

City of Hood River
Planning Commission
Public Hearing
Monday, May 7, 2012

City Council Chambers
211 Second Street
Hood River, OR 97031
5:40p.m.

PRESENT: Chair Laurie Stephens; Commissioners Steve Winkle, Casey Weeks, Nikki Hollatz, Jennifer Gulizia,

ABSENT: Commissioner Nathan DeVol, Bill Irving

STAFF: Planning Director Cindy Walbridge, City Attorney Dan Kearns, City Manager Bob Francis, City Engineer Gary Lindemyer

MINUTES

I. CALL TO ORDER: Laurie Stephens, Chair at 5:40 p.m.

II. ACTION ON MINUTES: None

III. PLANNING DIRECTOR'S UPDATE: None

IV. CITIZEN'S COMMENTS: None

Chair Stephens: This is a continuation of the hearing from April 16th, 2012 for file number 201-30. The applicant is Mark VanderZanden of Surround Architecture on behalf of Nichols Boat Works LLC. The proposal is for 45,000 sq ft four story, 88 room hotel, 20,000 sq ft office building and a parking lot located at the southern end of the Nichols Boat Works which is zoned C-2, General Commercial. So the applicable approval criteria were previously read and discussed and also analyzed in the staff report and because this is a somewhat complicated application I will go through a few procedural matters. I'll recap the process that we've followed so far in this application and where we are in that process right now.

So the initial evidentiary hearing was held March 19th, 2012 and then it was continued to April 16th, 2012 for additional public testimony and the record was left open during that period. At the end of the April 16th hearing we left the record open until April 24th* for any written testimony or evidence on any subject from anyone. After that the applicant had until April 30th to submit his final written rebuttal, argument only, no new evidence. The April 16th hearing was continued until tonight which is May 7th 2012 for deliberation and possible decision only. Since the April 16th hearing the applicant has requested that the application be bifurcated into two separate applications. So one corresponds to the upland development and the other corresponds to the development for the open water portion of the site. A new application has been initiated and the appropriate fee paid for the open water application. The applicant has also granted the city's request for additional time to process the open water application by extending the 120 deadline by 90 days. The open water application will be scheduled for a public hearing at sometime in the future. For that application there will be a new notice, a new evidentiary hearing, a new record will be compiled and there will be additional opportunities to testify and submit evidence.

*Record was in fact closed April 23rd

The upland application is going to proceed tonight. The record on this application closed on April 24th and the applicant submitted his rebuttal by the deadline on April 30th. Tonight's hearing is scheduled for Planning Commission deliberation and possible decision on the upland application. No new evidence or testimony is allowed. However, that said, Brent Foster, on behalf of Friends of Waterfront, has requested that the record be reopened to allow him and others to respond to what they claim to be new evidence. They came in by the close of the record on April 24th. A copy of Mr. Foster's written request was provided to each of the Planning Commissioners. I would like the City Attorney to advise on the law concerning the request for opening the record.

City Attorney Dan Kearns: The procedural law that controls here is in State Statute Chapter 197, particularly Section 763 and also there are some sections in the State Statute concerning city planning matters. The city's code reflects the procedural requirements in 197-763. The basic rule is that the applicant has the burden of proof. So the applicant goes first and at the very end the applicant has last word, final rebuttal. All the evidence that an applicant submits everybody has an opportunity to review and rebut. As Ms. Hallock mentioned at the last meeting, the Supreme Court case that articulates the basic ground rules of a fair and open public meeting where the evidence is out in the open and the decision is based on evidence in the record. The applicant has the opportunity to make their case but the public has the opportunity to review and rebut that evidence before the record closes. Those are codified in 197.763. Under those regulations, at or prior to the initial evidentiary hearing, if anyone makes a request to keep the record open or for a continuance that it has to be granted. They don't have to give a reason just by making the request they get to keep it open for a minimum of open record seven days. That request was made on March 19th plus a lot of new evidence came in. Once new evidence is submitted people are allowed to comment on that. This request evolved from an initial e-mail last week. What the opponents are asking is the opportunity to not so much rebut evidence but they want to respond to and embellish on evidence that other opponents submitted. That's different from the basic notion that everyone gets a chance to review and rebut the applicant's evidence and the applicant gets the right to rebut the opposing evidence. This is an opportunity to basically embellish upon evidence that was submitted already.

In my view, the city's not required by law to reopen the record at this point to allow this. I think there's time before the 120 days runs out; I think it's been extended to June 22nd for the city to reach a final decision. That is potentially a City Council decision. So there's time for that. If you reopen the record to allow further comment by the opponents if there's any new evidence that comes in the applicant has a right to review and rebut that. Because this application has been bifurcated the issues are different in a sense that most of the argument you heard in the past were impacts to the boat basin. Right now the application before you is strictly the upland portion; the commercial building, the hotel and the parking lot. As I understand it the argument that the opponents are pressing is that the parking lot will have water quality impacts that will affect fish and other things living in the basin. Brent Foster who made this procedural request articulated his request in his May 7th memo and he identified three specific documents that came in during the open public portion of the record. The applicant did not submit any new evidence during their final rebuttal. State law says that the final rebuttal is argument only.

It's new evidence that gives rise to right to rebut. State law defines evidence as facts, documents, data or other information offered to demonstrate compliance or non-compliance with the standards believed by the proponent to be relevant to the decision. I don't see there's a legal right under state law to reopen the

record. If the applicant had submitted new evidence either you would reject that from the record or you would reopen the record to allow the public a chance to respond to that.

Stephens: As far as relevancy of the testimony, can you expound on what the city regulates as far as water quality issues and impacts on fish?

Kearns: The city has storm water regulations that apply to the construction of parking lots and other impervious surfaces. It has a water quantity component and a water quality component. The quantity component is that you're supposed to contain on site and only release storm water at rates that do not exceed pre-development of storm water discharge. You are also supposed to treat, on-site, the storm water before it is discharged. You have to comply with the city regulations for those. As I understand the proposal it will have standard filtration cartridges. It will have a collection system, there will be a large underground detention vault that water will go into and before it is discharged through an overflow it will go through a filtration system. Information that was submitted talks about sub-lethal effects of copper on immature salmon. That is recognized as a problem. But the city does not have water quality standards. This proposal is required to be governed by city's standards that were in place at the time it was submitted. They are required to comply with the city's storm water requirements for quality and quantity. They are not required to submit detailed engineering drawings for how that system is going to work. They just need to determine whether it's feasible to meet the city's storm water standards and they would have to do that with detailed engineering drawings at the time of final site plan approval. The final site plan is required to show compliance with all the conditions as well as the original preliminary site plan.

Stephens: So even if there is evidence presented that showed possible effects on salmon or wildlife or water quality there's very little that the Planning Commission can do.

Kearns: You can require that this applicant comply with the city's storm water regulations. There is evidence that this stretch of the Lower Columbia is critical habitat for several listed endangered species of fish. There hasn't been any study that is in the record about those. It may be a critical issue for the cable park application when it goes forward.

Ralph Bloemers: I would like to respond to Mr. Kearns. I am an attorney representing Friends of the Waterfront.

Kearns: You have the written request, a letter dated today that explains the procedural request to reopen the record and for what purposes. I'm assuming what Mr. Bloemers is asking for is the opportunity to give oral arguments in support of the request to reopen the record.

Bloemers: I just want to clarify some points. It will be very brief. Then I would like to address what I brought in terms of the evidence.

Stephens: So this is will be just a brief comment on the procedure.

Ralph Bloemers, Attorney with Crag Law Center, 917 SW Oak, Suite 417, Portland, Oregon 97205. There is evidence from other people that are opposed to the project that was submitted by the organization

that I represent. It is confusing to say this is an upland site, frankly I'm getting up to speed on this today but I found this very confusing. There is a shoreline. The ODFW letter says that this area is used potentially by fish but we have new evidence of it being used by fish. So there is a desire to supply responsive evidence, data from this site of fish using this area; video and photographs. And a desire to present science related to that, factual evidence to which I will briefly respond using a copy of the letter Mr. Foster prepared. I know these issues pretty well. There are other statutes that do apply potentially to this activity including the Endangered Species Act not just the Clean Water Act. I think the scope is a little broader and I think it's incorrect to say that the ODFW letter is just agency comment. It's a fact under the definition of evidence. It's a fact they are saying that this is used by fish and then they're saying we don't have the new data on that. In fact we don't have any data that fish actually are using this area. So citizens went out and gathered that data and they would like you to consider that data as part of the record on the shoreline portion which will impact the water. Under the Clean Water Act it's not just controls that can deal with copper or other toxics that might be from parked cars' brakes, I think temperature is a major one for fish, particularly for juveniles. I think that's how it relates substantively to your application. It's public participation, you're well within 120 days so we've just asking you to open the record.

Stephens: The ODFW letter, my interpretation of that was that it was more related to the cable park issues.

Bloemers: I think that that argument, that suggestion being made by some that the project on the shoreline doesn't affect the water because it's not directly on the water. Certainly the cable park being in the water pretty much destroys the habitat, the critical habitat for these species. There are things you can do on shoreline projects, setbacks and other things that limit the impacts. But the development of the parking lot, the design of that all have an impact potentially on water quality and habitat which is right there. They can bifurcate the decision making process of the applicant but I don't think you can bifurcate the ecology. It is related.

Weeks: We have the letter from ODFW, do you have any expert testimony or what are the credentials of the expert testimony that wants to be permitted to be submitted.

Bloemers: In terms of the studies, what I understand them to be is photographs and data from the actual site; scientists rely on that; actual hard data from the field. It addresses a response directly to the ODFW letter. There is a letter from a fish biologist and scientific studies regarding the impacts of storm water adjacent land use practices. Those are peer reviewed published works in well known journals. If you read just the abstracts and the conclusions it will get you to the points and conclusions drawn on how that impacts the fish.

Hollatz: Cindy, do you send the applications to ODFW and what's the policy on their comments?

Walbridge: The policy is to send it to applicable agencies and I did speak with them over the phone. I talked to Jason Seals, assistant biologist out of The Dalles. I asked if their formal review is through the Division of State lands and he said yes. I asked if he received that yet and he said no. I said you're welcome to submit some things to us but we were going to send a condition of approval to DSL and do it through the formal process rather than the informal process. I explained the ESEE to him, what we had

decided on Reach 5 and he understood that piece but he still wants to submit testimony though he understands the ESEE.

Stephens: (directed to Bloemers) would you be able to summarize what you have to say briefly? If we gave you ten minutes of oral arguments and then we would have to give the applicant ten minutes to rebut.

Bloemers: I have a letter that summarizes the evidence that's responsive. I could summarize that briefly. My position is that my client wants you to accept the documentation, the photographs, the video and the letter and then I'll summarize.

Kearns: We would also have to take a look and see what's in this. The applicant has a right to respond but this would clearly be new evidence. Why don't you show the bulk of what you have in mind?

Stephens: Show us.

Bloemers: (shows a six inch pile of paper) Single-sided unfortunately but the cover letter that explains it is five pages long.

Stephens: But you'd want to submit that file.

Bloemers: We could submit it electronically.

Weeks: Is the bulk of that document the studies you were...

Bloemers: Yes

Stephens: My sense is that we're looking at reopening for new testimony that is on a subject that I don't feel we have the regulatory purview to do anything about. I'm not sure I agree with the purpose of reopening.

Kearns: We haven't heard from the applicant about this request. The opponents have had since the 24th to figure out what they wanted to respond to in this. I don't think they've even presented the applicant with their cover letter. The applicant has the right to final rebuttal under state law. If they see the need to submit new evidence they would have the right to do that also. The opponents would have the right to respond to that new evidence and at the end of that the applicant would have the final seven day rebuttal of just argument only.

Stephens: If we do keep the record open then anyone else, another opponent could submit another piece of evidence.

Kearns: Right, other opponents could submit other studies to which these opponents could say we need the right to embellish and respond to. As I look at the record, first of all fish, impacts were discussed from the very beginning. It was discussed on March 19th. But also the only evidence that I see in the record

shows that this is critical habitat for several listed species. ODFW in their letter said "In addition a long list of fish species and stocks that are also listed under Endangered Species Act are present in the Columbia River which has direct connection to the Nichols Boat Basin." The applicant did not see fit to rebut that and I think that the opponents would agree with that as a factual statement. I don't know if they want to rebut that. I think the Planning Commission can take official notice of the fact based on the evidence in the record that there are listed fish species potentially in the boat basin and there are technical documents that talk about the sub-lethal and lethal effects of storm water on listed species. That's the current state of the record right now and you are entitled to take notice of that.

Steve Naito, 150 SW Harrison, Suite 200, Portland OR, 97201. On the specific issue of reopening the record we vehemently object to reopening the record to allow any new evidence because as the city attorney mentioned if you interpret your statute that way, the ordinance and the right to request new evidence we'll be here well beyond your lifetime. The issue that the Planning Commission has is do we meet the storm water discharge standards of the city. We are not obligated to save the fish with respect to this application. There are plenty other requirements to address those issues. Those issues are not in front of you today especially now with the fact that there is no cable park in front of you today. It is just upland development.

Stephens: From my reading of the ordinance, as it relates to this issue, it is pretty clear in my mind that we are not legally required to reopen. We had an either/or option and we took A, and A is what we followed. B would be to accept new testimony but that's the choice we made at the initial hearing and we chose option A to continue to a certain date and then allow seven days for more written testimony and then another seven for the applicant's rebuttal.

Kearns: Your original suggestion to allow limited oral argument, in my view, would give the opponents a chance to narrowly fulfill what Mr. Foster said he wanted to do in his letter. But as long as it doesn't involve the introduction of new evidence I think you could take final rebuttal from the applicant and you could at that point close the record. You don't have to leave it for a large chunk of time. You don't have to accept written material. You don't have to accept new evidence. You don't have to do anything but they're here, they're ready to give an oral argument. I sent an email to Mr. Foster and copied Mr. Bloemers earlier today that it was a possibility that oral argument might be possible, be ready to do that.

Stephens: So you're saying that is still an option, not necessarily a legal requirement but an option.

Kearns: You are not legally required to do that based on what they're asking.

Stephens: Basically we need a motion for somebody to propose one thing or the other to decide whether to allow the opponents to have ten minutes to present their written testimony.

Gulizia: If we give them time to give oral testimony would that also include videos and...

Stephens: I think we can set the limits and legally define what we're going to do.

Kearns: If you say no new evidence then no new evidence. If during those oral comments new evidence comes in you're allowed to say we're not going to consider that new evidence. You can make that separation at that time. It's your process. In my view you're not obligated to reopen the record at this point. If you're inclined to reopen the record you can set the rules by which you do so.

Winkle: I would propose that we do not reopen the record. I'm making that a motion.

Stephens: Is there a second?

Weeks: I would second that.

Stephens: All those in favor of us not reopening the record say aye.

Weeks Winkle and Stephens vote aye.

Stephens: All those opposed.

Gulizia and Hollatz vote nay.

Hollatz: I make a motion to reopen the record for oral arguments with no new evidence submitted.

Gulizia seconded the motion.

Weeks: So no new evidence, oral, no video.

Hollatz: Only electronic or paper documents.

Stephens: All those in favor say aye.

Gulizia and Hollatz vote aye.

Stephens: All those opposed:

Weeks and Winkle and Stephens voted nay.

Kearns: So clarify what motion passed.

Gulizia: (to Stephens) did you vote with us?

Winkle: The first time she voted with us.

Stephens: I voted with them the first time.

Gulizia: Oh, I didn't catch that.

Kearns: So the first motion was to not reopen the record.

Stephens: Right

Kearns: Who voted to not reopen the record?

Stephens: I voted to not reopen the record both times.

Kearns: Both motions came up and both motions failed. It doesn't appear that any motion to reopen the record in any way passed.

Stephens: That is correct.

Winkle: Actually my motion was to not reopen the record so that stands.

Hollatz: I shouldn't have made a motion. I didn't realize that Laurie voted for that.

Kearns: So that the letter that Mr. Foster submitted closes his procedural request and that should be part of the record since it makes a procedural request. As I understand the commission has denied that request.

Stephens: A quorum of the Planning Commission is present. I want to ask for any ex parte contacts by any member of the Planning Commission since the last public hearing. In addition there has been a request by Ms. Hallock for particular disclosure of any ex parte contact anyone may have had with the mayor.

Gulizia: No. In terms of the mayor I had a procedural discussion with the mayor. Nothing was discussed in favor or against the application.

Hollatz: No

Weeks: I have had ex parte contact with many people because it's gone on for so long, people ask me a lot. I have spoken to the mayor but not having to do with this application in particular.

Winkle: No

Stephens: No. There were two different meetings with staff where the mayor was present. His concern was primarily the process and whether the public understood the process that we explain clearly the Planning Commission follows code and the different criteria as it relates to the application. Does anyone have any questions? The application and testimony is officially still closed. We aren't reopening the record so testimony is complete. I am going to ask staff for any responses.

Walbridge: Just to be clear there is no public testimony tonight. That is closed. The May 3rd memo that I sent to you explaining Reach 5, the southern part of the boat basin with the zero setback. That setback was put in place by the City Council through a legislative process through the Goal 5 Natural Resources Planning Process and through an adopted ESEE analysis. If the Planning Commission or the any audience member feel that the City Council in 2004 made an error in their decision or conditions have changed I would suggest that they go to the City Council and say would you please revisit Goal 5. I have the bifurcated application. The testimony and information, including minutes, traffic reports anything that

was submitted as part of the original application goes into new application too. We have received the fee for the new cable park application. We have not set a date for the public hearing. I took the conditions out of the staff report that we wrote on March 12th and April 9th and put them in their own separate document. You have them in front of you. These are the conditions that I would recommend at this point. The first six conditions are unique to this application. Please eliminate conditions 48 and 50; they are applicable to the cable park. I request that prior to issuance of the building permit the applicant shall submit letters or approval letter or whatever is required from the Corps of Engineers and the Division of State Lands for both of the buildings. I should qualify that by saying that is for the retail building only because the hotel is not within the flowage easement.

Kearns: There are two divisions of the Army Corps. The regulatory part that has permitting authority over the cable park but also there's flowage easement which is a property interest that the Corps owns. They need easement for that easement. I'm not aware of any permits needed from the Corps for this project but if they're required they're required. If something about this development that requires a DSL permit they are required to get that.

Walbridge: The staff reports and the memos from the attorney are the bulk what our findings affect other than what you will give us in deliberations tonight. I will incorporate these into a findings document.

The original application had 234 parking spaces. I made a finding that 176 were required to handle the uses that are being proposed, 21 for the cable park. We know that the hotel has to move a certain amount of feet, between 6 and 15 feet so we may lose some parking. I put it as a condition that we have a 176 minimum of parking that we don't go below when we get the final site plan for the non-discretionary issues.

Kearns: You could either limit the parking requirement for this proposal to just the parking demand created by the two buildings or you can assume that something is going to happen that might increase parking demand. It is still possible to meet the parking requirement even if the building has to move. The applicant is not required, at each iteration, to submit a new drawing to show how they'd do that. They will have to meet those requirements at final site plan.

Gulizia: Concerning the elimination of conditions 48 and 50 when the second proposal comes through will those be addressed then? How we will determine access to the waterways?

Walbridge: The Building Department is going to look at the cable park so this will get put back in as part of the cable park. The traffic and circulation has a condition for the proportionate share prior to building permit and monitoring the signal at 2nd and Oak. We talked about the capacity of the street that is going to enter off the ODOT right of the way to the west from 2nd Street and go through the project. We have allowed it to be a private street. We approved a 15 lot parking lot at the Kite board Beach. There's a little bit of parking that can be handled on one side of the Spit road because of the 20 foot requirement for fire trucks. Its use will be two or three hours at a time.

The frontage requirement is when you're creating a new parcel. If you have a pre-existing parcel it's there. It doesn't require all the standards for development that a new parcel would be required to have. The footprint ordinance is that between a building and a C2 zone between 25,000 and 50,000 sq ft it has

to have a sidewalk within 20 feet of it. The project meets the intent. But if you have issues with that we will say it is a public sidewalk that is maintained by the private property owner.

Kearns: There were a couple of legal issues that came up. The request of disclosure of ex- parte contacts, conflict of interest and bias. The state law requires they be disclosed on the record. They don't require that they be disclosed in writing. All conversations with the mayor were limited to procedural discussions and not about the merit of the proposal. All of you have disclaimed any direct financial interest in the outcome of the proposal.

Walbridge: Concerning the sidewalk, most of the utilities will be running underneath the street so we will probably ask for a public easement on one side. So it will be a public sidewalk.

Gary Lindemyer: It's typical to get a public easement on a private street.

Winkle: Clarification on Item 3 on staff report, it says 75 feet back from the west side.

Walbridge: It's along the eastern side of the basin. You have the west bank of the Hood River bumping into the eastern side of the basin.

Stephens: Any concerns or problem areas?

Hollatz: I'm concerned about the high water marks. I think the structure goes into the unzoned water and we need to evaluate the impacts. The zoning lines of the high water marks, maps show it at 78 feet and others show it at 80 ft.

VanderZanden: The whole property is zoned C-2. The building is above the ordinary high water mark. The high mark is regulated by the Army Corps at 78 feet.

Walbridge: Water quality was looked at within the ESEE. They looked at it as the basin. Every agency lists the high water mark is different.

Kearns: If there are pilings below the 80 ft line what additional requirements does that impose? The 80 foot line seems to cut under the face of the building. The deck extends out over that part and they are probably pilings below it supporting it. If permits are required from the state or federal government they are required to get them and abide by the conditions.

Walbridge: My discussion with the Army Corps said they needed a real estate permit for the flowage easement. We can make comments when the permit becomes public.

Hollatz: Concerns whether land and water was looked at in the ESEE.

Winkle: Is there a standard for lighting on the PAW?

Walbridge: In this case the PAW is being used as the sidewalk and the secondary path is not the PAW. The lighting requirements are in the conditions.

VanderZanden: There will be 14 foot light poles on the PAW.

Weeks: Wants clarification on Hollatz's concerns.

Hollatz: Hard to make a decision without knowing the impacts on the basin in the water, on the fish. I'm still trying to understand the ESEE whether or not it covers the basin.

Weeks: If we're talking zero setback, are we going from that 80 foot or 78 foot mark? Is the deck included in the setback?

Walbridge: Yes. In some cases it can project but not over property lines. It's not submerged lands, it's inundated lands. Naito, as does the Port, have title to the ground underneath.

Kearns: And that affects whether DSL has permitting jurisdiction. You can put development in a flood plain if you get a flood plain permit. Condition 5 addresses that issue.

Winkle: Alternative PAW. If some other agency objects to that part do we have a condition that states we still have public access to that?

Walbridge: If the secondary path were to go away then to make the sidewalks and the turn on for the deck and the signage and the tables and chairs would comply with the PAW standard.

Winkle: Regardless of water usage will there be enough parking spots?

Kearns: If the cable park application changes into something like Disney Land with a big parking demand. They have to show that parking is available to serve that.

(Display of Bricks)

Stephens: If the building has to be moved back Casey wanted to talk about the basic...

Walbridge: If the building had to be moved I would require that it come back in front of the set line. It's in the site plan review and the conditional use for a minor or major amendment and I would call that...but you can specify and make it even clearer.

Winkle: Are we going to say that if there's a distance before that gets triggered?

Walbridge: If it's going to alter the site plan and if it's going to alter the road and the parking lot and the sidewalk, I'd say any distance.

VanderZanden: The way I understand it is if the Army Corps said the face of the building needs to be further back based on ordinary high water it wouldn't affect the street, the sidewalk.

Stephens: If the Army Corps came back and said they're two feet out what they're saying is that in that case they would likely just make the building smaller. If they're impacting the street, or removing more parking they would have to come back.

Gulizia: I'd like to err on having enough parking rather than not enough parking. It's harder to add parking down the road. The hotel is going to take up a lot of the parking.

Walbridge: The code says parking has to meet the needs of the clientele and one for every employee. The hotel doesn't have a restaurant or room service. There will be house cleaning and other staff that will overlap with people leaving the hotel.

Winkle: I didn't want to set an approved amount of parking spots for the water use before we knew for sure what that water use would be.

Stephens: I'm comfortable staying with a minimum of 176 spaces and if they end up with a business that needs more parking they'll have to come back.

Kearns: There is a downside to front loading a massive amount of parking in anticipation of future uses you have to treat all the storm water. If they needed more space they could lease it.

Gulizia: Where would they lease that land from?

Kearns: That's the applicant's problems.

Gulizia: Concerned about the amount of parking.

Stephens: We are talking about imposing some specific conditions but I want to get a sense of how people leaning.

Gulizia: In favor with hashing out some details so we have conditions to protect the land.

Hollatz: I'm still concerned about impacts.

Weeks: On the fence.

Winkle: I'm leaning towards approval.

Stephens: The ESEE is very important to me. The decision on Reach 5 was not to have a setback. The ultimate decision was that this was a derelict industrial site. The ESEE states what we're supposed to do here. I don't see any natural features. The decision was that we would allow development on this site with

zero set back. There's nothing in this application that I see that conflicts with that. I am in favor of the application. We can hash out the details and conditions.

Walbridge: Based on concerns I have written two new conditions proposals that maybe you could incorporate them. If the secondary PAW goes away the deck shall become the PAW. It shall have signage, markings, and a sidewalk apron at each of the entrances to make it look as if it's a continuous path.

Kearns: Let me clarify that if it's prohibited by a state or federal agency, the pathway along the waterfront is what the conditions says and only if it's not possible because of a state or federal agency says it's not.

Walbridge: If the Army Corps of Engineers permit approves the retail building but moves the building to the south impacting the location of the street, the parking, the pedestrian ways an amended site plan shall be reviewed and approved by the Planning Commission under the quasi-judicial process.

As far as parking there will be leases from ODOT and from the Port of Hood River for parking. When you total them together the site plan shows 234 spaces. The hotel has 88 rooms and I added ten for the night help. The retail building will need 57 spaces and the cable park 21 spots. A condition of approval is that we need to see the leases from the Port of Hood River and ODOT with the time frames and the conditions.

Stephens: Is there a time limit on the leases,

Walbridge: We have it in perpetuity from the Port. ODOT with the exception of maybe 10 or 12 that may be gone. The rest are pretty much guaranteed except for the ones that are right next to the hotel.

Stephens: So we're well above 176 even if they take out a few with moving the hotel to the west.

Weeks: If there's another use for the water in terms of parking they have to come back to us.

Walbridge: It would be an amended site plan and it would be considered to have an impact on traffic and circulation so therefore it could go up to you and you can make that requirement.

Winkle: I propose a minimum of 176 parking stalls, 21 of which are dedicated to a water use minimum. If there's a bigger water use that comes along they have to provide for that.

Agreement to go with staff recommendations for color and design.

Lindemyer: The typical approach is that we leave it to the applicant to provide a means to address the storm water issues. With the site so close to the outlet I would like to see some type of filter systems. You can put catch basins that have the filters built in or you could pipe everything through a large vault type of structure with multiple filters in it. It's not a real big challenge to get water quality treatment even this close to the outlet.

Stephens: Can we have a review of the conditions and changes.

Walbridge: So the elimination of conditions 48 and 50. Three new conditions: If the secondary PAW is not approved by the ACOE the deck shall become the PAW and will have signage, markings, aprons at the exit and entrance. Different color or markings can represent areas for tables and for walking. If the ACOE approves the retail building, but moves the building to the south impacting the location of the street, parking pedestrian way an amended site plan shall be reviewed by the Planning Commission under the quasi-judicial process and a minimum of 176 parking space, 21 of which shall be dedicated to a water use, as a minimum. If a new water use is introduced that will require more parking a review approval through the quasi-judicial process shall be required.

Recess from 7:50 to 8:00 pm

Stephens: The other issue is that the private road provides access to the Spit in perpetuity.

Lindemyer: We have a standard easement form is for ingress, egress and utilities. It turns into a public easement. It's in perpetuity. It goes with the land.

Kearns: If the easement is granted in perpetuity and this development proposal is abandoned after that easement is made any subsequent proposal would have to deal with this.

Lindemyer: The applicant originally proposed a city right-of-way through there. So I don't foresee any problem getting an easement.

Naito: I'm comfortable with the easement.

Kearns: The motion should cover all the conditions that we mentioned tonight and any specifics that you want in regard to findings on these issues. The final order has to address all the issues that were raised with specificity. Then it has to be reduced to writing and signed before the 12 day appeal period can begin.

Walbridge: Last condition, the property owner shall allow the public access to the land commonly known as the Spit via public easement for purposes of ingress and egress and utilities on a form provided by the city.

Motion by Gulizia: I make a motion to approve the site plan review and conditional use permit for a 45,000 sq ft four story, 88 room hotel, 20,000 sq ft office building and a parking lot. To approve the application and site plan as submitted for the land portion. Using the conditions outlined in the revised version dated 5/7/2012 along with the following conditions raised at the tonight's proceedings. Those include:

1. If the second PAW is not approved the deck will become a designated PAW.
2. If the Army Corps of Engineers does not approve the location of the office building and it has to move south, a site plan review will take place.
3. It will require a minimum of 176 parking spaces of which 21 be designated for the water use.

4. The owner shall allow public access to the Spit.
5. The conditions decided tonight 5/7/12 will be drawn up by staff and reviewed and signed by the chair of the Planning Commission.

Winkle: I second the motion.

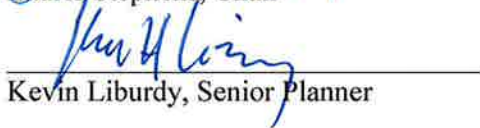
Vote: Winkle, Stephens, Weeks, Gulizia vote aye
Hollatz votes nay.

Meeting adjourned at 8:15 pm

ATTEST:


Laurie Stephens, Chair

6/20/12
Date


Kevin Liburdy, Senior Planner

6/20/12
Date (Approved)