



City of Tualatin

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Approved By Tualatin City Council

Date 2-22-10

Recording Secretary M. Smith

TUALATIN CITY COUNCIL WORK SESSION MINUTES OF JANUARY 11, 2010

PRESENT: Mayor Lou Ogden; Councilors Chris Barhyte, Monique Beikman, Joelle Davis, Jay Harris, Donna Maddux, and Ed Truax; Sherilyn Lombos, City Manager; Brenda Braden, City Attorney; Doug Rux, Community Development Director; Don Hudson, Finance Director; Paul Hennon, Community Services Director; Kent Barker, Police Chief; Dan Boss, Operations Director; Carina Christensen, Assistant to the City Manager; Eric Underwood, Development Coordinator; Will Harper, Associate Planner; Maureen Smith, Recording Secretary

ABSENT: None.

[Unless otherwise noted, MOTION CARRIED indicates all in favor.]

A. CALL TO ORDER

Mayor Ogden called the work session to order at 4:30 p.m. and immediately went into executive session pursuant to ORS 192.660(2)(d) to discuss labor negotiations.

Mayor Ogden continued with the Work Session at 5:10 p.m. and immediately recessed the Work Session and called to order the Development Commission Work Session at 5:10 p.m.

Mayor Ogden reopened the Council work session at 6:15 p.m.

Council reviewed the Consent Agenda with no changes.

B. PRESENTATIONS, ANNOUNCEMENTS, SPECIAL REPORTS

2. *Draft Development Agreement Between the City of Tualatin and Legacy Health Systems*
Associate Planner Will Harper gave a review of what has taken place to date. Staff has been working with Legacy Health Systems on a draft Non-Statutory Development Agreement (DA) that addresses development issues associated with future expansion of the Meridian Park Medical Center. Legacy owns approximately 19+ unimproved acres of property, with plans to expand the property in the future with buildings and site improvements in compliance with the standards and allowed uses within the MC Planning District. Legacy requested a plan map amendment (PMA-09-03) to change the planning district designation from RL (Low-Density Residential) to MC (Medical Center). A hearing was held on November 9, 2009 and continued to January 25, 2010, with Legacy's agreement. During the hearing Council asked about establishing a DA with Legacy. Staff has been working with Legacy on a draft DA as presented at this meeting.

Larry Keogh, director of Real Estate and Construction of Legacy Health Systems was introduced by Mr. Harper. Mr. Harper said one issue with Legacy is public street improvements which have been worked on as late as today. For the most part Legacy is in agreement with the draft DA.

Considerable discussion followed about traffic concerns, particularly at 65th and Borland. Discussion on the possibility of expanding lanes, and pedestrian connections. It was asked and answered by City Attorney Brenda Braden about statutory agreement language, and that it is a 20-year agreement, whereas statutory is only a 10-year. It was asked and answered by City Attorney Braden that if the Council were to pass a zone change, the agreement goes into effect. Mr. Keogh explained what may take place on the property and Legacy actually is in need of office space. It was asked about the timing of the buffer, and Mr. Keogh said that could be addressed in the DA. Discussion followed.

Discussion concluded and staff will be back with further revisions. Mayor Ogden said he wanted to make sure everything is out there to be able to address this at the next Council meeting. He said he wanted to be able to look at the whole site. Traffic issues continue to be a concern of Council's. City Manager Lombos pointed out there is not an issue before Council on the *existing property* and Mr. Rux explained it would be reaching to include the entire property.

3. *Update on Annexation into the Library District of Clackamas County*
Community Development Services Director Paul Hennon said there is really nothing new to add at this point other than what has been already reviewed by Council. City Manager Lombos said staff is proceeding with placement on the ballot, etc.

C. CITIZEN COMMENTS – N/A

D. CONSENT AGENDA

Council reviewed the Consent Agenda at the beginning of the work session with no changes.

E. PUBLIC HEARINGS – Legislative or Other
N/A

F. PUBLIC HEARINGS – Quasi-Judicial
N/A

G. GENERAL BUSINESS
N/A

H. ITEMS REMOVED FROM CONSENT AGENDA
N/A

I. COMMUNICATIONS FROM COUNCILORS
None.

J. EXECUTIVE SESSION

It was noted an executive session pursuant to ORS 192.660(2)(d) to discuss labor negotiations was held before the start of the Work Session.

K. ADJOURNMENT

The work session adjourned at 7:58 p.m.

Sherilyn Lombos, City Manager

Recording Secretary





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TUALATIN CITY COUNCIL MEETING MINUTES OF JANUARY 11, 2010

PRESENT: Mayor Lou Ogden, Councilors Chris Barhyte, Monique Beikman, Joelle Davis, Jay Harris, Donna Maddux, and Ed Truax; Sherilyn Lombos, City Manager; Brenda Braden, City Attorney; Mike McKillip, City Engineer; Doug Rux, Community Development Director; Paul Hennon, Community Services Director; Kent Barker, Police Chief; Carina Christensen, Assistant to the City Manager, Maureen Smith, Recording Secretary

ABSENT: None.

[Unless otherwise noted, MOTION CARRIED indicates all in favor.]

A. CALL TO ORDER

Mayor Ogden called the meeting to order at 7:06 p.m.

The Pledge of Allegiance was led by Councilor Maddux.

B. PRESENTATIONS, ANNOUNCEMENTS, SPECIAL REPORTS

1. *Tualatin Youth Advisory Council Update*

Members of the Youth Advisory Council (YAC) were present and gave a brief PowerPoint presentation on recent activities and events. Also currently working on Project F.R.I.E.N.D.S. New YAC members were also introduced.

2. *Commuter Rail Update*

City Manager Sherilyn Lombos gave a brief update on the Commuter Rail. The funding agreement is finalized and set to award the bid next week. Construction will start towards the end of March, and look to be on track to have a quiet zone by the end of the year.

C. CITIZEN COMMENTS

None.

D. CONSENT CALENDAR

MOTION by Councilor Barhyte, SECONDED by Councilor Davis to adopt the Consent Agenda as read:

1. Approval of the Special Work Session Minutes of December 7, 2009 and the Work Session and Meeting Minutes of December 14, 2009
2. Approval of a New Liquor License Application for Walgreen's #09625
3. ~~Change Order No 2 to the Seneca Street Sewer Project~~

4. Resolution No. 4950-10 Establishing Regular Meetings of the City Council and Advisory Committees of the City and Repealing Resolution No. 4856-09

MOTION CARRIED.

Item G-1 was moved to this portion of the meeting.

G. GENERAL BUSINESS

1. *2009 Annual Report of the Tualatin Arts Advisory Committee*
Community Services Program Coordinator Becky Savino was present, along with Arts Advisory Committee members Buck Braden and Richard Hager to present the annual report of the Tualatin Arts Advisory Committee. A PowerPoint was given reviewing the past year's accomplishments. Council thanked the committee for all their work.

E. PUBLIC HEARINGS – Legislative or Other

None.

F. PUBLIC HEARINGS – Quasi-Judicial

1. Request for Review of the Architectural Review Board Decision Approving the Architectural Features of the Stafford Hills Racquet and Fitness Club Project Located at 5916 SW Nyberg Lane (AR-09-08)
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Mayor Ogden read language required by legislation before a comprehensive plan or land-use regulation [ORS 197.763(5) and (6)] and opened the public hearing. No bias or ex parte contact noted except as noted by Councilor Harris.

Councilor Harris noted his company is a consultant on the project and recused himself from the hearing.

Associate Planner Will Harper presented the staff report and entered the entire staff report into the record. The issue is whether Council should affirm, modify or reverse the Architectural Review Board (ARB) Findings and Decision in AR-09-08. Mr. Harper reviewed the appeal and the three reasons presented for review: *Reason 1*, concerning the allowance of east-facing windows on the Activity Center; *Reason 2*, concerning the amount of landscaped areas versus hardscaped areas; and *Reason 3*, the decision to allow current parking management plan to stand unsubstantiated. Council can consider the reasons listed in the staff report and can accept new testimony on those three reasons. Mr. Harper noted Douglas L. Rasmussen submitted the appeal in a timely manner.

The property is 4.9 acres, and is located at 5916 SW Nyberg Lane. The developer is the Zupancic Group. They were previously granted a condition use permit, CUP-09-01 with 13 conditions of approval to develop a private club facility known as the Stafford Hills Racquet and Fitness Club. The Council approved, with conditions. The City Engineer's decision as part of AR-09-08 was not appealed and is not for consideration at this hearing.

Staff is requesting Council consider the staff report, and provide direction. The applicant, developer Jim Zupancic is present and also the appellant Rasmussens.

APPLICANT

Jim Zupancic, Zupancic Group and Ray Yancey, Myhre Group Architects, were present and thanked the Council for the opportunity to present information this evening. Mr. Zupancic said the purpose is to discuss the findings of the ARB. He believes this will be a beautiful enhancement to this neighborhood and the process associated with this land use application has worked. There has been many hours of hearings and review of the project.

Renderings of the project were displayed and Mr. Zupancic noted there was discussion of whether the windows are even needed for the eastside of the proposed Activity Building. He noted much of the project site is subterranean and would not even be seen from one side of the project site. Mr. Zupancic said with regards to the parking issues, they have constructed a parking plan with capable designers and staff, and addressed recommendations to move parking to a different side of the building, which they did because it was responsive to the concerns expressed. Mr. Zupancic also added he visited other clubs and found that the parking appears to be adequate. With regards to special events parking issues, the Parking Management Plan will be able to provide adequate off-site parking for events accomplished in a variety of ways to address appropriate parking areas.

Mr. Zupancic concluded by asking that Council affirm the Tualatin Architectural Review Board (ARB) decision approving the architectural features of the Stafford Hills Racquet and Fitness Club Project (AR-09-08).

APPELLANTS

Kevan Rasmussen, 19025 SW Mobile Place, Tualatin, OR, wanted to address the appeal process as a whole and said although the request is appealing the ARB decision, it is simply an appeal of information or rather, more accurate information. She mentioned the east-facing windows, and while the windows are comparable to a residence, the similarity ends there. Ms. Rasmussen also said there is a privacy issue concern and of lower property values for the surrounding neighborhood. Ms. Rasmussen said a statement of intent does not make a parking management plan. The developer has not provided any numbers of what or how many members would be using the facility, and she believes the parking and particularly overflow parking has not been addressed.

Samara Rasmussen, 19025 SW Mobile Place, Tualatin, OR, was present to address a few of the issues in the appeal. She began by noting she does not agree to using windows to accomplish the reasons as stated by the applicant and went on to propose using "translucent" windows. Ms. Rasmussen then addressed landscaping issues and said there are inconsistencies as stated in the Tualatin Development Code (TDC) as she arrived at a different set of calculations on the landscaping not meeting the 25% landscape requirement.

Doug Rasmussen, 19025 SW Mobile Place, Tualatin, OR, said his comment was mainly on landscaping and the amount of impervious surface.

Bob Dove, 19135 SW Mobile Place, Tualatin, OR, was present and said he lives 50 feet from the "Activity Center" proposed for the Racquet Club. He mentioned the work that was done by the Architectural Review Board (ARB) in review of this project and the issues that were raised. He appreciated the movement of the dumpster to a better location, but believes the dumpster and inclusion of windows as part of the Activity Center were put there by the developer to spite the neighbors. At a public hearing it was stated and assurance was given by the developer there would be no windows that would be facing their home, but were then part of the design when presented to the ARB. Mr. Dove said he is wanting to ensure his family's privacy, and if windows are needed, he requested they be

translucent and tilted in a different direction.

Angela Whratz, 19155 SW Mobile Place, Tualatin, OR, said she lives directly across from the developer's property and the proposed Activity Center. Ms. Whratz said she originally was going to speak on the developer's sign on the property that says it is a future site of a wetlands restoration and makes no mention of the racquet club being built. She also expressed her concerns about the windows. From her cell phone, Ms. Whratz then played a portion of the public hearing that was held where Mr. Zupancic said there would be no windows on the east wall of the Activity Center. Ms. Whratz asked Council to consider the words of the developer, and appealed to Mr. Zupancic that she would support his project if it doesn't create problems for the homes and residents located near the project site.

Julie Sepp, 19065 SW Mobile Place, Tualatin, OR, said that during the ARB process Mr. Zupancic said that various businesses, including Meridian Park Medical Center would be used for overflow parking during special events. Ms. Sepp suggested ways to address the parking problem during special events and the use of signs to be posted to insure compliance. She said every special event should be submitted 45 days in advance to the City and be reviewed and formally approved by the City Council. Ms. Sepp mentioned other solutions that could be considered since there has not been an actual parking management plan submitted.

A break was taken from 8:41 p.m. to 8:51 p.m.

Barbara Fronczak, 19135 SW 52nd Place, Tualatin, OR, said she was impressed by the research and hours spent by the residents on this issue. She said she is baffled by having a "Costco" sized building next to the landscaping and beautiful nature park across the road. She expressed concerns about the parking issues and that cut-through traffic would happen, increasing the traffic in their neighborhood. Ms. Fronczak also added that a setback of 50 feet to a residential neighborhood is unacceptable to her.

Barry Dayton, 19260 SW 56th Place, Tualatin, OR commented that after hearing all the testimony, wanted to mention he volunteers for a non-profit event, and manages the parking connected with that event. They address overflow parking by getting permission from neighboring businesses each year. Also they use signs to direct where people need to park. Mr. Dayton said with a regional tennis type event questioned where the overflow parking would go. He believes that the residential neighborhood nearby will have overflow parking issues, and he hopes Council takes this into consideration, and also wildlife in the area.

Nate White, 22413 SW Pima Avenue, Tualatin, OR, said he has lived in Tualatin many years and said although he doesn't live near the project, commented on the amount of impervious surfaces.

REBUTTAL

Mr. Zupancic responded to the land value issue that he does this type of project all over the state with no problems. With regards to the windows in response to Samara Rasmussen's comments, there are different room uses proposed and he wouldn't expect a great amount of noise coming from those rooms, and Mr. Zupancic said again that the building is sunk 14 feet down.

In review of photos that were taken awhile back indicating a substantial barrier to the building by the vegetation, etc. Mr. Zupancic explained there has been an evolution of this project with changes that have been made along the way since it was first brought before Council. Having the windows not only improves the functionality of the building, but there will not be a blank wall on that side of the building. This building will be "LEED's" (Leadership in Energy and Environmental Design) certified, and utilization of the windows is one way to accomplish that. Also the current arborvitae is almost at the height of the elevation itself and those windows would fall almost within that area. Mr. Zupancic also said they are proposing a wetland improvement on the site, at substantial cost, and are proud of what they are doing for the wetlands area. In response to Mr. Dove's comments on some sort of retribution, Mr. Zupancic said they have met more times with the neighbors than any project he can remember. Mr. Yancey explained the "trash" area that had been proposed to the ARB and the reason for its location, and moving the receptacle leaves a remaining issue with PGE, but they accept the change.

Mr. Zupancic said while not knowing what precisely will end up being in the development, there will be events, and possibly larger events, and they would manage that type of event appropriately.

COUNCIL QUESTIONS

Councilor Maddux said she voted to approve this project the first time around but she is having a difficult time with the inclusion of the windows that were not in the initial drawings. Mr. Zupancic replied there were two hearings held. The first addressed a lot of issues, some of which were questions about the building on the east side. At that time, the development had a floor plan that included tennis alleys, without the need for windows because of those alleys, and there was also parking to the east of the activity building. After listening to the testimony and discussing with staff the different elements, concurred that the compatibility would be enhanced; the buffer was increased and the parking was moved. The information was accurate at the time it was presented. At the second hearing the windows were added as part of the changes that were made to the initial design. Council wasn't looking at that level of detail at that hearing, but it was reviewed in-depth by the ARB specific type of details.

Councilor Davis said if the arborvitae were to be trimmed back, it suggests that the neighbors don't want to have windows there with the types of uses that are planned for the building. She also said the use of translucent windows was a good idea and suggested a skylight as a possibility. In terms of parking, Councilor Davis said they haven't seen a more concrete plan, and the suggestion of using sandwich board signs may be a problem with the City's code. Councilor Davis said if there were a more defined parking plan it would make everyone feel better.

Mr. Zupancic said by having a spa-like area, such as a massage room, on that side of the building makes having windows a good idea and he had never meant for them to be transparent. With respect to the parking management plan, Mr. Zupancic said he has spent money on traffic studies and a parking plan and also looked at other facilities of similar type. You do the best analysis that you can, and in looking at other similar-type clubs, concluded that the parking is more than adequate. Councilor Davis said it is less about the day-to-day parking and more about when there are special events. Mr. Zupancic said there are only seven courts and there can only be a certain amount of spectators to meet capacity.

It was asked and answered that the size of the windows are typical residential-sized. There are six windows proposed, and in looking at the renderings, the existing arborvitae is superimposed to show how they will look with the finished project. It was also asked if the developer can accomplish what they need to do with the LEED's designation with the use of translucent windows, and Mr. Zupancic said they would be willing to pursue that.

Mayor Ogden asked Mr. Dove about the photos of his property taken from his back yard, and if the current vegetation is acceptable. Mr. Dove said it is not acceptable and said they have let the hedge grow in response to possible plans that were formally being presented by Mr. Zupancic. Mayor Ogden asked if it could be possible to move the existing plantings nearer to the fence. Mr. Dove said he wants the plantings to block the view to his property of any one passing near his home on the path that's behind his property. Mayor Ogden asked and Mr. Zupancic said the path is used more for access by utilities, etc.

Councilor Davis said vegetation needs to be visible all year long to work properly. Mr. Zupancic said it is important to keep the current vegetation in place after meeting with arborists. Ms. Whratz said the arborvitae should stay where it is. The problem is the previous owners never maintained it and it does feel closed in when in her home. The issue that hasn't been addressed is noise if the windows are able to open and sound travels.

Mr. Zupancic said he recognized the concern of noise from the use of the multi-purpose room and the windows could be shut during certain use times. The walls are intended to be super-insulated on the inside and out, and have the windows positioned to look out and view landscaping, but he doesn't want to have a noise problem or intrusion issue. Those windows could either be translucent or positioned above eye level and there are ways to be able to deal with noise, etc. Mr. Zupancic said he is looking for a solution, if neighbors find it acceptable he could work with it. Ms. Whratz said she appreciated the other issues that Mr. Zupancic addressed, but her remaining issue is the noise. She suggested figuring it out with Mr. Zupancic on what could be done, but continued to question how it would work with being able to open the windows and noise traveling.

Mayor Ogden asked about the capacity of the facility in terms of members and people present for events. Mr. Zupancic said they will take into consideration the type of event, and would not overtax the parking, and would not do a larger event without working with other businesses unless there are arrangements to do so. It was asked and answered that enforcement of the parking would be included in any membership information they will be providing. Councilor Maddux said the issue is not just the parking but how the neighbors will know when a special event is held, and suggested a type of notification when an event takes place. City Attorney Braden said there is currently a process in the Code that could possibly work for this.

Ms. Sepp commented about the parking and adequately addressing special event parking and not to end up placing the onus on the residents to "police" the parking.

Mayor Ogden said he is concerned about trying to fix the problem before knowing what it is yet. Councilor Barhyte said it appears in the Code that the process wouldn't fit, and Mayor Ogden said the Code would have to change to address this type of parking for special events. Ms. Sepp said it still doesn't address the early morning hours parking at the facility.

City Manager Lombos said a possible solution on an event requiring overflow is for the facility to submit their parking plan to the City and the Police Department, provides the communication to know when at event is going to take place, and puts it on more of a case-by-case basis.

Mr. Zupancic said he is not looking to create problems and wants to make sure they don't have to come back before the Council. It was asked and answered that the conditions placed on the CUP could be reviewed and changed by Council. Mr. Zupancic also added they will proactively be advising members about where to park and not to park before 8:00 a.m.

Mayor Ogden closed the public testimony portion of the hearing.

COUNCIL DELIBERATION

Councilor Maddux said on the east-facing windows she would like to explore using translucent windows, having the multi-purpose and teen room on that east side, and continue to have availability to be able to open the windows.

Mayor Ogden asked about being comfortable having the site lines not visible. Councilor Barhyte said there is currently a requirement that addresses a vegetated landscaped visual block between the windows and the property, and Councilor Maddux suggested leaving the current restrictions in place and layer on the translucent windows. Councilor Davis said she also wants to make sure vegetation is in place year round.

MOTION by Councilor Barhyte, SECONDED by Councilor Beikman, to reopen the hearing.

Mr. Zupancic said in response to the vegetation, there is deciduous planting and will also work with the neighbors on how the specifics of the various vegetation and where it gets planted. In response to the multi-purpose area he will be happy to look at the issue of translucent glass.

Councilor Barhyte said he would not alter the conditions of the ARB, and added having the condition in the multi room of translucent windows below and clear above the sight line. Community Development Director Rux said in response to the plantings, it is addressed in the staff report on what material would be selected.

Mayor Ogden again closed the testimony portion of the hearing.

Councilor Truax said he believes this project is not an appropriate use for the site and that there are issues that can't be addressed at this hearing. There also doesn't seem to be much of a comprehensive parking plan .

MOTION by Councilor Barhyte to affirm the ARB decision, with the following additional conditions: adding translucent windows below the line of site and clear glass above that to the rooms to the north of the Activity Center, such as the proposed the multipurpose/teen room, and a requirement to coordinate with the City when a special event takes place with a process the City has in place.

Discussion on Motion

Mayor Ogden asked for straw votes and said he hears general agreement on having translucent glass, with clear glass above the site line. Mayor Ogden asked and Mr. Rux replied that it is required to be screened all year round. Councilor Beikman said she does not believe Council should direct the developer as to what to put in his facility.

MOTION RESTATED by Councilor Barhyte, SECONDED by Councilor Maddux to affirm the ARB decision, and require translucent glass and operational and clear glass above the site line in the two large activity rooms in the Activity Building, and coordinate with the City when they are able to coordinate in advance of an event that threatens their ability to park on site. MOTION CARRIED. [VOTE: 5-1-1; YES – Ogden, Barhyte, Beikman, Davis, Maddux; NO – Truax; Harris recused].

G. GENERAL BUSINESS

1. 2009 Annual Report of the Tualatin Arts Advisory Committee – *heard earlier in the meeting.*

H. ITEMS REMOVED FROM CONSENT AGENDA

Items removed from the Consent Agenda will be discussed individually at this time. The Mayor may impose a time limit on speakers addressing these issues.

I. EXECUTIVE SESSION

Mayor Ogden noted an executive session pursuant to ORS 192.660(2)(d) to discuss labor negotiations was held before the Council work session.

J. COMMUNICATIONS FROM COUNCILORS

None.

K. ADJOURNMENT

MOTION by Councilor Beikman SECONDED by Councilor Barhyte to adjourn the meeting at 10:56 p.m. MOTION CARRIED.

Sherilyn Lombos, City Manager

Recording Secretary


