

**CITY OF OREGON CITY
PLANNING COMMISSION HEARING**

May 9, 2011, 07:00 P.M.
City Commission Chambers - City Hall

1. CALL TO ORDER

Chair Stein called the meeting to order at 7 p.m.

Roll Call:

Chair Carter Stein
Commissioner Charles Kidwell
Commissioner Damon Mabee
Commissioner Denyse McGriff
Commissioner Paul Espe
Commissioner Zachary Henkin

Staff Present:

Tony Konkol, Senior Planner
Laura Butler, Assistant Planner
Christina Robertson Gardiner,
Associate Planner
Pete Walter, Associate Planner
Carrie Richter, Assistant City Attorney

2. PUBLIC COMMENT ON ITEMS NOT LISTED ON AGENDA

There was no public comment on items not listed on the agenda.

3. PLANNING COMMISSION HEARING

**Review by the Planning Commission to determine continued
compliance with the Conditional Use approval under OCMC
17.56.**

Commission Report

CU 07-04 Annual Review Staff Report

Exhibit 1: Vicinity Map

Exhibit 2: CU 07-04 Notice of Decision

Exhibit 3: CU 07-04 Staff Report

Exhibit 5: May 2, 2011 Email from Nancy Busch, Code Enforcement Manager

Exhibit 6: May 2, 2011 Email from Chris Taylor, Executive Assistant for the
Oregon City Police Department

Exhibit 7: May 2, 2011 Emails from Rita Cosenza- President/Director House of Hope Portland

Comments from Linda Lord

Laura Terway, Assistant Planner, said the applicant was the House of Hope who received approval for a Conditional Use in 2007 for a residential boarding school. As a condition of approval the Planning Commission required the applicant to come back to the Commission every year for three years after the use began. It began in 2008 and this was the first time they came back. Additional review would be required next year and the year after that. Notice was sent to the Neighborhood Association and those with standing in the original Conditional Use. The purpose of the review was to see if the use still complied with the criteria. There was one public comment expressing two concerns, traffic during the monthly open houses and use of the site. Staff found that the traffic associated with the open houses was typical for the zoning designation. The property stopped being used as a residential boarding school in March and the owner was unsure if they would like to continue with the use or become a foster home. Staff recommended waiting until next year's review to see how the use had changed.

Chair Stein read the hearing statement describing the hearing format and correct process for participation. He asked if there were any declarations of ex parte contact, conflict of interest, bias, or statements. There were none.

All the Commissioners present had visited the site.

Chair Stein opened the public hearing.

Linda Lord, resident of Oregon City, presented a document to the Commission that would be entered into the record as Exhibit 2. The letter the Commission received on the dias would be Exhibit 1.

Ms. Lord lived next door to the subject property. She had previously testified that the property did not fit the criteria under State law for a residential boarding school. It was licensed as a residential care facility for children, but continued to be operated as a residential boarding school. The fire inspector only inspected for a residential care facility, not a residential boarding school. She wanted to make sure that they had a license for a residential boarding school and were complying with State law before they were granted a continuation. The facility should be equal to the task and this one was not. The facility should be appropriate for her next door neighbor and it was not. There were some weed issues and a lot of people coming to the site for group activities. It was not a single family resident.

Rita Consenza was the applicant. The House had opened with one resident in June 2008 and since that time they have had a maximum of three residents for a few months at a time, but mostly one or two residents. They have held three or four open houses and four board meetings. There had been work parties for landscaping four times. They were in a transition period, and did not currently have any residents as they might do foster care. She asked for an extension of the Conditional

Use until September until the decision was made. There would be an annual rummage sale in June and yard work done on the 15th. They sent a Good Neighbor Agreement to the Neighborhood Association, but never heard back on it. She did not know she needed to schedule the review of the application, she thought the City would put it on the schedule. The girls were schooled on site at the House of Hope and the IRS classified them as a boarding school because they did on site schooling. The State said they had to notify the local Superintendent of what they were doing as the State did not license boarding schools, and the Department of Human Services considered them a residential care facility.

Tony Konkol, Community Development Director, explained the Conditional Use criteria. There was no condition that required documentation of the accreditation from the State or IRS. No parameters were set for the number of people to visit, hours of operation, etc. They just determined if it was appropriate in the neighborhood. It would be complaint driven that would notify the City if it was not compliant.

Ms. Consenza stated no other neighbors had complained about them being in the neighborhood.

There was discussion regarding the Good Neighbor Agreement requirements.

Chair Stein closed the public hearing.

Carrie Richter, Assistant City Attorney, explained the next steps for continuing the hearing and staff recommendation.

Motion by Commissioner Denyse McGriff, second by Commissioner Paul Espe to to continue the hearing to the next regularly scheduled meeting on May 23, 2011, and have the applicant provide a copy of the letter the applicant sent to the School District and the letter the applicant sent to the Neighborhood Association regarding the Good Neighbor Agreement.

A roll call was taken and the motion passed with Chair Carter Stein, Commissioner Charles Kidwell, Commissioner Damon Mabee, Commissioner Denyse McGriff, Commissioner Paul Espe, Commissioner Zachary Henkin voting aye. [6:0:0]

CU 07-05 and SP 07-13 (Quasi-Judicial Hearing)

Commission Report

CU 10-02 Annual Review Staff Report

Exhibit 1: Map

Exhibit 2: CU 10-02 Notice of Decision

Exhibit 3: CU 10-02 Staff Report

Exhibit 4: April 11, 2011 Email from Jackie Hammond-Williams, Market Manager

Oregon City Farmers Market

Exhibit 5: April 14, 2011 Email from Nancy Busch, Code Enforcement Manager

Exhibit 6: Signed Lease Agreement between the City and the Applicant

Exhibit 7: Right-of-Way Permit from the City

Ms. Terway said last May the applicant was approved for a Farmers Market downtown which operated Wednesday evenings. It required Conditional Use because of the hours of operation. As a condition of approval, the Planning Commission required a one year update. There had been some changes since the approval. The public and market employees were to park in public space on 12th and Main, on the end of the Oregon Trail, and within the public right of way, and vendors would be staging in the gravel parking lot on 12th and Main. Since then, some vendors could not make the walk from 12th and Main to the market, so the market allowed them to park at Blue Heron and Bush's Furniture?? opened their parking lot after 5 p.m. There had been no other changes, complaints, or issues. Staff recommended that the Conditional Use be moved forward. Notice had been sent to the Neighborhood Association and those with standing in the original Conditional Use. No comments had been received.

Chair Stein asked if there were any declarations of ex parte contact, conflict of interest, bias, or statements to declare.

Commissioner McGriff went to the market and knew the manager.

Chair Stein went to the market and knew the manager as well.

Chair Stein opened the public hearing.

Jackie Hammond-Williams, Market Manager, was the applicant. All the City departments had been supportive and helpful. The Market had gone out of their way not to tow anyone. Code Enforcement did take out some downtown parking for the Market, but the parking meters the rest of the time were pretty full.

There was no further public testimony.

Chair Stein closed the public hearing.

Motion by Commissioner Damon Mabee, second by Commissioner Charles Kidwell to to approve the continued use of the Conditional Use Permit for the Farmers Market.

A roll call was taken and the motion passed with Chair Carter Stein, Commissioner Charles Kidwell, Commissioner Damon Mabee, Commissioner Denyse McGriff, Commissioner Paul Espe, Commissioner Zachary Henkin voting aye. [6:0:0]

SP 11-01: Site Plan and Design Review, WR 11-01: Natural Resource Overlay District and VR 11-01: Variance: The

applicant submitted the aforementioned applications in order to install a new utility line and an associated drain line.

Commission Report

SP 11-01, WR 11-01 and VR 11-01 Staff Report

Exhibit 1: Vicinity Map

Exhibit 2: Land Use Application and Site Plans

Exhibit 3: Comments from John Lewis, Public Works Operations Manager

Additional Information Submitted by the Applicant

Comments Submitted by Paul Edgar

Staff PowerPoint

Chair Stein read the hearing statement describing the hearing format and correct process for participation. He asked if there were any declarations of ex parte contact, conflict of interest, bias, or statements.

Commissioner Mabee was on the Tri City Service District Budget Committee.

Commissioner McGriff and Chair Stein had visited the site.

Ms. Terway stated Clackamas County Water Environmental Services (WES) submitted the application to install a utility line which would alleviate some of the capacity to the Kellogg facility and eventually lead Oregon City to take on more flow when that facility closed. She explained the existing conditions and the new design proposed. The variance was being requested because the site plan and design review required the utilities be placed underground. Since this was on the side of a bridge and not underground, a variance was required. The applicant had taken steps to mitigate the variance. Also part of the project on Washington Street was in the Natural Resource Overlay District and part of it was not, and there was mitigation for that. There was an odor control valve near the intersection of Agnes and Washington Street. The project was in the flood plain, geologic hazards, and natural resource overlay district. The work would not be in the flood plain, so that was not applicable. For geologic hazards, there was a small section in the public right-of-way which was exempt in the geologic hazards code. She explained the mitigation plantings for the Natural Resource Overlay District and then reviewed the code criteria and conditions of approval.

Mr. Konkol entered the email from Mike Wallace dated May 6 as Exhibit 1 and the email received that night, May 9, from Paul Edgar as Exhibit 2. Mr. Edgar stated his concerns about thermal loading and thought the application should not be approved. Mr. Konkol said there was a long term master plan for the site which addressed capacity and future upgrades.

Commissioner Mabey had seen Mr. Edgar's email two weeks ago.

Chair Stein opened the public hearing.

Dewayne Kliewer, Clackamas County, was the applicant. He explained the line that came across the bridge which would have the same strength as the bridge. They wanted to put it on the side of the bridge to keep more area open for pedestrians. It was a mutual decision between the City and WES to put it on the upstream side. Originally they had thought to bring a 20 and 30 inch line separately across the bridge, but the 30 inch line was not in the plans because there was not structural capacity on the bridge to hold both and maintain a full width open for pedestrian traffic.

Richard Vandergraf?? lived in this area. He was concerned about the bridge and how it would look when the project was finished. The bridge was a gem resource and he asked the Commission to do the best that could be done for the public view of the river. It was a quality area and would be a visual forever. He gave examples for mitigating any obstruction of the view.

Mr. Kliewer said they had taken into consideration placing the pipe in the most strategic location that would take the aesthetic questions into consideration. The pipe would be placed in an equal span to the bridge structure so it would not stick up below or above. The pipe was set on a series of rollers which were tucked into the bridge as much as possible to allow for expansion and contraction. Also part of the staff recommendation was to paint everything black to fit in.

There was discussion about the placement of the pipe on the bridge.

Mr. Kliewer said regarding the public testimony and mitigating for the pipe, anything more that they did to screen it would make the object bigger. Tucking it in as close as possible and being midspan accomplished what they wanted with minimal impact.

Mr. Konkol said there had been many meetings with staff and WES and the proposal was a good compromise for aesthetics and placement on the bridge.

Mr. Vandergraf?? thought the concrete pad and fence that was built to put the pipe across that ended up not being used should be removed.

Mr. Kliewer said they could consider removal of the pad and fence.

Chair Stein closed the public hearing.

Commissioner Kidwell said the existing pipe was higher than the top of the deck and the one proposed was below the top of the deck and would not interfere with the view of the river any more than the existing pipe did. He thought reclaiming the width of the bridge should be done if possible.

Commissioner Espe agreed this was the best location for the pipe. He thought the pad and fence should be removed so the pedestrians could enjoy the bridge better.

Commissioner Mabee thanked the applicant for their work.

Commissioner McGriff agreed with Commissioner Espe.

Mr. Konkol said this decision would be issued with findings of fact incorporating as a recommendation the concern raised about the location of the fence.

Motion by Commissioner Charles Kidwell, second by Commissioner Damon Mabee to to approve SP 11-01, WR 11-01, and VR 11-01.

A roll call was taken and the motion passed with Chair Carter Stein, Commissioner Charles Kidwell, Commissioner Damon Mabee, Commissioner Denyse McGriff, Commissioner Paul Espe, Commissioner Zachary Henkin voting aye. [6:0:0]

4. COMMUNITY DEVELOPMENT DIRECTOR REPORT

2011 Goals Update

Mr. Konkol started the discussion on the goals and priorities for the Planning Commission. He highlighted the City Commission goals that had to do with planning and timelines for projects. He then discussed the land use application activity, which was well below average. The much smaller unit sizes were being constructed as well as property redevelopment.

5. ADJOURN

Chair Stein adjourned the meeting at 9:40 p.m.