



TO: Development Review Commission

FROM: Leslie Hamilton, Senior Planner
Planning and Building Services Department

SUBJECT: Rebuttal exhibits for LU 13-0046
Late Public Comments

DATE: February 19, 2014

Rebuttal Exhibits

Save Our Village (SOV) submitted a cover email to Exhibit G400 that included a 2nd and 3rd paragraph that consisted of testimony. This G400 cover email was submitted during the period the record was limited to rebuttal only of testimony submitted between the close of the public hearing and 5 pm on February 5, 2014. Exhibit G400 contains the following paragraphs:

PROPOSAL DOES NOT PROVIDE SUFFICIENT RETAIL AND RESTAURANT PARKING

Pursuant to the Development Agreement between the applicant and LORA, the applicant is required to provide the City ALL of its retail and restaurant parking spaces after 5 pm on weekends. As a result, there is no substantial evidence in the record demonstrating that the proposed development can meet the City's parking standards during this period of time for the retail and restaurant uses when parking for these uses is needed the most.

SOV claims the statement above is in rebuttal to the following statements:

A. The applicant's Kittelson report submitted on February 5, 2014 (Exhibit F22) because SOV wishes to advise the Commission that 'user convenience' for the retail and restaurant parking after 5 pm will not be achieved and is not in compliance with the City's requirements.

"The proposed on-site retail parking area has been designed to ensure ease of access and user convenience."

B. A letter from Jill Arena (G1009) dated February 4, 2014 states:

"I am in favor of the Wizer block development as submitted, and **am not concerned about the parking** or increased foot traffic. Rather, I'm excited by the possibility of "classing" up our downtown even more, and would plan to support the businesses that the new development would bring."

C. A letter from Jill Williams (G1020) dated February 5, 2014 states:

"All of the buildings are within the 60 ft. height limit, **new parking exceeds recommendations [minimum requirements]**, and density is within code. The team has followed Lake Oswego's requirements, and there is no reason to thwart the project."

The applicant objects to inclusion of the G400 cover email statement because it contends that the statement is not in rebuttal to any testimony submitted after the public hearing and prior to the February 5, 2014 deadline.

Staff Finding:

The F22, G1009, and G1020 statements were submitted during the period that the record was left open for rebuttal of information submitted between the close of the public hearing and 5 pm on February 5, 2014.

F22 (Kittelsohn Report): The Kittelsohn report statement focuses on the *design* of the parking *area*. The G400 cover email statement is about the availability of use ("user convenience") of parking spaces during certain periods of *time*. The G400 statement is not in rebuttal to F22.

G1009 (Arena letter): The Arena statement is that she is "not concerned about parking". There are no caveats to her not being concerned about parking; she is simply not concerned about parking. The G400 statement posits that the code-required number of on-site parking spaces will not be available after 5 pm because they will be available for use by the general public (other than patrons of the businesses on the site). The G400 statement does bear some degree on the question of whether or not there should be some concern about parking. The G400 statement does have some rebuttal value to G1009. (The question of whether a general public concern about parking is relevant is not addressed in this memorandum.)

G1020 (Williams letter): The Williams statement is that new parking exceeds the "recommendations", which staff takes by context to mean the minimum requirements under the code. The G400 statement posits that the code-required number of on-site parking spaces will not be available after 5 pm because they will be available for use by the general public (other than patrons of the businesses on the site). The G400 statement states that the parking after 5 p.m. is not code-compliant. The G400 statement is in rebuttal to G1020.

Staff Recommendation:

Staff recommends that the DRC adopt the following motion:

“The applicant’s objection to the second and third paragraph in G400 cover email is denied because the Commission finds that the G400 cover email was properly submitted into the record, for the reasons stated in the Staff Finding that it had some rebuttal value to G1009 and G1020.”

Late Public Comments

The following comments were received after the close of comment periods of February 5 and 7, 2014, and, therefore, are not part of the record:

Letter by David Anderson, February 18, 2014

Email by Robert Attrell, February 18, 2014