

**BEFORE THE CITY COUNCIL FOR
THE CITY OF BEAVERTON, OREGON**

IN THE MATTER OF AN APPEAL OF THE PLANNING) ORDER NO. 2764
COMMISSION'S DECISION TO APPROVE CU2019-) APP2020-0003 APPEAL OF WEST SYLVAN MIDDLE
0011 WEST SYLVAN MIDDLE SCHOOL FIELD) SCHOOL FIELD IMPROVEMENTS NEW CONDITIONAL
IMPROVEMENTS NEW CONDITIONAL USE.) USE (CU2019-0011).

The matter came before the City Council on May 5, 2020, on appeal of the March 11, 2020, Planning Commission decision to approve the applicant's New Conditional Use application (CU2019-0011). The appellant asked the Council to reverse the Planning Commission's decision and deny CU2019-0011 West Sylvan Middle School Field Improvements. The applicant proposes increased athletic field usage associated with improvements to the athletic fields at West Sylvan Middle School.

The subject site is located at 8111 SW West Slope Drive, specifically identified as Tax Lot 00100 on Washington County Tax Assessor's Map 1S112BB. The site is zoned Residential Urban Standard Density 7,000 (R7).

Pursuant to Ordinance 2050 (Development Code) Sections 50.70 and 50.85 through 50.88, the City Council conducted a public hearing and considered testimony and exhibits on the subject proposal. The appeal hearing was "de novo," meaning that the Council could consider evidence and arguments not already raised at the Planning Commission hearing.

The appeal made three assertions of error. The first two assertions of error concern the Planning Commission's decision on the following New Conditional Use Approval Criteria: BDC Sections 40.15.15.3.C.3 and 40.15.15.3.C.5. These

Approval Criteria were found by the Planning Commission to be met by the proposal. In addition of the New Conditional Use Approval Criteria, the appellant's third assertion of error concerns the Planning Commission's decision to approve the applicant's Design Review Three (DR2019-0182) application. The appellant did not appeal the Design Review Three application, and the appellant's discussion of the Design Review Three Approval Criteria is not applicable to the appeal of the New Conditional Use application.

The appellant, in its written and oral testimony, asserted that the Planning Commission erred in concluding that the West Sylvan Middle School field Improvements proposal will comply with the applicable policies of the Comprehensive Plan (BDC Section 40.15.15.3.C.3) and that the location, size, and functional characteristics of the proposal are such that it can be made reasonably compatible with and have a minimal impact on livability and appropriate use and development of properties in the surrounding area of the subject site (BDC Section 40.15.15.3.C.5). Specifically, the appellant contended that the proposal does not comply with Comprehensive Plan Goal 8.4.1, Noise: create and protect a healthy acoustical environment within the City. Policy 8.4.1.a states that noise impacts shall be considered during development review processes. The appellant claims that the applicant did not provide facts or evidence to the Planning Commission regarding the types and intensity of cumulative nighttime noise generated by crowds and athletic teams during games and practices occurring until 10:00 PM or later and the impacts of the noise levels on the acoustical health and livability of the surrounding properties. Should the Council deny the appeal and affirm

Planning Commission's approval, the appellant specified a number of new Conditions of Approval that Council should consider attaching to the proposal.

During public testimony, members of the public raised concerns about noise impacts on the surrounding residences from increased field usage and the ability for the fields to be utilized after sundown with the proposed field lights. As part of the applicant's rebuttal, the applicant requested a continuance of the hearing to a later date. Council granted a continuance of the hearing until June 2, 2020, and requested that the applicant and appellant work together in pursuit of an agreement that lays out measures that may be taken to mitigate the potential impacts of the proposal.

The parties met three times in May to discuss the Conditions of Approval that the appellant requested in its appeal submittal. The parties came to an agreement on most issues, except for the degree to which field usage should be limited on the weekends to balance increased nighttime field usage. The applicant and appellant presented their final responses to Council when the hearing continued on June 2, 2020.

After the close of the hearing, Council discussed the concerns about noise impacts in light of the Conditions of Approval agreed to by both the applicant and the appellant. Because the applicant agreed to remove the portable public announcement systems from the proposal, the Council proposed several changes to the Conditions of Approval in Land Use Order No. 2750, including deleting two Conditions of Approval that regulated the use of the systems (Conditions of Approval 4 and 5) and revising a Condition of Approval that excepted the systems from a prohibition on amplified sound (Condition of Approval 6). The Council

proposed a revision to the amplified sound Condition of Approval to more clearly specify prohibited noise to include amplified sound from both electronically- and mechanically-amplified sound devices because the term amplified sound is not defined in the Development Code.

The Council discussed the concerns about nighttime field activities and noise impacts. The applicant and the appellant agreed on when the field lights will be turned off, when the field lights will not be used, and how the field lights will be controlled. The Council proposed two new Conditions of Approval for the field light operations that the lights must be turned off at 8:00 PM, with the exception of the two lights nearest to the school that will be turned off at 8:15 PM to allow athletes time to safely leave the fields; that the lights may be allowed to remain on until 9:00 PM and 9:15 PM for a limited number of Lincoln High School baseball or softball games during each spring season; that the lights must not be used on Sundays or on evenings when the fields will not be used for practices or games; that the lights must be turned off with no extensions; and that the applicant must submit a lighting controls sequence of operations plan that demonstrates that the lights will be controlled by an automated timer.

The Council discussed the concerns about limiting field usage on the weekends to mitigate for increased nighttime field usage throughout the week made possible by the proposed field lights. The applicant and the appellant were unable to find agreement on this subject. The Council discussed preserving Sunday mornings and evenings as quiet times for the neighborhood and proposed a new Condition of Approval that on Sundays the fields will not be used of any scheduled events before 11:00 AM and after 5:00 PM.

The Council, after holding the public hearing and considering all oral and written testimony, affirms the Planning Commission approval on appeal and approves CU2019-0011, West Sylvan Middle School Field Improvements, subject to modified and additional conditions of approval as identified below. The Council adopts by reference the Agenda Bill (No. 20122) and exhibits of April 20, 2020; Staff Supplemental Memoranda dated April 29, 2020, May 1, 2020, May 4, 2020, May 5, 2020, May 29, 2020, and June 2, 2020, with associated exhibits; testimony submitted orally and in writing at the public hearing on May 5, 2020, and June 2, 2020; and the supplemental findings contained therein, as evidence and findings demonstrating that the applicant meets the Approval Criteria for New Conditional Use (CU2019-0011) approval, with the revised Condition of Approval related to amplified noise and addition of the new Conditions of Approval related to the operation of the field lights and limiting field usage on Sundays.

Therefore, **IT IS HEREBY ORDERED** that **APP2020-0003** is **DENIED** and the Planning Commission's **APPROVAL** of **CU2019-0011** is **AFFIRMED**, based on the testimony, reports and exhibits, and evidence presented during the public hearing on the matter and based on the facts, findings, and conclusions found in Agenda Bill No. 20122; Staff Memoranda dated April 29, 2020, May 1, 2020, May 4, 2020, May 5, 2020, May 29, 2020, and June 2, 2020; and this Final Land Use Order. CU2019-0011 is subject to following Conditions of Approval:

1. The Conditional Use permit shall run with the land and shall continue to be valid upon a change of ownership of the site, unless otherwise specified in conditions attached to the permit. (Planning/LR)
2. Final decision shall expire automatically two years from the effective date of decision unless the approval is enacted either through construction or establishment of use within the two year time period. (Planning/LR)

3. Ensure that the Design Review Three (DR2019-0182) application has been approved and is consistent with the submitted plans, except as modified by conditions of approval. (Planning/LR)
4. Amplified sound, from both electronically- and mechanically-amplified sound devices, shall not be permitted. (Planning/LR)
5. Field lighting shall not have visible illumination sources. (Planning/LR)
6. Field lights shall be turned off at 8:00 PM, with the exception of the two field lights (designated C1 and C4 on the lighting plan) nearest to the school that will be turned off at 8:15 PM to allow athletes time to safely leave the fields. The field lights shall be allowed to remain on until 9:00 PM (9:15 PM for the two field lights nearest to the school) up to eight times during the spring season for Lincoln High School baseball or softball games. Field lights shall not be used on Sundays or on evenings when the fields will not be used for practices or games. Field lights shall be turned off at these specific times with no extensions. (Planning/LR)
7. On Sundays, the fields shall not be used for any scheduled activities before 11:00 AM and after 5:00 PM. (Planning/LR)

A. Prior to issuance of the site development permit, the applicant shall:

8. Submit plans showing frontage improvements along the site's frontages of SW 81st Avenue and SW West Slope Drive. Improvements must include: (Transportation/KM)
 - a. Five-foot sidewalk and 6.5-foot landscape buffer placed in their ultimate location from the centerline of the right of way;
 - b. Commercial driveways to the entrances of the two parking areas that meet EDM Standard Drawing 210 as well as ADA standards;
 - c. Street trees; and
 - d. Any needed street lights as determined by the required photometric plan.
9. Submit a parking and circulation operations plan associated with the increased usage of the athletic facilities at West Sylvan Middle School for both during Lincoln High School (LHS) construction and after the LHS construction. (Transportation/KM)
10. Provide photometric plans showing that the field lighting will be installed so that it meets the City's Technical Lighting Standards. (Planning/LR)
11. Provide a landscape plan showing that the landscape buffer will be installed as shown on the approved plans, except as modified by conditions of approval. (Planning/LR)

12. Provide a landscape plan showing the planting of evergreen trees and shrubs within the landscape buffer area. Shrubs shall be 36 inches tall and reach 90-percent opacity within three years of planting. (Planning/LR)
13. Provide a maintenance and operations plan ensuring adequate maintenance and regular trash pick-up for the sports fields. (Planning/LR)
14. Provide a lighting controls sequence of operations plan that demonstrates that the field lights will be controlled by an automatic timer. (Planning/LR)

B. Prior to final occupancy, the applicant shall:

15. Have restriped the parking lot to clearly identify parking spaces. (Planning/LR)

Motion **CARRIED**, by the following vote:

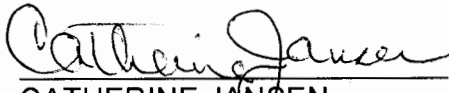
AYES: Councilors Beaty, Fagin, Mitchell and San Soucie
NAYS: None
ABSTAIN: None
ABSENT: Councilor Arnold

Dated this 17th day of June, 2020.

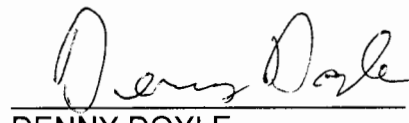
CITY COUNCIL
FOR BEAVERTON, OREGON

ATTEST:

APPROVED:



CATHERINE JANSEN
City Recorder



DENNY DOYLE
Mayor