

**Wilsonville City Hall
29799 SW Town Center Loop East
Wilsonville, Oregon**

**Development Review Board – Panel B
Minutes–November 23, 2015 6:30 PM**

<p>Approved January 26, 2016</p>

I. Call to Order

Chair Aaron Woods 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: Aaron Woods, Dianne Knight, Richard Martens, and Shawn O’Neil. Cheryl Dorman arrived at 6:35 pm. Council Liaison Julie Fitzgerald was absent.

Staff present: Blaise Edmonds and Barbara Jacobson

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. City Council Liaison Report

No City Council liaison report was given due to Councilor Fitzgerald’s absence.

VI. Consent Agenda:

A. Approval of minutes of September 28, 2015 meeting

Shawn O’Neil moved to approve the September 28, 2015 DRB Panel B meeting minutes as presented. Richard Martens seconded the motion, which passed 3 to 0 to 1 with Dianne Knight abstaining.

VII. Public Hearing:

A. Resolution No. 316. Old Town Site Design Review for 2 Houses: Mark Britcliffe – Applicant for Diane Ferris – Owner. The applicant is requesting approval of a Site Design Review for two single-family dwellings in Old Town. The site is located at 30580 SW Boones Ferry Road on Tax Lots 3801 and 3802 of Section 23AC, T3S, R1W, City of Wilsonville, Clackamas County, Oregon. Staff: Jennifer Scola

Case Files: DB15-0074 – Site Design Review

Cheryl Dorman arrived at 6:35 pm.

Blaise Edmonds, Manager of Current Planning, announced the Applicant requested that the public hearing be continued to the DRB-Panel A meeting on December 14, 2015. Because the December Panel B meeting had been cancelled, the Applicant would have had to wait until the end of January, prompting concerns about the 120-day land use review period. The Applicant also wanted to redesign his current proposal in response to recent neighborhood input.

- Since the project would be reviewed by a different panel, Staff sent out a new public hearing notice for Panel A today to all neighbors within 250 ft of the project site. He apologized to members of the

audience waiting to testify on the application, noting Staff was only informed of the requested continuance on Friday.

- B. Resolution No. 317. Charbonneau Boat Dock Access: Charbonneau Country Club - Applicant.** The applicant is requesting approval of a Conditional Use Permit within the Willamette River Greenway Boundary, Type 'C' Tree Removal Plan and an abbreviated Significant Resource Overlay Zone (SROZ) Impact Report (SRIR) for Charbonneau Country Club, for replacement and relocation of an access gangway to the Charbonneau boat marina. The site is located on the northwest corner of Tax Lot 318, and also affecting Tax Lot 308, and ODOT R.O.W, in Section 25, Township 3 South, Range 1 West, Willamette Meridian, City Of Wilsonville, Clackamas County, Oregon. Staff: Blaise Edmonds

Case Files: DB15-0059 – Greenway Conditional Use
DB15-0060 – Type C Tree Plan
SI15-0001 – Abbreviated Significant Resource Impact Report (SRIR) and map verification within the Significant Resource Overlay Zone (SROZ)

Chair Woods called the public hearing to order at 6:6:37 p.m. and read the conduct of hearing format into the record. Chair Woods and Shawn O'Neil 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.

Richard Martens disclosed that as a homeowner in Charbonneau, he had an ownership interest in the Charbonneau Country Club; therefore, he recused himself from the hearing.

Blaise Edmonds, Manager of Current Planning, announced that the criteria applicable to the application were stated on page 5 of the Staff report, which was entered into the record. Copies of the report were made available to the side of the room.

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

- Due to heavy rains over the years including near 100-year flood events, the existing path to the decades-old Charbonneau boat marina has had bank failure, making it difficult, and hazardous at times, to get down to the marina where there were approximately 40 boat slips.
- Three existing properties were involved in this application: The Illahee Drive Fee Owner, LLC, the owners of the property with a parking lot that accessed the trailhead to the boat dock; the City of Wilsonville and the Oregon Department of Transportation (ODOT). The Charbonneau Village Country Club owned the boat marina.
 - A pathway currently traversed the Oregon Department of Transportation right-of-way and down to the boat dock with a parking lot at the end. The Applicants proposed to abandon that pathway on ODOT property and begin the pathway ramp down to the marina from the parking lot with a new structure. (Slides 3 and 4)
- He noted the proposed access ramp was within the City's Significant Resource Overlay Zone (SROZ) (Slide 5) and the 25-ft SROZ Impact Buffer, as well as the Willamette River Greenway, which required a conditional use permit.
 - As part of the notification requirements, the City was required to notify the Oregon Parks Division, which reviews any developments within the Willamette River Greenway, but no comment was received regarding this application despite plenty of notice to do so.

- He indicated the actual Significant Resource Impact Report (SRIR) Impact, noting the four trees proposed for removal, the parking lot, a structure at the end of the ramp and landing, which would lead to the marina and boat slips. (Slide 6)
- The ramp had steps as it was too steep to be a flat ramp. (Slide 7) The rendering did not show the ramp was not designed to have any contact with the bank or that the four trees in its pathway that would need to be removed.
- In addition to bank restoration, the Applicant's proposed mitigation plan involved taking out the trail and replanting it with landscaping, including 14 trees and shrubs (Slide 10), to discourage people from continuing to use the same bad path down to the marina
- The improved access would also shorten the distance to the marina, and he believed it would be a welcome addition to the residents of Charbonneau and those who lease boat slips at the once-popular marina.
- Staff recommended approval of the application.

Dianne Knight asked if ADA requirements had to be met for boat slip accessibility.

Mr. Edmonds replied no, as it was not a public facility. It would also not be feasible due to the slope being serpentine along the entire bank to get down to that point and the impact on the SROZ would be tremendous. The application had been submitted to the Building Division for comment and they did not suggest there be any ADA requirement for the project.

Chair Woods called for the Applicant's presentation.

Ben Altman, Pioneer Design Group, 9020 SW Washington Square Dr, Suite 170, Portland, 97223, stated he was accompanied by Rick Shram, Charbonneau Country Club Project Coordinator, Tony Holt, Charbonneau Country Club President, and Susie Stevens, Charbonneau Country Club Executive Director. He believed Staff had done a good job of summarizing the proposal, which would basically replace the existing access with a new ramp and mitigate the removal of the path on the ODOT property.

- The Applicant had been coordinating with ODOT and the Planning Division would be reviewing the construction plans for actual permit issuance and overseeing the construction. The mitigation plan had also been coordinated with Kerry Rappold, the City's Natural Resource Manager.
- The application was a little complicated because the project was in the resource area and multiple jurisdictions were involved, but he believed the plan made sense and thus far, everyone was in agreement with it.
- He noted the ramp was shown as a stair structure because of the steep grade; however, there was some concern regarding the extra cost of the structure. The Applicant would like to have the option to provide a ramp with anti-skid plating, similar to that used by the City's dock.
 - The Applicants had debated the best and safest way to get people hauling items to and from the boats. In addition to the ramp, a cable mechanism was considered to move equipment up and down rather than carrying it.
- The steep slope of the ramp was necessary to remove the sway and maintain ground clearance, and he believed the ramp was too steep for ADA compliance, which would require some kind of escalator or lift.
 - In the past, guests or anyone needing such access or more parking would board their boats at the Charbonneau Marina, then travel west to load at the County marina boat launch, which had a flatter ramp access.

Chair Woods confirmed there were no questions for the Applicant and called for public testimony in favor of, opposed, and neutral to the application. Seeing none, he confirmed there was no rebuttal and asked if there were any additional questions for Staff.

Shawn O'Neil asked if Staff had verified that no ADA requirement was necessary. He understood it was submitted to the appropriate department.

Mr. Edmonds responded he was not a building official and could not comment.

Mr. O'Neil said he expected the Applicant to provide more detail on the ADA issue, but they had punted it back to Staff. He was concerned because many Charbonneau residents relied on ADA accommodations and he wanted to make sure there was not a law that required them.

Barbara Jacobson, Assistant City Attorney, stated she had been involved in the details of this application. Typically, the ADA standards applied to any facility open to the public, but to her knowledge, this was a completely private facility and was membership only. The members in and of themselves might have a discussion about how that access worked and whether they were happy with it, but the ADA accommodation was not for a private facility such as this.

Mr. O'Neil understood if a private building was renovated, it had to be brought into ADA compliance and asked how that difference was distinguished.

Ms. Jacobson believed Mr. O'Neil was thinking of a building with employees or where the public would have to come into the building for some reason. In this case, there would not be anything like that; it was an access only for people who had a boat there. That was the distinction.

Chair Woods confirmed the major difference was that this was not a public facility, but private, so ADA would not be a consideration.

Ms. Jacobson answered yes, ADA would be considered to allow for public access and reasonable accommodations for people who needed to access a place of work, which was why the ramp at the County facility down the road had some access, albeit not the best. The Applicant's plan seemed to rely on the public facility down the road. She assumed it had been designed with some ADA accessibility.

Ms. Knight asked for Staff's input on the Applicant's proposal for a ramp instead of stairs.

Mr. Edmonds replied in his personal opinion, as someone getting older, it would be quite a long haul, but since it belonged to the people who owned the marina, his opinion did not matter.

Mr. O'Neil confirmed the proposal was raised for first time this evening, which was concerning. He asked if Staff had adequate time to assess that as something feasible that fell within the recommendation.

Mr. Edmonds replied he was not familiar with boat ramps, nor did he own a boat, but he understood there were steep boat ramps in different marinas. He did not have any Planning Code that would restrict it.

Cheryl Dorman said that as a boat owner with a long steep ramp to her boat dock, she believed the proposal for a ramp made sense, if there was no reason the permit would be an issue and it was safe, because oftentimes people used wagons to take things to their boats.

Ms. Jacobson suggested the Board agree to leave that open, subject to appropriate building permits and meeting all legal requirements to do so since no building official was present and this was the first time the change had been mentioned.

Mr. O'Neil commented that such last-minute proposed changes did not provide Staff the opportunity to vet them and not having them within Staff's recommendation seemed to be risky for the Board to approve, even though there was a logical reason. He believed it sent the wrong message that the Board was inserting last minute changes when the appropriate people were not able to comment, even though he recognized that some of the changes worked.

Ms. Dorman asked if it would make a difference in the Building Code if the access was stairs or a ramp.

Ms. Jacobson believed the issue was that no one knew the answer to that question, which required input from a Building Code representative or an engineer; neither the Planning nor Legal Staff could answer that question. She agreed it was not helpful to have the request come up at the last minute, but the application could be approved as is and allow Staff to make a decision on the alternative design.

Mr. Altman offered the Applicants were open to allowing the Staff to review it as a Type II change if the ramp was used, which would allow Staff the internal review.

Mr. Edmonds did not believe a Type II was necessary as it required another public notice. A Class I Administrative Review would suffice and Staff would notify the Board of the opinion of the Building Division.

Chair Woods closed the public hearing at 7:02 pm.

Cheryl Dorman moved to approve Resolution No. 317 with findings and recommendations to issue the requested permit for Greenway Conditional Use and approve the Type C Tree Plan and Abbreviated Significant Resource Impact Report (SRIR) with a new condition of approval that the Applicant apply for a Class I Administrative Review for the accessibility of stairs versus a ramp in accordance with the Building Code. Chair Woods seconded the motion.

Ms. Knight asked if Charbonneau residents needed to be notified that ADA accommodations would not be present and if they had the opportunity to consider that.

Mr. Edmonds clarified notification would typically be to property owners identified within 250 ft of the proposal, so not all of Charbonneau was notified. Most of the residents in the Illahee condos would have been notified, as well as ODOT and the City of Wilsonville.

Chair Woods confirmed notification for this public hearing had already been sent within the legal requirements of 250 ft around the property owners identified as part of this application.

Ms. Jacobson believed who got notice of the public hearing was a different issue. The Applicant represented and spoke for the owners of the marina and their guests, who would have access to use it. Therefore, it must be assumed that the Applicant would be acting on behalf of their client when making the request.

Ms. Dorman understood the project would have been approved by the marina owners.

Mr. Edmonds replied he did not know and deferred to the Applicant.

Ms. Jacobson explained that speaking to the Applicant would require that the hearing be reopened. She believed the Board could say the Applicant was the owner, and the owner consisted of all the people in Charbonneau, including fellow DRB member Mr. Martens, who could not comment.

Mr. O'Neil agreed if the Applicants were representing the owners, they would have to be acting within the authority of the owners; otherwise they would not have a place being here tonight. He also agreed with the city attorney that the representation was they must have discussed it; otherwise they would open themselves to being sued and acting outside of their authority to make a representation they did not have. He reiterated his concern about the last minute change, but appreciated Mr. Edmonds' effort to work within the system to try to solve the issue to keep things moving forward. However, if people had a vested interest in submitting things to the Board, it should be in a form that would allow Staff a fair opportunity to look at it and make a recommendation, and the Board to make a clear decision.

Motion passed 3 to 1 with Shawn O'Neil opposed.

Chair Woods read the rules of appeal into the record.

VIII. Board Member Communications None

A. Results of the October 12, 2015 DRB Panel A meeting

IX. Staff Communications

A. Thank you, Dianne Knight and Cheryl Dorman, for your service on the Development Review Board!

Mr. Edmonds announced that Associate Planner Michael Wheeler retired last Friday after 14 years serving the City, adding he would miss his expertise in reading the nuances of the Code as he was good at keeping the City out of trouble with legal support and from being appealed to higher levels, such as the Land Use Board of Appeals (LUBA). He appreciated that Mr. Wheeler helped keep him in check.

- He thanked Board Members Cheryl Dorman and Diane Knight for their service and presented awards of appreciation to Cheryl Dorman and Dianne Knight, who had served since 2010, in recognition of their service. He briefly noted the many applications Ms. Knight and Ms. Dorman had been part of, including Polygon Villebois Phase 6, Fred Meyer's Master Sign Plan, Brenchley Estates, Jory Trail at the Grove, the waste water treatment plant upgrade, the Piazza in the middle of Villebois, Villebois Row Homes, Active Adults at the Grove, Republic Services, and Southern Wine. He reiterated his appreciation for all the good work they had done for the City and thanked them for their service.

Chair Woods stated it had been a pleasure working with both Board members, adding he had enjoyed their input and openness, adding they had done a wonderful job and he was going to miss them.

X. Adjournment

The meeting adjourned at 7:15 pm.

Respectfully submitted,

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