



PLANNING COMMISSION MEETING AGENDA

September 15, 2021

Chair:

Jeremy Salvage

Vice Chair:

Don Robertson

Commissioners:

David McClain
Todd Prenoveau
Chad Munn
Josh Port
Lory Gerig-Knurowski

Community

Development Director
Kelly Hart

Work Session:

5:00 p.m.

Regular Meeting:

6:00 p.m.

WORK SESSION – 5:00 p.m.

1. Call to Order / Flag Salute
2. Roll Call
3. Work Session Discussion Items:
 - **Fueling Stations** – Discussion item on possible Development Code amendments regarding fueling station location and development standards within the City.
 - **Planning Commission Training** – The role of findings and conditions in Planning Commission decisions.

REGULAR SESSION – 6:00 p.m.

1. Call to Order / Flag Salute
2. Roll Call
3. Citizen Comments
(restricted to items not on the Agenda)
4. Commission Review:
 - a. **Public Hearing Planning File A-21-04**
 - Proposed Annexation (A-21-04) of a property on the north side of Walker Road, east of Stoltz Hill Road (12S02W15CD 3501).
 - b. **Public Hearing Planning File AR-21-05**
 - Development proposal for a 42-unit apartment complex on the northwest corner of S Main Road and Vaughan Lane (12S02W22A 07000 – 3180 S Main Road)
 - c. **Public Hearing Planning File CU-21-02**
 - Development and operation of a restaurant including a drive-through facility for the operation of a Dairy Queen on the east side of S Santiam Highway, north of the Walgreens (12S02W23B 114)
5. Commission Business & Comments
6. Adjournment



City of Lebanon
Planning Commission
Meeting Minutes
September 15, 2021

Members Present: Chairman Salvage, Vice-Chair Don Robertson, and Commissioners David McClain, Todd Prenoveau, Chad Munn, and Lory Gerig-Knurowski.

Staff Present: Community Development Director Kelly Hart, City Engineer Ron Whitlatch and Tre' Kennedy, City Attorney.

1. CALL TO ORDER – WORK SESSION – 5:00 PM

Chairman Salvage called the meeting of the Lebanon Planning Commission work session to order at 5:00 pm at the Santiam Travel Station. The meeting was also provided on the zoom for a virtual platform.

2. ROLL CALL

Roll call was taken. Commissioner Port was excused.

3. WORK SESSION – *Discussion item on possible Development Code amendments regarding fueling station siting within the City.*

At the previous Planning Commission meeting in August, the Planning Commission held a work session to consider amending the development code to allow for greater opportunities for fueling stations in the City. At the conclusion of the August work session, the Planning Commission directed staff to provide some draft language to review the development standards for the fueling stations

During the work session, staff presented the draft code language that would implement the standards for fueling stations, including minimum lot size, location standards on arterials and collectors at intersections, lighting standards, and permit types.

The Planning Commission reviewed the language and determined it was appropriate to draft an ordinance based on the development code language provided, with modifications to eliminate hours of operation limits, and further consideration of landscape buffers. There was one outstanding question on the level of landscaping to be provided for buffering between residential and the fueling station. Staff indicated they would include a placeholder in the ordinance to then circle back to at the next public meeting.

At the end of the discussion, the Planning Commission directed staff to draft the proposed ordinance and proceed with the public hearing procedures for the ordinance adoption.

4. PLANNING COMMISSION TRAINING - *The role of findings and conditions in Planning Commission decisions.*

Community Director Hart led the training session to discuss the application process for consideration of a use or development, how to develop a finding for the approval of an application, and the development of a condition to mitigate concerns and address public comments.

REGULAR SESSION – 6:00PM

1. APPROVAL OF MEETING MINUTES – None.

2. CITIZEN COMMENTS - *None*

3. PUBLIC HEARINGS

A. Planning File A-21-04 – Annexation of a property on the north side of Walker Road, east of Stoltz Hill Road (12S02W15CD 3501)

Chairman Salvage opened the public hearing. City Attorney Kennedy read into the record the quasi-judicial hearing procedures and the raise it or waive it provisions of public meeting law.

Chairman Salvage asked the Commissioners whether they had any ex-parte communications, conflicts of interest or bias to report. Seeing none, Chairman Salvage requested staff to present the application.

Director Hart presented the staff report and discussed an overview of the decision criteria outlined in the agenda packet for consideration. Director Hart indicated there was one written comment received, but it indicated a personal consideration of the developer and did not reflect any decision criteria.

At the conclusion of the staff report, Chairman Salvage opened the discussion up for questions of staff. Seeing none, the public testimony portion of the hearing was opened.

The Applicant's representative, Laura LaRoque, spoke on behalf of the applicant. They indicated support for the recommendation to approve the annexation and were available to answer any questions.

Jordan Schweiger, owner of the property spoke in favor of the application, and their desire to continue to build in Lebanon.

Chairman Salvage asked the Commissioners if they had any questions. Seeing no questions, Chairman Salvage asked if there were any other members of the public

that wished to speak on the matter.

Seeing none, Chairman Salvage closed the hearing and asked the Commissioners if they felt the decision criteria was met.

Commissioners indicated with head nods that the application met the decision criteria.

Seeing no other comments, Chairman Salvage requested a motion.

Commissioner Gerig-Knurowski moved to recommend approval of the annexation to the City Council.

Commissioner McClain seconded the motion.

The motion passed 6-0.

B. Planning File AR-21-05 – Administrative Review proposal for a 42-unit apartment complex on the northwest corner of S Main Road and Vaughan Lane (12S02W22A 07000 – 3180 S Main Road)

Chairman Salvage opened the public hearing. City Attorney Kennedy read into the record the quasi-judicial hearing procedures and the raise it or waive it provisions of public meeting law.

Chairman Salvage asked the Commissioners whether they had any ex-parte communications, conflicts of interest or bias to report. Seeing none, Chairman Salvage requested staff to present the application.

Director Hart presented the staff report and discussed an overview of the decision criteria outlined in the agenda packet for consideration. A written public comment was received in opposition to the application with stated concerns over the loss of views of the hillsides and loss of privacy of their property.

Director Hart also requested the Planning Commission to consider a minor modification to the condition to require a DSL permit, to simply meet DSL requirements for fill of wetlands as the level of fill proposed would not trigger a permit.

At the conclusion of the staff report, Chairman Salvage opened the discussion up for questions of staff.

Vice-Chair Robertson asked about the access on S Main Road and whether there was sufficient distance from the intersection for the access, or if there is any restricted access. Director Hart indicated that the applicant has identified that access as restricted, but the staff has not identified it as a condition to be restricted. City Engineer Whitlatch indicated that the driveway is far enough to not require a restriction. It was also indicated that there would not be a need for a designated right turn lane from S Main on to Vaughan, so this driveway would not interfere with

the street maneuvering.

Seeing no additional questions for staff, the applicant was invited to speak.

Matt Johnson from Studio 3 Architecture was representing the property owner. Mr. Johnson indicated that the property was over 465 feet in width, and the proposed emergency access was discussed to address the fire access, but a hammerhead could be applied for fire so it can be open access for residents. Mr. Johnson indicated that the project follows all of the code requirements with the application of the earned parking reduction, and the project meets the decision criteria.

Chairman Salvage asked for the width of the parking lot. Mr. Johnson responded the parking lot is 69 feet in width, and the units are approximately 85 feet from the northern property line.

Chairman Salvage asked whether there would be any street connection to the subdivision to the north. Mr. Johnson answered in the negative.

Vice-Chair Robertson asked regarding the orientation of the balconies, and to discuss the privacy concerns. Mr. Johnson indicated the balconies face the parking lot, and that they have not received complaints post occupancy regarding privacy with the distance provided, but he did not want to speak to the comfort level of the complainant.

Brian Vandetta, Udell Engineering provided information about water utility hookups, abandoning of the well on-site, and the distances and width of the property as it relates to the location of the driveways, and meeting appropriate distances to allow for safe maneuvering.

Seeing no additional questions of the applicant, Chairman Salvage asked if there was anyone in the audience to speak on the application.

The property owner to the north of the subject parcel spoke in opposition of the application. The property owner indicated concern on the driveway on S Main Street, and that the parcel does not seem large enough to accommodate what is being proposed. The property owner also indicated that the traffic is terrible as is, so adding additional traffic is not appropriate.

Seeing no other public comments, Chairman Salvage asked the applicant for any rebuttal or final comments.

Matt Johnson from Studio 3 Architecture verified there is sufficient land area for the development, a sight-obscuring fence is also already conditioned to be provided, the units will be market rate, and street improvements on Main Road and Vaughan Lane will be provided as part of the development, including dedication of land for a center turn lane.

Seeing no further comments, the hearing was closed and discussion restricted to the planning commission and staff.

Chairman Salvage asked whether it was appropriate to have unrestricted access on S Main Road or not. City Engineer Whitlatch indicated the location of a driveway is appropriate for unrestricted access, and that it would take pressure off the intersection.

Chairman Salvage asked the Commissioners if the application meets the criteria. Commissioners answered in the affirmative.

Vice-Chair Robertson moved to approve the application with the modification to the conditions proposed by staff for the wetland permit conditions. .

Commissioner Prenoveau seconded.

The motion passed 6-0.

C. Planning File CU-21-02 - Development and operation of a restaurant including a drive-through facility for the operation of a Dairy Queen on the east side of S Santiam Highway, north of the Walgreens (12S02W23B 114)

Chairman Salvage opened the public hearing. City Attorney Kennedy read into the record the quasi-judicial hearing procedures and the raise it or waive it provisions of public meeting law.

Chairman Salvage asked the Commissioners whether they had any ex-parte communications, conflicts of interest or bias to report. Seeing none, Chairman Salvage requested staff to present the application.

Director Hart presented the staff report and discussed an overview of the decision criteria outlined in the agenda packet for consideration. At the conclusion of the staff report, Chairman Salvage opened the discussion up for questions of staff.

Vice-Chair Robertson asked for clarification on the access onto Highway 20. Director Hart indicated use of the Walgreens easement and access through the Walgreens property would be required to get back to Burdell, but future development of the remainder of the vacant property to the east could be adjusted.

Vice-Chair Robertson and Commissioner Munn asked about the main entrance to the dining area, and appropriate access to the entrance from the parking area. Director Hart identified the designated walkway that is located behind the stacking area, and how pedestrians would maneuver through the site.

Chairman Salvage indicated the layout looked and operated similar to what the McDonalds in town.

Seeing no further questions of staff, Chairman Salvage asked for the applicant to speak.

John Odom, the architect spoke about the site design, access off Highway 20, and overall operation of the site, and provided details about how to operate the drive-

through to avoid site and street congestion.

Seeing no questions for the applicant, Chairman Salvage opened the discuss to the public. There were no public comments, and the public comment period was closed.

Commissioner Munn indicated the site seemed congested, but it meets the decision criteria.

Seeing no further comments, Chairman Salvage asked for a motion.

Commissioner Prenoveau moved to approve the application with the modification to the conditions proposed by staff for the wetland permit conditions. .

Commissioner Munn seconded.

The motion passed 6-0.

4. COMMISSION BUSINESS & COMMENTS

Director Hart indicated the City is starting the update to the Parks Master Plan and introduced John Coon who will be helping with the update as a RARE Intern.

Director Hart indicated that there were no applications schedule for the October meeting, but a meeting could still be scheduled to hold a Planning Commission training.

The Commissioners identified a desire to consider the Planning Commission training.

5. ADJOURNMENT:

There being no further business, the meeting was adjourned at 7:20pm.

[Meeting minutes prepared by Kelly Hart, Community Development Director]

Planning Commission Training

Procedures, Findings, and Conditions



THE CITY THAT FRIENDLINESS BUILT

Application Procedures

- Development Review Team – reviews concept
- Application submittal
- Reviewed by Staff for Compliance with:
 - Development Code
 - Engineering Standards
 - Fire Code
- Public Notification – 20-day notification period (usually)
- Public Hearings (for some applications)
- Decision
 - Administrative – Planning Official
 - Quasi-Judicial – Planning Commission
 - Legislative – City Council

Land Use & Development Decisions	Decision-Making Procedure	Decision Authority	Local Appeal is Heard By
Annexation	Legislative	City Council [CC]	xxx
Appeals	Administrative / Quasi-Judicial	Planning Official / Planning Commission [PC]	PC CC
Code Interpretation	Administrative	Planning Official / PC	PC
Comprehensive Plan and Zoning Map Amendments	Legislative	City Council	xxx
Conditional Use	Quasi-Judicial	Planning Comm.	CC
Development Code (LDC), and Comprehensive Plan Text Amendments	Legislative	City Council	xxx
Historic Preservation Reviews and Register Updates	Administrative Quasi-Judicial Legislative	Planning Official Planning Comm. City Council	PC CC xxx
Home Occupations	Ministerial	Planning Official	PC
Land Partition	Administrative	Planning Official	PC
Modification to Approved Plans and Conditions of Approval	Ministerial Administrative Quasi-Judicial	Planning Official Planning Official Planning Comm.	PC PC CC
Non-Conforming Uses and Developments	Administrative	Planning Official	PC
Planned Development - Preliminary	Quasi-Judicial	Planning Comm.	CC
Planned Development - Final	Ministerial Administrative Quasi-Judicial	Planning Official Planning Official Planning Comm.	PC PC CC
Property Line Adjustment	Administrative	Planning Official	PC
Sign Permit (Planning Review)	Ministerial	Planning Official	PC
Subdivision	Administrative Quasi-Judicial	Planning Official Planning Comm.	PC CC
Temporary Uses	Ministerial	Planning Official	PC
Tree Felling Permit (Steep Slopes)	Administrative	Planning Official	PC
Urban Growth Boundary Amendments	Legislative	City Council	xxx
Vacating Public Lands and Plats	Legislative	City Council	xxx
Variances (Adjustments)			
• Class 1 (Minor Adjustment)	Ministerial	Planning Official	PC
• Class 2 (Adjustment)	Administrative	Planning Official	PC
• Class 3 (Variance)	Quasi-Judicial	Planning Comm.	CC



Decision Criteria!

- Applications are Approved or Denied based on the ability to meet the Decision Criteria
 - Decision Criteria is established in the Development Code – can only be changed by Legislative Action
- The Decision Criteria changes based on the type of applications
 - Administrative Reviews – Does the project meet development standards?
 - Subdivisions – Are the lots sized appropriately and able to be serviced by utilities and transportation?
 - Conditional Use Permits – Are potential negative impacts appropriately mitigated?
 - Variances – Is there a unique circumstance?



Findings

- The Findings must support the decision criteria and identify evidence of support
 - Example: Apartment Development
 - Decision Criteria – “The proposal shall conform to use, height limits, setbacks and similar development requirements of the underlying zone”
 - Finding Language:
 - Identify the standards the apply (max. height – 40 feet)
 - Identify how the proposal meets the standard (proposed height – 35 feet)
 - Continue pattern for each identified criteria
 - Example: Use – Bar or Tavern
 - Decision Criteria – “The negative impacts of the proposed use on adjacent properties and on the public can be mitigated through application of other Code standards, or other reasonable conditions of approval”.
 - Finding Language:
 - Identify potential negative impact (noise)
 - Identify how the use is mitigating that impact:
 - Limit outdoor seating, locate as far away from neighboring properties as possible on the lot, close the outdoor seating early to limit night-time noise levels (conditions of approval)
 - Buffering the properties with high screen landscaping (code standard)
 - Restrict live entertainment to indoors only (conditions of approval)



Conditions of Approval

- We are guided by the Supreme Court! (and a bunch of other regulations)
 - Nollan v. California Coastal Commission, 107 S. Ct. 3141 (1987)
 - Essential nexus between conditions and problem or concern trying to be addressed
 - Dolan v. City of Tigard, 114 S. Ct. 2309 (1994)
 - Rough proportionality
 - Koontz v. St. Johns River Management District, 133 S. Ct. 2586 (2013)
 - Monetary in lieu of property exactions must meet the Nollan/Dolan two-part test



Conditions of Approval

- Example: Bar-Tavern Use (Conditional Use Permit)
 - What is the objective? To mitigate noise intrusion to neighboring properties
 - Proposed Condition: High Screen Landscaping shall be installed along the perimeter of the property within the required 5-foot landscape buffer.
 - Put it to the test – Is there a nexus? Is the condition requirements a proportional response?
- Hypothetical: 1,500 square foot building expansion for existing business on Montessa Way
 - City TSP has a plan to expand Montessa Way south to connect to the street system.
 - As a condition of approval, staff is requiring a 10-foot land dedication from the subject property as well as full half-street road improvements from Oak to the end of the road as the street is considered sub-standard.
 - Put it to the test – is there a nexus? Is there a rough proportionality between the condition and proposed project?



Put it all Together

- Applications are required for development, and some uses to ensure compliance with the development code, and provide standards to protect the public health, safety, and welfare
- Application procedure and review authority established in the Development Code and can be amended over time
- Findings are the established record that the applicant has provided evidence to demonstrate compliance with the development code, and the Planning Commission decision is based on the specific criteria and written support that the criteria has been met
- Conditions of Approval are to address direct impacts of the proposed project beyond the code standards
 - This is the tool that can be used to address public concerns during hearings

