



CITY OF THE DALLES PLANNING COMMISSION MINUTES

Thursday, January 20, 2000

City Hall Council Chambers

313 Court Street

The Dalles, Oregon 97058

Conducted in a handicap accessible room

CALL TO ORDER

The meeting was called to order at 6:30 p.m. by Chair Walt Hoffman.

ROLL CALL

Chair Hoffman conducted the roll call citing the following:

Present members: Walt Hoffman, Anita Payne, David Peters, Bruce Lavier, Jerry Wilson, Marta Moser

Absent member: Jim Coggins

Staff members present: Bob Paul, Senior Planner; Gene Parker, City Attorney; Dale McCabe, Acting City Engineer; Dawn Hert, Planner; Pat Carter, Administrative Secretary

PUBLIC COMMENT

None

PUBLIC HEARING

Hoffman explained the purpose of this public hearing was to consider a quasi-judicial hearing of the Conditional Use Permit #114-99, Leon Oliver to construct a 15 bed residential care facility in the East Knoll Estates. The property is located at 445 East Knoll Drive.

He proceeded to explain the procedures of the public hearing, and the customary rules that needed to be followed. He instructed that he would open the public hearing with a staff report that will identify the related criteria of the considered case. After the staff report, testimony would be heard from the proponents (those in favor of the application), followed by testimony of the opponents (those not in favor of the application). Following this testimony, those in favor of the application would be given a chance to speak again. Then the public testimony portion of the hearing would be closed. The Commission would then ask questions and deliberate the case.

Chair Hoffman asked if any Commissioner wished to declare an ex-parte contact or a bias.

Jerry Wilson declared that he had an ex-parte contact with Paul Schanno several weeks before the hearing. He talked to him briefly about some concerns he had and it turned out to be about this particular item. When asked if it had affected his ability to be objective in making his decision, Mr. Wilson replied that it did not.

Bruce Lavier stated he was in a similar situation. He had a call from Paul Schanno and he had advised him to talk to the Planning Department because he did not want to compromise the hearing.

City Attorney Gene Parker asked both Mr. Wilson and Mr. Lavier if any details of the application had been discussed. Mr. Wilson replied that Mr. Schanno had mentioned that it was a care facility, he did not enter into detail about it but advised Schanno to talk to Dan Durow of the City Planning Department. Both replied that nothing had been said to sway their decision.

Commissioners were asked if they had any further questions of Wilson and Lavier. Moser replied that they both had been Commissioners for so long and knew the rules so well that she would be willing to trust their statements.

Parker said it did not appear the merits had been discussed and he did not see a bias so he was satisfied.

Hoffman declared that he did have a bias because his son is an attorney representing one of the parties. Therefore, he handed the gavel to Vice Chair Lavier to conduct the hearing, and abstained from participating in the hearing.

There were no challenges from the audience.

The hearing then proceeded to the staff report, presented by Bob Paul, Senior Planner. He explained that he had prepared the staff report with the assistance of Dan Durow and Gene Parker.

He reviewed the address of the property, that it had a Comprehensive Plan designation of RL, Residential Low Density, in a Residential Low Density zoning district. The application is for a residential care facility. This type of facility is licensed by the State and is also allowed as a conditional use in this zone in the City Zoning Ordinance.

In explaining the type of facility, Paul stated it was allowed to have 15 residents. Residents would require help with some day-to-day activities. The residents may or may not drive. Residential care facilities are categorized as type 1 and type 2. This application specified type 2. The State establishes the criteria for the types, not the City. The difference between them is the level of care. Type 2 is geared more toward Alzheimer's Disease, which requires more assistance in daily functioning. It basically is the step taken before a resident goes into a hospital or nursing home.

The construction and design of the structure is determined by State requirements for fire access safety. Specifically, the bedrooms need to have windows of certain dimensions and height off the ground.

In terms of notification in the application process, the applicants have met with the former Acting Planning Director and Mr. McCabe, Acting City Engineer. They did not attend a Site Team meeting but that is not required of them. Notification was sent to property owners within 100 feet of the parcel, city departments, franchise utilities, Oregon Department of Transportation and Wasco County Roads. Notification was also extended to residents of the East Knoll Sub-division as a courtesy. One written comment was received prior to the meeting (copies were supplied).

Most of the Site Team comments were addressed. A lot of them were basic construction standards that end up as conditions of approval.

The staff recommendation was approval with conditions, based on findings of fact. These facts were based on Land Use and Development Ordinance #98-1222. The application was found to be complete on December 16, 1999. The notice of hearing was mailed to property owners within the required distance and a legal notice appeared in The Dalles Chronicle 10 days prior to the meeting. Confirmation has been received of this notice. All required plans were submitted, including a detailed narrative.

In terms of the review criteria, for the Conditional Use, certain standards must be met which include lot size standards of 5,000 square foot minimum. The lot is an established lot, approximately 21,344 square feet. The city standard has a front yard setback of 15 feet with 20 feet for a garage, 10 feet for the rear and 5 feet on the sides. This proposal included 53 feet setback in the front, 67 feet for the garage, 44 feet from the rear and 5 feet on both sides, meeting the requirement. The building height in this zone is 30 feet maximum; the proposed structure is 22 feet high. The lot coverage is 60% impervious surface, which would include the building footprint, eaves, sidewalks, and parking pad. That calculated out to 43% of lot coverage.

The building orientation is required to be parallel to the street or private access way, essentially facing the front. This building is oriented toward East Knoll Drive.

Off-street parking is calculated at 1 automobile per 4 beds minimum, with no maximum, and 1 bicycle per 6 beds. This resulted in 4 vehicle spaces and 3 bicycle spaces. The applicant has proposed 4 spaces, 1 being accessible, and an unspecified number of bicycles spaces. They have met the requirement of verifying how much parking was available for the bicycles.

In terms of accessory uses, buildings and structures, none are proposed.

Driveway locations in a residential zone are based on how wide the lot frontage is. Between 50 and 100 feet allows a 24 foot maximum. The applicant proposes a 24 foot driveway, which meets the requirement.

Another standard researched was a building being architecturally compatible with other homes within 300 feet of the subject parcel. Essentially, this building is architecturally compatible. There is a list of architectural features and the applicant must meet at least 5 of those features. The proposed structure has exceeded the number of required architectural features on the exterior of the building.

This is a single story structure that meets all of the required architectural features of a single family home. The size is not larger than allowed if it was a single family home. A home built to look like this structure (same scale, bulk, building coverage) could be built with minimum review.

The facility is limited, by State licensing, to 15 occupants with a conditional use in this zone. Therefore, it is the top end of what is allowed in terms of density.

The site is served by City sewer and water. Gas and electric can be served to the property. There is a storm drainage area proposed in the rear of the parcel that is intended to retain all storm water on site and let it percolate into the ground. Calculations of whether or not this area would be of the right size and whether the soil has the right permeability would be reviewed as part of the building permit approval process.

Although the building will have numerous architectural characteristics common to single family homes, it will have a decided institutional use and physical aspect, mostly from the visual appearance of the windows and the parking lot in front of the building. However, nothing in the ordinance prevents residents from building this way, should they so desire.

The use was an issue analyzed at some great extent. The applicant submitted information asserting that as a person progresses through the health care continuum (beginning in assisted living and working into a hospital) they get less and less visitation. Information obtained by City staff from other Planning Departments in cities with similar facilities confirmed the correlation between the degree of care provided and the amount of family visitation.

Based on this limited visitation, traffic was not considered a problem. A low staff level is expected, 1 to 3 people per shift. Food shopping, cooking, and laundry will be done by staff on site, thus eliminating delivery vehicle traffic.

Since there isn't a backdrop on the lot and it sits on a knoll, the building will appear larger. However, the structure does meet the ordinance requirements in terms of size and impervious surface.

The interior of this building has no resemblance to a single family home. The interior has shared bathroom facilities located in various places, a commercial kitchen, and is not designed like a residential house. Staff was concerned for the reuse of the building if the business should fail. However, the ordinance criteria does not address this issue.

Nothing in the application indicated that there would be glare, odor, vibrations or noise. Any nuisance conditions would be dealt with by Code Enforcement or the Police Department.

Comparing the application with the Comprehensive Plan, goal 10, Housing, encourages development that is sensitive to existing neighborhoods. The exterior physical structure is not substantially different from other residences that would be approved with a standard ministerial building permit.

Staff did suggest a list of 14 conditions of approval, as listed in the Staff Report. Paul closed his report by itemizing these conditions.

The Committee had no questions of Paul other than Lavier asking him to show the exact area of the building location on the map.

Moser made the statement that she appreciated the thoroughness of the recommended conditions number 10 and 11. *(10. Additional buffering for parking area to include 3-4 foot height evergreen shrubs adjacent to south and east edge of outdoor parking area. 11. Eliminate the vehicle turn stall and replace it with landscaping.)*

The meeting was then opened to anyone who wished to speak in favor of the proposal.

Speaking in favor:

Leon Oliver, 1425 NW Ponderosa Street, Grants Pass, Oregon - Mr. Oliver represented the applicant owner. He voiced his opinion that staff had done a good job in summarizing the points raised in the applicant's response, which was included with the application. He had no problem with the conditions that staff has recommended. He felt that people didn't always understand what these homes were, as they are fairly new. He invited the Commissioners to ask questions.

Moser asked how an out-of-state company found a site in The Dalles.

Oliver replied that he was not involved in that area. The company is located in Boise, and has a facility in Denver. He will be doing one in Brookings and in Susanville, and there are quite a few in Washington. He believed they actually did their market research to find where the population is that needs the facilities. Typically, local people occupy the homes. The idea is that residents of these facilities can be close to their families in the area.

In response to a question from Commissioner Moser regarding any age restriction in the facility, Oliver said there was none that he knew of. The applicant receives an Alzheimer's endorsement with their licensing.

Speaking in opposition:

Paul Hoffman, 6770 Mill Creek Road, The Dalles - He spoke as an attorney representing the East Knoll Homeowners Association. He distributed a handout, noting each exhibit was marked. He stated the Association has a keen interest in preserving and protecting the actual and the planned

character of this neighborhood. His client opposes the submitted application for many reasons which include, but are not limited, to the following:

- a. The proposed structure does not meet the review criteria for a Conditional Use Permit.
- b. It is not compatible with the existing neighborhood.
- c. It is inconsistent with the Comprehensive Land Use Plan for the City of The Dalles.

Hoffman voiced the opinion that the conclusions drawn by the staff on safety, parking, and traffic are based on unfounded presumptions. His client does not oppose the applicant's use of the subject property for a residential care or a more modestly sized residential care facility. They will not, however, accept a facility of this size in the neighborhood. He stated that the Planning Commission is not bound by any state statute to grant the requested permit. He proceeded to read the 13 page presentation, noting the exhibits referred to in the document.

Granting special permission for a high density residential structure on the gorge bluff would be contrary to the Comprehensive Plan. His statement is based on an excerpt from page 35, the #3 Policy on Housing under the Plan. If this application is approved for a Conditional Use Permit, he felt it would be in violation of the Comprehensive Plan.

Hoffman maintained that the possible problems with service vehicles, employee parking, and visitor parking had not been addressed. Hoffman did not feel that the safety issues had been addressed either.

He voiced the group's opinion that the building should not be treated the same as if it were a single family residence because of the size, although it does not violate the Comprehensive Plan.

If the business should fail, Hoffman felt there would be a "white elephant" left in the residential neighborhood. He suggested a bond of \$200,000 be posted to fund the conversion of the building to a single family residence.

At this point, Lavier asked if there was any way to speed up the presentation, so others may speak. Hoffman said he had a ways to go, would speak as quickly as he could, would not miss one issue as the rules provided if an issue was missed, that issue could not be appealed. He had to address every issue, and was speaking as fast as he was physically able. Lavier replied that he would like him to get his testimony in, but also like to give others a chance to speak.

Hoffman proceeded by comparing the size of the structure to The Dalles Senior Center. He questioned putting the proposed structure into a residential lot in East Knoll Estates. He felt the staff should have analyzed the size, design, scale and bulk of the proposed structure before considering the permit. The average size lot in East Knoll Estates is .28 acres. If this building was put on an average size lot in that neighborhood, it would cover 75% of that lot, which would violate the 60% restriction.

The criteria of a neighborhood review in the Staff Report was then discussed:

#1 Scale - He felt the 98 foot wide structure gave the appearance of an institutional nursing home, not a single family home.

#2 Parking Location - He did not feel the parking lot should be allowed in the front yard. The word "setback", according to Hoffman, means 15 feet between the front of the structure and the road. Thus, there should not be room for a parking lot.

#3 Front and side yards that abut the street shall be visually open to the street - The open parking lot would violate this criteria. The front yard parking lot would prohibit a lawn that can be seen as the other yards in the area.

#7 Building orientation - He said the structure was parallel to the northern boundary line, not the street. Also, the average setback in the neighborhood is about 35 feet from the road, and this building would require 53 feet because of its size. He felt this setback compounds the institutional appearance.

Hoffman questioned the validity of the parking situation, with regard to employees and visitors.

He questioned if any of the staff really knew what type of care was given to residents of such a home. Hoffman asked if the staff could really explain the difference between this operation and a nursing home. He felt too many questions remain on exactly how this facility will operate and needed further research. He felt it would be improper to use the residential neighborhood as a planned experiment. He urged the Commission to deny the application. If it could not be denied at this meeting, then he asked for a delay in the decision.

Hoffman submitted his exhibits 1-14 to be included in the records, along with a Statement of Issues Raised by the East Knoll Homeowners, a copy of his remarks.

Peters asked what the largest structure is in the settlement at this time. Hoffman replied that the largest 2 story home is 2300 square feet, and the largest single story home is 2200 square feet.

The Commission had no further questions of Mr. Hoffman.

Paul Schanno, 4010 Emerson Loop Road, The Dalles - Schanno began by apologizing to the 2 Commission members that he had contacted. He then proceeded to explain that he is the original owner of the East Knoll Estates land. He voiced objection to putting an institutional building in a residential area.

He felt that the statement regarding one visitor, once a month to each resident is "totally ludicrous and silly to ever think that is going to happen". He said the street facility will not condone the parking needed and cars will be parked in neighboring resident's driveways.

He further did not believe the facility could be maintained with the proposed number of employees and that the supplies for that amount of people could not be brought in by car.

With regard to taking care of water on site, he had gone to Tenneson Engineering for information assistance. Tenneson Engineering proposed, for that amount of people, the water take away would be 14,600 gallons in a 24 hour period. He said this area is solid rock and the water will not permeate the rock. Tenneson Engineering had told him that The Dalles had a policy that there is no infiltration allowed.

He questioned the amount of staff that needed to be on scene at one time and felt that it should be researched further and not by contacting the Planning Department of another city.

Schanno felt the staff didn't look at the main problems such as the water run off plans.

He invited the Commission to look at the site.

The Commission had no questions of Mr. Schanno.

Terry Stoddard, 490 East Knoll Drive, The Dalles - Before moving to The Dalles, he and his wife had been residents of Grants Pass and had strong concerns regarding having Alzheimer's victims living in this area. His mother has lived in Grants Pass and is presently residing at Ashley Manor, the same organization proposing the facility in The Dalles. She is 86 years old and has escaped from the facility 3 times. The employees were not even aware that she had disappeared. One of the primary concerns with Alzheimer victims is the urge to wander. He questioned if this was a good place for such a facility with the cliff in the back. He did not feel it was safe.

Gary Stroh, 455 East Knoll Drive, The Dalles - Mr. and Mrs. Stroh live in the home immediately to the south of this proposed structure. He wished to voice his concern about the traffic and parking situation. He does not feel there is sufficient parking, forcing cars to be parked in front of adjacent properties. This on-street parking will also cause a very small area for moving traffic. He felt the added traffic caused a safety issue for residents who walk or ride bicycles.

City Attorney Parker submitted and read a letter of objection from Clark H. Riley (copies distributed).

REBUTTAL

Leon Oliver - The opponents had cited a section of ORS 197 that specified the difference between residential care facilities and multi-family, or single family residences. He did not think the statute had been completely explained, however. Residential homes (up to 5 beds) are allowed in a single family, residential neighborhood. In reference to residential care facilities, the ORS states that they are an outright use in any multi-family zone and a municipality or jurisdiction may allow them as a conditional use in a single family zone. That is the way The Dalles Development Ordinance reads, so it is allowable through the Conditional Use process. The definite criteria in the ordinance made it good for an applicant as it made it clear what to address and how to meet the conditions. All of the conditions were met in the application, as well as addressing the neighborhood compatibility

conditions in the narrative application. Each was addressed individually and the applicant met them all.

Oliver added that some of the Site Team comments have been met already. The plan for the storm water basin that has been submitted is preliminary. When the planning process is finished, they will proceed into engineering and the final design process and testing will be done. 6 inches of water will be accepted now. He said they fully expect to meet all of the Site Team comments not already met.

He explained that 4 employees on site are the peak number at any one time. He had supporting payroll documentation for a similar facility.

Over a period of time, his employer advises that the nurse/physician visits and family visits average a total of 13.7 trips per day.

Moser asked if it was a locked facility. Oliver replied that it was. Windows will be alarmed so staff will know if one is opened. They have a complicated locking system that is tied to the alarm and fire system.

Mr. Oliver further explained that he is a Planner, working for Ashley Manor. He was brought in by a General Contractor from Grants Pass. SAM. Care Center (Ashley Manor) will hire the help to operate the facility.

Andy Clark, 975 Oak Street, Suite 800, Eugene, Oregon - Mr. Clark stated that he is an attorney in Eugene and works on Ashley Manor matters. He requested that the record be kept open for 7 days so he could make a detailed written response to Mr. Hoffman's issues.

Clark felt the statements from Hoffman regarding the zoning ordinance prohibiting the placement of the facility are inaccurate.

At this point, City Attorney Parker requested a recess to clarify a statute to see if the record could be kept open and actually allow additional testimony at the next hearing or close it at that point, with no additional testimony.

A 10 minute recess was declared at 8:25 p.m.

The meeting was reconvened at 8:36 p.m.

Parker reported that, according to ORS 197.763, the Commission is required to leave testimony open for 7 days to allow further written arguments and possible written evidence from both sides. The Commission could not vote on this matter at this meeting because a continuance was requested.

After discussion, Moser made a motion to continue the hearing on February 3rd. The motion died for lack of a second.

Because of confusion in understanding the actions that had just taken place, Parker summarized the situation. There was a request by the applicant to ask for additional time to submit some additional written arguments. The statutes say that the Commission has to keep the record open for at least 7 days to allow that material to be filed. If that material raises new arguments or new issues, then the opponents would have an opportunity to request the record be kept open so that they can respond to that new testimony, so we will not know whether there will be an additional request until we see what is filed. At this point the record would have to be kept open until January 27th. Once the information is received, the Commission will receive enough time to review it before there is another meeting to deliberate at that point.

Moser made a motion to continue the public portion of this hearing to the February 17th meeting. Payne seconded.

Parker interjected that if the record was held open, the hearing would have to be closed at this meeting. There could not be any further additional testimony. The Commission would have to deliberate on what they had heard at this meeting and any written submitted information. There wouldn't be any additional testimony.

The motion was voted on and failed.

Voting yes: Moser, Payne
Voting no: Peters, Wilson, Lavier
Absent: Coggins
Abstaining: Hoffman

Therefore, the record would be kept open for 7 more days from this meeting to January 27th.

Wilson made a motion to leave the record open for receipt of written statements from the proponent until January 27th, 7 days from today.

Peters seconded.

Discussion was opened. Moser stated she did not think it was fair, it was not enough time. Mr. Clark was asked if the time was a problem. He clarified that the record would be left open for 7 days. All of the parties have the opportunity to submit additional written evidence into the record. It was not as if the proponent submit something and then the opponent submit a rebuttal. It was only to the extent that the proponents raise any new issues that haven't been talked about at this meeting that a rebuttal be allowed. He had no problem with the 7 days.

The motion passed unanimously, Coggins absent and Hoffman abstaining.

The public portion of the hearing was then closed.

COMMISSION COMMENTS OR CONCERNS

Moser felt the Commission was moving too fast.

There were no other comments.

NEXT MEETING DATE

The next meeting will be held February 3rd, 2000, at 6:30 p.m.

ADJOURNMENT

The meeting was adjourned at 9:08 p.m.

Submitted by Pat Carter, Administrative Secretary



Walter Hoffman, Chair