



## **CITY of THE DALLES**

313 COURT STREET  
THE DALLES, OREGON 97058

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

# **MINUTES**

## **CITY OF THE DALLES PLANNING COMMISSION**

MEETING HELD VIA ZOOM  
**THURSDAY, JULY 2, 2020**  
**6:00 P.M.**

### **CALL TO ORDER**

Chair Bybee called the meeting to order at 6:02 p.m.

### **ROLL CALL**

Commissioners Present: Brent Bybee, Cody Cornett (arrived at 6:03 p.m.), Bruce Lavier, Mark Poppoff, Philip Mascher and Jeff Stiles

Commissioners Absent:

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

### **APPROVAL OF AGENDA**

Chair Bybee suggested the public hearing for CUP 194-20 be held prior to the public hearing of Appeal 030-20.

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

### **APPROVAL OF MINUTES**

The minutes of June 18, 2020 were not available for review.

### **PUBLIC COMMENT**

None.

### **QUASI-JUDICIAL HEARING**

Conditional Use Permit 194-20 – Tom Wood, Full Circle, LLC, 701 E. Second Street

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 Stiles stated he owned property east of the subject property; there is no current financial relationship.

Chair Bybee opened the public hearing at 6:13 p.m.

Senior Planner Hert provided the staff report. Hert stated the applicant was unable to attend the meeting, but provided a brief narrative of the project (Exhibit 1).

Chair Bybee closed the public hearing at 6:17 p.m.

It was moved by Cornett and seconded by Bybee to approve CUP 194-20 with conditions of approval provided by Staff. The motion passed 6/0; Bybee, Cornett, Lavier, Mascher, Poppoff and Stiles in favor, none opposed, one position vacant.

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 signed an agreement regarding a Curtis home. He also had ex parte contact with a neighbor. Mascher felt he could make an unbiased decision, but thought it appropriate to recuse himself.

Chair Bybee opened the public hearing at 6:27 p.m.

City Attorney McDougale introduced Chris Crean, Beery Elsner & Hammond LLP, attending tonight on behalf of the City.

Director Harris referred to two items discussed at the June 18 meeting, Condition of Approval (COA) 8 and COA 23. COA 8 dealt with the Traffic Impact Study (TIS). Staff contacted Kittelson and Associates, Inc. to perform a third party peer review of the DKS Associates traffic study. Kittelson also reviewed the memo from H. Lee and Associates, the engineering firm retained by the appellants. Staff also had a conversation with traffic engineers for the Oregon Department of Transportation (ODOT) to discuss the intersection at Fremont Street and US 197.

Kittelson responded to items raised in the H. Lee and Associates memo stating the TSP is correct and the Traffic Impact Study performed by DKS Associates is correct and to industry standards.

Planner Chandler reviewed his memorandum of July 2, 2020. In summary, Kittelson stated, "Based on our review, we find that The Grove Subdivision's TIS was prepared in accordance with the City's Policy for Traffic Impact Studies and offers an appropriate assessment on which the City can complete its standard development review process...Based on our review of the TIS, issues raised by H. Lee & Associates, and the City's Policy for Traffic Impact Studies, we conclude that the TIS is adequate and that no further transportation analysis should be required.

City Engineer McCabe referred to the critical crash rate discussed at the last meeting. The US 197 and Fremont Street intersection was studied as an urban intersection because that intersection had to be compared with other intersections in the study area. There was no other rural intersection within the study area. The intersection was also included in ODOT's All Roads Transportation Safety (ARTS) program for sign upgrades to address safety issues.

MCCabe stated the ultimate fix for the intersection would be a structured overpass with on- and off-ramps. He then referred to ODOT's response which stated, "The Grove Subdivision (SUB 74-19) proposal is "off-system" from an ODOT access management perspective and currently zoned appropriately. ODOT concurs with the revised traffic impact study (from DKS) dated June 3, 2020."

Chris Cearn introduced himself to the Commission. Mr. Cearn is an attorney with 25 years' experience in land use.

Cearn noted the record was closed at the last hearing and should be reopened. The record could be opened broadly for any new evidence or limited to transportation issues.

Chair Bybee said for the sake of public participation the record would be opened.

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

Mr. Morash stated he reviewed the memo from Kittelson, but there was no time for their engineer to review. He said the Kittelson memorandum seemed more of a rationale for why they don't need to do a safety analysis or further study of the intersections pointed out in the H. Lee memo. Morasch disagreed and stated the appellants would like to see the intersections studied in detail.

Morasch stated, "The [Kittelson] memo almost acknowledged safety issues identified in the TSP, then goes on to say because of Dolan and proportionality, we can't do anything." That is not how Morasch read Dolan for a peer safety issue. Even if Dolan did apply here, he did not see anything that approached the level required under Dolan to do the proportionality analysis, where you balance impacts to the development versus the cost of improvements. It does not look like they have done any detailed analysis of the intersection to see what could be done, short of an overpass. We don't feel the issues have been adequately addressed from a transportation perspective.

Morasch addressed a point in the staff memo which stated the Planning Commission is not authorized to review final engineering plans. Morasch said we are not asking for final engineering, we are asking for more detail on the preliminary plans. He further stated issues presented previously, regarding sidewalks and physical constraints, were not addressed.

Chair Bybee stated the record is open, and invited public testimony. There was none.

Chair Bybee closed the public hearing at 6:49 p.m. He then invited deliberation.

Lavier had no comment.

Stiles stated there issues he found unresolved: recalculating the intersection of E. 10<sup>th</sup>, E 12<sup>th</sup> and Thompson Street, adjusting the TIS for seasonal conditions, and attaching sidewalks to Thompson Street.

Cornett had no comment.

Poppoff had concerns with multiple unit housing not selling well. He stated the developer may want to rethink this for individual houses. The development is so far from City infrastructure, Poppoff thought it may be premature to develop here. If it were closer to the developed part of town, he would say to go ahead.

Crean noted procedural points. This is a quasi-judicial proceeding, so the Commission's decision has to be based on approval criteria from the City Code, listed in the staff report, and the evidence in the record. The decision has to list those criteria and explain why the application does or does not meet those criteria. The initial decision from Staff was that it did meet the criteria. The staff report explains why the application does meet all the criteria by reference to evidence in the record. If for some reason you believe that one or more of the criteria are not met, or the evidence just isn't there, it would be helpful to Staff if you could identify what those criteria are and why they are not met.

It was moved by Cornett and seconded by Lavier to approve Subdivision 74-19 with Conditions of Approval in the June 18, 2020 agenda packet and with no revisions to COA 8 and 23. The

motion passed 3/2; Bybee, Cornett and Lavier in favor, Stiles and Poppoff opposed, Mascher recused, one position vacant.

City Attorney McDougle clarified Staff will return with the Resolution.

## **LEGISLATIVE HEARING**

Comprehensive Plan Amendment 46-20 – Updates to Policy No. 10 of Goal No. 8 Recreational Needs, of The Dalles Comprehensive Land Use Plan, in order to be consistent with the Northern Wasco County Parks and Recreation District's Parks and Recreation Master Plan. This hearing was continued from February 20, 2020.

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. Hearing none, Chair Bybee opened the public hearing at 7:04 p.m.

Senior Planner Hert stated this hearing was continued from the February 20 Planning Commission meeting to the March 19 meeting. The March 19 meeting was subsequently cancelled due to the COVID-19 state-wide shut down. The approved Minutes of the February 20 Planning Commission meeting were included in the packet to provide narrative.

Hert summarized the updated staff report.

Chair Bybee closed the public meeting at 7:09 p.m.

It was moved by Cornett and seconded by Poppoff to move to recommend that the City Council accept the Parks and Recreation Master Plan as a background document to Volume III of City's Comprehensive Plan; and move to recommend to the City Council Goal 8, Policy 10 be amended to read as follows:

### **Goal 8 Policies**

10. The Northern Wasco County Parks and Recreation District's Parks and Recreation Master Plan shall be acknowledged as a background document in Volume III of The Dalles Comprehensive Plan, to serve as the City's long range recreation plan for The Dalles Urban Growth Boundary Area along with facility plans for the City of The Dalles and North Wasco County School District 21. A parks and open space standard of ten acres per 1,000 population should be adopted as part of the Parks Master Plan achieved within the urban area. The Parks and Recreation Master Plan shall include goals and recommendations directed toward maintaining the ratio of acres of park land per 1,000 residents at the current level of service and ensuring that parks and open space areas are equitably distributed throughout the community.

The motion passed 6/0; Bybee, Cornett, Lavier, Mascher, Poppoff and Stiles in favor, none opposed, one position vacant.

## **RESOLUTIONS**

Resolution 594-20: Approval of CUP 194-20, Full Circle, LLC

It was moved by Cornett and seconded by Bybee to approve PC Resolution 594-20. The motion passed 6/0; Bybee, Cornett, Lavier, Mascher, Poppoff and Stiles in favor, none opposed, one position vacant.

Resolution 589-20: Recommending City Council approval of amendments to Policy No. 10 of Goal No. 8 – Recreational Needs of The Dalles Comprehensive Land Use Plan

It was moved by Cornett and seconded by Poppoff to approve PC Resolution 589-20 recommending City Council approval of amendments to Policy No. 10 of Goal No. 8 – Recreational Needs of The Dalles Comprehensive Land Use Plan. The motion passed 6/0; Bybee, Cornett, Lavier, Mascher, Poppoff and Stiles in favor, none opposed, one position vacant.

### **STAFF COMMENTS**

Director Harris stated the next regularly scheduled meeting is July 16, 2020. There is one agenda item; no public hearings are scheduled.

### **COMMISSIONER COMMENTS OR QUESTIONS**

Chair Bybee stated it was necessary to elect a Vice Chair.

### **ADJOURNMENT**

Chair Bybee adjourned the meeting at 7:20 p.m.

Respectfully Submitted  
Paula Webb, Secretary  
Community Development Department

  
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Brent Bybee, Chair