

I. CALL TO ORDER: 7:25 pm

II. ADMINISTRATION:

a. ROLL CALL:

Planning Commissioners: Joanne Siler, Mike Anderson, Hal Grimnes, Terri Michelsen, Dan Ayers

Staff: City Planner Sabrina Pearson

Absent: Planning Commissioners Richard Clappé and Brandon Thompson have excused absences

b. MINUTES FOR JUNE 6, 2013:

Corrections:

Planning Commissioner Mike Anderson: Amend Page 6 recommendation for amendment to the window requirement. Planning Commissioner Hal Grimnes: Clarification correction: highlight the word “storefront” in quotes to clarify that the subject of the discussion was the establishment of a store front. Terri Michelsen: hyphenate the term “street-facing”

Correction to read: The property owner shall establish at least one street-facing store front. The store front shall have windows a minimum of 50% of the length of the ground floor store frontage and the windows shall be a minimum of 4 feet in height. Glass doors are credited toward the 50% credit.”

Motion to Approve the June 6, 2013 Minutes as amended by the Commission:

Planning Commissioner Joanne Siler

2<sup>nd</sup>: Planning Commissioner Mike Anderson

Planning Commission Decision: Unanimous approval of the motion

c. VISITORS:

City Councilor Virgil Staben: Virgil expresses concern about the permit status for the current construction at 63 Gregory Street by William “Willow Bill” Goulardt. Virgil requests that the Planning Commission ask the City Staff to investigate: (1) whether the deck being constructed is consistent with the design review approval; (2) whether a building permit from Tillamook County has been obtained; (3) whether the building permit obtained from Tillamook County is consistent with the design review approval.

Planning Commission consensus: Ask Staff to investigate responses to aforementioned concerns immediately. City Planner Report: 7/11/2013: The letter of City Zoning Permit conditions of approval is attached to these minutes as reference.

d. CORRESPONDENCE:

League of Oregon Cities:

Correspondence from the League of Oregon Cities explains that it is time for the Mayor, City Manager, and City Councilors to register for the League of Oregon Cities conference.

e. NON-AGENDA ITEMS: None

III. UNFINISHED BUSINESS:

a. PLANNING COMMISSION: ORD. 76-1 DUTIES; RES. 95-3 TERMS; ORD. 97-05 MEMBERSHIP; BYLAWS

Ord. 76-1 Duties:

Section 2: Membership: Planning Commissioner Terri Michelsen: "Who are the City officers?" Mike Anderson: City officers are generally elected by the public.

Action: None

Section 4: Meetings: Planning Commission President Dan Ayers: Question about "shall meet" provision.

Action: None

Section 5: Report to the Council: The Ordinance should have Sentence 1 the report requirement deleted.

Action: Check for the updated ordinance and provide the document to the Commission members at the next meeting.

Res. 95-3 Terms:

No action necessary

Ord. 97-05 Membership:

No Actions necessary

Bylaws:

Approve the proposed amendment of this document as written to provide the amendment of the appeal period from twenty days to fifteen days consistent with the Wheeler Zoning Ordinance.

Action: Amend the Bylaws and distribute the document to the Commission Members.

b. WHEELER ZONING ORDINANCE SECTION 11.050 DESIGN REVIEW

Discussion about Proposed Amendment for 11.050.2:

Planning Commission President Dan Ayers: Add a sentence that states that the City Manager may decide that design review is not required only where a building permit is not required. If a building permit is

required, then design review is required. Terri Michelsen: Recommends language to read: ADD to 11.050.2. Sentence 2 **"If no building permit is required..."**.

Planning Commission Consensus: ADD to 11.050.2. proposed sentence 2 **"If no building permit is required..."**.

Planning Commissioner Mike Anderson: Discussion about 11.050.2. proposed Sentence 3. This sentence should refer to "same size windows, overhangs and doors"

Planning Commission President Dan Ayers: Changing the size of windows, overhangs and doors should require a building permit.

Planning Commission Consensus: Delete from 11.050.2. proposed sentence: 3 "replacement of windows, overhangs, and doors" if it is found that a building permit is required to change the size of these.

Discussion about proposed amendment to Wheeler Zoning Ordinance 11.050.4.b.6:

City Councilor Virgil Staben: Indicates that the use of the % sign is confusing. Recommends Commission use the word "percent".

Planning Commissioner Terri Michelsen: "for a minimum of 50 percent in horizontal length"; hyphenate "street-facing"

Planning Commissioner Hal: Delete the word "front" we are not defining the front of the structure, just the street-facing design.

Planning Commission President Dan Ayers: How does this apply to the Rising Star? Would this prohibit their access?

Planning Commissioner Mike Anderson, Planning Commission consensus: No.

City Planner Sabrina Pearson: Review this section next month with that question in mind.

To read:

- (6) **The property owner shall establish one street-facing entrance with access acceptable to the City and consistent with Americans with Disabilities Act Accessibility Guidelines. This entrance shall provide windows a minimum of 4 feet in height along the ground floor street facing frontage for a minimum of 50 percent of the horizontal length of the building. Glass doors may be credited toward the 50 percent requirement. This standard shall not apply to multifamily dwellings.**
- (7) Architectural features or landscaping shall be provided for at least 30 percent of the wall length on [the] **each** street facing elevation.

## RENUMBER SECTION

Discussion about proposed Wheeler Zoning Ordinance Section 11.050.5 Performance Bond:

City Planner: Pearson explains that this language is copied from existing Wheeler Zoning Ordinance Article 15 Conditional Uses. Pearson recommends that this language should apply to all design review at the discretion of the Planning Commission but that the Planning Commission should consider and clarify to what portions of the approval they would apply the bond requirement. A performance bond is already required for public infrastructure.

Planning Commissioner Mike Anderson: We should have clear requirements. Requirements should be related to the provision of public amenities or conditions that affect public safety or access. Consider a time and cost threshold.

Planning Commission President Dan Ayers: Consider that a bond would be a huge impact for small businesses such as the Rising Star.

City Planner Sabrina Pearson: The Commission can use the Rising Star as an example of a threshold.

Planning Commissioner Terri Michelsen: What is “an acceptable substitute” for a bond? Revise language.

Planning Commission Consensus: Delete “for a conditional use”. Next month decide to what the bond should apply for design review and consider its implication for outright and conditional uses. Bring examples from other cities such as Cannon Beach and Manzanita. Provide language to replace “acceptable substitute” with clear language for acceptable substitutions.

Discussion about proposed Wheeler Zoning Ordinance Section 11.050.7 Time Limit for Design Review:

Planning Commissioner Terri Michelsen: Submit request to the City Manager. The Planning Commission meeting is not necessarily within ten days of design review approval expiration. The request can be scheduled for the next Planning Commission meeting.

Planning Commissioner Mike Anderson: A written request for extension should be required.

Planning Commission Consensus: proposed Wheeler Zoning Ordinance Section 11.050.7 Time Limit for Design Review to read:

**Approval of an application for design review shall be void after one year or such lesser time as the authorization may specify unless construction has taken place. The Planning Commission may extend authorization for an additional period not to exceed six months provided a written request is submitted to the City Manager at least 10 days prior to the expiration of the permit. The Planning Commission shall review the request at the next available Planning Commission meeting.**

c. WHEELER ZONING ORDINANCE ARTICLE 13 MATTERS SUBJECT TO REVIEW AND APPROVAL BY THE PLANNING COMMISSION; PUBLIC DELIBERATIONS AND HEARINGS.

Discussion about proposed amendment to Wheeler Zoning Ordinance Section 13.010 General:

Do not delete the word “to” from the sentence.

Planning Commission Consensus: proposed Wheeler Zoning Ordinance Section 13.010 General to read:

This article shall apply to [*variances, conditional use permits, and planned developments, all of*] applications [*which*] **that** are to be reviewed and approved by the Planning Commission.

Discussion about Wheeler Zoning Ordinance Section 13.050 Procedure for Mailed Notice:

Planning Commission Consensus: The Planning Commission agrees with City Planner to reduce the length of the text in this section. Proposed Section 13.050 Procedure for Mailed Notice to read:

**Mailed notice of Planning Commission public hearings shall be sent to property owners as required by Oregon Law and to property owners within 100 feet from the exterior boundary of the subject property except as specified below:**

- a. **Quasi-Judicial Change to the Zoning Ordinance: two-hundred-fifty feet**
- b. **Conditional Use: two-hundred-fifty feet**

Discussion about proposed amendment to Wheeler Zoning Ordinance Section 13.050 Mailed Notice (2):

Planning Commission President recommends that since participants are notified as part of the process, they do not need to be specified here. This section should define only the initial mailed notice.

Planning Commission Consensus: Wheeler Zoning Ordinance Section 13.050 Mailed Notice (2) to read:

- 2. Mailed notice shall be sent to the applicant, **property owner, and to the members of the hearing body.**

d. WHEELER ZONING ORDINANCE SECTION 18.020 APPEALS

This section provided as reference for necessary bylaw amendment. No action taken. No discussion.

e. LAND USE TRAININGS

Planning Commissioner Terri Michelsen recommendation: Planning Commission Consensus: In the next packet, provide the dates that any training viewed was provided.

IV. NEW BUSINESS: None

V. UPCOMING MEETINGS; COMMISSIONER, MANAGER, PLANNER, AND STAFF COMMENTS

a. UPCOMING MEETINGS:

Citizens Advisory Committee for the Wheeler Comprehensive Plan:

The first meeting of the Citizen Advisory Committee tasked with reviewing the Wheeler Comprehensive Plan will meet Thursday, July 11 at 7:00 pm at City Hall. Planning Commissioner Terri Michelsen, appointed Planning Commission liaison member, cannot make it. Planning Commissioner Mike Anderson volunteers to go in her place and bring a report to the Planning Commission for the next Planning Commission Meeting on August 1, 2013. The Planning Commission asks that City Planner Sabrina Pearson attend as it is their understanding that she is expected to be a member of the committee.

Next Planning Commission Meeting agenda for August 1, 2013:

- (1) Public Hearing: Councilor William "Bill" Mullen Conditional Use Application
- (2) Unfinished Business: Updated draft of proposed amendment to Wheeler Zoning Ordinance Section 11.050 Design Review. Provide Information about Bond for uses required by Wheeler Zoning Ordinance Article 15 Conditional Uses and contemplated for Design Review. The question is what would the Planning Commission require a bond for and how would they define that in the ordinance. Provide examples from Cannon Beach and similar communities in packet.
- (3) Unfinished Business: On the training guide, identify the dates that each training was provided at the Planning Commission meeting
- (4) New Business: Medical Marijuana Dispensaries. Provide the Lois Albright finding and the response by the City Manager and City Council.

b. PLANNING COMMISSION CONCERNS:

Planning Commissioner Terri Michelsen: Potential stormwater caused soil erosion

At clean up day, clean up of the building owned by Kay Kaffer was authorized. The son authorized the work but did not participate in the clean up. As a volunteer, Planning Commissioner Terri Michelsen notes a concern that the building at 63 Gregory Street may not have sufficient gutters and stormwater drainage may be affecting the adjacent foundation at 47 Gregory Street owned by Kay Kaffer. Kay lives in Kennewick Washington. The soil appears to be eroding away from the foundation from the stormwater drainage and the erosion issue appears to be hidden from view behind vegetation. Planning Commissioner Hal Grimnes expresses concern that the property owner may not be aware of the situation that is not obvious to passersby or during general property maintenance.

Planning Commission Consensus for Action:

Planning Commissioner Terri Michelsen will contact Jeff Aprati and express her concerns as noted here in the minutes. Planning Commission President Dan Ayers will contact Kay Kaffer and recommend that she investigate the issue to determine whether action is necessary to protect her private property.

Planning Commission President Dan Ayers: Medical Marijuana dispensaries

Governor Kitzhaber appears to have a bill on his desk to allow Medical Marijuana dispensaries in Oregon. Planning Commission President Dan Ayers is concerned that there are no rules in the Wheeler Ordinance to specifically prohibit the dispensaries as a business and recommends that the Planning commission prepare a recommendation to the City Council to take immediate action. Planning Commissioner Joanne Siler expresses concern that if a dispensary were located in Wheeler, tourism would decline substantively. Planning Commissioner Terri Michelsen expresses concern that in accordance with the Planning Commission Ordinance this would directly affect economic welfare of the City. City Planner Sabrina Pearson discusses her experience with Bay City and the finding issued by Bay City Attorney Lois Albright that the city would not allow any violation of federal law. Pearson recommends two solutions: (1) Provide the Albright letter to Wheeler City Council and City Manager with a recommendation that Wheeler City Attorney Joel Sacks review the finding and make a determination if the City would be in violation of federal

law by allowing the dispensaries and then make a finding whether the City could directly prohibit the dispensaries as such; (2) Prepare a specific amendment that directly prohibits the use as a conflict with the economic welfare of the city.

Planning Commission Consensus for Action: In time for the next City Council meeting, (1) Provide the Albright letter to Wheeler City Council and City Manager with a recommendation that Wheeler City Attorney Joel Sacks review the finding and make a determination if the City would be in violation of federal law by allowing the dispensaries and then make a finding whether the City could directly prohibit the dispensaries as such; (2) Prepare a specific amendment that directly prohibits the use as a conflict with the economic welfare of the city.

Planning Commissioner Terri Michelsen: Placement of decorations on sidewalk

This business across from the post office has been placing decorations on the sidewalk and in the ADA crosswalk entrance.

Planning Commission Consensus for Action: Planning Commissioner Mike Anderson and Planning Commissioner Hal Grimnes will bring the concern to the City Manager and will report the action taken to the Commission at the next Planning Commission meeting. City Planner Sabrina Pearson recommends taking a photograph of the concern.

c. CITY MANAGER: Absent

City Councilor Virgil Staben explains that City Manager Jeff Aprati submitted a letter of resignation to the City of Wheeler. His wife is expecting a child and she wants to return to Portland to be with her family.

d. CITY PLANNER COMMENTS:

City Planner Pearson expresses that she appreciates the job done by City Manager Jeff Aprati and that the City got to experience a full time City Manager educated by the Portland State University graduate program. Pearson recommends that the City Council may want to consider whether Portland State University might be a good place to post a job availability notification. Pearson expresses her personal opinion that based on ten years as Wheeler City Planner if the City hires well-educated well-qualified managers like Jeff Aprati and they are eventually retained for only a year, if Jeff Aprati is an example, the City will benefit from their knowledge, training, and expertise. Pearson learned that a Wheeler City Manager gains invaluable first-hand experience from small city management as they participate in the full range of staff duties.

e. STAFF COMMENTS: None: No staff members are present

VII. ADJOURNMENT: 9:30 pm

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Dan Ayers, Planning Commission President ATTEST: Terri Michelsen, Planning Commission Secretary

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September 5, 2012

**Zoning Permit #WZP 2012-001 Conditions of Approval for a Second Story Deck and Stairs**

Property Owner: Maryann Jacquez 31091 Hershey Way, Hayward, CA 94544

Authorized Applicant: William Goulardt; Location: 63 Gregory Street, Wheeler, Plat: Oregon Original Wheeler Block 5, and a Portion of Lot 9; Tillamook County Tax Assessor Map: 2N 10W 2BC Tax Lot 3100.

CONDITIONS OF APPROVAL:

1. Tillamook County Building Permit: Prior to the start of construction, you are required to obtain a building permit from the Tillamook County Building Department. Submit a site plan to measurable scale and provide sufficient survey data to ensure that the deck is consistent with the approved dimension limitations in condition #2.
2. Design Review Approval Compliance: The dimensions of the second story deck shall not exceed 33' x 6' (south elevation including stairs) and 4' x 6' (west elevation, stairs). All portions of the deck shall be elevated a minimum of 8' above finished grade. The encroachment shall not exceed 3' 9" and shall be consistent with the conditions of approval approved by the Wheeler City Council and the Wheeler Planning Commission Design Review approval July 7, 2005 #DR 2005-03 approved with conditions by the City.
3. Engineering: Prior to permit issuance, the Tillamook County Building Department shall document in writing that required structural engineering, engineering inspection and engineering certification of project is provided. The Tillamook County Building Department shall make the written finding that sufficient documentation and evidence ensure that the deck will not adversely impact the public safety
4. Americans with Disabilities Act: Prior to issuance of the building permit, the Tillamook County Building Department shall document in writing that the deck meets the criteria of the Americans with Disabilities with Act Accessibility Guidelines.

PROHIBITED ACTIONS

1. The second story deck shall not extend past the awning on Maggie's Guestrooms.
2. No excavation is permitted with this permit. Excavation will require an additional zoning permit approval from the City of Wheeler.
3. This permit does not allow the deck attach to the existing retaining wall. A request to attach the deck to the retaining wall requires additional zoning permit approval from the City of Wheeler.

If you have any questions, please contact me at Wheeler City Hall (503) 368-5767.

Thank you sincerely,

Jeff Aprati, Wheeler City Manager

Cc: File

scp