



CITY of THE DALLES

313 COURT STREET
THE DALLES, OREGON 97058

(541) 296-5481 ext. 1125
COMMUNITY DEVELOPMENT DEPARTMENT

MINUTES

CITY OF THE DALLES PLANNING COMMISSION

MEETING HELD VIA ZOOM
THURSDAY, JUNE 18, 2020
6:00 P.M.

CALL TO ORDER

Chair Bybee called the meeting to order at 6:03 p.m.

ROLL CALL

Commissioners Present: Brent Bybee, Cody Cornett, Bruce Lavier, Mark Poppoff, Philip Mascher and Jeff Stiles

Commissioners Absent:

Staff Present: Director Steve Harris, City Attorney Diana McDougale, City Attorney Kristen Campbell, Senior Planner Dawn Marie Hert, City Engineer Dale McCabe, Planner Joshua Chandler, and Secretary Paula Webb

APPROVAL OF AGENDA

It was moved by Cornett and seconded by Stiles to approve the agenda as written. The motion passed 6/0; Bybee, Cornett, Lavier, Mascher, Poppoff and Stiles in favor, none opposed, one position vacant.

APPROVAL OF MINUTES

It was moved by Lavier and seconded by Cornett to approve the Minutes of May 21, 2020 as written. The motion passed 6/0; Bybee, Cornett, Lavier, Mascher, Poppoff and Stiles in favor, none opposed, one position vacant.

PUBLIC COMMENT

None.

QUASI-JUDICIAL HEARING

Appeal 030-20 of SUB 74-19, Robert Bokum, Denise Dietrich-Bokum, Gary Gingrich, Terri Jo Jester Gingrich, and Damon Hulit

Chair Bybee read the rules of a public hearing. He then asked if any Commissioner had ex parte contact, conflict of interest or bias which would prevent an impartial decision.

Commissioner Mascher stated he may choose to abstain due to unfamiliarity with the application. He said he is a real estate professional. Although there is potential for future conflict of interest, there is none at this time.

City Attorney McDougle had no objection to his participation.

Chair Bybee opened the public hearing at 6:14 p.m.

Planner Chandler presented the staff report.

Chair Bybee invited testimony.

Steve Morasch, Landerholm Law Firm, 805 Broadway Street, Suite 1000, Vancouver, Washington

Mr. Morasch stated there was neighborhood concern, particularly with respect to density. Although the Code allows for density, his concern was that other criteria in the Code was not met.

Oregon has a long history of land use planning dating back to Senate Bill 100. The first of the statewide planning goals to be adopted was citizen involvement. For subdivisions, there is a two stage process. Citizens would be involved in the first stage. The final stage includes engineering; citizens are not allowed in that stage. Their concern was things that should have been reviewed in the preliminary stage have been punted to the commissions.

The appellants concerns included:

- Citizen involvement
- Engineering reports were not received
- Building plans did not include measurements, driveways, or proof the buildings would meet the 60% maximum coverage
- No evidence that sidewalks or curb ramps at intersections will meet ADA requirements
- Appropriate to require developer to pay for off-site improvements
- Appellant's traffic engineer found significant safety problems
 - TSP [Traffic Impact Study] was flawed
 - four intersections had deficiencies, one with bicycle safety issues
 - four intersections were not addressed in the study, particularly the intersection of Fremont Street and Highway 197

Commissioner Stiles stated the number of houses per acre were revised to five per acre. The TSP study said with 80 housing units that is 11.56 housing units per acre. The current regulation said five housing units per acre would be advised. Morasch replied Figure 4.1 of the TSP anticipates zero to one additional households per acre in this area.

In response to Commissioner Cornett's question, Morasch replied the City should fully address other intersections, bicycle safety and sidewalk safety heading west.

Cornett then stated there is additional land in the area available for development. He asked where you delineate traffic study improvements and requirements imposed on this applicant, as opposed to other future applicants.

Morasch replied if the applicant looked at this development in more detail, specifically the sidewalks, analysis would determine where the developer should include sidewalks.

Commissioner Mascher asked if they are in support of this development and want to ensure requirements are met, or against the development in general with the ultimate goal to have the development denied.

Morasch replied his client's concern was not with development, but with the high density of the application. The clients want to ensure the developer meets all requirements before allowing this density.

Steve and Karen Murray, 2645 E. 11th Street, The Dalles

Mr. Murray asked where storm water drainage would go, and who would pay for the system.

City Engineer McCabe replied a storm water system is in place at the intersection of Old Dufur Road and Fremont Street. That system would be extended up Richmond Street to the storm water system in the development. The developer would pay the cost of the extension.

Cody Sallee, 3019 Fremont Street, The Dalles

Sallee asked if the sewer main running through the easement on his property would be affected by this development. McCabe replied there is a sanitary sewer located at Old Dufur Road and Fremont Street. That system extends up near the intersection of E. 10th Street and Richmond Street, and would be connected to the sanitary sewer system in the development. Mr. Sallee's property will not be affected.

Gary Gingrich, 2835 E. 10th Street, The Dalles

Gingrich stated one street at the intersection of E. 10th Street, Thompson Street, and Old Dufur Road is consistently left out of the traffic study. "Any addition of traffic on that is going to cost somebody physically." Please pay attention to that.

In response to Commissioner Mascher's inquiry, Gingrich replied as an appellant, it would have been nice to have cherry orchards forever. The sole purpose of the appeal is to enhance the quality of this neighborhood. We are concerned about safety.

Chair Bybee invited rebuttal from staff.

City Attorney McDougle referred to Mr. Morasch's comment about the two step process and citizen involvement. She stated the question for the Commission is whether or not the petitioners are being afforded the opportunity to be heard on the issues they are entitled to be heard on, and whether there is substantial evidence in the record to support those issues. If the Commission were to find there is substantial evidence in the record to evidence the conditions of approval can be complied with, the public then has been afforded the opportunity to be heard. This is a clarification of the two step process.

Commissioner Poppoff stated pollution from storm water disposal is a concern; he would like to require disposal on site. He would like to see bike lanes rather than sidewalks; bike lanes would be more useful.

Chair Bybee closed the public hearing at 7:13 p.m.

Commissioner Mascher requested the Appellant restate what they want to see done to fulfill the requirements.

Commissioner Lavier replied the public portion of the meeting had closed; the Commission could not request further testimony from the applicants.

Chair Bybee stated Commissioner Mascher could abstain from the vote if he was uncomfortable making a decision.

Commissioner Stiles shared his concerns with 60% maximum coverage for rain water, safety, and bike lanes. He would use sidewalks on steep streets rather than bike lanes. The ambiance of The Dalles is unlike Portland; he does not want The Dalles to become like Portland due to state requirements.

Commission consensus was to reopen the public hearing to hear testimony from Lacy Brown of DKS Associates, the traffic consultant firm that prepared the traffic study.

It was moved by Mascher and seconded by Cornett to reopen the public hearing. The motion passed 6/0; Bybee, Cornett, Lavier, Mascher, Poppoff and Stiles in favor, none opposed, one position vacant.

Chair Bybee reopened the public hearing at 7:25 p.m.

Lacy Brown, DKS Associates, 117 Commercial St. SE, Suite 310, Salem, Oregon

Brown stated the intersection of Fremont Street and Highway 197 was not evaluated properly. Nothing about the intersection presents as urban other than its location inside the City limits. When compared with the rural crash rate the intersection does not exceed the critical crash rate. This intersection did not meet the requirements in ODOT's development review guidelines to warrant study based on traffic volume that would be generated by the development.

The TSP contains several projects recommended for consideration. Currently, there is no way to assign a metric of safety impacts that can be converted to a proportionate share.

Commissioner Stiles directed attention to growth assumptions in the TSP. Brown replied she did not know why the TSP evaluated that type of density for this parcel. The development proposed is consistent with the zoning. She did not think the TSP assumptions in this analysis had any bearing.

Brown noted there are deficiencies for both safety and operations across the City. In coordination with City staff and ODOT guidelines, intersections are identified for analysis when the amount of traffic generated added to the deficiency warrants further study. The traffic volume alone does not necessitate further study.

Gary Gingrich, 2835 E. 10th Street, The Dalles

Gingrich stated Ms. Brown's logic seemed quite circular. Because there are deficiencies at multiple other locations in the city, it's okay to put a high density group of homes upstream from these deficient intersections? Why should we compound the problem?

Brown replied her intent was not to imply because there are other issues they did not look at nearby intersections. The volume of traffic that may be added to the location, combined with the issue that may exist, does not necessarily warrant further evaluation.

Gingrich then asked if the study included all three streets at the intersection of Old Dufur Road, E. 10th and Thompson Streets, and if traffic headed to MCMC from Old Dufur Road to Thompson Street was included.

Brown replied all legs of that intersection were evaluated; the name was simplified in the report. The safety performance was reviewed; there have been no reported crashes in the five years of recently recorded data. There is no historic data to show a safety risk at that intersection.

Gingrich invited the Commissioners to drive the intersection and assess whether or not more traffic should be added.

Steve and Karen Murray, 2645 E. 11th Street, The Dalles

Mrs. Murray asked what a reasonable number of cars would be for the development of 69 dwelling units.

Planner Chandler replied he could not speak to the number of cars. The information provided by DKS was the amount of trips at peak hour. There would be 69 dwelling parcels, some may have an additional ADU.

Mr. Murray said the original study was done between 4:00 p.m. and 6:00 p.m. The Dalles has significantly more traffic between 3:00 and 4:30 p.m. for school release and shift change at MCMC.

Chandler replied peak hour was determined by ITE's trip generation manual. It states single family homes typically have an increase of 30% in p.m. peak hours.

Mr. Murray said this traffic ignores the reality of local roads being studied. Chandler replied we do not have a trip generation manual specifically for The Dalles.

Mr. Murray did not feel there was a thorough traffic study.

City Engineer McCabe explained a new development requires a traffic study. The City of The Dalles Policy for Traffic Impact Analysis is provided to developers. The policy states the peak afternoon hours of 4:00 to 6:00 p.m. Staff determines intersections to be analyzed:

- E. 12th Street and Thompson Street
- E. 10th Street, Thompson Street and Old Dufur Road
- Richmond Street and Old Dufur Road
- Fremont Street, Highway 197 and Columbia View Drive

Brown added a sensitivity analysis was performed. A traffic increase of 160% was evaluated; the intersection still operated within City standards.

Mr. Murray said if the sensitivity analysis was performed during cherry harvest, an increase of 160% would overload the intersections.

Brown replied a typical day with typical traffic is analyzed using video cameras. Standard practices for traffic engineers are followed.

Eddie Harris, 2820 E. 10th Street, The Dalles

Harris said he witnessed a lot of pedestrian traffic; the area is hazardous when children are about.

In response to the engineering issues, Morasch replied the intersection of Fremont Street and Highway 197 does not meet the adopted TSP standard for critical crash rate. He felt the queuing analysis was not sufficient.

Cameron Curtis, 945 Roberts Drive, Hood River

Curtis stated he is the owner of Curtis Homes and President of Legacy Development. He requested clarification on the application process. Is it common at this point to provide fully engineered plans, or, as they have done, submit preliminary plans, get approval with conditions of approval, then follow the conditions of approval to obtain the development and get a final plat?

Chandler replied preliminary plans are sufficient. Engineered plans are not required in the beginning so the developer will not incur costs for engineering, surveying and public improvements prior to the approval of an application.

Senior Planner Hert clarified this is a two part process. The preliminary plat approval provides the applicant an opportunity to determine the viability of a project prior to the applicant's expenditures for studies and design work. If the developer cannot meet the conditions of approval, the subdivision will not be finalized. The final plat must be signed by the Planning Commission Chair, Mayor, and CDD Director, but will not return to the Planning Commission.

Curtis then asked if they, as applicants, provided everything required by the City and followed guidelines set forth for the development. Planner Chandler replied they did; those findings are included in the staff report.

McDougle stated the question before the Commission is whether or not the criterion in the staff report is met, and whether or not the information submitted by the applicant meets that criteria.

Chair Bybee closed the public hearing at 8:03 p.m.

During deliberation, Cornett asked if this was the only opportunity for public involvement. Lavier replied that additional conditions of approval could be required by the Commission.

Chair Bybee asked for Commission consensus. Poppoff stated due to the storm water issue and traffic safety, he would likely deny the development.

Cornett stated it was a challenge to delineate the traffic impact of this specific subdivision. A better traffic impact study was necessary. Cornett would approve the application with the condition the application returns to the Planning Commission.

Chandler said currently the TIS is included as a Condition of Approval (COA). He then asked if modifications to the TIS could be submitted at a later date for review. McDougale replied the Conditions of Approval can be amended to be consistent with the direction of the Commission.

Director Harris referred to comments from both the public and the Commission, regarding concerns with the adequacy of the TIS and storm water collection. Harris stated COA 8 refers to the TIS as a condition of approval, submitted, reviewed and approved by Staff prior to recording of the final plat. Language could be added addressing specific intersections, giving staff and the applicant direction to refine the study. Additional language could refer the TIS back to the Commission as part of the review of Conditions of Approval, to ensure those questions were adequately addressed.

Condition of Approval 23 currently reads, "All COAs must be reviewed by city staff and prior to the signing of the final plat." This could be modified to add language requiring staff report back to the Commission in open hearing on the satisfaction of all the COAs. The conditions wouldn't be reviewed and approved or signed off by staff, but would return to the Commission with a report the conditions had been satisfied. There would be a second opportunity for the Commission and public to review the status of those conditions prior to final approval of the plat.

Cornett stated the study should be conducted over a series of days. The current study was inadequate, a broader study was appropriate.

McCabe asked when the counts would be done. If the study is done in the next weeks, a claim could be made that accurate counts were not possible during a pandemic.

McCabe stated there is a public storm system that can be extended to serve the lot. The developer could also consider other options, such as on-site filtration.

Poppoff stated his concern with overall pollution from our storm system. McCabe replied the City's discharge is in compliance with the NPDS permit.

Commission consensus was to obtain more information on the TIS and modify Conditions of Approval 8 and 23.

Stiles stated the sidewalks and bike lanes down E. 10th and E 12th Streets was a concern that had not been addressed.

City Engineer McCabe said the TSP, updated in 2017, looked at pedestrian and bicycle facilities. Specific projects within the TSP were identified for bicycle and pedestrian improvements across the community. To expand on the TIS, Staff needs what the Commission is specifically requesting in the TIS, above and beyond what was already provided.

Chandler stated TDMC Section 10.10.050 requires on-street bike lanes on new arterial and major collector streets. E. 10th, E. 12th and Richmond Streets are local streets; bike lanes and improvements were not required from the developer.

Commission consensus was to return with specific language for the modified Conditions of Approval.

Director Harris asked what the Commission found inadequate specific to the TIS: intersections, the time period, traffic counts over a five day period, and methodology. Lavier replied, all of the above.

Harris suggested Staff confer with the City Engineer and traffic consultant and report back on July 2, 2020 with modifications to the TIS, rather than craft new language at this meeting.

Stiles said the intersection of Dry Hollow and E. 9th Street should also be studied. Cornett felt that intersection was too far away to provide quantitative data.

Commission consensus was to continue the application to July 2, 2020. City Attorney McDougle recommended closing the record which has been held open since May, 2020.

It was moved by Cornett and seconded by Bybee to close the record. The motion passed 6/0; Bybee, Cornett, Lavier, Mascher, Poppoff and Stiles in favor, none opposed, one position vacant.

It was moved by Lavier and seconded by Poppoff to re-open the public hearing and continue to July 2, 2020. The motion passed 6/0; Bybee, Cornett, Lavier, Mascher, Poppoff and Stiles in favor, none opposed, one position vacant.

RESOLUTIONS

Resolution 593-20: Denial of APL 030-20 and affirming approval of SUB 74-19

Postponed.

STAFF COMMENTS

The next meeting is scheduled July 2, 2020. There are three items on the agenda.

COMMISSIONER COMMENTS OR QUESTIONS

None.

ADJOURNMENT

Chair Bybee adjourned the meeting at 8:55 p.m.

Respectfully Submitted
Paula Webb, Secretary
Community Development Department



Brent Bybee, Chair