

**CITY OF TIGARD
PLANNING COMMISSION
Meeting Minutes
December 7, 2009**

1. CALL TO ORDER

President Inman called the meeting to order at 7:05 pm. The meeting was held in the Tigard Civic Center, Town Hall, at 13125 SW Hall Blvd.

2. ROLL CALL

Present: Commissioners Anderson, Caffall, Doherty, Fishel, Inman, Muldoon, Vermilyea, and Walsh

Absent: Commissioner Hasman, Alternate Commissioner Gaschke

Staff Present: Craig Prosser, City Manager; Dick Bewersdorff, Planning Manager; Susan Hartnett, Assistant Community Development Director; Gary Pagenstecher, Associate Planner; Cheryl Caines, Associate Planner; Gus Duenas, Development Engineer; Sean Farrelly, Redevelopment Project Manager; Doreen Laughlin, Sr. Administrative Specialist

3. COMMUNICATIONS – In celebration of 8 years of service on the Planning Commission, there was a time of recognition of and appreciation for outgoing President Jodie Inman.

4. CONSIDER MEETING MINUTES

11-02-09 Meeting Minutes: President Inman asked if there were any additions, deletions, or corrections to the minutes; there being none, President Inman declared the minutes approved as submitted.

President Inman opened the public hearing.

5. PUBLIC HEARINGS

5.1 DEVELOPMENT CODE AMENDMENT (DCA) 2009-00004. SEASONAL OUTDOOR SALES CODE AMENDMENT – Cont'd from 11-02-09

President Inman read a statement from the applicant (City of Tigard) asking for a continuance of this hearing to a date certain of January 4th. Inman asked if there was anyone in the audience who had signed up to speak but could not make the January 4th meeting. Seeing and hearing none, she said she would entertain a motion to accept the continuance.

The following motion was made by Commissioner Caffall, seconded by Commissioner Vermilyea:

“I move that we continue the public hearing DCA2009-00004, Seasonal Outdoor Sales Code Amendment,” as requested by the applicant, to January 4, 2010.”

The motion CARRIED on a recorded vote, the Commission voted as follows:

AYES:	Commissioner Anderson, Commissioner Caffall, Commissioner Doherty, Commissioner Fishel, Commissioner Inman, Commissioner Muldoon, Commissioner Vermilyea, and Commissioner Walsh (8)
NAYS:	None (0)
ABSTAINERS:	None (0)
ABSENT:	Hasman (1)

Inman announced that, per the motion, the public hearing on DCA2009-00004 is continued to January 4, 2010.

5.2. PLANNED DEVELOPMENT REVIEW SONIC DRIVE-IN RESTAURANT – PDR2009-00001, VAR2009-00014

PUBLIC HEARING [PART I CDP] CONCEPTUAL DEVELOPMENT PLAN

STAFF REPORT

Cheryl Caines, Associate Planner, gave the staff report on behalf of the City. [Staff reports are available to the public upon request one week in advance of any meeting.] She showed a map showing the proposed location and stated the site is located at 15300 SW Pacific Hwy. The site consists of 1.34 acres located east of Pacific Hwy, south of Naeve St. and n/w of Royalty Parkway. She noted that just to the north is Mays Auto Sales and to the south is Les Schwab Tire Center. She said the applicant is requesting a concurrent review of the concept plan and detailed plan. There will be two hearings – first for the conceptual plan and, if that’s approved, they would move on to the detailed plan. By doing so, the applicant assumes the risk of rejection of the detailed plan resulting from rejection of the concept plan.

Caines noted with regard to the Concept Plan:

It is a two phased plan:

- Phase 1 – fast food restaurant with drive through
- Phase 2 – second commercial building with possible drive through component (approximately 3,000 sq ft)

Caines went on to say the applicant met the conceptual plan standards with one exception. There was no clear schedule proposed for both phases showing when the phases will be initiated and when they will be completed.

Staff is recommending approval of the concept plan with a couple of issues that may be discussed if the Commission feels it necessary to do so. She said the plan meets the concept and standards but, looking at the site, is the Commission satisfied with the overall design? The design seems to be driven mainly by the circulation for the site and uses, and also the access points from Pacific Hwy and Royalty Parkway (shared with Les Schwab on the south end of the site off of Pacific Hwy). She said there are some regulations that say that's pretty much where it's going to be with ODOT's standards. Caines noted there was an existing access point there, so they're sharing that with Les Schwab and there wasn't a lot of "wiggle room" on changing that access location. She said the applicant is not requesting exceptions allowed through the PD process, PD overlay was existing, not requested, the site has no natural areas to preserve and the site is quite small.

QUESTIONS OF STAFF BY COMMISSIONERS:

There were some questions as to the unusualness of the hearing on this project – with the two plans. Dick Bewersdorff spoke to that for a bit and wrapped it up saying “The concept – what they're proposing – does it fit the desires of the Commission and, finally, does the detailed plan meet the code requirements?” Question was asked: So we have to speak separately? Bewersdorff: “It's all part of the same hearing but you make separate decisions on each.” So we can have one deliberation – but separate...? Bewersdorff: “Yes.”

APPLICANTS PRESENTATION:

Jess Wetsel, with the Wetsel Company, the applicant, at 2123 NW Aloclek Dr., Hillsboro 97124, introduced himself & his wife/business partner/co-owner, Andrea. He apologized for having a conceptual as well as a detailed plan. He said it was something Caines had worked with them quite a bit on. He said he appreciated the commission's understanding and Caine's work on what could have been a bit difficult for her. Andrea Wetsel gave a presentation, giving a background and overview of what the “Sonic concept” is (**Exhibit A**).

After Wetsel's presentation, President Inman interjected that she'd forgotten to poll the commissioners and audience regarding ex-parte contacts and jurisdiction. She apologized and said she would do it at this point (slightly out of normal order). President Inman asked if there were any commissioners who wished to abstain or declare a conflict of interest. *There were none.* She asked if anyone in the audience wished to challenge any member of the Planning Commission for bias or conflict of interest. *No one did.* She asked the commissioners to report any ex parte contacts. *There were none.* Two commissioners reported site visits (Commissioners Muldoon and Anderson). *No one in the audience challenged the jurisdiction of the commission.*

SOME QUESTIONS OF THE APPLICANT / SUGGESTIONS FROM COMMISSION

With regard to the Conceptual Plan:

Do you have any plans to partition the site? Most likely, yes. In fact, we anticipate that we would begin that process immediately. **Would Black Rock be a drive-through?** Yes. **Have you looked at other sites?** Yes – countless sites. This particular site is of interest to us because it's between the Wilsonville location and our Hillsboro location. It's on Hwy 99 which is a very heavily traveled road in a fairly dense neighborhood that is underserved by restaurants. We are very excited about pursuing this particular location. **Has Black Rock looked at the site plan?** Yes – no feedback from them.

There were some questions and concern about circulation. Bryan Cole, Landscape Architecture Manager, Associate from MacKay & Sposito, Inc., spoke to those concerns. He spoke about accommodating inbound traffic, queuing traffic, drive-through stacks, etc.

There were concerns regarding the location of the menu-board possibly causing a back-up of traffic. Andrea Wetsel spoke to that. She believed it wouldn't be a problem for various reasons.

President Inman suggested that the location of the second lane menu-board should be moved farther north to make it clear that it's clearly out of the path of travel. She believed people could be directed around the corner and out of the congested area. Possibly striping that clearly marks the path going around – making it very clear that this is where the travel way is.

The circulation appears awkward. Coming from the south – is that a 2 way access? There are conflicting traffic movements happening. There's no reason for Les Schwab to use that. It's not anticipated that there will be much traffic from there because it doesn't really go anywhere.

The presumption is Black Rock Coffee being there... what amount of cars would be crossing the Sonic property? I'd guess 20% at most.

PUBLIC TESTIMONY – IN FAVOR:

No one had signed up and no one in the audience was there to speak in favor.

PUBLIC TESTIMONY – OPPOSITION: None.

QUESTIONS FROM COMMISSIONERS OF STAFF

There were some general questions about the width of the driveway in the front and what is required. Caines spoke to that question. She said the detailed plan was modified to meet the requirements.

**PUBLIC TESTIMONY [PART I] CLOSED:
DELIBERATIONS ON THE CDP [Conceptual Development Plan]**

President Inman entertained comments on the general site layout, circulation, and other such issues.

Muldoon: This type of business seems to me to be a retail business to occupy the area – it doesn't have any particular design that it has to conform to. I don't see any real problem with it.

Caffall: I'd feel a whole lot happier if that one area was a one-way but other than that I don't see a problem with it. Which area? The drive between Les Schwab and what would be the south side of their operation. My feeling is at some point even with the stop sign up there – at some point there's going to be a point of contention with cross-traffic. Inman: That might be a fire access...

Vermilyea: I concur with Commissioner Muldoon. I don't have much of an issue on the back side of the Les Schwab – my view is the two of them can work that out if the need arises down the road. I am concerned about the general flow of traffic. I understand it better now after hearing the explanations. I feel more comfortable now with regard to the south side. I'm a little bit concerned about how traffic is going to get through to the north side and then back around. I think if they move that board up, that will help. My one concern is how does moving the property 4 feet end the domino effect that impacts the traffic flow on the southern side. Maybe we could condition that for later. Beyond that, it certainly is better than what is there now. It fits in with the character of the neighborhood just fine. I know my kids will be hanging out there on Friday's. We just need to get the traffic issues nailed down.

Walsh: I don't like the traffic flow. If this was strictly a concept but I know this is going back to detail. I'm not satisfied and would like to see what ODOT has to say.

Inman list of concerns: I'm okay with the orientation of the buildings. I understand the general traffic flow on the site and why it's there. From a conceptual level I think I'm okay with it but at this point I think I'd require at the DDP to address the traffic flow patterns coming off of the southwest.

Anderson: Okay with concept plan – would like to see it redrawn with a 1000 sq ft footprint for the second building. It's a big lot – I just don't want it to be a quagmire where everyone gets stuck. I would approve the concept.

MOTION:

Commissioner Vermilyea made the following motion, seconded by Commissioner Muldoon:

“I move we approve the concept plan for PDR2009-00001/VAR2009-00014 as conditioned in the staff report, and as modified as indicated by the applicant tonight with respect to expansion of the north side traffic aisles and movement of the building footprint south 4 feet to accommodate traffic flow, and moving the menu boards to accommodate additional stacking of traffic while waiting.”

The motion CARRIED on a recorded vote, the Commission voted as follows:

AYES:	Commissioner Anderson, Commissioner Caffall, Commissioner Doherty, Commissioner Fishel, Commissioner Inman, Commissioner Muldoon, Commissioner Vermilyea, and Commissioner Walsh (8)
NAYS:	None (0)
ABSTAINERS:	None (0)
ABSENT:	Hasman (1)

PUBLIC HEARING [DDP PART II] DETAILED DEVELOPMENT PLAN

At this point the hearing continued but this time with regard to Sonic's DDP [Detailed Development Plan].

ADDITIONAL STAFF REPORT SUPPLEMENTATION:

Cheryl Caines, Associate Planner, gave the supplemental staff report. She noted the following:

- Only for Phase I
 - 1,728 sq ft Sonic on south side of site
 - 990 sq ft patio dining area

- 26 in car dining spaces
- Phase 2 detailed plan at a later date with possible Minor Land Partition
- Originally there was a request for an adjustment to exceed the maximum allowed parking standard allowance for that site, but under review it was determined that that adjustment was not necessary because if you add the square footage of the covered patio which counts towards square footage – it actually gets the applicant above the actual number of spaces they've proposed with this detailed plan so that isn't actually necessary.
- Staff is recommending approval with conditions:
 - Tree canopy for the site (soil and species)
 - Staff is recommending one freestanding sign because the two phases are dependent upon each other, not separate developments – only one sign.
 - Wheel stops – some sort of protection for people walking on the walkway.
- Proposed changes from Public Works. [Caines distributed a memo and some comments (Exhibit B) that had been received from Public Works after the application packets had been mailed out to the commissioners. Because of those comments staff proposed some slight changes.
 - An amendment to condition 12 & condition 33 (See Exhibit B).

Gus Duenas, Development Engineer, said he wanted to make sure the applicant is conditioned to extend the sidewalk south of the property on the Les Schwab frontage and SW Royalty Parkway to close that sidewalk gap. That would need to be completed before the final building inspection. That would be about 260' over the existing sidewalk.

APPLICANTS PRESENTATION WITH REGARD TO THE DETAILED DEVELOPMENT PLAN

The applicant quickly went through the rest of the PowerPoint. At this point, Fred Harris, Architect with Carlson Veit, in Salem, was introduced and after him Chris Tiesler of Kittelson & Associates would speak. The applicant said he remained hopeful that at the end of the hearing they would have an approval with conditions to make the changes and they can move forward as they'd been working for several months and have a consider amount invested in this process. He said they strongly desire to move the project forward that night if at all possible.

Harris talked about the wheel stops. He said spaces on the south side do not have wheel stops primarily as safety for the employees who are on roller skates. He said the call box and the order box for ordering food is right beside the driver's window and that call box is placed a distance from the curb so when they stop there to order, they are well away from the curb. He said if the wheel stops are needed to proceed, they can do that, but they believe that would be a safety hazard. He spoke about the access aisle and said he hopes they can

make it a single lane on the backside of the restaurant. They'd like to have that space. He said they would provide a minimum of 4 bike spaces.

Bryan Cole, a landscape architect with MacKay & Sposito, 1325 SE Tech Center Dr., Vancouver, WA spoke in response to the condition regarding trees. He said he is working with their arborist and the City's arborist. He spoke about soil volume, irrigation, and tree canopy.

Chris Teasler, from Kittelson & Associates, the applicant's traffic engineer, responded to some of the things he'd heard. He spoke about access, queuing, and the one-way driveway into their site. He spoke about the general concepts on the queuing and overall amount of traffic. In the analysis, they were fairly conservative. 110 to 115 cars coming to the site averaged out. Two menu tables would help during the peak time periods. 70% of the traffic is anticipated to come from Hwy 99W. So the concern about the queuing on the outside one for people coming in off of Royalty has been noted but because of the distribution to the site with only 30% of the vehicles coming from Royalty Parkway – the ability for someone to get into that queue will be minimized.

Inman questioned the applicant about whether they'd ever considered the possibility of a using a "green roof." He answered "No." She asked if that had ever been done at any of their facilities. He answered "No ma'am. Not that I'm aware of."

PUBLIC TESTIMONY IN FAVOR OF APPLICATION: None.

PUBLIC TESTIMONY IN OPPOSITION OF APPLICATION:

John Frewing, 7110 SW Lola Lane, Tigard, spoke against. He would like a planter strip between Hwy 99 in front of Les Schwab and the sidewalk. With regard to trees, he's interested that there is an irrigation system for the trees. He would like the applicant to come in with a 15 year canopy goal for the site - possibly permeable pavement (where roller skates don't go.) Lastly, regarding block size 330', he is concerned it is longer than the standard code.

APPLICANT REBUTTAL: "Some of the concerns are outside the scope of my control. Planting strips on other people's property, namely, Les Schwab – I don't control that. Block size – I can't control that. Practically, what we're doing is extending the sidewalk where there is now just a ditch. We are improving the property and providing pedestrian crossways through the property from Royalty to Hwy 99... so I understand that perhaps from certain perspectives, we can always do more. I believe we've done what we can do here."

CLOSED PUBLIC TESTIMONY

DELIBERATIONS FOR THE DDP

Commissioner Caffall said the “green roof” will simply not work unless you’re going to build substantial pylons to hold up a roof that doesn’t work in the northwest because of our volume of rain; buildings come tumbling down with green roofs. He believes the applicant has gone out of their way to make the property nice and believes they’d be a great addition to the City. Commissioner Doherty agreed regarding both the green roof and believes the landscaping and such will help the area.

Commissioner Vermilyea believes they should agree to waive staff’s recommendation... in other words – no wheel stops on the south side is fine. He thinks the use for a drive-in that’s got carhops – wheel stops tend to make it difficult to accomplish that. Commissioner Fishel said she heartily agreed with that.

At this point, President Inman gave a synopsis of the conditions that staff had recommended [that she’d been tracking]:

- Wheel stops – they all agree – no. Remove that condition.
- 1 versus 2 free standing signs – they agree on this one. Condition remains.
- Tree Canopy – they’d like to leave condition #1 in as is.
- Three Public Works Conditions
 - #12 regarding water meters will stay;
 - #33 regarding the maintenance of the water quality facility will stay; and
 - an additional condition to extend the sidewalk on SW Royalty Parkway across Les Schwab to close the sidewalk gap to the existing sidewalk - remains.

So those are the existing conditions right now; other issues?

- Extend and add the conditions that they work with Les Schwab to explore opportunities to minimize that access to be able to accommodate the additional floor (inaudible).

MOTION:

Commissioner Vermilyea made the following motion, seconded by Commissioner Doherty:

“I move that we approve the application PDR2009-00001/VAR2009-00014, the Detailed Development Plan and the adoption of the findings and conditions of approval contained in the staff report as amended on the floor this evening, with the exception that the requirement that there be wheel stops on the south side of the building is removed; they must comply with the Development Code cited on the findings specifically to extend the sidewalk on the parkway side to provide the

amended and additional conditions set forth in Cheryl Caines memo dated 12/7/09; they are going to expand the travel aisle on the north side of building to 14' in width to accommodate cars entering and exiting parking stalls; and move the building footprint south 4 feet to accomplish that goal. They will move the menu-boards on the drive-through lanes to the north to allow for additional stacking and will work with Les Schwab to accommodate improved traffic flow, including the consideration of reduction of that lane and turning it into a one-way lane.”

The motion CARRIED on a recorded vote, the Commission voted as follows:

AYES: Commissioner Anderson, Commissioner Caffall, Commissioner Doherty, Commissioner Fishel, Commissioner Inman, Commissioner Muldoon, Commissioner Vermilyea, and Commissioner Walsh (8)

NAYS: None (0)

ABSTAINERS: None (0)

ABSENT: Hasman (1)

SHORT RECESS

5.3 DOWNTOWN URBAN RENEWAL DISTRICT CODE AMENDMENTS CPA2009-00003, DCA2009-00005, ZON2009-00001

STAFF REPORT

Sean Farrelly, Redevelopment Project Manager, explained why this was coming to the commissioners once again since there was a hearing previously held on this very thing back in October 19th. He said he'd indicated in a memo [that he'd sent to the commissioners in their packets] that they'd finally come to an understanding with ODOT that resulted in a major change in the proposed code. Also, they wanted to make sure that proper notice was provided under Measure 56. He asked that the minutes and staff report from October 19th be entered into the record. He said, for purposes of the record, this will be considered the first public hearing. He went through the proposal using a PowerPoint presentation (Exhibit C).

At the end of his presentation, Farrelly went over the following changes [since the prior Planning Commission meeting of October 19th].

- Discussions with ODOT on potential impacts of 8-story development in Hall/99W sub-area.

- Due to potential increases in trip generation, new proposal will revert to the maximum building heights permitted under the properties' existing zoning (80 feet for properties currently zoned CBD, 45 feet for properties currently zoned C-G and C-P.
- The boundaries of the Hall/99W sub-area were re-drawn to separate out the properties currently zoned CBD and those zoned C-G and C-P.
- The boundaries of the Hall/99W sub-area were re-drawn to separate out the properties currently zoned CBD and those zoned C-G and C-P.
- The proposed front setback reduced from 10 feet to 5 feet.
- Changes incorporated into new draft 5.2.

QUESTIONS OF STAFF BY COMMISSIONERS

Can you remind me of sidewalk width when redevelopment happens on Hwy 99? *It is 10 feet.* And then the street tree requirement will be there as well? *Yes.*

PUBLIC TESTIMONY – IN FAVOR

Alexander Craghead, 12205 SW Hall Blvd., Tigard, OR 97223 spoke in favor. He read a written statement [Exhibit D.]

PUBLIC TESTIMONY – IN OPPOSITION: None.

PUBLIC HEARING CLOSED

DELIBERATIONS – Nothing further.

MOTION:

Commissioner Vermilyea made the following motion, seconded by Commissioner Muldoon:

“I move we recommend approval of CPA2009-00003, DCA2009-00005, ZON2009-00001 to City Council.”

The motion CARRIED on a recorded vote, the Commission voted as follows:

AYES: Commissioner Anderson, Commissioner Caffall, Commissioner Doherty, Commissioner Fishel, Commissioner Inman, Commissioner Muldoon, Commissioner Vermilyea, and Commissioner Walsh (8)

NAYS: None (0)
ABSTAINERS: None (0)
ABSENT: Hasman (1)

6. STUDY SESSION PREPARING FOR JOINT MEETING WITH COUNCIL REGARDING TREES (SCHEDULED FOR JANUARY 19TH).

Associate Planner, John Floyd, on behalf of the City, led a discussion about the upcoming joint meeting. It will be a workshop – Floyd noted that generally they don't take public input at these joint meetings. Vice President Walsh suggested that basically they walk the Urban Forestry Master Plan by Council and get their thoughts on it. Commissioner Doherty said she didn't really know what they, as a body, thought about this. Commissioner Vermilyea suggested that they get together again and get on the same page – or at least understand what they all think, since they hadn't discussed this topic in 18 months or so. There were several things brought up that they, as a body, hadn't really talked about.


It was decided that this study session would continue on January 4, 2010 for further discussion.

7. OTHER BUSINESS – Photographs were taken of the commissioners on the Dias for the Comprehensive Plan land-use chapter.

8. ADJOURNMENT

President Inman adjourned the meeting at 10:30 pm.


Doreen Laughlin, Planning Commission Secretary


ATTEST: President Jodie Inman
