



CITY of THE DALLES

313 COURT STREET
THE DALLES, OREGON 97058

(541) 296-5481

CITY OF THE DALLES PLANNING COMMISSION

AGENDA

Thursday, August 17th, 2000

6:30 p.m.

City Hall Council Chambers

313 Court Street

The Dalles, OR 97058

Conducted in a handicap accessible meeting room

I. CALL TO ORDER

II. ROLL CALL

III. APPROVAL OF THE AGENDA

IV. APPROVAL OF MINUTES: June 15th, 2000

V. STAFF COMMENTS

VI. PUBLIC HEARING- *Quasi-Judicial*

1. Continued Hearing of Minor Partition 175-00 - Mark and ReAnn Clark. This application includes two separate actions. The first action is a property line adjustment. The second is a minor partition. Property is located at 2212 West Scenic Drive and is described as 1N 13E Map 9B, tax lot 100. Property is zoned RL - Low Density Residential.

2. Conditional Use Permit No. 117-00 - Windy River Gleaners. The organization is seeking to permanently locate in the Darigold Building, distributing food to low income families. Property is located at 3504 West 6th Street and is described as 2N 13E Map 29DA, tax lots 1600 and 1900. Property is zoned CG - General Commercial.

3. Site Plan Review No. 274-00 - Modern Technology. The application is to site and construct a retail establishment with an accessory scale model radio controlled automobile race track. (Previous agenda incorrectly described use.) Property is located at 301 Cherry Heights Road and is described as 1N 13E, Map 4AA, tax lot 501. Property is zoned CG - General Commercial.

4. First Evidentiary Hearing for LUDO Amendments.

VII. RESOLUTION

1. Resolution 415-00 approving MIP 175-00 of Mark and ReAnn Clark to partition one parcel into three parcels. Property is located at 2212 West Scenic Drive and is described as 1N 13E Map 9B, tax lot 100. Property is zoned RL - Low Density Residential.

2. Resolution 416-00 approving SPR 274-00 of Modern Technology to site and construct a retail establishment with an accessory scale model radio controlled automobile racetrack. Property is located at 301 Cherry Heights Road and is described as 1N 13E, Map 4AA, tax lot 501. Property is zoned CG - General Commercial.

3. Resolution 417-00 approving CUP 117-00 of Windy River Gleaners to permanently locate in the Darigold Building, distributing food to low income families. Property is located at 3504 West 6th Street and is described as 2N 13E Map 29DA, tax lots 1600 and 1900. Property is zoned CG - General Commercial.

VIII. COMMISSION COMMENTS AND CONCERNS

IX. NEXT PLANNING COMMISSION MEETING - September 7th, 2000

X. ADJOURNMENT

*****Please refer to June 15th mailing for Staff Report & LUDO Amendment information*****

SUPPLEMENTAL STAFF REPORT
SPR 274-00, MODERN TECHNOLOGY

BY: Bob Paul, Senior Planner *Bob*
DATE: August 9, 2000
RE: RESPONSE TO MR. B. TIMMONS LETTER DATED AUGUST 3, 2000

This report follows on a point-by-point format of Mr. Timmons letter.

1. **Race track is not a permitted use.** This use is accessory/complementary to the primary retail use. This complementary use facilitates retail sales. It offers a unique opportunity to test and/or view model cars that encourage purchase of the cars and related accessories and spare parts. Competitions will be staged and this will encourage the sale of these cars and the accessories and spare parts that are required to maintain them. The retail sale use is specifically listed as permitted. No spectator capacity is encouraged or provided for which indicates that this track for radio-controlled cars does not stand-alone from this retail mall.
2. **Race track is Not an Accessory Use, Building or Structure.** This use is complementary to the retail space. The primary function of this track is to facilitate retail sales. An accessory structure is defined in Section 2.030 as follows, "A structure incidental and subordinate to the main use of property and located on the same lot as the main use; freestanding and structurally separated from the main use". This track is distinctly separate, freestanding, and on the same lot as the retail mall. Its subordination is directly attributable to the fact that it is primarily intended to complement the retail sales of radio-controlled cars.
3. **The Site Plan does not Require Parking Spaces for Race Track.** Mr. Timmons asserts this track should be assessed parking based upon the category of "Arcades, bowling alleys, skating rinks, pool halls, sports clubs, and health spas". This is incorrect. This parking assessment is based on floor area that is utilized by patrons. The rationale is that the greater the floor area, the more occupants will be present in the structure. A larger bowling alley translates to more lanes and more customers. A larger health club indicates more facilities and, consequently, more patrons. This track is for radio-controlled cars that have no human occupants. The number

of cars that can be "raced" is restricted to track width. Staff spent considerable time weighing the use of this track and evaluating the need for a separate parking assessment. The "driver" area has been assessed parking based on this retail use. There is no area intended for spectators only. If this track had spectator stand areas designed for spectator flow and separation from the "drivers", it would have been assessed additional parking based upon "Stadium, Arenas, and Auditorium use" which is assessed at .3 spaces per seat or 6 linear feet of bench.

4. The Site Plan Fails to Comply with Landscaping

Requirements. The applicant has revised their site plan increasing the amount of parking lot landscaping. This facet of the review criteria is now met.

5. The Proposed Accessory Use is Not subordinate in Size to The Primary Use.

This entire development should be considered as a retail mall. The track is complementary to retail sales as it serves a decidedly marketing function. Mr. Timmons asserts that this track is larger than the space devoted to retail sales specific to the radio controlled cars. However, the size of this track is mainly a function of numbers of cars that can be used at the same time. This track can only accommodate a certain number of drivers based on track width, not total area. As discussed previously, this track specifically does not include human occupancy as a function of size. The square footage of the track is less than the square footage of the retail space. Staff considers this accessory to the primary retail use.

6. The Site Plan Does Not Promote Pedestrian, Bicycles and Vehicular Safety and Welfare and Does not Avoid Traffic Congestion.

Cherry Heights extension is a relatively new road constructed specifically to accommodate transportation needs specific to commercial development. This road is an arterial road designed for large volumes of traffic. Additionally, Second Street is also an arterial road designed for high volumes of traffic. Due to the type of streets adjacent and in proximity to this proposal, a traffic study was not required. Additionally, staff does not expect this use to generate a higher than 400 average daily trip traffic count. The use of the shared drive reduces possible traffic conflicts with Cherry Heights Extension. When considering traffic impacts, conflict points are reviewed. Conflict points essentially show points where vehicles and pedestrians can come into contact. A left turn onto a street from this driveway has two points of conflict. The first point is crossing the closest lane and the second point is merging into the far

travel land. A right turn has one point of conflict. By reducing the number of access drives to streets, these conflict points are reduced. This is true for bicycles, pedestrians, and automobiles. Elimination of conflict points facilitates traffic flow and provides for increased safety. As a condition of approval, appropriate directional signage should be required to facilitate vehicular movement and driver information.

7. **The Site Plan Does Not Minimize Potential Adverse Impacts on Surrounding Properties.** Mr. Timmons stated five points under this heading. The first relates to private conditions, covenants, and restrictions recorded on the applicant's property. As the City has not adopted those CC&Rs, the city does not enforce them. Second, the shared driveway allows for the maximum width connection to Cherry Heights Extension. This provides for vehicles to both enter and exit simultaneously. This shared driveway was included on Mr. Carter's application for a land use approval for the rental center in site plan review application 267-99. It seems inconsistent that Mr. Carter can claim hardship for this shared access point as he constructed it and understood it to be a shared access point to a vacant and actively marketed commercial lot. Staff reviewed this connection and determined the shared access enhanced traffic flow and minimized potential negative impacts. This point has been discussed in detail previously in this report. The third item relates to the easement by the Bureau of Reclamation. The Bureau formally commented on this application and indicated no conflicts with this proposal. They asked for the right to review development plans to verify their interests will be protected. This will be recommended as a condition of approval. The fourth item refers to noise generation. These scale model cars have very small engines. Staff concluded that engine size indicated no real concern for noise. It should be noted that this is a commercial zone. Adjacent districts include both industrial and park/open space zones; there is no proximal residential zone. The final point speaks about "overdevelopment" of this property. It is staffs determination that this term is subjective. The objective measure of development is contained in the land use ordinance. By meeting these objective standards a development is determined to be adequately or "over" developed. Staff concludes that this proposal is in conformance with the land use and development ordinance and recommends approval with conditions.

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WILLIAM G. DICK (1916-1992)
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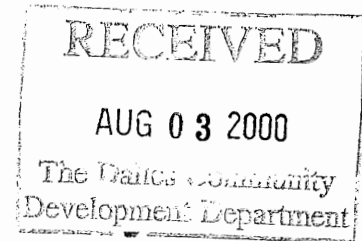
TELEPHONE (541) 296-2152

August 3, 2000

COPY

COMMENTS OF BARRY and BARBARA CARTER

Planning Commission
City of The Dalles
313 Court Street
The Dalles, OR 97058



RE: Site Plan Review Application of Howard Clark - "Modern Technology"
No. 274-00

Dear Commissioners:

STANDING

I respectfully submit the following comments on behalf of my clients Barry Carter and Barbara Carter. The Carters own real property which is adjacent to the west of the applicant's property. The Carters' property consists of Lot 2 and the west 20 feet of Lot 1 of Block 3 of Columbia River Center Subdivision. The Carters own and operate "Barry Rents" on their property. The Carters' property and the applicant's property share a common driveway.

OBJECTION

The Carters object to the proposed site plan based upon the City Ordinance Provisions and the Arrangement of Site Elements criteria of the City of The Dalles, Oregon Land Use and Development Ordinance (hereinafter "Land Use Ordinance"). *Section 3.030.040 Review Criteria*. In addition to the specific objections and comments set forth herein below, the Carters object to the completeness of the application with regard to the proposed race track. The Staff Report acknowledges the "unique nature" of the proposal and that it is "atypical" of the surrounding commercial uses. The applicant has the burden of proving that the applicable approval standards are met. *Fasano v. Washington Co Comm, 264 Or 574, 507 P2d 23 (1973)*. Furthermore, the City must make a decision based upon substantial evidence. ORS 197.835(9)(a)(C). Therefore, the applicant must fully explain the nature of the development and the proposed uses so that the City can properly evaluate the proposal. The application fails to meet the burden of proof. Specifically, the applicant should be required to address the nature of the proposed race track, proposed uses of the race track, noise concerns, volume of use, peaks hours of operation, how the track relates to the use of the building, etc. I have attached a list of

some suggested questions that the applicant should answer, among others.

SPECIFIC OBJECTIONS and COMMENTS

CRITERION A. CITY ORDINANCE PROVISIONS. The proposed site plan is an over development of the applicant's property and violates criterion A. (City Ordinance Provisions) as follows:

1. Race Track Is Not a Permitted Use. The applicant's property is located within a General Commercial Zone District as defined by the Land Use Ordinance. The proposed scale model auto race track is not a permitted use within a General Commercial Zone District as defined by section 5.060.020 of the Land Use Ordinance.

2. Race Track Is Not an Accessory Use, Building or Structure. The Site Plan Review Application incorrectly states that the race track is "an accessory to hobby and model sales functions." See Application, Page 2. Instead, the commercial building and the race track are independent - stand alone - uses. The terms "Accessory Structure" and "Accessory Use" are defined in Section 2.030 of the Land Use Ordinance. Accessory structures and accessory uses are types of "Accessory Development." Section 6.030.010. The Land Use Ordinance provides examples of accessory development: "patios, decks, sheds, shops, detached garages and carports, accessory dwellings, home businesses, and family day care." Section 6.030.010. It appears that the development is a "Mixed Use Development" under 7.020.070 of the Land Use Ordinance. The race track is a standalone occupancy and creates a "secondary use." The race track will draw its own crowd and will not be dependent upon the retail space in the building. Patios, decks, sheds, and garbage storage areas are accessories because they are dependent upon the general development and they do not draw customers and clientele. The race track is not an accessory to the commercial building, instead it is an additional, standalone use that must meet the requirements of the Land Use Ordinance. The application fails to address the requirements of the race track.

3. The Site Plan Does Not Require Parking Spaces for Race Track. Chapter 7 of the Land Use Ordinance sets forth the minimum parking spaces required for various types of developments and uses. The Planning Director correctly points out that the minimum number of spaces for the proposed building as a "Retail Trade" space is 3.5 spaces per 1,000 square feet of floor area, or 60 spaces. With certain reductions, the plan calls for 48 spaces. However, the site plan fails to require any parking spaces with regard to the race track. The proposed parking requirement is based upon the retail "building" space and ignores the additional occupancy of the race track. The number of parking spaces for race tracks is not specifically defined in the Land Use Ordinance. The volume of use, however, is similar to the category of "Arcades, bowling alleys, skating rinks, pool halls, sports clubs, and health spas" which require 4 spaces per 1,000 square feet of floor area, or approximately 28 additional spaces in the case of the race track.

A. 72 Parking Spaces Required for Mixed Use Development. If it is determined that the race track is not an accessory development, then the proposed development is a "Mixed Use Development." When there are mixed uses, the Land Use Ordinance provides a formula in Section 7.020.070 for determining the minimum required parking spaces. Under the formula the applicant is

not allowed a Right of Development reduction in parking spaces, but he is allowed to take advantage of the 10% reduction for bicycle spaces. Applying the formula in Section 7.020.070 with the building as the primary use and the race track as the "secondary use," then the applicant would be required to provide spaces totaling 100% of 54 spaces (60 spaces less 10% reduction for bicycle spaces) and 70% of 25 spaces (28 spaces less 10% reduction for bicycle spaces) for a total of 72 spaces.

B. 67 Parking Spaces Required if Race Track is Accessory Development. If it is determined that the race track is an Accessory Development to the building, then the Accessory Development must have parking spaces in addition to those required for the building. Section 6.030.020 states:

"Accessory development shall be subject to the same requirements as the principal uses within each zone district except as otherwise provided below: * * * *."

The Land Use Ordinance does not provide any exceptions for Accessory Development in regard to the parking requirements of the ordinance. Therefore, the Land Use Ordinance mandates that parking spaces be required for the race track. Applying the 3.5 spaces per 1,000 square feet to the building and the race track, the applicant should be required to provide 48 parking spaces (60 less 10% reduction for right of development and less 10% reduction for bicycles) for the building and 19 (24 less reductions) for the race track for a total of 67 spaces.

C. 67 Parking Spaces Required If Race Track Is Same Use As Building. If it is determined that the race track is simply an extension of the retail building, and not an accessory use, then the race track must have the same number of parking spaces as calculated for Accessory Development above: 67.

4. The Site Plan Fails to Comply With Landscaping Requirements. As discussed in the Staff Report, the site plan application fails to adequately provide for landscaping. Carters hereby adopt by reference the information and comments set forth in the Staff Report with regard to landscaping deficiencies.

In addition to the issues set forth in the Staff Report, if the applicant is required to provide additional parking spaces as requested above, the applicant will need to comply with the requirements of Section 7.030.100 regarding Parking Clusters of not more than 35 spaces. With 21 spaces in the basement of the building, the additional spaces which will total more than 35 will need to be broken into clusters and landscaped accordingly.

5. The Proposed Accessory Use Is Not Subordinate in Size to The Primary Use. If it is determined that the race track is an accessory to the building, then the accessory must be subordinate in size to the primary use. The following question, then, should be answered: which use within the building is the primary use. Certainly, the race track is not related to computer sales, clothing sales, telephone sales, book sales, etc. According to the application, the race track is only an accessory to a small portion of the building for the sale of "hobby and model" cars. The square footage of the race track exceeds the square footage of this purported primary use business, and therefore the race track

is not subordinate in size to the primary use.

CRITERION B. ARRANGEMENT OF SITE ELEMENTS. The proposed site plan violates criterion C. (Arrangement of Site Elements) as follows:

6. The Site Plan Does Not Promote Pedestrian, Bicycles and Vehicular Safety and Welfare and Does Not Avoid Traffic Congestion. The proposed development will have an adverse impact on traffic congestion. Judging from the number of parking spaces required for the use, there will be more than 400 average daily motor vehicle trips (ADTs). As such, the applicant should be required to provide a traffic impact study. Further, the site plan does not address signage, lines, etc. to help relieve congestion. Finally, the race track will be visible from 2nd Street and from Cherry Heights Road, causing traffic congestion. There already is significant traffic congestion in the left turn lane, across from the driveway, shared by the subject site and the Carters' property. The left turn lane, for westbound traffic turning into the Safeway/Staples parking lot, is steadily in use and Barry Rents customers have difficulty accessing the left turn lane for egress.

7. The Site Plan Does Not Minimize Potential Adverse Impacts on Surrounding Properties. The proposed development will have an adverse impact on the Carters' property and business.

A. The Site Plan Violates CCRs. The applicant's property is subject to covenants, conditions and restrictions which are recorded against the applicant's property and which benefit neighboring properties. While CCRs are generally enforceable through civil litigation outside of the planning process, they are evidence of the standards of the neighborhood and serve as good measurement for determining whether or not the proposed development will have an adverse impact on surrounding properties. The City can use the CCRs as a measurement for this standard. Specifically, the site plan appears to violate set back requirements of 30 feet and height restrictions of 25 feet.

B. The Proposed Development Adversely Impacts the Shared Driveway. The City of The Dalles required, as part of the development of the Columbia River Center, that the Carters' property and the applicant's property share a common curb cut and drive way. As a result of this requirement, the City is now in a position of needing to consider the impact that the proposed development of the applicant's lot will have on the shared driveway of the Carters' lot. The shared driveway was mandated by the City for plat approval. As a result, there is planning responsibility for the balance of access at the shared driveway. The intensity of traffic caused by the proposed use will overwhelm the access creating a substantial burden on the Carter property. Considering the size of the driveway and the heavy use of the applicant's overdeveloped property, the City should deny the application.

C. The Proposed Building Appears To Be Located Upon an Easement. The applicant's property is dissected by a water line easement that is the primary service for outlying cherry orchards. Portions of the proposed building appear to be located upon this easement.

D. The Noise Generated by Race Tracks Will Adversely Impact the Surrounding

Properties. Race tracks generate noise and thus are not consistent with the surrounding commercial development.

E. The Over Development of the Applicant's Property Will Adversely Impact Carters' Property. The applicant's proposal is an over development of the subject property. The size of the building and the racetrack, with corresponding patrons and employees, will cause congestion and overuse of the subject property and the surrounding infrastructure. Traffic congestion will increase, the shared driveway will be congested and patrons may use Carters' property and other neighboring property for parking. These factors will adversely impact Carters' property and their business.

* * * * *

Carters hereby reserve all rights on appeal, including the right to address any applicable criterion that has not been identified as applicable but is nevertheless the basis of a finding and the right to present surrebuttal if new relevant evidence is admitted into the record during the applicant's or other proponent's rebuttal.

Yours truly,

Bradley V. Timmons

BVT:bs

SUGGESTED QUESTIONS

Application of Howard Clark

Site Plan Review No. 274-00

1. Please describe the nature of the race track.
2. How will the track be used?
3. Who will use the track?
4. Will the track be used by people other than prospective purchasers of model cars?
5. Will you charge for the use of the track?
6. How many employees are necessary to manage and operate the track?
7. Will you have contests and tournaments?
8. Will there be spectators?
9. What do you expect the peak use will be?
10. What portion of the building will be dedicated to sales and repair of model race cars?
11. Will there be a public address system?