

- I. Call to Order: 7:05 pm
- II. Administration
 - a. Roll Call:
Planning Commissioners: Joanne Siler, Brandon, Mike Anderson, Terri Michelsen
Staff: Sabrina Pearson, Jeff Aprati
Hal Grimnes will be late but he will be here; Hal arrives at 7:14 pm, prior to the public hearing
Richard Clappé is absent due to illness.
 - b. Planning Commission Minutes: Thursday, February 7, 2013
Question: Planning Commissioner Terri Michelsen regarding page 3, DSL visit: interpretative center; Jeff explains that this is an idea proposed to DSL that could be sought if all parties were in agreement.
Motion to approve minutes as written: Planning Commissioner Mike Anderson
Planning Commissioner Joanne Siler: 2nd
Vote: Unanimous approval of the Motion
 - c. Visitors: Diane Staben and property owners Pepi Gabor and Ron Minschwaner for Design Review Public Hearing for Application #2013-01 DR
 - d. Correspondence: None
 - e. Non-Agenda Items: None
- III. Public Hearings for Application #2013 – 01 DR Design Review for Rising Star Café
The Application was available at City Hall during the application review period 2/18/2013 – 3/07/2013. The Staff Report was available at City Hall 2/28/2013 – 3/07/2013.

Choosing a Chair:

Planning Commission President Dan Ayers is the agent representing the property owners Pepi Gabor and Ronald Minschwaner and will step down as chair for the public hearing. Vice President Richard Clappé is absent due to illness. The Planning Commission needs to elect a chair for the public hearing. Discussion: Planning Commissioner Mike Anderson recommends from his experience on committees, a suitable decision for electing a chair when the president and vice president that is suitable to the Oregon Department of Labor: President, Vice President, Secretary, then order of tenure. That way no one argues the order of chair chosen. City Manager Jeff Aprati recommends that the Planning Commission evaluate this recommendation for addition to the bylaws in the future; however, tonight the Planning Commission needs to nominate and elect a chair. Joanne Siler nominates Terri Michelsen for chair, Mike Anderson 2nd; Unanimous
Terri Michelsen nominates Joanne Siler for secretary: Mike Anderson 2nd; Unanimous

Open Public Hearing for Application #2013-01

Chair Terri Michelsen opens Public Hearing 2013-01 DR for Design Review and reads from the public hearing script for Application #2013-01 DR the Hearing Disclosure Statements and the testifying instructions.

Application Information: City Manager Jeff Aprati reads the application information from the public hearing script.

Challenge to the Planning Commission Jurisdiction: None

Planning Commissioner Bias or Conflict of Interest: None

Site Visits, Impressions and Observations:

Planning Commissioner Joanne Siler identifies that the site is visible from her house, she has an aerial view. Planning Commissioner Mike Anderson says he parks in the adjacent City Parking Lot to check his mail. Planning Commissioner Brandon drove by on Sunday to understand the property layout. Planning Commissioner Hal Grimnes is familiar with the property. Planning Commissioner Terri Michelsen has eaten there and has weeded the flower bed so she is familiar with the site.

Staff Report: City Planner Sabrina Pearson introduces the format of the staff report and reads Section I Application Information, Section II Description of Request, Section III Applicable Criteria, and Section V Staff Summary of the Recommendations for Findings of Fact. Pearson recommends that the Planning Commission review the application for consistency with the criteria and that the findings of fact can be amended if they find the application consistent with the applicable criteria.

Questions from the Planning Commission to Staff:

Planning Commission Interim Chair Michelsen asks about the recommendations for findings of fact for Section 11.020 Geologic Investigations page 14 and 15 of the Staff Report. City Manager Jeff Aprati recommends that the applicant may need to answer this question during their presentation. Aprati reads the letter from the applicant regarding their desire to not submit a geologic investigation report. Planning Commission Interim Chair Terri Michelsen asks about whether this is an application for one part of design review or two. Pearson notes that whether it is an application for one part or two part site development, currently a decision of approval for design review does not expire.

Applicant presentation: Dan Ayers agent for the property owners. Dan provides a response why he recommended they proceed without a geologic hazard report. Just prior to summer season 2013, the property owners plan cosmetic repainting and residing to the existing building which does not require a building permit. They have consulted with a qualified professional and plan to submit a report with a building permit application. In response to Planning Commission Interim Chair Terri Michelsen, this is one project, not two.

Property Owner Pepi Gabor: We have the Rising Star Café. We came here four+ years ago. Ron is my partner and we have been together for 34 years. I have been involved in four other successful businesses. The Rising Star is about good food prepared well. We would like to live closer to the restaurant because we are always at the restaurant. Also, we are concerned about safety and living above the structure would be best to provide for safety of our investment. We are community minded and we like Wheeler. We need more seats in the summer to make the economic numbers work. In Wheeler, you need to do your business in the summer. Sustainability is also important to us. We need sustainability to keep this going. Both Ron and I are gardeners and have worked in landscaping before. We want to keep it close, we grow flowers and herbs for our restaurant and we want to expand that. I owned an engineering company that was successful and I understand what is required for engineering.

Applicant presentation: Dan Ayers reviews each of the applicable criteria and recommendations for findings of fact.

Wheeler Comprehensive Plan

Natural Features Policies: The property owners support the imposition of a prescriptive condition of approval to require the submittal of a site investigation report at the time of zoning permit application and consistent with Section 11.053 at the time that steep slopes are proposed for development.

Economic Development Goal (D) Policies (2) and (3): The requirement for design review is the reason that the application is being presented prior to improvement work. The applicant proposes that if the application is found consistent with the applicable criteria specifically those of Section 11.050 Design Review then the application will be consistent with the Wheeler Comprehensive Plan, specifically Economic Development Goal (D) Policies (2) and (3).

Wheeler Vision Plan: The property owners do not consider curb appeal criteria to require revisions to the design of the First Street frontage. The applicant expresses that the improvements proposed will provide better curb appeal than what is there now. The applicant proposes that if the application is found consistent with the applicable criteria, specifically Wheeler Zoning Ordinance Section 11.050 Design Review, then the application will be consistent with the Wheeler Vision Plan.

Wheeler Zoning Ordinance

Article 4 GC General Commercial Zone: The property owners support the imposition of proposed conditions of approval to ensure that the criteria of Article 4 specifically Section 4.040 Development Standards are met.

Section 11.020 Geologic Investigations: The property owners support the imposition of a prescriptive condition of approval to require the submittal of a site investigation report at the time of zoning permit application and consistent with Section 11.053 at the time that steep slopes are proposed for development.

Section 11.030 Survey Required. The property owners support the imposition of a prescriptive condition of approval to require the submittal of a survey at the time of zoning permit application and consistent.

Section 11.050 Design Review:

4. a.1.: Criteria met.

4. a.2.: The property owners support the imposition of a prescriptive condition of approval to require that prior to approval of an occupancy permit that site landscaping is consistent with the criteria of Wheeler Zoning Ordinance Section 11.050.4.a.2. The property owners support the imposition of a prescriptive condition of approval to require that a geologic site investigation report is provided at prior to the grading of slopes and or removal of trees on

slopes that exceed 29% as required by Wheeler Zoning Ordinance Section 11.053 Clearing, Cutting, and Filling.

- 4. a.3.: The property owners support the imposition of a prescriptive condition of approval to require that prior to approval of an occupancy permit for the site that graded areas shall be replanted as soon as possible after construction to prevent erosion.
- 4. a.4.: The property owners support the imposition of a prescriptive condition of approval to require that prior to approval of an occupancy permit for the site that lighting shall be evaluated to ensure that it is restrained in design, and shielded in design so as not to cast glare on adjacent private or public property or the night sky.
- 4. a.5.: The property owners support the imposition of a prescriptive condition of approval to require that prior to approval of an occupancy permit for the site that City Staff verifies that screening is consistent with Wheeler Zoning Ordinance Section 11.050.4.a.5.
- 4. a.6.: The applicant and property owners address concerns raised by the Staff Report concerning consistency of the application the criteria "primary building entrances shall open directly to the outside and have walkways connecting to the street sidewalk". The applicant explains that the existing primary entrance enters to Rorvick Street. The existing Rorvick Street entrance will not be eliminated. The existing entrance is not consistent with the ADAAG. The new entrance is planned to be an accessible route consistent with the ADAAG to the boundary of the side yard property line shared with the adjacent City owned property, currently maintained as a public parking lot. We would propose to ask the City Council to revise the parking lot curb and revise the parking lot design to be compatible with the new Rising Star Entrance. The applicant requests approval of the design prior to City Council approval knowing they are taking a risk. The applicant proposes that the risk is worthwhile in that the design will provide the best visibility for the business to attract business from the Highway 101 corridor.

Condition of Approval Section 11.050.4. a.6.

The property owner supports the imposition of a specific condition of approval to address the criteria if Section 11.050.4. a.6: "Either the property owner shall receive approval from the City Council to cut the curb from the City Public Parking Lot and delineate the parking lot suitable for ADA pedestrian access to the building, OR the property owner shall construct ADA access to the new side yard entry from Rorvick Street unless the building official says that it is not necessary. And if the City eliminates the availability of access from the public parking lot, then the property owner shall provide alternative ADA access."

- 4. a.7.: Criteria met.
- 4. a.8.: The property owner supports the imposition of a specific condition of approval to address the criteria of Section 11.050.4. a.8: "The property owner shall maintain a garden of landscaping along property boundaries to separate the site from adjacent streets and property except as necessary for access and clear vision."

- 4. a.9.: The property owner supports the imposition of a specific condition of approval to address the criteria of Section 11.050.4. a.9: "The property owner shall maintain a garden of landscaping along property boundaries to separate the site from adjacent streets and property except as necessary for access and clear vision."
- 4.a.10.: The property owner supports the imposition of a specific condition of approval to address the criteria of Section 11.050.4.a.10. recommended by the City Staff Report Recommendation for Condition of Approval #8.
- 4. b.1.: The property owner supports the imposition of a specific condition of approval to address the criteria of Section 11.050.4.b.1. These criteria addressed with revisions to the application through the imposition of conditions of approval to address 4b6, 4b7, 4b8.
- 4. b.2.: The property owner supports the imposition of a specific condition of approval to address the criteria of Section 11.050.4.b.2. These criteria addressed with revisions to the application through the imposition of conditions of approval to address 4b6, 4b7, 4b8.
- 4. b.3.: The property owner supports the imposition of a specific condition of approval to address the criteria of Section 11.050.4.b.3. These criteria addressed with revisions to the application through the imposition of conditions of approval to address 4b6, 4b7, 4b8.
- 4. b.4.: The property owner supports the imposition of a specific condition of approval to address the criteria of Section 11.050.4.b.4. These criteria addressed with revisions to the application through the imposition of conditions of approval to address 4b6, 4b7, 4b8.
- 4. b.5.: The property owner supports the imposition of a specific condition of approval to address the criteria of Section 11.050.4.b.5. These criteria addressed with revisions to the application through the imposition of conditions of approval to address 4b6, 4b7, 4b8.
- 4. b.6.: The property owner supports the imposition of a specific condition of approval to address the criteria of Section 11.050.4.b.6. "The property owner shall install windows on street level of the first street frontage of the new building to equal 50% of the horizontal frontage of the new building; OR shall receive approval of a variance to reduce the quantitative percentage of windows required; or if the criteria that requires the additional windows are amended then no additional windows shall be required."
- 4. b.7.: The property owner supports the imposition of a specific condition of approval to address the criteria of Section 11.050.4.b.7. "The property owner shall construct a belly band that provides an architectural feature that can be described as a distinct division in surface materials, eliminates the large blank wall."
- 4. b.8.: The property owner supports the imposition of a specific condition of approval to address the criteria of Section 11.050.4.b.8. "The property owner shall construct a belly band that provides an architectural feature that can be described as a distinct division in surface materials, eliminates the large blank wall."

4. b.9.: The property owner supports the imposition of a specific condition of approval to address the criteria of Section 11.050.4. b.9: "The property owner shall maintain a garden of landscaping along property boundaries to separate the site from adjacent streets and property except as necessary for access and clear vision."

The property owner waives the right to submit additional comments.

<u>Neutral Testimony or Questions about the Application:</u>	None
<u>Testimony in Favor of the Application:</u>	None
<u>Testimony in Opposition to the Application:</u>	None
<u>Rebuttal:</u>	None

Final Staff Comments: City Planner Sabrina Pearson recommends that with the imposition of conditions of approval recommended by the City Staff Report to ensure compliance with applicable criteria and four additional conditions of approval to address the applicable criteria that staff recommendation that the application inconsistencies with Wheeler Zoning Ordinance Section 11.050 (2), 4a (6), (8), (9) and (10) and 4b (1), (3), (5), (6), (7), and (8) may be resolved the application may be found consistent with the applicable criteria. Pearson recommends that the findings of fact be prepared to reflect the Planning Commission Decision.

Summary of the Applicant Presentation and Planning Commission Discussion:

Through the public hearing process and testimony provided by the applicant and property owners, the Planning Commission finds that with the imposition of four application specific conditions of approval in addition to the nine prescriptive conditions of approval recommended by City Staff, the application may be found consistent with the applicable criteria. These conditions are discussed with the applicant in the question and answer portions of the hearing. Staff is directed to prepare the findings of fact to reflect the outcome of the hearing.

Motion to close the hearing:

Brandon: Joanne 2nd; Unanimous

Motion: Mike Anderson: "I move that based on the findings of fact and recommendations presented in the City Staff Report dated February 28, 2013 as amended by the Planning Commission and testimony received at the public hearing on March 7, 2013 the Planning Commission approves Application #2013-01 DR with the Conditions of Approval recommended by the City Staff Report and the four additional Conditions of Approval. Hal: 2nd. Vote: Unanimous approval of the motion.

CONDITIONS OF APPROVAL: To ensure compliance with the applicable criteria specifically Zoning Ordinance Sections 11.020, 11.030, 11.050 4a (2), (3), (4), (5), (6), (8), (9), (10) and 4b (4), (6) and (7):

1. Prior to building permit approval, the design of any site improvements and landscaping shall be found to be consistent with Section 11.050 Design Review.
2. Prior to approval of an occupancy permit for the site City Staff shall verify that outdoor storage areas shall be continuously enclosed by suitable vegetation, fencing or walls.
3. Prior to occupancy of the use the use shall be required to verify that the structure is constructed employ appropriate sound proofing techniques.

4. Prior to approval of the occupancy permit, lighting shall be evaluated to ensure that it is restrained in design, and shielded in design so as not to cast glare on adjacent private or public property or the night sky. Exterior lighting shall be continuously maintained to prevent adversely affecting the livability of property in nearby residential zones.
5. Where required, the applicant shall submit a geologic investigation report prior to issuance of a building permit. The applicant assumes the liability that the proposed structure will be allowed when geologic investigation report documentation is provided. If geologic investigation report documentation identifies that revision to the proposed development is necessary, additional Section 11.050 Design Review may be required by the City.
6. As a condition of approval, the applicant shall submit a boundary survey with sufficient documentation to verify that the building height is allowed by the City prior to issuance of the building permit. The applicant assumes the liability that the proposed structure, shown to exceed 24 feet in height, will be allowed when survey documentation is provided. If survey documentation identifies that revision to the structure design is necessary, additional Section 11.050 Design Review may be required by the City.
7. Prior to the grading of slopes and / or removal of trees on slopes that exceed 29% as proposed a geologic site investigation report shall be submitted and an approved Section 11.053 Clearing, Cutting, or Filling Permit shall be obtained. Graded areas shall be replanted as soon as possible after construction to prevent erosion.
8. Prior to any zoning permit approval the applicant shall submit the application for review and obtain certification from the appropriate building official stating that site development and a hard-surfaced, well-marked and lighted pedestrian access system is provided consistent with the accessibility standards of the Americans with Disabilities Act Accessibility Guidelines.
9. As a condition of approval, all site development shall continuously comply with all local, state and federal laws.
10. Either the property owner shall receive approval from the City Council to cut the curb from the City Public Parking Lot and delineate the parking lot suitable for ADA pedestrian access to the building, OR the property owner shall construct ADA access to the new side yard entry from Rorvick Street unless the building official says that it is not necessary. And if the City eliminates the availability of access from the public parking lot, then the property owner shall provide alternative ADA access.
11. Property owner shall maintain a garden of landscaping along property boundaries to separate the site from adjacent streets and property except as necessary for access and clear vision.
12. The property owner shall install windows on street level of the first street frontage of the new building to equal 50% of the horizontal frontage of the new building OR, shall receive approval of a variance, or if the criteria that require the additional windows are amended then no additional windows shall be required.
13. The property owner shall construct a belly band that provides an architectural feature that can be described as a distinct division in surface materials, eliminates the large blank wall.

APPEAL: A decision of the Planning Commission may be appealed to the City Council by a party to the hearing by filing an appeal within twenty (20) calendar days of the date that the final order was signed. The reviewing body may determine as a non-public hearing item the scope of the review of the application for appeal. An appeal may only be filed concerning criteria that were addressed at the initial public hearing. The complete case, including the final order and "Exhibit A" with the findings of fact are on file and available for review at City Hall during regular business hours.

Planning Commission President Dan Ayers, agent for Application #2013-01 DR returns to chair the meeting

IV. Unfinished Business:

ACTION: The Planning Commission tables Agenda Items IV a-f and requests an update to be provided at the April 4, 2013 Planning Commission Meeting.

- a. Workshop: Wheeler Zoning Map
- b. Workshop: Wheeler Comprehensive Plan Background Report Table of Contents
- c. Workshop: Wheeler Zoning Ordinance Section 13.010 General
- d. Workshop: Performance Bonds
- e. Workshop: Wheeler Zoning Ordinance Section 11.050 Design Review "time limit"
- f. Workshop: Short Term Rentals, 2006 Ordinance Draft

V. New Business:

- a. Any New Business: None

VI. Upcoming Meetings; Commissioner, Manager, Planner and Staff Comments

- a. Upcoming Meetings: March 28, 2013 Planning Commission / City Council Workshop: 6 pm

The Planning Commission requests that City Manager Jeff Aprati facilitate the workshop as a neutral party.

Discussion about the 3/28/2013 Agenda: The Planning Commission would like to discuss:

Time Limit for Design Review

Short Term Rental Policy

Tabled Amendments: City Manager Jeff Aprati explains that at the City Council goal setting workshop earlier that day, the City Council will discuss at their upcoming meeting the establishment of a Citizens Advisory Committee to review the Wheeler Comprehensive Plan to recommend updates and amendments before undertaking the tabled amendments. The City Council will appoint the committee members. It is likely that a Planning Commissioner will be appointed to the Committee. It is likely that the City Council will appoint the Mayor to serve as the City Council liaison.

Planning Commission Goals:

The City Council asks the Planning Commission to prepare a list of goals for presentation to the City Council. They recommend that it is good to review the type of recommendations that they plan to prepare to determine if they are supported by the City Council.

City Council Goals include preparation of:

An update to the buildable lands inventory

An update to the Development Agreements process

Preparation of an Annexation Guide to describe the process that requires approval of the voters

Updating the Council Rules

Update to the Council governing ordinance bylaws

Updating the Planning Commission Ordinance

Planning Commissioner Comments:

Planning Commissioner Mike Anderson asks why there was no information in the water bill about the Planning Commission and Land Use Process. Planning Commission Secretary Terri Michelsen is asked by the Planning Commission to prepare an introduction to the Planning Commission (by 3rd week of April) to be included in the Water Bills.

c. City Manager Comments and Report: See Packet

d. City Planner Comments: None

e. Staff Comments: None

VII. Adjourn 10:28 pm