

MINUTES OF THE PLANNING COMMISSION MEETING

January 5, 1995
Public Library Meeting Room
722 Court Street
The Dalles, Oregon

CALL TO ORDER

The regular meeting of the City of The Dalles Planning Commission was called to order by Chairman Terry Turner at 7:00 p.m.

ROLL CALL

Present Terry Turner, David Peters, Tom Quinn, Walter Hoffman, Marianne Barrett

Absent Michael Maier and Ken Farner

Staff Scott Keillor, Senior Planner
Gene Parker, City Attorney
Kay Prouty, Resource Assistant

PUBLIC COMMENT Chairman Turner opened the Planning Commission meeting asking for those wishing to speak on any subject not on the agenda. Hearing none Turner moved to the minutes of the December 15th meeting.

MINUTES

Parker pointed out corrections to the minutes on page 3 of the last paragraph; the word "with" should be "without", page 4 third paragraph down; the word "bet" should be "get" and in the center of page 5 adding the sentence "Farner asked staff to invite Karl Cozad of Parks and Recreation to a Planning Commission meeting to discuss the parks plan that is being developed for the community". Hoffman moved to approve the December 15th minutes as amended. Barrett seconded and the motion passed unanimously.

PUBLIC HEARINGS - QUASI-JUDICIAL

Turner explained the rules and procedures for public hearings and asked those testifying to keep comments to the criteria for each application.

SITE PLAN REVIEW 200-94 of Jerry Ward to develop a 2.57 acre parcel into a small mall to include commercial and light industrial uses. Property is split-zoned "M-1" Light Industrial and "CG" General Commercial. The proposed development is located at 1315 West 2nd Street.

Turner asked if any Commissioner wished to declare ex-parte contact or conflict of interest. Hearing none, Turner asked if anyone in the audience wished to challenge any of the Commissioners. Hearing none, Turner asked for the staff report.

Keillor said that nine letters of support had been received for this project. Keillor presented the staff report reviewing comments from the other city departments. Staff recommendation is approval with conditions. Keillor said that building number one (#1) of the project when looking from left to right on the site plan does not meet the front setback requirements. He said the site plan will need to be amended to indicate proper setbacks.

Turner asked for questions of staff.

Hoffman asked if building #1 was the only building that does not meet the setback requirements.

Keillor answered affirmatively.

PROPOSERS:

Jerry Ward 1069 Irvine

Ward said he would like to comment on a few items in the staff report. First concerning the abandoned water line, Tenneson Engineering will be designing the location of a new water line. The 15 foot setback on the building mentioned will not be a problem and will be adhered to. Next the sidewalks may be better placed when the entire street is developed so all sidewalks meet grade. Ward said he had spoken to Fire Chief Palmer and the fire hydrants in the area will be checked for proper distance from the property. He said the PUD had inspected the site and there were no power problems. Ward said that drainage and sewer is also being engineered by Tenneson.

Hoffman said he understood Ward's concerns about placing the sidewalks at this time and asked if he may want to secure a bond to guarantee sidewalk development in the future. Hoffman said there is a need to have the sidewalks in place as part of the project.

Ward said he was not sure where the sidewalks should be located. He said he realized the placement of the sidewalk was his responsibility and planned to put the sidewalks in along with the development.

Keillor said the City Engineering Department should be able to establish a proper grade for the sidewalks.

The nine letters of support for the project include Mark Maupin, Jim Potter, Fred Ashley, Bob Ashley, Mark Fahey, William Shupe, Harold Good, Steve Hunt, and John Tingue. The letters become part of the record.

OPPOSERS:

None

Turner closed the hearing to public testimony.

COMMISSION DELIBERATION

Parker said he had reviewed the staff report and Mr. Ward would have two alternatives to delay placing the sidewalks. A Non-Remonstrance could be filed to delay the sidewalk development or a bond could be secured for 110% of the cost using an engineer's estimate.

Keillor said the Public Works Department has become adamant that sidewalks be placed at the time of project development. Keillor said the sidewalk could be phased in as the project develops.

Hoffman said if Ward is required to place the sidewalk on West 2nd Street along his property it would be the only sidewalk in the area.

Keillor said that the Oregon Transportation Planning Rule needs to be considered in any development. The Rule requires a multi-model approach to transportation, including pedestrian and bicycle provisions. He said the Commission has the right to require sidewalks at the time of any development.

Turner said he felt there was a need to place the sidewalk along West 2nd Street at this time but would like to see the Commission be consistent with their decision on all projects. He said the adjacent property was not required to place sidewalks at the time of their redevelopment.

Barrett said she felt the sidewalks should be placed as this project is developed. She said we need to be pedestrian friendly.

The Commission felt it would be best to consistently require sidewalks be placed at the time of development.

Hoffman asked if the sidewalk would be required to be placed at the end of each phase of development or at the end of phase III when the entire site is completed. Keillor recommended the phase III deadline.

Keillor also recommended adding Condition #8 to read "Applicant shall be in full compliance with conditions prior to approval of subsequent phases".

Quinn asked Mr. Ward when he felt phase III would be completed.

Parker said the hearing has been closed and would need to be reopened before Mr. Ward could respond to questions.

Turner reopened the hearing to enable the Commission to ask Mr. Ward questions.

Turner asked Ward if he had a problem with the addition of Condition #8 as suggested by staff.

PROPONENTS:

Jerry Ward

Ward said there would not be a problem complying with condition #8 to meet all requirements of a prior phase before the next phase can start.

Turner said the question had been asked: when is phase III expected to be complete?

Ward said the completion of phase III will depend on the occupancy of the buildings in phases I and II. Ward said he would be placing the sidewalks and curbs after phase II is finished. He said he felt a good time to develop the sidewalks would be as the curbs for the asphalt in the parking lot were put in place. Ward said the sidewalks would be in place within 2 years of the start date of the project.

Keillor said if the sidewalks are in place within 2 years of the start date for the project he would suggest amending Condition #3 to include "Placement of sidewalk....commensurate with Phase III development or within 2 years".

OPPONENTS:

None

Turner closed the hearing to public testimony.

COMMISSIONER DELIBERATION

Barrett said the Comprehensive Plan calls for off-street parking areas to have a buffer placed between the new development and adjacent property and there was no indication of such a buffer on the site plan.

Keillor said the applicant has included adequate landscaping in the plan and had expressed concern that if a buffer were required at the back of the property, the snow and rain running from the roofs of the buildings could crush the shrubs.

Parker said that Condition #4 states all landscaping requirements shall be met.

Barrett moved to approve Site Plan Review #200-94 with conditions, based on findings of fact, with amendments to condition #3 and the addition of condition #8 as discussed. Hoffman seconded and the motion passed unanimously.

SUBDIVISION 36-94 of Wes Pullen to develop a 2.17 acre parcel into 13 lots with a new cul-de-sac. The property is zoned Residential

and Mobile Home Zone (RMH) and located on the south side of West 8th Street at 2424 West 8th.

Turner reread the rules for a quasi-judicial hearing.

Turner asked if any Commissioner wished to declare ex-parte contact or conflict of interest. Hearing none, Turner asked if anyone in the audience wished to challenge any of the Commissioners. Hearing none, Turner asked for the staff report.

Keillor presented the staff report stating a revised tentative plan for the subdivision had just been submitted at the meeting. He said the new plan indicates 13 lots to be developed versus 12 on the old plan. Keillor said any changes noted in the staff report are to be reflected in the new plan.

Keillor said staff and developer had discussed a narrower (40' right-of-way) street for the subdivision, but at the inter-department meeting the narrow street idea was not supported by the Public Works department. Keillor said the applicant will need to provide a standard (50' right-of-way) street with a 5 foot PUD easement.

Keillor said the subdivision and the new street will need to be named by the applicant. He said it is the responsibility of the applicant to research the names chosen with the Wasco County Surveyor to avoid name duplication within the County.

Parker said at the last Planning Commission meeting, during a hearing for a subdivision, the Dolan case was discussed and the impacts that the case is having on cities and counties throughout the state. Parker said the courts have not made a decision on the ruling for takings from a developer. He said there is a concern over a per lot figure being set for a parks contribution. The need to justify the impact the development will have on the area is on the City. He said there is a struggle over what conditions and findings are required to justify the parks fund under Dolan.

Parker said the Commission may want to agree to allow street trees and landscaping within the development for a park like appearance, as suggested by the applicant in lieu of park dollars.

Parker said that there is a meeting scheduled with Karl Cozad of Parks and Recreation to discuss the possibility of establishing system development charges (SDC's) designed to pay for maintenance and development of parks.

Keillor said the street trees should not be thought of as parks land. However, they will add to the quality of development.

Turner asked the Commission if there were any questions of staff.

Hearing none Turner called for those speaking in favor of the project.

PROPONENTS:

Jim Harris 78889 Friend Road, Friend, OR

Harris said he felt this was a good plan which will include 13 lots with all new homes. He said the applicant will place shrubs and trees for a buffer along West 8th Street. He said Mr. Pullen does not approve of the parks fund. He would prefer to develop and beautify his own development.

Harris said the names for the proposed subdivision and street have not been chosen at this time but understands the responsibilities.

Harris asked who the best person would be to discuss the drainage plan requirements for the subdivision.

Keillor said Harris should contact Marty Matherly of Wasco County Roads Department and Bob Brown with the City Engineering Department.

Keillor said the ordinance reads that if street trees are accepted, tree placement and type must be determined by the Commission. He suggested the Commission delegate this decision to staff, who will reference the tree ordinance.

OPPONENTS:

None

Turner closed the public testimony portion of the hearing.

COMMISSION DELIBERATION

Parker said that staff had hoped to give guidance to the Commission on the parks fund questions but the matter is still under review. The burden is on the City, and the City does not currently have justification for changing a flat fee, (i.e., up to 5% of land value). The City wants to work with the developers toward solutions in the interim.

Turner said although this is not just like the Dolan case, the Commission should stay with the subject. He said he had no problem with foregoing Parks Fund contributions at this time. He said the applicant has expressed a desire to work with staff and place street trees throughout the subdivision.

Hoffman said if the Commission is not required to charge a Parks Fund amount at this time, we should be flexible and cautious with the decision.

Quinn said there needs to be consistency in the decision made on the parks requirements and since the applicant is willing to plant

street trees and additional beautification on site the Commission should accept the offer and move on.

Turner said he felt uncomfortable with the 5% requirement for parks and felt that since the applicant is willing to work with staff the parks donation should be dropped.

Hoffman said that condition #4 would need to be modified.

Barrett said she did not want to leave the impression that the Commission would not support parks. She said any development creates an impact on the area and increases the need for parks.

Turner said the Commission needs to understand the legal concept of land "takings" and suggested a workshop be scheduled to clarify the issue, particularly regarding parks.

Keillor helped with the rewording of condition #4 to read "Developer shall work with the City to develop a street tree plan for approval by the Planning Director".

Hoffman moved to approve the tentative plan for Subdivision #36-94 based on finding of fact with conditions, including an amendment to condition #4. Peters seconded and the motion passed unanimously.

RESOLUTIONS SUBJECT TO PLANNING COMMISSION APPROVAL

Hoffman moved to adopt Resolution PC 311-95 as amended approving Site Plan Review 200-94 of Jerry Ward to develop a 2.57 acre parcel into a small commercial and light industrial mall. Quinn seconded and the motion passed unanimously.

Peters moved to adopt Resolution PC 312-95 as amended approving a Tentative Plan for Subdivision 36-94 of Wes Pullen to create a 12 lot subdivision. Quinn seconded and the motion passed unanimously.

DEPARTMENT REPORT

Parker said he had reviewed the Dolan case and others and there has not been a clear direction set by the courts. More cases will likely follow on this "takings" issue.

Turner said there is a need for a workable solution to the parks problem.

Parker said that Karl Cozad of Parks and Recreation had brought an example of how other cities assess parks funds. Parker said staff and Cozad will work to come up with a formula to use for parks to make sure there is a rational basis for each decision. He said we need to avoid any problems until there is a workable plan. Parker said there is a need for parks in the community and staff will work to solve the problem.

Keillor noted that a lot of areas other than just parks could be impacted. He said that streets, curbs and sidewalks in a development may also become a problem, in terms of legal justifications for requiring them.

Parker said in one case there was a challenge made of a City requiring a 25 foot right-of-way for the development.

COMMISSION COMMENTS AND CONCERNS

Barrett said she had met with a group of people that would like to amend the Comprehensive Plan and rezone a portion of land south of Chenowith Creek from Industrial to Commercial/Recreational. She said the section of land is located on the Port of The Dalles and includes Klindt's Beach. Barrett said she felt it was the responsibility of the Commission to let the public vent there concerns.

Turner said this would be a Legislative Hearing process and the Commission will need to cautions. This is a "Hot Potato".

Parker said he had some reservations with opening a public hearing on the Klindt's Beach discussion of rezoning. He said there is a court hearing in process with the Port on this property. Parker said there will need to be a resolution approved by the Planning Commission to initiate a Comprehensive Plan Amendment and Zone Change. Parker said this same discussion about zoning took place during the rewrite of the Comprehensive Plan.

Barrett moved to direct staff to write a resolution to initiate the legislative process for a Comprehensive Plan Amendment and Zone Change on a portion of the Port property lying on the south side of Chenowith Creek. Quinn seconded and the motion passed with Barrett, Quinn, Peters, and Turner approving and Hoffman opposed.

Keillor said staff will present the resolution for consideration at the February 2nd meeting. He said if passed this resolution would start the hearing process.

ADJOURNMENT The meeting was adjourned at 9:15 PM.

Submitted by: Ray Houty for SK Scott Keillor, Secretary

Terry Turner Terry Turner, Chairman