

CITY OF THE DALLES PLANNING COMMISSION MINUTES

Thursday, March 20, 2008

City Hall Council Chambers

313 Court Streets

The Dalles, OR 97058

Conducted in a handicap accessible room

CALL TO ORDER:

Chair Lavier called the meeting to order at 6:31 p.m.

BOARD

MEMBERS PRESENT:

Bruce Lavier
Dean Wilcox
Mark Poppoff
Derek Hiser
Ron Ahlberg (6:33pm)
Chris Zukin

BOARD

MEMBERS ABSENT:

Ted Bryant

STAFF PRESENT:

Senior Planner Dick Gassman
Administrative Secretary Brenda Green

APPROVAL OF AGENDA

It was moved by Zukin to approve the agenda but switch the order of the two hearings in order to give applicant Loranda Springs time to arrive. The motion was seconded by Hiser. The motion carried unanimously, Bryant absent.

APPROVAL OF MINUTES

It was moved by Wilcox and seconded by Poppoff to approve the minutes of December 6, 2007 and March 6, 2008 as submitted. The motion carried unanimously, Bryant absent.

PUBLIC COMMENT:

Chronicle Staff Reporter Elroy King submitted a document outlining new provisions in the Oregon Public Records law. King commended the Planning Department for always submitting notices and responding to requests in a timely and appropriate manner. Document is attached and labeled as "Exhibit 1".

QUASI-JUDICIAL PUBLIC HEARING:

Conditional Use Permit CUP 144-08: Application for a Conditional Use Permit/Community Facility Overlay to add a larger community room and more office space as well as construction of a new covered garage to the existing P.U.D. site. **Property Owner:** Northern Wasco County P.U.D.
Location: 2345 River Rd, further described as 2N 13E 33A tax lot 301 and zoned CR/Commercial Recreational.

Prior to reading the rules Chair Lavier declared a conflict of interest. Senior Commissioner Ahlberg stepped in as Acting Chair for this hearing.

Acting Chair Ahlberg read the rules for conducting a public hearing. He asked the Commissioners if they had any bias, conflict of interest, or ex-parte contact. Chair Lavier again stated his conflict of interest and excused himself from the hearing. There were no challenges from the audience. Ahlberg declared the public hearing open and asked for the Staff Report.

Senior Planner Gassman presented the Staff Report. Gassman stated that normally an application such as this would not even come before the commission, but city code requires both public and private utilities to go through the public hearing process. Gassman explained that any other applicant would have just gone through a staff level decision. The staff report includes 11 conditions of approval; however these are all conditions that would have been required once the applicant applied for the building permit. Staff recommends approval of this application.

Commissioner Questions: None

Public Testimony: Earl Ayers, 2345 River Road, The Dalles. Mr. Ayers stated that he is the warehouseman, purchasing agent and facilities improvement coordinator for Northern Wasco County P.U.D. Mr. Ayers explained that this expansion is a result of the slow and continual growth of the utility. He explained that they have hired a number of new employees and have added new vehicles. Consequently they have run out of room. Mr. Ayers stated that they do not have any issues with any of the conditions set forth.

Commissioner Poppoff asked if the Port or the City standards apply to this location. Senior Planner Gassman responded that they are only regulated by city standards. Poppoff then stated that he does not see any trees on the plans.

Mr. Ayers responded that there actually are trees in the original plan that never got planted. However, they are currently looking at getting them planted in order to reduce the heat that comes into the building.

Acting Chair Ahlberg asked about the displacement of landscaping during this expansion. Mr. Ayers stated yes, some landscaping will be lost but they will still be within their requirements. Senior Planner Gassman added that since they are planning trees, trees count for 250 square feet of landscaping, so they will easily meet the requirements.

There was a general discussion between the Commissioners and Mr. Ayers to explain which parking spaces will be moved, and where they'll be moved to, with a result showing that they will meet the parking requirements.

Acting Chair Ahlberg asked about the landscaping/building ratio. Senior Planner Gassman explained that the applicant will be required to show that they are within the ratios. Ahlberg questioned further, explaining that he was curious if there will be room for additional growth in the future, or if this expansion will be maxing out their space. Mr. Ayers answered that this addition will max out their space.

Opponents: None

Rebuttal: None

Acting Chair Ahlberg closed the public testimony portion of the hearing.

Deliberation: Commissioner Poppoff suggested adding a condition requiring trees to be planted as per city standards. After a discussion between Commissioners and staff, general consensus showed there was not a need to add the condition as the applicant will be required to follow The City's landscaping requirements when they apply for their building permit. In addition; according to Acting Chair Ahlberg, the staff at the PUD is planning on planting trees anyway.

Wilcox moved to approve CUP 144-08 with conditions as submitted. Hiser seconded the motion. Motion carried unanimously, Lavier abstained, Bryant absent.

QUASI-JUDICIAL PUBLIC HEARING:

Conditional Use Permit CUP 143-08: Application for a Conditional Use Permit to allow a license for a retail/resale business. **Applicant:** Loranda Springs **Property Owner:** M F Martin and Sons **Location:** 513 W 10th St, further described as 1N 13E 4AC tax lots 5700 and 5800 and zoned RH/Residential High Medium Density, with a NC/Neighborhood Center Overlay.

Chair Lavier resumed his duties as the chair. Since there were no new audience members, Lavier did not re-read the rules for conducting a public hearing. He asked the Commissioners if they had any bias, conflict of interest, or ex-parte contact. They had none. There were no challenges from the audience. Lavier declared the public hearing open and asked for the Staff Report.

Senior Planner Gassman presented the staff report. Gassman explained that this application is being brought before the commission because within a Neighborhood Center Overlay a retail operation is required to receive a Conditional Use Permit. This process allows residential neighbors to have a chance to comment and allows staff and the planning commission the ability to make conditions. Gassman shared that in a general sense this business fits; it has adequate parking, a small building, and it generally fits in with the type of operations also in that area. Gassman stated that one concern he has with this retail operation is that on two separate site visits, the applicant has had merchandise on display outside of the building, plus they are using signs that seem "gaudy". The sign issues will be resolved once the sign permit process is gone through. However, a decision about the outside display of merchandise should be made along with the decision on the application. Gassman explained that the outside display of merchandise would not be such an issue if they were in the general commercial zone. According to The City's code, outside storage is allowed in the Central Business Commercial District with a conditional use permit but the display areas must be screened. Gassman felt that even though the code is talking about outside storage, staff feels the same principle applies to any outside display; especially since it is within a NC zone. Consequently, Staff is recommending that no outside display or storage of merchandise be allowed, and that all signs have been approved.

Commissioner Poppoff asked about merchandise display on the porch. Senior Planner Gassman replied the porch is better than the yard; however it is up to the commission to decide where it can and can not be displayed. Gassman recommended that whichever decision is made that it be very specific in order to help guide the applicant as well as staff.

Commissioner Wilcox asked if there had been any comments/objections from the neighbors. Senior Planner Gassman shared the neighbor's concern that is directly across the street. They were concerned about the outside display of goods as well as the signage. Wilcox pointed out that several of the houses nearby are currently vacant. When those houses become occupied this business will be a blight on their view. Wilcox stated that he drove by the location and observed it was very obvious where the business is; it pretty much hit him in the face. Wilcox stated that as a neighbor that's not something he'd want to be constantly hit in the face with.

Chair Lavier asked if the applicant is aware that this is a permit and that it can be revoked if the conditions are not being followed. Senior Planner Gassman stated that he has not talked to the applicant yet, but will explain everything in full after a decision is made.

Proponents: None

Opponents: None

Rebuttal: None

Chair Lavier closed the public testimony portion of the hearing.

Deliberation:

Commissioner Ahlberg brought up a concern about ADA access. He stated that since this is a retail operation and the business depends on customers physically coming into the building to pick out merchandise, access needs to be provided for wheelchairs, the elderly or even pedestrians pushing strollers. Ahlberg pointed out that as homes are being converted into commercial establishments. The City does not have any provisions in place to address ADA access. He also stated that some businesses would be more appropriate to not be brought up to ADA standards, such as the veterinary office that was previously in there, or an accountant's office. Ahlberg stated that these types of businesses can accommodate customers by sending an employee outside, or by using a back door. Conversely with a retail operation, customers need to be able to go in to the location to shop. Ahlberg pointed out that with this building specifically, it's located up on a hill with no other way to go in but to go up the stairs. He felt that this location is not an appropriate choice for a retail operation. Ahlberg stated that if this application is approved without requiring ADA access it will set the wrong standard for future applications.

The commissioners and staff discussed the pros and cons of requiring ADA access. It was pointed out that if ADA access is required this business might have trouble financially fulfilling that requirement. There was a concern about setting the business up for failure. There was also talk about the need to follow the LUDO standards. A general feeling was that ADA access is important and necessary but can it be enforced according to the LUDO? There was also a discussion about where the applicant could put an ADA access.

A concern brought up by Commissioner Ahlberg was if this application is approved, it will allow future business in that location to operate in the same manner. Senior Planner Gassman pointed out that condition number five states the permit is valid for this use only. After some discussion by the commissioners, the general feeling was to amend that condition to read "The CUP is valid for this

retail use only. Any change in the operation must obtain approval from the City”

Commissioner Hiser inquired if there would be any affects to traffic in the area. Gassman replied, no not really. Tenth Street is a major collector with good traffic flow patterns as well as adequate on street parking.

Chair Lavier stated that the feeling that he was getting from the commissioners was an overall feeling of being uncomfortable with the application. He suggested looking at the conditions and coming to some conclusions of how to modify the conditions of approval. He added that if the commission would like to deny the application they need to come up with a solid reason. Commissioner Hiser stated he felt it would be better to approve it with additional or modified conditions.

Commissioner Hiser brought up a question about the use of the word “screening”. He wondered if that would cause additional questions; such as what they’re allowed to use for screening. Commissioner Poppoff stated he was uncomfortable with displaying merchandise on the porch adding that it would set a precedent unless they were required to enclose it. After further discussion by the commissioner’s the suggestion was to modify condition number two to read “Outside display or storage of merchandise, including the porch and yard, is incompatible in the NC zone and will not be allowed.”

Commissioner Hiser asked Senior Planner Gassman if the commissioner’s make conditions tonight, what is the timeframe for compliance by the applicant? Gassman replied that a condition such as not displaying merchandise on the porch would need to be remedied immediately. A condition such as adding ADA access would be granted a reasonable amount of time, such as three or four months.

Commissioner Zukin stated that he felt the commission should be as objective as possible and try to be blind to the nature of the business. He felt that not allowing outside display or storage is an appropriate condition, and felt that adding the word “retail” on condition five was appropriate. He felt that would take care of the issue of grandfathering in any future retail operations. However, Zukin felt uncomfortable requiring ADA accessibility if the LUDO does not require it. He understands the necessity for it, but the fact that for whatever reason this building was converted with out that requirement would make it difficult to require it now.

Commissioner Ahlberg felt that if improvements are not required to be made when houses are converted, it doesn’t give any incentive to make improvements in the future. He feels that a veterinary office was fine without ADA accessibility but has a hard time swallowing a retail operation not being required to make changes. Ahlberg stated that he agrees with adding the changes to conditions number two and five.

Commissioner Hiser asked if there are other instances like this when ADA would be required. Senior Planner Gassman responded that there are a few businesses that are operated out of homes, however there aren’t that many that operate within an NC zone. Other businesses, such as The Fly Shop that operates out of a home was not in an NC zone so it did not require a CUP.

Commissioner Hiser suggested approving the application with amendments to conditions two and five, but showed concern about enforcing the addition of ADA accessibility. Commissioner Ahlberg responded that if it’s added as a condition the applicant is required to do it. Senior Planner Gassman stated that generally conditions are enforceable; there is a possibility that this one might not be

enforceable; however the applicant would need to appeal the decision.

Hiser moved to approve CUP 143-08 with condition number two amended to read; Outside display or storage of merchandise, including the porch and yard, is incompatible in the NC zone and will not be allowed. And with condition number five to read; The CUP is valid for this retail use only. Any change in the operation must obtain approval from the City. And with an additional condition number seven to read; Facility must be made ADA accessible. Poppoff seconded the motion. Motion carried with Ahlberg, Poppoff, Lavier, and Hiser voting for, Zukin and Wilcox voting against, Bryant absent.

RESOLUTIONS:

Hiser moved to adopt Resolution PC 470-08 approving CUP 143-08 with seven conditions as amended. Poppoff seconded the motion. The motion carried with Ahlberg, Poppoff, Hiser, Lavier and Zukin voting yes, Wilcox voting no, Bryant absent.

Wilcox moved to adopt Resolution PC 471-08 approving CUP 144-08 with eleven conditions as submitted. Zukin seconded the motion. The motion carried with Ahlberg, Poppoff, Hiser, Zukin and Wilcox voting yes, Lavier abstained, Bryant absent.

COMMISSIONER/STAFF COMMENTS

Commissioner Wilcox questioned how to get the slag pile removed from the Aluminum Plant, Super Fund site. He pointed out that if the government is able to spend 4 billion dollars a week in Iraq, they can spend a few million to get that removed from our backyard. The commissioners discussed that it is a federal site and agreed it would be good to see that moved. Commissioner Lavier pointed out that there are two other sites also located in The Dalles. Commissioner Hiser shared that he had just been talking with Director Durow about that site and stated that Martin Marietta is currently working on getting some of it moved. Commissioner Wilcox stated that the Martin Marietta representative is a member of the local community. The commissioners discussed the make-up of the pile and the manner it was encapsulated. Senior Planner Gassman stated that he will find out what he can and share it with the council at the next meeting.

Commissioner Hiser shared that he had a discussion with Hobie Streich, the owner of the future Metro Car Wash. Mr. Streich requested that Commissioner Hiser share with the council how much he enjoys working with the Community Development Department. Mr. Streich stated that it has been an absolute pleasure working with the City of The Dalles and plans on doing more developments in The Dalles because of how easy the staff is to work with.

After reading the minutes from the work session Commissioner Hiser questioned why the cargo container rules are going to be loosened. Senior Planner Gassman responded that there have not been any decisions; it was just brought up to be a discussion item.

Commissioner Hiser shared that he has taken on a new job which will require him to be at training out of town until the end of May. Consequently he will not be able to attend Planning Commission meetings until the training is over. Senior Planner Gassman reminded the council that Commissioner Bryant is also gone through May and advised that close attention should be paid to having quorums at each of the meetings.

Commissioner Hiser questioned if notices and board packets could be sent through email. Administrative Secretary Green responded that City Attorney Parker is looking into the legalities of using email for official notices. Currently the answer is no, legally staff is required to use the US

Postal Service, however the option for using email is being looked into as an option for the future.

Commissioner Hiser asked if the minutes and agendas could be posted on the City's website. Senior Planner Gassman stated yes, that could be done and stated that staff will look into making that happen in a timely manner.

Senior Planner Gassman shared that the Community Development Department staff has been very busy. Activity has definitely begun to pick up.

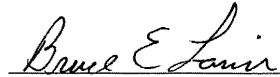
Commissioner Ahlberg questioned the progress of the Brewery Grade and the Chenoweth Interchange projects. Senior Planner Gassman replied that although Director Durow is really the person that could give an accurate update, he does know that both projects are making progress.

Commissioner Ahlberg asked about the Shop 'n Kart. Senior Planner Gassman shared that six months ago staff heard that the matter had been settled. However, nothing has been heard about it since.

NEXT MEETING: The next scheduled meeting is April 3, 2008.

ADJOURNMENT: The Planning Commission meeting was adjourned at 8:05 p.m.

Submitted by
Brenda Green, Administrative Secretary



Bruce Lavier, Planning Commission Chair

Oregon public records law has some new provisions that governing bodies must comply with. They took effect Jan. 1. Newspapers mark Sunshine Week this week in honor of so-called sunshine laws, many of which were enacted 35 years ago in 1973, following the Watergate debacle.

I want to express my thanks for the planning commission and the planning department's cooperation with their following the Sunshine laws. I have always had excellent cooperation from the staff and from individual commissioners in providing any information I need.

This is only to remind the staff and this body of the new ORBS requirements outlined below.

1. Public bodies must promptly respond to written public records requests by acknowledging receipt of the request and providing information about the status of the public body's processing of the request. (ORS 192440(2)).

2. The public body must also make available a written procedure for making a public record request, identifying the person to whom requests should be directed, and explaining how the public body calculates fees for responding to requests. (ORS.440(7)).

The 2008 Public Records and Meetings Manual provides sample templates that can help them comply with the new law.

Thanks,
Elroy King