

From: Pete Walter
To: [Carrie Richter \(crichter@batemanseidel.com\)](mailto:Carrie.Richter@batemanseidel.com); [Laura Terway](#)
Subject: FW: Planning Commission hearing on CP 17-02, DP 17-03, and NR 17- 04: comments on adjustments/variances, and Dropbox of new submittals into record.
Date: Wednesday, September 20, 2017 10:03:00 AM

From: James Nicita [mailto:james.nicita@gmail.com]
Sent: Monday, September 11, 2017 12:26 PM
To: Pete Walter <pwalter@orccity.org>
Subject: Re: Planning Commission hearing on CP 17-02, DP 17-03, and NR 17- 04: comments on adjustments/variances, and Dropbox of new submittals into record.

I just saw Kattie's email. If I have to pay, I will take a pass.

On Mon, Sep 11, 2017 at 11:56 AM, James Nicita <james.nicita@gmail.com> wrote:

Hi Pete, I have approved your dropbox request.

What do you mean by updating the PRA? Do you mean with the official city form?

On Mon, Sep 11, 2017 at 10:59 AM, Pete Walter <pwalter@orccity.org> wrote:

Jim,

Please can you approve my access to the drop box folder? Also, please can you provide an updated Public Records Request for the Ord. 03-1014 ?

Thanks,

Pete Walter

From: James Nicita [mailto:james.nicita@gmail.com]
Sent: Sunday, September 10, 2017 11:04 PM
To: Pete Walter <pwalter@orccity.org>
Subject: Planning Commission hearing on CP 17-02, DP 17-03, and NR 17- 04: comments on adjustments/variances, and Dropbox of new submittals into record.

Pete:

I write this email to provide some comments on the above-referenced file pertaining to the applicant's adjustment requests, and to place some more documentation into the record.

The code language on adjustments includes the following:

17.62.015 - Modifications that will better meet design review requirements.

*The review body may consider modification of site-related development standards. These modifications are done as part of design review and are not required to go through the Variance process pursuant to section 17.60.020. **Adjustments to use-related development standards (such as floor area ratios, intensity of use, size of the use, number of units, or concentration of uses) are required to go through the Variance process pursuant to section 17.60.020.** Modifications that are denied through design review may be requested as Variance through the Variance process pursuant to section 17.60.020. The review body may approve requested modifications if it finds that the applicant has shown that the following approval criteria are met:*

A. The modification will result in a development that better meets design guidelines; and

B. The modification meets the intent of the standard. On balance, the proposal will be consistent with the purpose of the standard for which a modification is requested.

(Ord. No. 08-1014, §§ 1—3(Exhs. 1—3), 7-1-2009; Ord. No. 10-1003, § 1(Exh. 1), 7-7-2010)

(Emphasis added in **bold.**)

Regarding all of the adjustment requests, I don't think any of the adjustments can be approved without reviewing them pursuant to the applicable End of the Trail District Design Guidelines, 1991, which are incorporated by reference into the Downtown Community Plan.

Regarding the adjustment request for building height, it would appear that this must instead be a variance request. A higher building results in more units and the size of the use, at a minimum, and therefore constitutes an adjustment to a "use-related development standard" that is required to go through the Variance process pursuant to section 17.60.020.

The adjustment request for having the primary entrance not face Washington Street also greatly affects use: namely, how the subject site is used for traffic and pedestrian circulation. This adjustment must also go through the Variance process pursuant to section 17.60.020.

Regarding the record, I have sent you a Dropbox invitation for a folder called "For Pete Walter" regarding the following documents, which I request be placed into the record of this proceeding:

- The 1990 Master Plan for the End of the Oregon National Historic Trail, broken down into eight separate files;
- Clackamette Cove Water Quality and Habitat Improvement Feasibility Study dated August 14, 2017, downloaded off the City's website;
- Oregon City Ordinance 04-1016, enacted November 17, 2004, adopting revisions to

the Oregon City Comprehensive Plan.

If you could confirm that the file sharing worked and the documents have been placed into the record, I would appreciate it.

The City's website does not have on its website a signed copy of Ordinance No. 03-1014, which originally adopted the current version of the comprehensive plan. If I could obtain a signed copy of that ordinance, in time for the final public hearing on this matter to be held on September 25, 2017, I would appreciate it.

Please place this email into the record of the above-referenced proceeding.

Best,

James Nicita

Oregon City