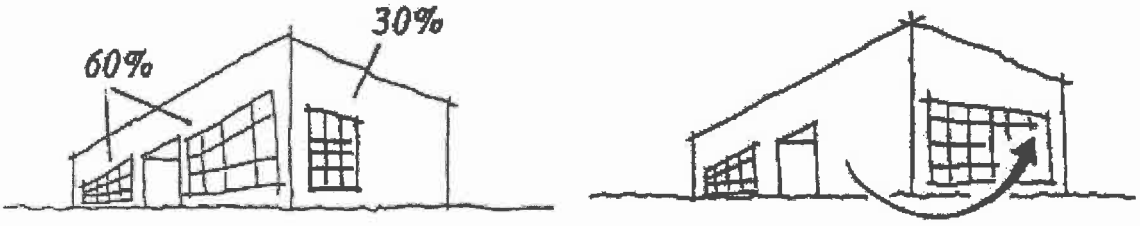
FINDING 3:

Staff finds that the awnings running across the front elevation at 9.5 feet, the use of three different building materials (cladding) and two different colors contribute to the human scale by vertically breaking up the elevations. The building's total height is relatively low at 17 feet (to the main parapet) meaning that human scale is respected. The front elevation's horizontal plane is broken up by modulations (e.g. popouts, indents) and details (multi-paned windows). Additional windows, per condition of approval 3, will enhance the human scale too as will

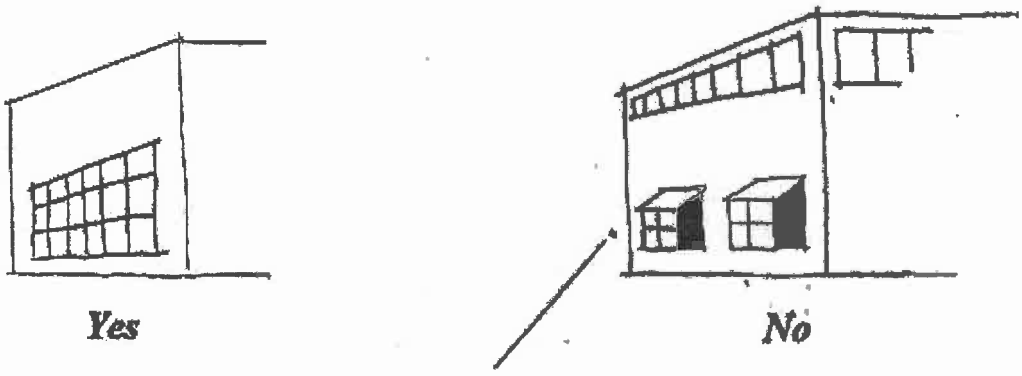
bringing the building up towards Willamette Drive. Therefore, the intent of the provision above is met.

55.100(B) (6) (f)

The main front elevation of commercial and office buildings shall provide at least 60 percent windows or transparency at the pedestrian level to create more interesting streetscape and window shopping opportunities. One side elevation shall provide at least 30 percent transparency. Any additional side or rear elevation, which is visible from a collector road or greater classification, shall also have at least 30 percent transparency. Transparency on other elevations is optional. The transparency is measured in lineal fashion. For example, a 100-foot-long building elevation shall have at least 60 feet (60 percent of 100 feet) in length of windows. The window height shall be, at minimum, three feet tall. The exception to transparency would be cases where demonstrated functional constraints or topography restrict that elevation from being used. When this exemption is applied to the main front elevation, the square footage of transparency that would ordinarily be required by the above formula shall be installed on the remaining elevations at pedestrian level in addition to any transparency required by a side elevation, and vice versa. The rear of the building is not required to include transparency. The transparency must be flush with the building elevation.



60 percent of lineal street facing or main elevation is windows. 30 percent of one side elevation is windows. You may transfer windows from the side to front, or vice versa.



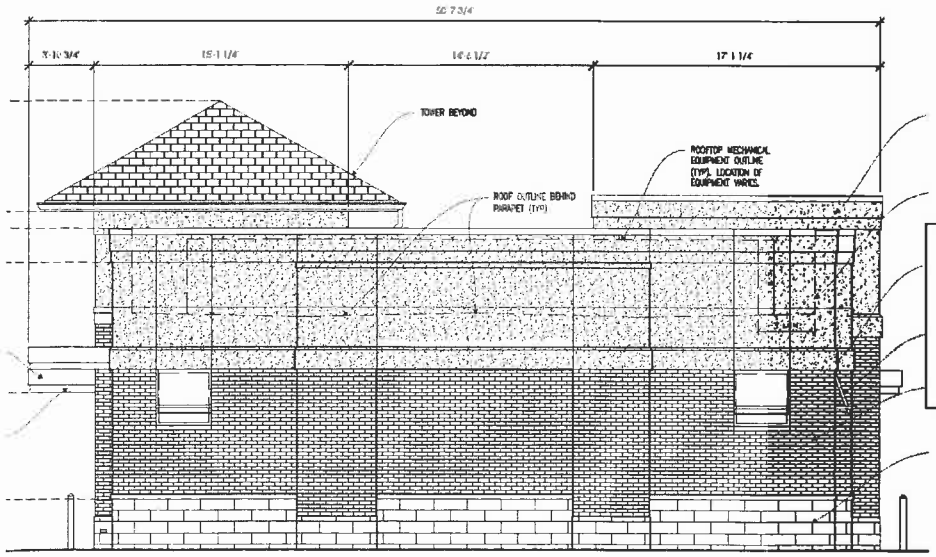
(Windows not at eye level and/or not flush with building.)

FINDING 4:

The applicant does not meet the front transparency requirement of 60%. Only 42.1% of the front elevation has windows at pedestrian or eye level. Four clerestory windows on the front elevation are too high to contribute to the transparency requirement. But even if they were included, the amount would fall short. The two side elevations are both visible from Willamette Drive so both must meet the 30% transparency requirement. The two side elevations have no windows at pedestrian or eye level so their 0% percent transparency is well short of the required 30%. Consequently, the applicant has applied for a Class II Variance. See Finding 8 below.

The applicant makes the case that by having a front entrance onto Willamette Drive and a second at the rear to allow access from the parking lot (per 55.100(B) (7) (a)) it is impossible to accommodate the bank's functional requirements and specific activity/work areas (ATM money room, vault, bathrooms etc.) along the rear of the building where they would typically go. Consequently, these activity/work areas (which typically have limited or no windows) must go along the sides of the structure which, per the applicant, justifies the lack of transparency on the sides. Staff agrees with these findings.

Since the clerestory windows do not factor into the transparency calculations because they are too high for people to look in or out of the bank and because most are for secure interior spaces the applicant has requested that they be opaque instead of clear. Staff can support the change from clear to opaque glass on those grounds and further notes that opaque clerestory windows will still help break up the elevations architecturally.



Chase Bank's side elevation with two windows 7.5 feet above grade

55.100(B) (6) (g)

g. Variations in depth and roof line are encouraged for all elevations. To vary the otherwise blank wall of most rear elevations, continuous flat elevations of over 100 feet in length should be avoided by indents or variations in the wall. The use of decorative brick, masonry, or stone insets and/or designs is encouraged. Another way to vary or soften this elevation is through terrain variations such as an undulating grass area with trees to provide vertical relief.

h. Consideration of the micro-climate (e.g., sensitivity to wind, sun angles, shade, etc.) shall be made for building users, pedestrians, and transit users, including features like awnings.

i. The vision statement identified a strong commitment to developing safe and attractive pedestrian environments with broad sidewalks, canopied with trees and awnings.

FINDING 5:

Staff finds that the roofline/building profile is capped in the center with a hipped roof tower that adds interest to the building roof line. There are 1.5 to 2- foot indents to the front and side elevations to provide variations on the horizontal plane of the wall. The large sidewalk/plaza area with planters and the awnings along the building face creates the opportunity that it will become a useful social space and part of a larger pedestrian environment along Willamette Drive. The criteria are met.

55.100(B) (7) (c):

c. Commercial, office, and multi-family projects shall be built as close to the adjacent main right-of-way as practical to facilitate safe pedestrian and transit access. Reduced frontages by buildings on public rights-of-way may be allowed due to extreme topographic (e.g., slope, creek, wetlands, etc.) conditions or compelling functional limitations, not just inconveniences or design challenges.

FINDING 6:

The applicant was advised by staff that the bank should be built on the edge of the Willamette Drive right-of-way per this approval criterion and the following reasons:

- the building can offer amenities for passersby in the form of awnings which provide shelter from rain and sun,
- a focused activity area in front of the building creates opportunities for social interaction between people on the sidewalk and in the businesses (through the pedestrian level windows),

- as buildings are built closer to the street, pedestrian level windows offer visual interest or visual snags for passing pedestrians and motorists,
- as buildings "crowd" the street, the narrower field of vision along Willamette Drive encourages slower and safer vehicle speeds.

With the discovery of a plat restriction dating back to 1948 which established a setback of 60 feet from the Willamette Drive centerline, the applicant has placed the building as close to the street as is allowed by the plat restriction: 20 feet back from the front lot line.

While this is not as desirable as a zero foot setback, staff finds that the applicant compensates by providing a larger paved patio area in front of the bank which could have social value with its landscaped planters and seating space.

Staff also finds that by having the parking and drive through banking aisles at the rear of the building, the state's Transportation Planning Rule, which emphasizes multi-modal transportation over the singular interests of the motor vehicle, is appropriately met.

55.100(C). Compatibility between adjoining uses, buffering, and screening.

1. In addition to the compatibility requirements contained in Chapter 24 CDC, buffering shall be provided between different types of land uses; for example, buffering between single-family homes and apartment blocks. However, no buffering is required between single-family homes and duplexes or single-family attached units. The following factors shall be considered in determining the adequacy of the type and extent of the buffer:

a. The purpose of the buffer, for example to decrease noise levels, absorb air pollution, filter dust, or to provide a visual barrier.

b. The size of the buffer required to achieve the purpose in terms of width and height.

c. The direction(s) from which buffering is needed.

d. The required density of the buffering.

e. Whether the viewer is stationary or mobile.

2. On-site screening from view from adjoining properties of such things as service areas, storage areas, and parking lots shall be provided and the following factors will be considered in determining the adequacy of the type and extent of the screening:

a. What needs to be screened?

b. The direction from which it is needed.

c. How dense the screen needs to be.

d. Whether the viewer is stationary or mobile.

e. Whether the screening needs to be year-round.

3. Rooftop air cooling and heating systems and other mechanical equipment shall be screened from view from adjoining properties.

D. Privacy and noise.

1. Structures which include residential dwelling units shall provide private outdoor areas for each ground floor unit which is screened from view from adjoining units.

2. Residential dwelling units shall be placed on the site in areas having minimal noise exposure to the extent possible. Natural-appearing sound barriers shall be used to lessen noise impacts where noise levels exceed the noise standards contained in West Linn Municipal Code Section 5.487.

3. Structures or on-site activity areas which generate noise, lights, or glare shall be buffered from adjoining residential uses in accordance with the standards in subsection C of this section where applicable.

4. Businesses or activities that can reasonably be expected to generate noise in excess of the noise standards contained in West Linn Municipal Code Section 5.487 shall undertake and submit appropriate noise studies and mitigate as necessary to comply with the code. (See CDC 55.110(B) (11) and 55.120(M).)

If the decision-making authority reasonably believes a proposed use may generate noise exceeding the standards specified in the municipal code, then the authority may require the applicant to supply professional noise studies from time to time during the user's first year of operation to monitor compliance with City standards and permit requirements.

FINDING 7:

The main concern is to protect the residents of the multi-family housing at the rear of the site from noise and glare associated with the three 24-hour teller and transaction machines and vehicular traffic they generate. Staff finds that the potential impacts are mitigated by the following factors:

- Distance. The nearest drive through lane is 110 feet from the nearest multi-family unit to the east.

- Screening. The applicant will install a solid wood fence four feet tall along the northeast edge of the drive through aisles. Additionally there are a row of evergreen (red cedar) trees along the northeast edge of the bank property. As proposed, they should block most headlight glare while the fence should diminish noise from idling engines to acceptable levels (Department of Environmental Quality (DEQ) standards) per the applicant's noise study. Staff is concerned that the fence does not extend far enough in a south-easterly direction so as to block glare from apartments behind the 7-11 store. Proposed Condition 4 calls for extending the fence 30 feet to address that glare issue.

- Choice of light fixtures and location. The applicant's lighting (photometric) study shows that illumination from lights will diminish to 0.0 at the northeast property line. The applicant has changed from metal halide light bulbs to low pressure sodium and LED which will reduce glare and light intensity.

- Noise Analysis. The noise analysis by Michael Minor and Associates, dated February 21, 2012 identifies and discusses the noise sources listed above and finds that the bank operations will meet DEQ standards. Staff finds that the criterion is met.

Staff was also concerned about the noise associated with heating ventilation and air conditioning (HVAC) on the roof as well as its visual impact. Similar concerns existed in regards to the recycling /garbage enclosure. Staff finds that the HVAC will be hidden below the parapet wall so there is no visual impact and the noise study determined that it will meet DEQ standards. Similar findings apply to the recycling/garbage enclosure.

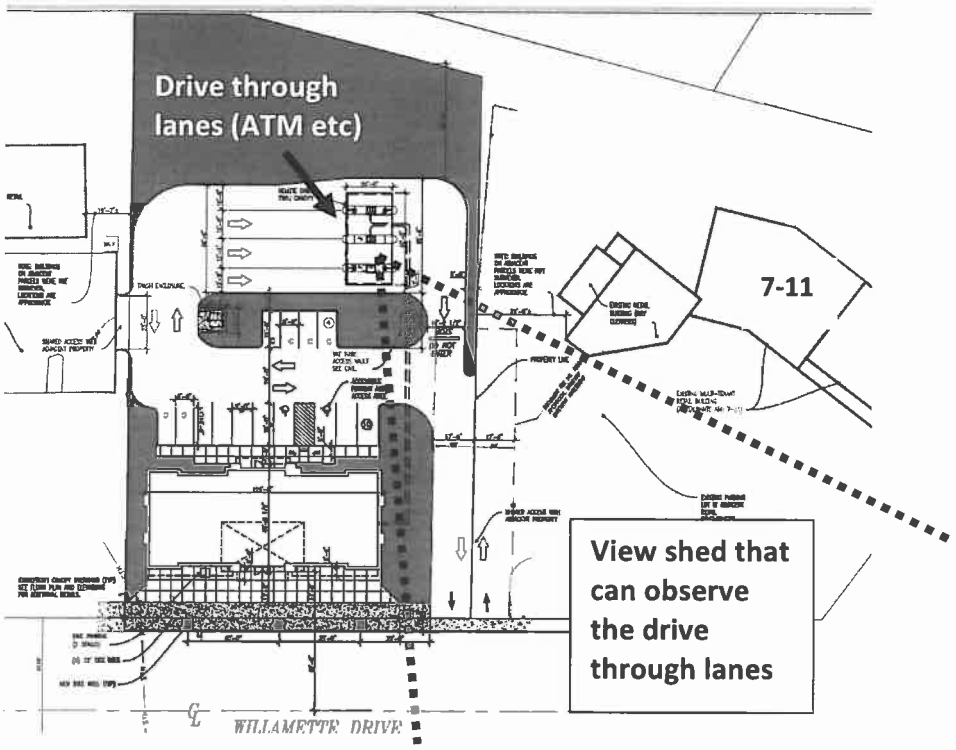
55.100 (J). Crime prevention and safety/defensible space.

1. Windows shall be located so that areas vulnerable to crime can be surveyed by the occupants.
2. Interior laundry and service areas shall be located in a way that they can be observed by others.
3. Mailboxes, recycling, and solid waste facilities shall be located in lighted areas having vehicular or pedestrian traffic.
4. The exterior lighting levels shall be selected and the angles shall be oriented towards areas vulnerable to crime.
5. Light fixtures shall be provided in areas having heavy pedestrian or vehicular traffic and in potentially dangerous areas such as parking lots, stairs, ramps, and abrupt grade changes.
6. Fixtures shall be placed at a height so that light patterns overlap at a height of seven feet which is sufficient to illuminate a person. All commercial, industrial, residential, and public facility projects undergoing design review shall use low or high pressure sodium bulbs and be able to demonstrate effective shielding so that the light is directed downwards rather than omni-directional. Omni-directional lights of an ornamental nature may be used in general commercial districts only.
7. Lines of sight shall be reasonably established so that the development site is visible to police and residents.
8. Security fences for utilities (e.g., power transformers, pump stations, pipeline control equipment, etc.) or wireless communication facilities may be up to eight feet tall in order to protect public safety. No variances are required regardless of location.

FINDING 8:

The areas to the front and side of the bank are observable at all hours, either from inside the bank or by passing motorists and pedestrians in the Willamette Drive ROW. During daytime and business hours the surveillance of the rear of the building and the two Automated Teller Machines (ATMs) is excellent since the rear elevation of the bank has 42 percent eye level transparency. The surveillance concern is at night time. Staff finds that the lines of sight towards the drive through ATM from Willamette Drive and the heavily used 7-11 parking lot are average. This is further enhanced by security lighting. The ATM at the rear of the bank itself is not as easily observed. It will rely on lighting, an enclosed vestibule, surveillance by other individuals waiting to use the ATM and lines of sight from the 7-11. Staff also finds that the

nighttime use of the ATMs will be self selecting in that individuals have a multitude of ATM options within a short distance of this site from which they can select alternate ATMs depending on their personal sense of security.



75.060 APPROVAL CRITERIA (VARIANCE)

The appropriate approval authority shall approve a variance request if all the following criteria are met and corresponding findings of fact prepared. The approval authority may impose appropriate conditions to ensure compliance with the criteria. The approval authority shall deny the variance if any of the criteria is not met.

A. Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity, and result from lot size or shape, legally existing prior to the date of this code, topography, or other circumstances over which the applicant has no control.

B. The variance is necessary for the preservation of a property right of the applicant, which is substantially the same as a right possessed by owners of other property in the same zone or vicinity.

C. The authorization of the variance will not be materially detrimental to the purposes and standards of this code, will not be inconsistent with all other regulatory requirements, and will not conflict with the goals and policies of the West Linn Comprehensive Plan.

D. The variance request is the minimum variance which would alleviate the exceptional and extraordinary circumstance.

E. The exceptional and extraordinary circumstance does not arise from the violation of this code.

F. The variance will not impose physical limitations on other properties or uses in the area, and will not impose physical limitations on future use of neighboring vacant or underdeveloped properties as authorized by the underlying zoning classification. (Ord. 1442, 1999)

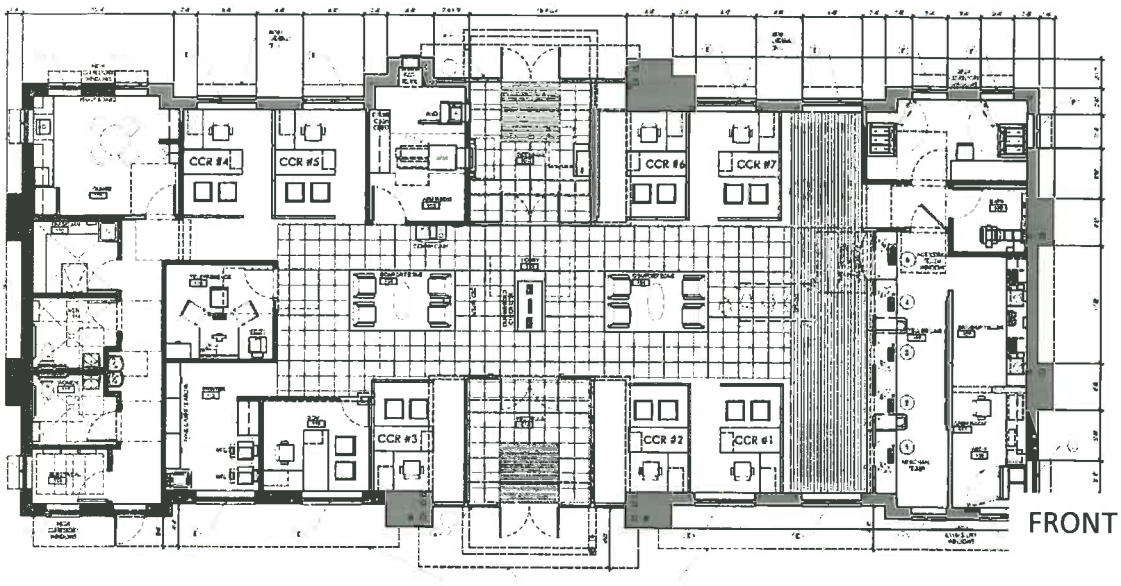
FINDING 9:

As previously noted, the applicant is requesting a variance to waive the 60% transparency requirement for the front elevation facing Willamette Drive and to waive the 30% transparency requirement for the two side elevations. The applicant also proposes that the transparency on the rear should be transferable to the front and side elevations. Staff finds that there is no transparency requirement for the rear elevation since it is not visible from a collector or higher category street. Although the code allows transfers of transparency between the sides and front and vice versa there is no transferability of transparency allowed from the rear elevation to the side(s) or front. (Please see criteria preceding Finding 4.)

Building Elevation	Transparency required per CDC 55.100(B)(6)(f) at pedestrian level expressed as percent of that elevation	Transparency required per CDC 55.100(B)(6)(f) at pedestrian level expressed in lineal feet	Amount of transparency proposed by Chase Bank at pedestrian level (lineal feet and percentage)
Front	60%	61.2 ft. (102 ft. X 60%)	43 ft. / 42.1%
Side ("east")	30%	12.9 ft. (43 ft. X 30%)	0 ft. / 0%
Side ("west")	30%	12.9 ft. (43 ft. X 30%)	0 ft. / 0%
Rear	0%	0 ft.	39.75 feet (not visible from Willamette Drive)

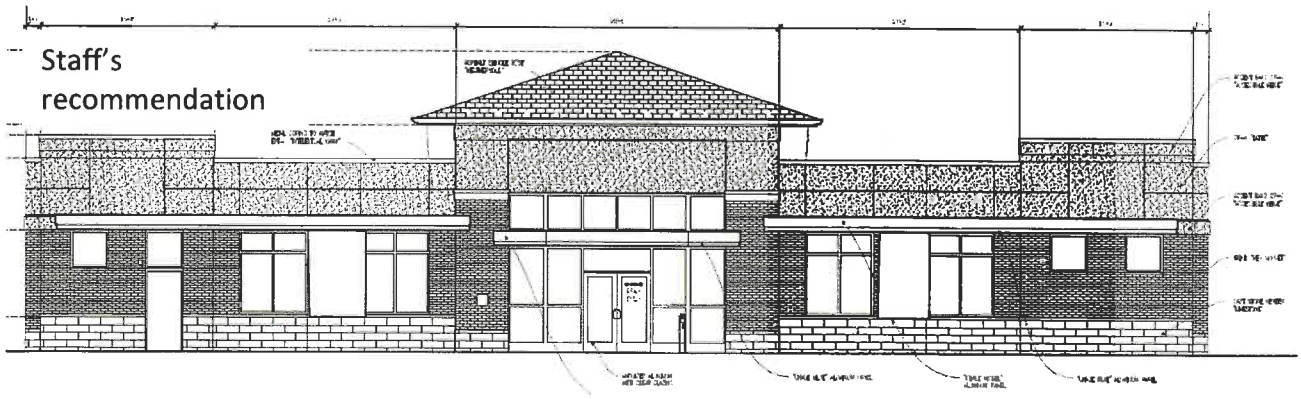
Staff can, however, support the variances for the side elevations based on the applicant's argument that the entryway at the rear of the bank and associated windows means that the activities/uses that would typically go along that rear elevation, such as the vault room, bathrooms, etc. are pushed to the sides of the building meaning that it is not practical to introduce windows (particularly eye level windows) on those sides.

While the argument is compelling as it relates to the side elevations, particularly for those spaces that demand either privacy or deference to security concerns, there are portions of the front elevation does not suffer from those constraints. Staff finds that transparency can be added to the front elevation.



Adding nine feet of windows on the front elevation would increase transparency to 51.2%; still shy of the required 60%, but an improvement. Staff recommends approval of the variance with the condition that the transparency be increased as indicated in the drawings below and per proposed Condition of Approval 3.

Staff is also mindful of the legacy of this building in that it may not always be a bank and by limiting the transparency we are also limiting its value for non-bank purposes such as retail which require easy, more welcoming visual access.



Compliance with the standards of the underlying General Commercial zone:

19.020 PROCEDURES AND APPROVAL PROCESS

A. A use permitted outright, CDC 19.030, is a use which requires no approval under the provisions of this code. If a use is not listed as a use permitted outright, it may be held to be a similar unlisted use under the provisions of Chapter 80 CDC.

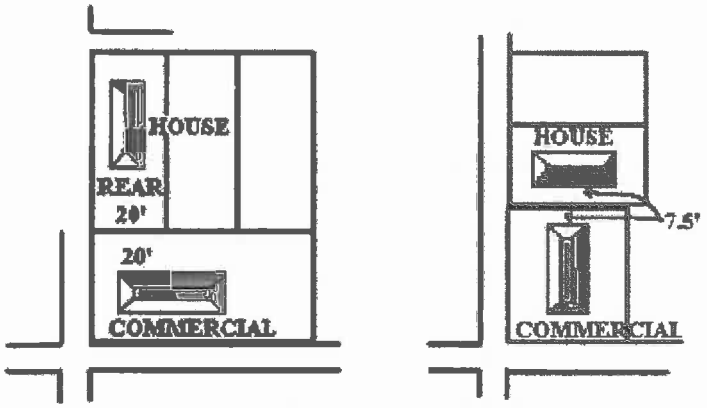
FINDING 10:

Per Section 19.030 (12) banks are permitted outright under the land use category of "Financial, insurance and real estate services".

19.070 DIMENSIONAL REQUIREMENTS, USES PERMITTED OUTRIGHT AND USES PERMITTED UNDER PRESCRIBED CONDITIONS

A. Except as may be otherwise provided by the provisions of this code, the following are the requirements for uses within this zone:

1. *The minimum front lot line length or the minimum lot width at the front lot line shall be 35 feet.*
2. *The average minimum lot width shall be 50 feet.*
3. *The average minimum lot depth shall not be less than 90 feet.*
4. *Where the use abuts a residential district, the setback distance of the residential zone shall apply. For example, when the rear of a residential property abuts the side of a commercial property, the residential 20-foot setback shall apply to the commercial property. When the side of a residential property abuts the rear of a commercial property, the residential five- to seven-and-one-half-foot setback shall apply to the commercial property. In addition, a buffer of up to 50 feet may be required.*



SETBACK OF ABUTTING HOUSE DICTATES COMMERCIAL SETBACK

5. *The maximum lot coverage shall be 50 percent.*
6. *The maximum building height shall be two and one-half stories or 35 feet for any structure located within 50 feet of a low or medium density residential zone, and three and one-half stories or 45 feet for any structure located 50 feet or more from a low or medium density residential zone.*
7. *For lot lines that abut an arterial, there shall be no minimum yard dimensions or minimum building setback area, and the maximum building setback shall be 20 feet. The front setback area between the street and the building line shall consist of landscaping or a combination of non-vehicular hardscape areas (covered with impervious surfaces) and landscaped areas, with at least 25 percent of the front setback area consisting of landscaped areas. If there are not street trees within the public right-of-way, the front setback area shall include such trees per the requirements of the City Arborist.*

FINDING 11:

The application meets the minimum 35 foot frontage width with a frontage width of 150 feet. The required lot depth of 90 feet is exceeded by an average depth of 250 feet. The 20 foot rear setback is exceeded by a distance of 70 feet to the drive through facilities and 180 feet to the bank itself.

The maximum lot coverage of 50% is not exceeded since the bank and drive through teller facilities comprise only 12% of the site. The bank's height of 26.5 feet is under the allowable height of 50 feet. The front setback of 20 feet meets the allowed maximum setback. (If the bank had been further than 20 feet from the front property line, a Class II variance would have been required.) The combination of at grade landscaping and landscaping in planters satisfies the required 25% landscaping for the setback area. Therefore the standards of the General Commercial zone are met.

48.025(B) (8)

Shared driveways. The number of driveway and private street intersections with public streets shall be minimized by the use of shared driveways with adjoining lots where feasible. The City shall require shared driveways as a condition of land division or site design review, as applicable, for traffic safety and access management purposes in accordance with the following standards:

a. Shared driveways and frontage streets may be required to consolidate access onto a collector or arterial street. When shared driveways or frontage streets are required, they shall be stubbed to adjacent developable parcels to indicate future extension. "Stub" means that a driveway or street temporarily ends at the property line, but may be extended in the future as the adjacent parcel develops. "Developable" means that a parcel is either vacant or it is likely to receive additional development (i.e., due to infill or redevelopment potential).

b. Access easements (i.e., for the benefit of affected properties) shall be recorded for all shared driveways, including pathways, at the time of final plat approval or as a condition of site development approval.

FINDING 12:

The applicant's design meets this criterion in two ways: (1) by linking internal driveways with adjacent properties and (2) by using a shared driveway onto Willamette Drive with 7-11 customers.

To minimize occurrences of customers leaving the bank property, driving 200 feet along Willamette Drive, then turning into the Willamette Village shopping center immediately to the north of the bank property, the owner of that property (tax lot 700 assessor's map 21E 23AA) was required by condition of approval to build a stub out driveway to allow easy vehicular connection between the two parcels. This would reduce vehicle loads on Willamette Drive and would also reduce potential turn conflicts on that street. The applicant's plans show this driveway connection. A mutual access easement will be needed to allow use of the driveways (see Condition 5).

The applicant's plan also retains the shared driveway with 7-11 for access onto Willamette Drive. Use of this driveway agrees with the City of West Linn's Highway 43 Design Concept and Transportation System Plan which call for the retention and use of this shared driveway so as to minimize curb cuts on Willamette Drive and to meet section 48.060(F). The record also shows that the Oregon Department of Transportation supports the continued use of the shared driveway.

Public testimony was heard from Alice Richmond (neutral), Tom Boes and Kevin Bryk (opposed), and Avi Tayar, representing the Oregon Department of Transportation (ODOT).

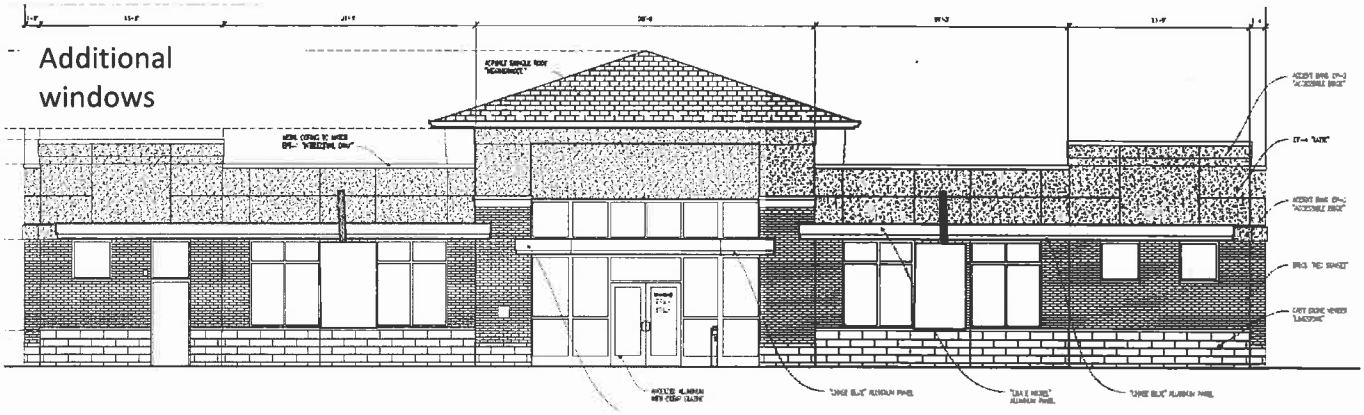
By a four to two vote, the application was approved, based on the above, the staff recommended conditions and the June 26, 2012 conditions proposed by ODOT.

The approved conditions of approval are as follows:

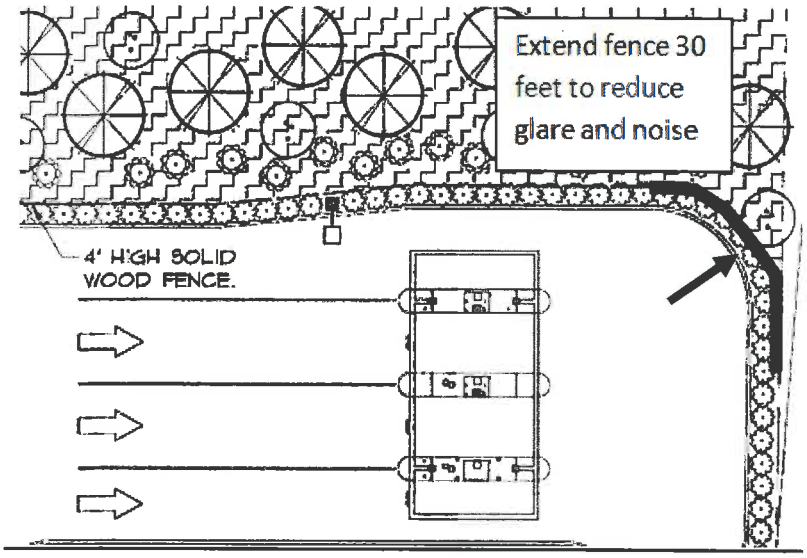
1. Approved plans. The approved site plan is the Landscape Plan, Sheet L-1, dated 4/23/2012. The approved elevation is Exterior Elevations Sheets A4.1 and A4.2 dated 4/11/2012 with window modifications per Condition of Approval 3 and no individualized awnings over clerestory windows.

2. Exterior building lighting. Colored illumination or colored lighting (e.g., blue) of the building exterior is prohibited.

3. Windows. At least nine lineal feet of additional windows shall be added at the pedestrian level to the front elevation. The window placement shall be consistent with, or similar to, the elevation below. New windows shall match proposed multi-light windows.



4. Fences. A six foot high black clad cyclone fence shall be installed along the rear or east lot line and along both side lot lines of the rear landscaped area. The southerly end of the four-foot high wood fence to the east of the drive through ATM lanes, depicted on Exhibit PC-3, Sheet L1 shall be extended 30 feet to reduce glare, generally as depicted below:



5. Mutual Access Easement. In order to allow Chase Bank customers to use the driveway through tax lot 700 to access Willamette Drive, the applicant shall construct a driveway to City standards to connect with the driveway and parking lot to the north on tax lot 700 assessor's map 21E 23AA. The applicant shall record a mutual access easement that allows traffic from tax lot 700 to traverse that applicant's driveways and access to Willamette Drive with the understanding that the owner of tax lot 700 will record a similar mutual access easement for the benefit of the applicant and motorists accessing the applicant's property. The mutual access easement(s) shall be submitted to the City Attorney for review and approval prior to being recorded. It is recognized that this condition is contingent on the actions of a second party over whom the applicant has no control. In the event that, after demonstration of a good faith effort to establish mutual access easements from the owner of tax lot 700, no mutual access easement is recorded, this condition shall be voided. Any delays in the recording of the mutual access easement by the owner of tax lot 700 will not constitute grounds for delay of final occupancy approval for Chase Bank.

6. Applicant shall restripe OR 43 to accommodate bike lanes and a continuous left turn lane as shown in the concept (exhibit A, attached) prepared by Kittelson and Associates, Inc.

7. An ODOT approach permit(s) for access to the state highway or written determination (e-mail, fax or mail acceptable) from ODOT that the existing approach(es) is legal for the proposed use is required and must be obtained.

8. An ODOT Miscellaneous Permit must be obtained for all work in the highway right of way.

9. The applicant must obtain an ODOT permit to place trees in the state right of way. Tree spacing and design must be consistent with Highway Design Manual Technical Bulletin RD06-03B, or ODOT must approve a design exception.

10. Illumination within the ODOT right of way must be in accordance with AASHTO illumination standards and the ODOT Lighting Policy and Guidelines, January 2003, which states that local jurisdictions must enter into an intergovernmental agreement (IGA) with ODOT wherein the local jurisdiction is responsible for installation, maintenance, operation, and energy costs.

11. An ODOT Drainage Permit is required for connection to state highway drainage facilities. Connection will only be considered if the site's drainage naturally enters ODOT right of way. The applicant must provide ODOT District with a preliminary drainage plan showing impacts to the highway right of way. A drainage study prepared by an Oregon Registered Professional Engineer is usually required by ODOT if: total peak runoff entering the highway right of way is greater than 1.77 cubic feet per second; or the improvements create an increase of the impervious surface area greater than 10,758 square feet.

This decision will become effective 14 days from the date of mailing of this final decision as identified below. Those parties with standing (i.e., those individuals who submitted letters into the record, or provided oral or written testimony during the course of the hearings, or signed in on an attendance sheet or testimony form at either of the hearings, or who have contacted City Planning staff and made their identities known to staff) may appeal this decision to the West Linn City Council within 14 days of the mailing of this decision pursuant to the provisions of Chapter 99 of the Community Development Code. Such appeals would require a fee of $400 and a completed appeal application form together with the specific grounds for appeal to the Planning Director prior to the appeal-filing deadline.

Michael D Babbitt _____ 7-12-12

MICHAEL BABBITT, CHAIR — DATE
WEST LINN PLANNING COMMISSION

Mailed this 12th day of July, 2012.

Therefore, this decision becomes effective at 5 p.m., July 26, 2012.

Exhibit A (Kittelson and Associates)