



Kelso Planning Commission Agenda

Meeting at 6:00 p.m.

Tuesday, August 13, 2013

203 South Pacific Ave., City Hall Council Chambers

Agenda	Approved/ Denied	Remarks
Call to Order: 1. Roll Call		
Approve Minutes: 1. June 12, 2013 Rescheduled Meeting *July 9, 2013 Meeting Cancelled		
Presentation:		
Public Hearing: 1. Victory Center, Leonid Pisarchuk, requesting a text amendment to Kelso Municipal Code 17.08 Definition of 'Cultural Institution'.		
Citizen Business:		
Action/Motion Items:		
Commission Business:		
Adjournment: Next Meeting September 10, 2013 at 6:00 p.m.		

City of Kelso Community Development Department (360) 423-9922



Kelso Planning Commission Meeting Minutes

Wednesday, June 12, 2013

(rescheduled from June 11)

6:01pm – 6:55pm

Commissioners Present: Dan Jones, Clark Hislop, James Webb, Rick VonRock, Toby Tabor

Commissioners Absent: James Webb, Patricia VanRollins

Staff Present: Nancy Malone, Community Development Manager; Stephanie Helem, Recording Secretary

Call to Order:

Vice-Chair Rick VonRock called the meeting to order at 6:01 pm.

Minutes:

Commissioner Jones made the motion, seconded by Commissioner Tabor to approve the minutes of May 14, 2013. Motion carried, all in favor.

Presentations:

- 1. “ASK” South Kelso Neighborhood Revitalization Plan.** PowerPoint presented by Beth Otto and Ashley Harris. Final product as graduate program (Portland State University MURP Program). Kelso was picked out of a number of applicants for this project. Students could see that there was need within the community and would get support from city management and a real opportunity to make an impact. There were three main objectives: comprehensively identify the community’s needs and priorities; assess how revitalization could meet those needs; make recommendations to inform the update of the comprehensive plan. Outlines the outreach process which included: coffee talks; one on one interviews with community partners and key stakeholders; an open house; public survey. Discussed the findings from community outreach and criteria for selecting strategies. Recommended strategies/focus areas: community organization; public safety; create community gathering places; pedestrian safety and neighborhood appearance; downtown revitalization. Discussion followed. Funding mechanism/grant options?
- 2. Shoreline Master Program Draft.** PowerPoint presentation by Jennifer Hughes with Parametrix. Presentation is to update the commission in the process, the draft code language and organization, and overview of sections. The draft document is about 100 pages. We have completed the initial public involvement and inventory and characterization work to look at the ecological functions and processes that are going on on the shoreline. Parametrix went through an assessment of options that the City was looking at from previous planning commission meetings held the past fall/spring. We are now bringing the draft copy of the plan to get into the language of options and issues written into the code language. Discussion followed. What can the average property owner do with their shoreline property? Clarification on buffer definition? The Comprehensive Plan Update should coincide with the Shoreline Master Program Update.

Citizen Business: No business

Commission Business:

1. **Downtown Bench/Trash Receptacle Logo Approval.** Carol Zonich, Bench Committee Chair for Kelso Downtown Revitalization Association. Last set of benches and trash receptacles this year. Family Health Center generously sponsored a bench. City of Kelso will be on the trash receptacles (asked for and received a grant from the Cowlitz Community Fund to fund two trash receptacles to go with benches). The other bench is sponsored by Kelso Auto and Marine. All will be in Kelso blue the same as other benches and trash cans previously approved. Benches will be placed by Martinez Bakery and across the street from Baker Lumber.

MOTION: Commissioner Hislop made a motion, seconded by Commissioner Jones, to approve logos. Motion carried, all in favor.

2. Commissioner VonRock asked if Kelso has anything in the code for wind power/windmills. Kelso currently does not have this in the code. City will consider this when updating the Comprehensive Plan. Also look at solar power for rooftops.
3. Comprehensive Plan Update. The city just notified Department of Commerce. This process will take a while. The city will try to incorporate some of the language but a majority of the language will be changed. There will be a number of work sessions with the commission. The city anticipates the first commission work session will be in August or September.
4. The Victory Center public hearing is tentatively scheduled for August.

Adjournment:

There being no further business, Commissioner Wade made the motion seconded by Commissioner Hislop to adjourn at 6:55pm.

Rick VonRock, Planning Commission Vice-Chair

Respectfully submitted:
Stephanie L. Helem, Recording Secretary

Public Hearing Notice

NOTICE IS HEREBY GIVEN that an open record public hearing is scheduled before the Kelso Planning Commission, Tuesday, August 13, 2013 at 6:00pm in the City Hall Council Chambers, 201 S Pacific Avenue, Kelso, WA 98626.

On December 4, 2012 the Kelso Community Development Department received an application, from Leonid Pisarchuk (Victory Center) requesting a text amendment to the City's Zoning Ordinance, Title 17 (definition section 17.08). The proposed amendment is to expand the definition of Cultural Institution from "a building used primarily for the production, presentation, or exhibition of cultural disciplines of music, dance, theater, literature and the visual arts, or items of scientific interest" to add the language "**human refinement such as customs, social behavior**" Cultural institutions are allowed in all zoning districts except for Open Space.

The hearing will allow the city to receive comments on the proposed text amendments. If you have any questions, please contact Nancy Malone, Kelso Community Development Planning Manager at (360) 423-9922. Be sure to reference file no. ZON12-002/SEP12-004.

The Council Chambers room is handicap accessible. Arrangements to reasonably accommodate special needs, including handicap accessibility or interpreter, will be made upon receiving 24-hour advance notice. Contact the City Clerks Office at (360) 423-0900.

**CITY OF KELSO
COMMUNITY DEVELOPMENT DEPARTMENT
FINDINGS AND RECOMMENDATIONS
OF THE ADMINISTRATIVE OFFICIAL**

July 26, 2013

CONSIDERATION OF AN APPLICATION)	FILE NO. ZON 12-002
SUBMITTED BY LEONID PISARCHUK ON)	
BEHALF OF THE VICTORY CENTER)	
REQUESTING A ZONING TEXT AMEND-)	RECOMMENDATION FOR
MENT REDEFINING "CULTURAL INSTITU)	DENIAL
TION" IN CHAPTER 17.08 DEFINITIONS)	PARCEL NO. 21141

INTRODUCTION

The Kelso Community Development Department has received an application from Leonid Pisarchuk on behalf of the Victory Center to requesting a text amendment to the definition section of the Kelso Municipal Code 17.08. The applicant is requesting that the definition of "Cultural Institution" to include the language "of human refinement such as customs, social behavior".

Applicant: Leonid Pisarchuk
3514 Pacific Way
Longview, WA 98632

Proponent: Victory Center
401 S. Pacific Avenue
Kelso, WA 98626

FINDINGS & ANALYSIS

1. Proposal.

The Victory Center which is represented by Leonid Pisarchuk is currently located at 401 S. Pacific. The applicant has applied for a text amendment to the definition section of the Kelso Municipal Code. This is not a site specific proposal. The applicant has specifically requested that the definition of "Cultural institution" be enlarged to include the language: "of human refinement such as customs, social behavior". The existing definition provides:

"Cultural institution" means a building used primarily for the production, presentation, or exhibition of cultural disciplines such as music, dance, theater, literature and the visual arts, or items of scientific interest.

The revised definition as proposed would provide:

"Cultural institution" means a building used primarily for the production, presentation, or exhibition of cultural disciplines **of human refinement such as customs, social behavior**, music, dance, theater, literature and the visual arts, or items of scientific

interest.

2. **Zoning and Comprehensive Plan.**

Kelso Municipal Code Chapter 17.150 Amendments and Rezones specifically states the purpose as follows: From time to time a change in circumstances or conditions may warrant a change in the zoning text or map created by this title. The purpose of this chapter is to establish the procedures to amend the zoning text and/or map when the proposed change would be consistent with the goals, objectives and policies of the comprehensive plan and intent of this title. (17.150.010).

The applicant is requesting to expand the definition of "Cultural institution" to include the verbiage of human refinement such as customs, social behavior to the original definition, as a building used primarily for the production, presentation, or exhibition of cultural disciplines such as music, dance, theater, literature and the visual arts, or items of scientific interest.

Chapter 17.15 identifies the permitted uses in all zoning designations within the city. The type of use as identified within table 17.15.020 Educational, Cultural, or Government is permitted in the City as follows:

- (1) as an outright permitted use, typically called a Type I review process, it is permitted subject only to compliance with applicable development, building, and parking codes in the Commercial West Kelso, Commercial Specialty Retail, Commercial Major Retail and Industrial General Manufacturing zoning districts.
- (2) as an "Administrative Use**", typically called a Type II review process, it **may be** permitted in the Residential Single Family, Residential Multi-Family, Commercial Town Center, and Industrial Light Manufacturing zoning districts.
- (3) as a "Conditional Use***" process typically called a Type III review process, it **may be** permitted in the Commercial Neighborhood zoning district
- (4) The use is specifically not an allowed use in the Open Space zoning district

*Administrative Uses are generally allowed in the zoning district. However, the compatibility between a Type II use and the surrounding environment cannot be determined in advance. A Type II application shall be reviewed by the administrative official and may be conditioned in order to ensure compatibility and compliance with the provisions of the zoning district and the goals, objectives and policies of the comprehensive plan. Occasionally, even with conditions, a Type II use may be incompatible at a particular location. If a Type II application cannot be adequately conditioned, it shall be denied.

**Conditional Uses are generally not appropriate throughout the zoning district but may be permitted at a particular location where it can be conditioned in such a way to ensure compatibility and compliance with the provisions of the zoning district and the goals, objectives and policies of the comprehensive plan. If a Type III application cannot be adequately conditioned, it shall be denied. Type III conditional use permit applications are decided by the hearing examiner after public hearing review. A conditional use permit may not be granted for a use in a district from which it is specifically prohibited.

While not a site specific proposal, the proponent is located in the area designated by the Kelso Comprehensive Plan as Commercial. Further, Commercial zones are the areas where the use is allowed outright or as an administrative use and as such is where the use is most compatible. The goal of the Commercial land use category is to centralize commercial services while providing improved vehicle and pedestrian access and circulation to the benefit of the business and customer, while attaining a higher level of commercial and retail services in the City. The following Comprehensive Plan goals and policies are applicable to the City's intent for the commercial areas:

Goal A: To centralize services while providing improved vehicle and pedestrian access and circulation to the benefit of the business and the customer.

Goal B: To attain a higher level of commercial and retail services in the City.

Commercial Policy #1 – Commercial uses should be centralized around the Interstate-Allen Street area and the existing Central Business District, including West Kelso, in order to minimize traffic movement and congestion.

Commercial Policy #2 – Commercial uses should be located to front on major and secondary arterials.

Commercial Policy #6 – Commercial development along South Pacific Avenue south of Cherry Street should be confined to those areas already developed. Existing business should be encouraged to improve their appearance and further lend their activities into the neighborhood area.

Commercial Policy #8 – The city should encourage, through the provision of improvements and areas, the siting of professional offices in the central business district.

Commercial Policy #10 – Existing vacant lands and buildings in commercially designated and zoned areas of the City should be utilized for commercial activities which enhance and compliment other retail and service uses.

Goal C: To improve the existing commercial areas of the city.

Goal D: To develop an overall design scheme for the downtown and West Kelso area.

Objectives

3. To amend the Kelso Zoning Ordinance to more clearly define the specific uses and standards within each commercial zoning classification.

4. To implement the findings and recommendations of the city's traffic study in order to smooth traffic flows through and around the commercial areas of Kelso.

Policies

1. The city and the downtown merchants should cooperate in the purchase, development, and maintenance of conveniently located off-street parking.

2. Warehouse uses in and around the downtown business area should not be allowed to expand or increase in number and should be encouraged to relocate to industrial zoned areas. If a warehouse business moves or goes out of business, alternative uses of the facility should be researched and established to provide for a greater variety of retail and service activities in downtown and West Kelso.

3. Existing warehouse building exteriors and yards should be improved and maintained so as to make them more compatible with adjacent and nearby commercial and residential uses.

6. The city should seek ways to expand and diversify the commercial uses in downtown and West Kelso. Incentives such as lowered off-street parking requirements combined with multiple use of large buildings are possible techniques to attract potential retail outlets.
7. If economically feasible, older buildings and former residences should be renovated to house new and different uses whose functions enhance other businesses in Kelso.
8. Multi-family housing is encouraged to locate in the downtown area and West Kelso, but only as a use secondary to commercial uses. This can be accomplished by a variety of methods: Use vacant lands for new structures with commercial uses on the lower floors and living units above; or encourage the turnover of incompatible or inactive uses, such as warehouses or abandoned buildings, to combination multi-family/professional office/retail facilities.

3. Background.

In 2010, the City's Hearings Examiner adopted definitions for "Cultural Center" and "Community Center" as part of an administrative appeal of a decision that the Victory Center as it was then constituted was not an allowed use in the City's town center. Prior to this, these terms were not defined within the zoning code. As a result of the examiner's findings, and consistent with land use principles, the City adopted definitions of the terms in 2011 as a part of its regular zoning update that incorporated the definitions that were adopted and used by the Hearings Examiner.

Cultural Institution was defined as "a building used primarily for the production, presentation, or exhibition of cultural disciplines such as music, dance, theater, literature and the visual arts, or items of scientific interest."

Community Center was defined as "a location where members of a community may gather for group activities, social support, public information, and other purposes. They may sometimes be open for the whole community or for a specialized group within the greater community." KMC 17.08.020.

4. Analysis.

It clear from the narrative that the proponent expects this text amendment to allow its particular use of the property as an outright use; however, the text amendment change itself does not determine whether any particular use is allowed and that question is not before the City. Instead, the City must evaluate the text amendment independent of any site specific use because the amendment will apply equally throughout all zones within the City. Furthermore, additional facts would be necessary to evaluate whether the applicant's use more closely resembled the proposed revised definition of cultural center or some other use defined in the code.

The proposal does not appear to be consistent with the goals, and policies of the comprehensive plan or other zoning provisions for the following reasons:

First, the adopted definition is consistent with common land use principles. In 2010, when the Planning Director determined that the term cultural center was not defined in the Zoning Code, he conducted a reviewed of the matter and through an administrative interpretation applied the following definition, which came from "Planning and Urban Design Standards, American Planning Association"; John Wiley and Sons, Inc.; Hoboken, New Jersey; 2006, Page 435: Cultural Facility is "A building used primarily for the production, presentation, or exhibition of cultural disciplines such as music, dance, theater, literature and the visual arts." And also, from the Babylon online dictionary, Cultural Center is "an organization, usually located in a building or complex, that promotes cultural arts. Cultural centers can be neighborhood community arts organizations, private facilities, government-sponsored, or activist-run." The intent was to distinguish this type of use, which supports pedestrian activity, as opposed to places where people assemble. Cultural Centers are listed as an allowed use in the CTC zone based on

this premise. Cultural Centers such as studios that display various forms of visual artistry, museums or some other type of historic center do not present the same types of impacts as places of assembly and, in fact, support pedestrian activity and the concept of downtown revitalization. There may be types of Cultural Centers that are places of assembly, such as centers for performing arts that would not likely be compatible with the small downtown scale of the zone, and the required site review would likely mandate that they be located elsewhere because of their inability to meet parking and other development regulations. The Hearings Examiner found the City's definition reasonable and it was proposed to the Planning Commission and City Council and included in the 2011 zoning code update. The proposal appears to expand the definition of enumerated cultural disciplines to allow other types of institutions to be included. It is unclear whether this expansion would include uses that had more assembly type functions and as such would have greater impacts than as currently defined.

Second, there are no changed conditions or circumstances, either described in the application or that the City is aware of, that warrant changing the definition from that determined by the hearing examiner to be reasonable in 2010 and adopted by the City in 2011. Generally text or zoning changes are warranted if the nature of an area changes over time or if changes in law or ambiguities are discovered through the application of the code that needs to be updated. No such circumstances have developed here.

Third, the addition of proposed language would add ambiguity and not clarity to the definition. Music, theater, art, and literature are commonly understood cultural disciplines. Museums, art galleries, and theaters are common uses that are often consistent with a vibrant and pedestrian friendly commercial zones. The words "such as" as currently included in the definition allows for other types of cultural disciplines as well. It is uncertain what uses would be included by expanding the definition to include "human refinement such as customs, social behavior". Such uses may very well overlap with uses that are currently addressed in other use categories such as Community Center uses. The proponent, from the statements in the application, wishes to make the case that this proposed change would include institutions such as the Victory Center. Whether or not this is so is not clear from the facts, and is not before the City in this application. At best, this added language would be subject to further administrative interpretation as to whether or not a proposed use was a cultural institution because it was producing or exhibiting social behavior. Because the proposed language is vague, it is ripe for further interpretation disputes. For the foregoing reasons, the application for text amendment should be denied.

RECOMMENDATION TO THE PLANNING COMMISSION

The Administrative Official hereby makes a recommendation that the zoning text amendment to enhance the description of "Cultural Institution" to include "of human refinement such as customs, social behavior" be denied and the existing definition remain as is.

7/26/13
Date

Nancy Malone
Nancy Malone
Community Development Manager