

**Development Review Board – Panel B
Minutes–October 22, 2018 6:30 PM**

I. Call to Order

Chair Richard Martens called the meeting to order at 6:30 p.m.

II. Chair’s Remarks

The Conduct of Hearing and Statement of Public Notice were read into the record.

III. Roll Call

Present for roll call were: Richard Martens, Samy Nada, Shawn O’Neil, and Tracy Meyer. Aaron Woods was absent.

Staff present: Daniel Pauly, Barbara Jacobson, Steve Adams, and Charles Tso

IV. Citizens’ Input This is an opportunity for visitors to address the Development Review Board on items not on the agenda. There were no comments.

V. Consent Agenda:

A. Approval of minutes of August 27, 2018 DRB Panel B meeting

Shawn O’Neil moved to approve the August 27, 2017 DRB Panel B meeting minutes as presented. Samy Nada seconded the motion, which passed unanimously.

VI. Public Hearing:

A. Resolution No. 358. Grace Chapel Remodel and Addition: CIDA Architects–Applicant for Grace Chapel – Owner. The applicant is requesting approval of a Stage I Preliminary Plan Modification, a Stage II Final Plan Modification, Site Design Review, Type C Tree Removal Plan and Class 3 Sign Permit for the remodel and addition to an existing building for Grace Chapel. The site is located at 27501 SW Parkway Avenue on Tax Lot 301 of Section 11, T3S-R1W, Clackamas County, Oregon. Staff: Daniel Pauly and Charles Tso

Case Files:	DB18-0055	Stage I Preliminary Plan Modification
	DB18-0056	Stage II Final Plan Modification
	DB18-0057	Site Design Review
	DB18-0058	Type C Tree Removal Plan
	DB18-0059	Class 3 Sign Permit

Chair Martens called the public hearing to order at 6:35 p.m. and read the conduct of hearing format into the record. All Board members declared for the record that they had visited the site.

No board member, however, declared a conflict of interest, bias, or conclusion from a site visit. No board member participation was challenged by any member of the audience.

Charles Tso, Associate Planner, announced that the criteria applicable to the application were stated on page 2 of the Staff report, which was entered into the record. Copies of the report were made available to the side of the room.

Mr. Tso presented the Staff report via PowerPoint, briefly reviewing the site's background and noting the project's location and surrounding features with these key comments:

- The existing building was a 20,000 sq ft, two-story concrete tilt-up building constructed in 1984 and remodeled in 2000. The most recent occupant was Pioneer Pacific College, who used it as a classroom and education space. It was currently vacant.
- The Applicant, Grace Chapel, proposed a ground floor addition of approximately 12,000 sq ft to accommodate a multi-use auditorium that would include a basketball and volleyball court, as well as a chapel and lobby for use during Sunday morning gatherings. The addition would also be available as a multi-purpose facility for events like dinners or other community support programs.
 - The proposal also expanded the second floor of the existing building by 2,000 sq ft with a new mezzanine, which would provide space for the church's administrative offices.
- The project had followed the standard required land use notice procedure via notifications to property owners within 250 ft of the site. The notice was also published in the newspaper and posted at both the project site and on the City's website.

Daniel Pauly, Senior Planner, continued with Staff's PowerPoint by explaining that the Stage I Master Plan Modification would address the site's use, essentially the transition from a college campus use to a church or religious use.

- As a policy standpoint, the purpose of the Planned Industrial Zone was to offer a variety of industrial operations and their associated uses. This zone was also driven by standards in the Metro Code that tried to preserve industrial land throughout the region for industrial uses and job creation. The Planned Industrial Zone stated that any use allowed in the commercial zone, which included churches or religious uses, were allowed subject to a number of limitations, which particularly limited uses that catered to daily customers or that generated a lot of daily traffic, including service commercial uses, such as real estate or medical offices; office complex uses; retail uses; and a combination of such. Under the current Code, those uses were limited to 5,000 sq ft in a single building or 20,000 sq ft in a multi-building site.
- In the current proposal, the religious use did not fall under any of those defined categories for limitation, so the entire site could be used for the proposed purpose in the Planned Industrial Zone, as long as it did not rise to that level of catering to daily customers, and it would not according to the findings; therefore, it was an allowed use and could be changed from the previous college campus use to the proposed religious use.
- He noted that especially from a legal and constitutional standpoint, the religious use was a key factor. The Applicant had been in the community for a long time, involved in many community events that had been acknowledged at Council level and throughout the

community. With that said, the DRB needed to remain neutral, look at the facts and how the Code applied, and not favoring the Applicant one way or the other based on prior community involvement or lack thereof.

Shawn O'Neil asked when was the last time the Planning Department had reviewed a religious use application, regardless of the religion.

Mr. Pauly replied Planning had done a number of temporary permits for churches in the last few years, but for a permanent church, it had been over a decade to his knowledge.

Mr. O'Neil asked if there was a uniform process to assure that upon the review of all religious applications, the City was not promoting one specific religion versus another. He asked if religious applications were kept in a central bank for Staff to look at to determine whether or not certain exemptions were given to one religious institution versus another to ensure the City was consistent in its decision-making.

Mr. Pauly responded that while conscious of the federal laws around religious uses, Staff treated religious use as any other use that would be allowed in a given zone and gave it no special categorization.

Mr. O'Neil clarified he was very familiar with Grace Church and was not concerned with the applicant, he was concerned about the process. If this was the first application by a religious institution in over several years, he wanted to ensure any decision made tonight had some consistency with any future applications that might come before DRB B or DRB A. Whether it was an application for a Mosque, Buddhist temple, or church remodel, he wanted to ensure that the Board applied the law uniformly and fairly and was not swayed by either positive or negative testimony that was not relevant to the Board's decision making, especially given the Establishment Clause and other limitations under the U.S. and Oregon State Constitutions. He asked if the City had a process in place.

Barbara Jacobson, City Attorney, stated that a religious institution had not applied since her employment with the City began. When the current application came in, Staff had looked very carefully at the pure language of the Zoning Code. Staff did not look at the faith, but kept the Establishment Clause in mind. Any waivers granted for the current application would be noted. She was very strict about Staff being consistent in the treatment of each application. If another church application came along, Staff's process would be neutral as to the particular religion during that process as well.

Mr. O'Neil believed if the church he was a member of came before DRB B, he would have to abstain from any decision making and asked if that was Ms. Jacobson's assessment as well.

Ms. Jacobson replied if he believed he could not be neutral and unbiased, he should recuse himself.

Mr. O'Neil stated he was mostly concerned with the appearances.

Ms. Jacobson believed it was always a good call for a Board member to recuse themselves if there was an actual conflict or an appearance of a conflict on an issue.

Tracy Meyer stated she was surprised to hear Mr. Pauly mention the positive activities the church was doing in the community in his presentation, as those did not seem like things that should be considered by the Board in the approval process.

Mr. Pauly agreed that was correct. He had commented on those activities because they were already in the record, particularly in Exhibit D1, which was submitted today. He imagined more similar testimony would be heard. He noted those were not the Staff's statements, but only a reflection of what had occurred.

Mr. O'Neil clarified he was not trying to imply that Staff had done that.

Ms. Meyer added the positive statements were not a bad thing; she simply wanted to ensure all applicants were treated fairly.

Ms. Jacobson stated it was a good discussion. There were many glowing recommendations for the church, but those were not considered by the DRB, only the zoning use and whether or not the application met the criteria for parking, tree removal, and other required components as outlined by Mr. Pauly and Staff. If the Applicant met the requirements, great; if not, further discussion would be warranted.

Chair Martens noted that when Mr. Pauly had referenced those positive activities earlier he admonished the DRB to look at the application objectively based on the facts.

Mr. Tso continued Staff's presentation, describing and reviewing the Applicant's requests with these key comments:

- The Stage II Final Plan Modification would change the site layout to accommodate the building expansion and onsite vehicular circulation. The traffic study showed the change of use from college campus to church would result in less PM Peak traffic from the site. The site included parking, adequate circulation areas, and adequate pedestrian connections.
 - The landscaping met or exceeded City standards and the site would be well-screened by landscaping on all sides.
- Site Design Review. The Applicant used professional services to design the remodel and the addition of the building, incorporating quality materials. The project incorporated unique geometry, a variety of different materials, including metal, aluminum, and wood to create a visually stimulating elevation.
 - The vertical windows and glazing patterns added even more variety to the elevations and design. (Slide 12) He noted the cross-shaped glazing pattern of the window on the north elevation would allow the interior light to come out and highlight the building at night.

- The elevation elements extended to the outdoor areas as a section of doors could be opened off the lobby to allow the plaza to integrate with the lobby which could serve a different mix of functions for the site.
- The design team used the need to screen the rooftop HVAC unit as an opportunity to create additional forms on the rooftop to break up the elevations with different materials to add more visual stimulation into the design.
- Tree Removal Plan. The Applicant proposed removing 36 trees, mostly due to the health and condition of the trees, as well as unavoidable damages from the construction and repair of the existing parking lot. The submitted Landscape Plan showed the required 36 trees that needed to be replanted on the site.
- Class 3 Sign Permit. The Applicant proposed two wall signs, on the east elevation of the building and the other would be split between the south and west elevations as shown by the top image on Slide 16. Both signs' areas were below the Code allowance for each elevation. The signs would be placed within definable sign bands. They fit well with the architectural elements and were consistent with City standards. The landscape design avoided conflict between the signs and plants. (Slide 17)
 - A monument sign was also proposed along Parkway Ave. The maximum allowance for a monument sign was 64 ft. The proposed project would exceed a gross floor area of 26,000 sq ft, so the proposed 63.3 sq ft monument sign met the City's criteria. Conditions of approval would ensure the monument met vision clearance standards. (Slide 19)
- Traffic Impacts and Parking. The City's standard for measuring Peak Hour traffic impact looking at the number of vehicle trips during weekdays between 4:00 and 6:00 pm. According to the Traffic Study, the proposed church use would reduce the PM Peak traffic trips from the 115 the college generated to 15 trips.
 - The proposed project would not negatively impact the street circulation during peak times. The majority of the traffic generated would occur on Sunday morning. Because traffic was generally low during that time period, the church use had not raised any traffic capacity concerns.
 - As shown in the memo, the traffic consultant's carefully looked at parking for the site. The Applicant had proposed 87 spaces; however, a condition of approval required the elimination of three spaces to maintain the spacing required between the drive aisle and Parkway Ave. The remaining 84 spaces, however, still exceeded the minimum 80 parking spaces required by the Code for the project
 - The Applicant was also coordinating a parking agreement with Oregon Tech (OIT) to provide 200 overflow parking spaces between 6:00 am and 2:30 pm every Sunday as shown in Slide 22.
- Based on the findings of fact and information presented, Staff recommended the DRB approve the proposed application with conditions.

Samy Nada asked how long the building had been vacant.

Mr. Pauly clarified that the building had not been vacant very long, but more recently; certainly not years and years.

Ms. Meyer asked Staff to recap how the minimum number for parking spaces was determined.

Mr. Tso responded that the Code required one parking space per four seats. The maximum capacity of the proposed building was estimated at 319 persons, which when divided by four, and rounded to the nearest whole number, resulted in 80 parking spaces. (Finding B30 on Page 22 of 42 of the Staff report)

Ms. Meyer asked if the parking agreement with Oregon Tech was based on the current need for one church service.

Mr. Pauly replied that as a part of the Traffic Study, DKS did a parking count during a Sunday morning service at the church's current location at Meridian Creek Middle School to determine the church's parking need, which did not necessarily correlate with the Code standard.

Ms. Meyer said she realized that the proposal met City requirement, but was concerned about whether the church had a backup plan for parking if the agreement with OIT fell through.

Mr. Pauly replied when drafting the conditions of approval, Staff intended to acknowledge flexibility to ensure the Applicant had a continued obligation to find some parking solution if the agreement with OIT ended.

Ms. Meyer expressed concern that there were only four ADA spots, which seemed very minimal, even though that number met Code requirements.

Chair Martens asked if the parking agreement with OIT was actually in place yet.

Mr. Tso deferred to the Applicant.

Mr. Nada asked if the crosswalk was signalized.

Mr. Tso said he believed the crosswalk was equipped with a Rapid Flashing Beacon (RFB).

Steve Adams, Development Engineering Manager, explained the crosswalk was installed two or three years ago at the request of Pioneer Pacific, as they were using overflow parking at OIT and were concerned about student safety when crossing mid-block on a 45-mph street. Staff had asked DKS about an appropriate design for a safer crossing and the current Rectangular Rapid Flashing Beacon (RRFB) was recommended. RRFBs had a 95 to 98 percent success rate in getting people to recognize the crosswalk when the lights were on, both day and night, and was the recommended crossing technique for streets with speed limits above 40 mph. The crosswalk also had a concrete pedestrian island in the middle for refuge, so people could wait briefly while cars from the opposite direction cleared. To prevent conflicts from the north driveway, there would be a long, thin traffic median to prevent existing vehicles from turning left out of the driveway. As such, the property only had a full-access driveway on the south side; the north side had a right-in and right-out only driveway.

The following exhibit was entered into the record:

- Exhibit D1: Emails in support of applications.

Mr. O'Neil asked if there was a procedure in which the Board could ask that certain elements of applications or exhibits be withdrawn once they had been submitted. He was disturbed by the emails submitted that spoke positively of the Applicant, which he believed inhibited the Board's ability to make a decision based solely on whether or not the application met the City Code requirements. If the Board started to accept testimony about certain church organizations, pro or con that had nothing to do with whether or not the applicant met the City Code requirements, it could cause a problem in the future.

Ms. Jacobson responded there were two ways to deal with the situation. Exhibit D1 was an exhibit that had been presented by the Applicant, presumably to be persuasive. That issue could be discussed with the Applicant, and the Applicant could be asked to consider removing the testimony; or when making a decision, Mr. O'Neil could put on the record that he did not give any weight to the positive testimony regarding the Applicant. Although the testimony was admitted into the record earlier, he could note on the record that he had only considered the Code when making his decision.

Mr. O'Neil believed his sole opinion on the matter was insufficient and that the Board as a whole, as well as City Council, had to ensure the Applicant was being evaluated independent of its good works. He believed it was a great institution, but that should have nothing to do with the decision-making. He was worried the record could establish precedence for future religious organizations that might not have as large a following or might be controversial, and he did not want to impact those future decisions.

Ms. Jacobson responded that the Applicant had heard his concern; however, there was no judge present to make a call on whether or not something should be admitted.

Mr. O'Neil interjected that the DRB was an adjudicated body.

Ms. Jacobson agreed, and advised that Mr. O'Neil could suggest that he preferred the emails be removed from the record, which should be done with the Applicant; or if Mr. O'Neil decided in favor of the application, he could make the record clear on that he only took the Code requirements into consideration, not the emails.

Chair Martens added that as a public hearing, both the hearing and the application were open to input from the public, which was an essential part of what the DRB did, and the Board had no control over what was submitted for consideration. A manufacturing company could come in and a lot of things could be heard from the community about creating jobs, which was not a part of the DRB's mission in reviewing an application. However, even though the Board would hear that information, it did not have to base its decision on that information.

Mr. O'Neil reminded that the Chair's Remarks said that testimony had to focus on the criteria of the review.

Chair Martens asked if the recommendation to proceed was contingent upon receipt of the parking agreement between the Applicant and OIT.

Mr. Pauly responded no. Staff's view was that it would be self-controlling, as there was no on-street parking and the Applicant was aware they needed to find a solution for potential overflow needs, such as busing people in, changing the service schedule to minimize the number of people on site at one time, or keeping an agreement in place.

Ms. Jacobson noted Condition PF3 stated, "They shall negotiate a parking agreement with a nearby adjacent development or take other action." Although "other action" was not defined, the Applicant was responsible for ensuring parking did not overflow to adjacent or nearby parking areas without permission.

Mr. Pauly added the City could take enforcement action if the condition was not being met. He confirmed that generally, parking would only be an issue on the weekend.

Ms. Jacobson replied that Mr. Pauly's assessment was correct. It behooved the Applicant, Grace Chapel, to have enough parking for its patrons as there was no on-street parking or residential neighborhood streets to accommodate overflow. The parking agreement was needed to avoid trespassing.

Chair Martens said he understood that absent a parking agreement, the site was not a viable option.

Ms. Jacobson recommended speaking to the Applicant about the parking issue.

Chair Martens called for the Applicant's presentation.

Chris Walker, CIDA Architects & Engineers, 15895 SW 77nd Ave, Suite 200, Portland, OR introduced himself as the representative of the Applicant, Grace Chapel.

John Davis, Development Committee Chair, Grace Chapel, stated that he lived in Morey's Landing in Wilsonville. He was also serving as one of the attorneys who helped on the project and could speak to the parking questions. Parking was a big issue for the Applicant, as there were three services on Sundays with approximately 250 vehicles per service. For their intended use on Sunday mornings, the Applicant's desire was to have a parking agreement in place. They believed the proposed site was well-suited to Grace Chapel's parking needs due to the abundance of parking across the street at Flir, Rockwell Collins, Sig Sauer, DW Fritz, and OIT, directly adjacent to the proposed site.

- The Applicant had an agreement with OIT, and although it was not yet technically signed, it was a complete understanding for the mutual use of the facility, which meant OIT had

granted the Applicant use of up to 200 parking spaces on Sundays. The campus was closed on Sunday, so there would be no adverse affects to OIT's parking needs. The agreement would be for five years initially, and contained language that the agreement would be continued perpetually based on mutual benefit. The agreement also provided for OIT to use the Applicant's multi-use facility for large events hosted by OIT on an as-needed basis for a specified number of times per year. The agreement was very important to the Applicant.

- If OIT were to decide to open on Sundays, and therefore not be able to offer that parking to Grace Chapel, the Applicant believed the abundance of parking at the other establishments would be enough to meet its direct needs, as they had visited the site multiple times on Sundays and most of those businesses were empty. He noted that without the agreement, the Applicant was still in compliance with City Code based on the number of parking spots on the actual proposed site.

Mr. Walker stated Mr. Pauly and Mr. Tso had gone through the application, which was relatively straightforward with regard to the existing building and conditions. The Applicant's proposal to do the addition was an attempt to bring a 20- to 30-year-old building into a more modern setting, revitalize the site, and bring it back to a full use more complementary to the area. As noted by Staff, the Applicant also believed that the forms and materials used were a successful representation of bringing that site forward into a more current use. The proposed application also reflected Grace Chapel's mission to bring the site back out to the street and being connected with the community.

- Both Grace Chapel and OIT individually met the ADA parking requirements. Grace Chapel would meet additional ADA needs through the passenger loading/drop-off zone where a vehicle could use the area to drop someone off immediately outside the chapel for the shortest distance to the entrance, which was the primary concern of the ADA.
- Grace Chapel also had a service on Sundays called First Impressions that would coordinate all of the onsite circulation of parking, including ensuring that the people who needed ADA spaces and/or dropped off were accommodated in the most logical fashion. Therefore, the Applicant did not believe it was necessary to provide more ADA parking spaces than the Code required.

Mr. Davis added that currently, Grace Chapel had trained parking staff that directed traffic on Sundays. At the proposed site, they would also monitor the crosswalk for all services and events, midweek or on weekends, with at least one vested parking staff member who could indicate to oncoming traffic that the crossing was lit.

Mr. Walker stated everyone was very excited to be at this current phase, as Grace Chapel had been a part of the Wilsonville community for a number of years and had made multiple attempts to find a permanent home. The proposed site checked all of the Applicant's boxes that were necessary for functionality. It was a welcome sign for Grace Chapel to know that it would have its own place. For the design team, who had worked with the Applicant for a number of years, they were honored to be with Grace Chapel and to be presenting to the DRB. The Applicant had reviewed the Staff report, and having met with Staff previously, knew of the recommended conditions, which they found to be acceptable as presented.

Chair Martens asked if the business directly north of the site had space available for overflow parking.

Mr. Walker replied the second building of Pioneer Pacific College was immediately north of the property. Originally, the college was in both buildings but had vacated the southern building this past spring semester. Grace Chapel had come in at that point and it was a perfect opportunity. Pioneer owned the building to the north still and would have a similar weekday schedule as OIT had opposite Grace Chapel's Sunday services.

Chair Martens asked if Pioneer Pacific would allow parking in their spaces.

Mr. Davis replied the long-term prospects of the north property were currently unknown. It had been for sale last year for a period of time and then taken off the market. The Applicant did not know who the owner or user of that site would be in the future, so they did not pursue a potential parking agreement there. Based on visual count, he believed there were about 50 or 60 parking spots on that north site. The Applicant's hoped to be able to use both, as the sites were contiguous in terms of walkability.

Chair Martens stated he had noticed a walkway and asked if it would be eliminated with the remodel.

Mr. Walker confirmed the walkway would be eliminated due to the unknown ownership status of the north building. If the Applicant had known who would eventually own the building, they would have had a conversation with the owner about parking and have a more concrete answer. They knew OIT was permanent, which was why that agreement had been pursued.

Mr. O'Neil asked if the Applicant had any concerns about the current speed limit through the area, which seemed rather fast, and if the Applicant thought lowering it would be a benefit.

Mr. Walker replied that from a design professional standpoint, the steps the City had taken with the RFBs and the relief median were good steps to ensuring that was addressed. However, the majority of the traffic generated would be when the congregation was there and the congregants themselves moved between the two sites. That, by its nature, would ensure traffic speeds were limited at that time.

Mr. Davis responded that as the Applicant, he very much respected and appreciated the discussion about community proponents and how that was not within the purview of the DRB. He did believe that some discussion from Pastor Tatlock regarding the use of the site, particularly the addition, was pertinent to the application itself.

Mike Tatlock, Lead Pastor, Grace Chapel, said he appreciated Mr. O'Neil's question about the traffic speed through the area as Grace Chapel valued safety and believed it was of the utmost importance. Grace Chapel had its own security staff with professionals that consulted with

them. Grace Chapel's First Impression team greeted congregants in the parking lot and ensured they entered the church safely. The church had run through all the contingencies with the First Impression team to make sure the proposed site met Grace Chapel's high safety standards, so they were very confident that the site would work well with regards to safety.

- To illustrate how the site would be used, he referenced a building the church owned called Heart of the City. It began years ago out of conversations with different community leaders who were involved in city schools and commerce regarding how Grace Chapel could support various community needs. The church had been founded with the motto "A church that gives itself away" with the idea that whatever Grace Chapel did was an asset to the community. That was the lens Grace Chapel looked through for its vision and strategy. That vision and strategy had begun with questioning the community leaders about what was needed and what the church could do with its members, who valued volunteerism, to give back to the community. Heart of the City was an outreach center birthed from those conversations and provided a number of services.
- Grace Chapel had taken that same mindset into the proposed space to question what could be done to make the facility an asset to the community beyond just how the church would use it for its own programming. That was how they decided to build something that was multi-use. He loved the proposed sports court. He had lived in Wilsonville since 2005 and coached sports, and he constantly heard about the need for sports teams to have a place to practice. Grace Chapel hoped that would be a part of what they did. The Boy Scouts and other organizations had also said they could use an indoor gathering place that was activity-oriented.
- Grace Chapel wanted to create a space that would really bless the community, and after speaking with many community leaders across the board, even those who were not religiously-oriented, and asking them what Grace Chapel could do, the Applicant had welcomed the conversation. Those conversations birthed into the vision for the proposed multi-use facility; that it would be an asset to both the church as a place to gather, as well as the Wilsonville community.

Mr. Nada asked if Grace Chapel had any problems with parking over the last few years at either of its temporary locations and if there had been any complaints.

Pastor Mike replied Grace Chapel had resided the longest at the current DW Fritz location, which Grace Chapel had been leased from Oregon Pacific Lumber at the time. Grace Chapel did not receive any complaints about traffic flow or parking. Grace Chapel was almost 20 years old and had a longstanding commitment with Oregon Pacific Lumber before the building was bought by DW Fritz.

- He did not know offhand how many parking spots there were, but it was recorded and had been factored into everything regarding the agreement with OIT. The biggest parking challenges occurred during Christmas and Easter, but they had done a really good job being creative over the last 20 years. Grace Chapel asked congregants to share rides, which worked well. The church had also used shuttles when needed.

Mr. Walker noted CIDA had worked with Grace Chapel at its previous location and he believed there had been about 100 to 150 spaces available when submitting applications for that site.

Mr. O'Neil stated he had no problem with the parking or plan, but did have a problem with a process that established a precedent. He asked if the Applicant would consider withdrawing Exhibit D1 and any exhibits that focused less on the Applicant and more so on the application.

Mike Robinson, Land Use Attorney, Schwabe, Williamson & Wyatt, commended the DRB for thinking seriously about how to relate public testimony from citizens who wanted to say something before the public body, but did not necessarily have testimony particularly relevant to the approval criteria. He explained the Applicant did not have the authority to withdraw testimony offered by others. They had put that testimony in on their own, and he was not aware of any procedure that would allow the Applicant to withdraw testimony offered by others.

Mr. O'Neil informed Mr. Robinson that Exhibit D1 had been presented by Grace Chapel, the Applicant.

Mr. Robinson said he did not believe the Board had to worry about precedent, as quasi-judicial procedures did not establish precedent. Each decision made in a quasi-judicial procedure was independent from any other quasi-judicial decision. To answer Mr. O'Neil's earlier question of what assured consistency, he explained consistency was assured by how this Board and other decision-makers in the City applied the approval criteria. The Applicant did not want to withdraw testimony that they or anyone else had offered in the matter, but he believed Ms. Jacobson had the correct answer to the question. The Board could listen to the testimony, but did not have to consider it. If Mr. O'Neil did not think someone's testimony was relevant to the approval criteria, he did not have to recuse himself, it would not set a precedent, and he could simply state that while he appreciated the testimony, it did not have anything to do with the approval criteria. In his personal and legal opinion that was the correct way to address the problem rather than asking citizens to withdraw testimony. He appreciated the point, but believed Mr. O'Neil could simply ignore the testimony if he did not believe it met the approval criteria.

Mr. O'Neil disagreed with Mr. Robinson's position. He did not believe the problem was the Applicant, but establishing a system in place with the first religious application received in some time. While he believed the subject application was very good, he was concerned that if the Board started to accept testimony related to the good works of any particular applicant, then the Board would have to accept the testimony of negative impacts later, and he did not want the Board to evaluate that.

Mr. Robinson responded he did not believe Mr. O'Neil was required to evaluate that. People could testify about anything they wished, but the ultimate body that had to decide what was relevant or not about that testimony was the DRB. Mr. O'Neil could decide that while he

appreciated that someone took the time to send an email or testify in person, the testimony had to pertain to approval criteria before the Board would consider it in its decision-making process.

Chair Martens stated he was not an attorney, but he would be very uncomfortable telling anyone that they were not permitted to speak to the Board and voice their opinion.

Mr. Robinson clarified he was not trying to chastise Mr. O'Neil or tell the Board what to do. He was simply offering his legal opinion. However, in all the years he had been doing this, tonight was the first time he had heard a Board seriously discuss how to handle what he believed was a very pervasive issue, and he appreciated that the Board had a couple of options. He believed the best option was to ignore the testimony. The Board was not setting any precedents. If people wanted to give negative testimony, they were free to do that. The difference between how things like this were handled in Oregon, as opposed to the case in New Jersey, was that in Oregon, they stuck to the approval criteria, which assured that religious uses and non-religious uses were treated the same and that there was no differentiation between the types of religious uses before a body.

Chair Martens called for public testimony in favor of, opposed and neutral to the application.

Kyle Bunch, 10441 SW Franklin Lane, said he wanted to offer positive testimony as a business owner and Chamber member. As Pastor Tatlock referenced in his testimony, although the primary use of the proposed building would be religious, it would have multi-purpose use. In his experience with both the Chamber and other civic organizations that he was involved with in Wilsonville, those types of spaces were limited. There were not a lot of options for organizations to use as a meeting space or special event space. He understood the Board's primary focus was whether or not the application met City Codes and guidelines, but the benefits that a new multi-use space, in a non-religious capacity, would provide to the community should also be considered.

Taft Mitchell, 6656 SW Landover Dr., Wilsonville, OR, stated he was Chairman of the Board for Wilsonville Community Sharing, the local food bank, and the Community Referral Center. He noted that the referral center was the occupant of the Heart of the City facility. Before finding that location, the center had a terrible time trying to find a place to locate and have stability. It was by the good graces and generosity of Grace Chapel that they had a facility. They paid rent, but it was reasonable and stable, which was good for the center's clients and for the work it did.

- Since coming to Wilsonville in 1996, there had been a tremendous amount of change. At that time, he had gone to pastor Valley Christian Church on Wilsonville Rd and remembered meeting with the very first group that would eventually become Grace Chapel. Even then, they had a commitment to blessing the city and doing things that would benefit the entire community, not just on a religious basis. Grace Chapel had been consistent with that, had fulfilled that mission, and continued to be a very positive asset to the Wilsonville community. He remembered sitting on the DRB for several years and he understood the

Board had to consider all of the restrictions, zoning requirements, etc., but the quality of life in the city was also relevant, and it had a great quality and one that he wished to encourage.

Benjamin Pickthorn, 152 NE 5th Ave, Canby, OR stated he was the Director of Sales at Green Group Real Estate, a prominent face in the community. As a community-facing real estate company whose mission was to give back and partner with, not only the residents of Wilsonville, but also the organizations and businesses that contributed to making it an amazing community to live in, work in, and serve in, it required amazing organizations and leadership similar to that of Grace Chapel. Aside from that, he saw great need in Wilsonville for many of the aspects of use that Grace intended for the space. Beyond the checkmarks that had clearly been met, the way Grace partnered with the community to use the space not for its own good, but for the good of community and the fine people of Wilsonville was also encouraging. He and Green Group Real Estate had nothing but support for the proposed project.

Chair Martens called for any rebuttal from the Applicant.

Mr. Walker stated the Applicant had no further response other than they agreed with the statements there were made and the conditions of approval presented earlier by Staff regarding the Code criteria.

Mr. O'Neil asked if the Applicant had the ability to withdraw an exhibit.

Mr. Jacobson stated anyone who had offered testimony, could withdraw testimony. She clarified that the Board members were the decision-makers, and as a judge could decide what evidence was relevant. As she had stated earlier, Board members could make that clear in their statement. If anyone was uncomfortable with that, their other option was to vote against the project.

Mr. Pauly explained that the emails received were from separate people that had been grouped into one exhibit, and to his knowledge, not all of those individuals were present.

Mr. O'Neil noted the emails had come directly from a church. The Applicant had made the submission, which was what he was looking at.

Mr. Pauly agreed that was correct, the church was the source of the emails.

Chair Martens confirmed there was no further discussion and closed the public hearing at 7:44 pm.

Shawn O'Neil moved to approve Resolution No. 358 with the caveat that the Applicant strike Exhibit D1 from the application. Sammy Nada seconded the motion.

Mr. O'Neil commented that as an individual community member, he believed Grace Chapel was a central part of the community. However, as a member of the DRB, he had to look beyond

just the current applicant to ensure that all religious institutions were treated equally in the future. The fact that Grace Chapel had a great deal of support put a lot of pressure on him to ensure that those applicants that might be new to the community or have a minority membership would not be treated the same way. He believed the Board was obligated under both State and Federal law to make a decision based on the application and whether or not it qualified as an acceptable use. He had no problem with the application. The project was well-designed and the parking issue was not a big deal. He personally believed the speed limit should be reduced. He did not have a problem with this particular applicant, but worried about the process that would happen afterwards with other religious applications. If the Board accepted testimony such as Exhibit D1, which was about the applicant and not the design, he had a problem. Testimony and decision-making should be restricted to whether or not it qualified and met the Code requirements. It did, but that had nothing to do with the Applicant and what they did for the community.

Chair Martens agreed the decision had to be made on the objective criteria. However, he was concerned the Board was setting the very kind of negative precedent that Mr. O'Neil was trying to avoid in that the DRB was telling citizens not to give testimony; that the Board could not accept it. If the Applicant or anybody else wanted to copy the phone book, for example, and present it as testimony, the Board accepted it; but it did not have to base its decision on that. In his opinion, it was a very bad precedent to tell anybody that the Board did not like the feedback they were providing.

Mr. O'Neil understood that viewpoint, but he believed that where religious institutions were concerned, certain laws required certain separations between public entities and churches, like the Establishment Clause, etc. He believed that was different than proposing a business and whether it would generate jobs. The Board had to examine higher criteria when making these decisions.

Ms. Meyer asked if the exhibit was testimony or part of the exhibit.

Mr. O'Neil replied he believed Exhibit D1 was testimonial in written form that provided comments about how well this particular applicant served the community as a religious organization. That was his concern. It was clearly appropriate to have testimony that talked about the location, whether or not there was adequate parking, etc. but anything related to what the Applicant did in a religious context was a concern. He reiterated he was not concerned about this particular applicant, but what would happen in the future.

Ms. Meyer noted that two or three people had come this evening and testified in a similar manner and that was being accepted. However, Exhibit D1 was not testimony in her mind, it was a part of the application.

Mr. O'Neil responded that based on what he understood, they had to have that happen, but if he had his way, that testimony would have also been stricken as it was not relevant. He confirmed he could amend his motion.

Shawn O'Neil amended his main motion to not strike Exhibit D1 and approve Resolution No. 358 as written with the understanding that the decisions being made by the members of the Board are based on the criteria of the City Code and not based on the Applicant and the Applicant's community. Samy Nada seconded the motion, which passed unanimously.

Chair Martens read the rules of appeal into the record.

VII. Board Member Communications:

A. Recent City Council Action Minutes

There were none.

VIII. Staff Communications:

There were none.

IX. Adjournment

The meeting adjourned at 7:52 pm.

Respectfully submitted,

Paula Pinyerd, ABC Transcription Services, Inc. for
Shelley White, Planning Administrative Assistant