

# CITY OF THE DALLES PLANNING COMMISSION MINUTES

**Thursday, June 5, 2008**  
City Hall Council Chambers  
313 Court Streets  
The Dalles, OR 97058  
*Conducted in a handicap accessible room*

## **CALL TO ORDER:**

Chari Lavier called the meeting to order at 6:32 pm.

## **BOARD**

**MEMBERS PRESENT:** Bruce Lavier  
Ron Ahlberg  
Dean Wilcox  
Chris Zukin  
Benjamin Hoey

## **BOARD**

**MEMBERS ABSENT:** Mark Poppoff  
Derek Hiser

## **STAFF PRESENT:**

City Attorney Gene Parker  
Senior Planner Richard Gassman  
Administrative Secretary Brenda Green

## **APPROVAL OF AGENDA:**

Senior Planner Gassman stated that the CUP Hearing for Father Luke Hartung will need to be postponed again due to the applicant obtaining a lawyer and requesting additional information.

It was moved by Ahlberg and seconded by Hoey to approve the agenda as submitted. The motion carried unanimously Poppoff, Hiser absent.

## **APPROVAL OF MINUTES:**

It was moved by Ahlberg and seconded by Wilcox to approve the minutes of May 1, 2008 as submitted. The motion carried unanimously Poppoff, Hiser absent.

It was moved by Wilcox and seconded by Hoey to approve the minutes of May 15, 2008 as submitted. The motion carried with Lavier, Wilcox, Zukin and Hoey voting in favor, Ahlberg abstained, Poppoff, Hiser absent.

**PUBLIC COMMENT:** none

## **QUASI-JUDICIAL PUBLIC HEARING:**

It was moved by Zukin and seconded by Hoey to continue the hearing for CUP 145-08 of Father Luke

Hartung for Dormition of the Theotokos Orthodox Church to June 19, 2008. The motion carried unanimously, Hiser and Poppoff absent.

**QUASI-JUDICIAL PUBLIC HEARING:**

**APPLICATION NUMBER:** CUP 146-08 of North Wasco County School District #21 **REQUEST:** This application is for a Conditional Use Permit to install two modular buildings south of the existing Chenowith Elementary School gymnasium. **LOCATION:** Property is located at 922 Chenowith Loop and is further described as 2N 13E 29C tax lot 400. Property is zoned "RL" – Low Density Residential with a "CFO" – Community Facility Overlay.

Chair Lavier read the rules for conducting a public hearing. He asked the Commissioners if they had any bias, conflict of interest, or ex-parte contact. None were declared. 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. He summarized the application and then stated that the only issue is regarding the sidewalk. He explained that the buildings will be connected to the school internally on the back side. Staff is not requesting sidewalks be installed because a requirement of sidewalks on the entire 3700 lineal feet adjacent to the right of way would not be in proportion to what is being developed. This recommendation is based on the Dolan case. He also added that it is likely that this property will be re-developed at some point in the future and sidewalks will be discussed at that time. Gassman suggested that the commission has the ability to require a section of sidewalks be built. However, according to Gassman adding those sidewalks would not do much for the site due to the location of the parking lots, and the traffic patterns of pedestrians. If the Commission wishes to require sidewalks just in front of the school entrance on Chenowith, Gassman felt that condition would be able to be upheld in accordance with the Dolan case.

Senior Planner Gassman further explained that according to the applicant the addition of the modular buildings will not be increasing the attendance at the school; the buildings are in response to already increasing attendance. Gassman stated that staff is recommending approval of this application.

Commissioner Ahlberg asked why the applicant is being required to submit two building permits. Senior Planner Gassman explained that there is the possibility of different requirements due to each modular building being placed in its own location.

**Public Testimony:** Dennis Whitehouse; 3632 W 10<sup>th</sup> St; Facility Director for School District #21. Mr. Whitehouse explained that these buildings are necessary for expanding the Kindergarten program which will most likely be going to a full day program in the fall. He stated that they will be integrating the buildings into the other access areas and providing ADA accessibility. Mr. Whitehouse is requesting that the Planning Commission reduce the number of bicycle parking spaces that are being required. He explained that children are not riding bikes to school anymore, they ride skateboards. Commissioner Zukin asked where the skateboards get "parked" and Mr. Whitehouse informed him they are kept in their lockers.

**Opponents:** Richard Murray; 2175 Ridge Road; owns 913 Chenowith Loop Rd. Mr. Murray explained that sidewalks are for public safety and that The City's policy has been that if a person gets a Conditional Use Permit they are required to put in a sidewalk. He further stated that article one, section either twenty or twenty-one of the State Constitution says you shall make no rules or

regulations or special provisions unless you give the same rules to all the people. Mr. Murray stated that his concerns are about sidewalks not being required. Mr. Murray went on to describe how children and other pedestrians walk in the street and bicycle lane on Chenowith due to the lack of sidewalks. Mr. Murray further explained that a contributing factor is when the teachers park in their parking lot, the front of their vehicles go all the way to the curb, rather than leaving a walkway. Mr. Murray submitted seven pictures that were admitted as Exhibits 1-7. He explained each picture and described how each one supported his concerns. Mr. Murray stated that Senior Planner Gassman was lying about the school not having any sidewalks on Chenowith Loop Rd. He shared that there is a 150 foot section of sidewalk on the corner of Chenowith and 10<sup>th</sup>.

**Rebuttal:** Dennis Whitehouse; North Wasco County School District #21; After listening to Mr. Murray's concerns and looking at the pictures; Mr. Whitehouse suggested solving the issue by adding bumpers in the parking lot to prevent cars from encroaching on the walkway.

While looking at the drawing that was supplied in the application packet; Commissioner Ahlberg asked where the two schools are separated. Mr. Whitehouse explained the approximate boundaries; but stated that essentially it is all one site without any barriers.

Commissioner Ahlberg asked about the internal sidewalks. Mr. Whitehouse explained that they will be paved. Ahlberg also asked for more information about the modular buildings; for example if they are going to be used for older students he had a concern for modesty considering that the bathroom doors are located directly into the classroom. Mr. Whitehouse explained that with the younger students the bathrooms nearby provide classroom control both for accidents and for teacher control.

**Questions for staff:** Senior Planner Gassman responded to Mr. Murray's comment about sidewalks on the corner of Chenowith and 10<sup>th</sup>. He stated that he did not go to that corner of the property and that Mr. Murray very well could be correct. Mr. Gassman apologized for not noticing that piece.

Commissioner Zukin raised the question of why the school can have sidewalk requirements waived but require improvements in the case of the Theotokos Church. Senior Planner Gassman further explained the Dolan case by showing that installing over 3500 feet of sidewalks would exceed the cost of the modular buildings, and stated staff did not feel that legally The City would be able to sustain an appeal. Gassman further explained that considering there is a curb all along Chenowith, requiring wheel stops in the parking lot would create a walkway. According to Gassman the Commission can decide to require a portion of the right of way to be paved. He suggested that if they decided to require a sidewalk on the approximate 420 feet directly in front of the school entrance that would probably be sustainable.

Chair Lavier asked City Attorney Parker how he would suggest wording a condition of requiring the wheel stops if that is which direction the Commission decided to go. Potential wording was suggested by Parker and Gassman. Lavier asked Mr. Whitehouse if the School District would be opposed to adding wheel stops. Mr. Whitehouse stated no.

Senior Planner Gassman reminded the Commission that Mr. Whitehouse requested a reduction of bicycle parking spots. His suggestion was to request from Mr. Whitehouse documentation of how many spaces they currently have and how many are being used on a daily basis.

Chair Lavier asked Mr. Whitehouse if he was prepared to testify on that information. Mr. Whitehouse came forward and stated that they currently have 44 bike parking spaces on a total of two racks. He stated that they recently moved one of the racks to the back of the gym because it was never being used. He reported that over the last week the most there have been were 10 bikes parked in the rack.

Chair Lavier suggested that with the price of gasoline perhaps more people might start riding bikes. Commissioner Ahlberg hypothesized that more children would ride bikes in that area if the streets were more conducive to bicycles.

Mr. Murray asked if he could add one more comment. He shared with the Commission that the Dolan vs. City of Tigard case being referenced was a legal taking of land in which they said you have to give us part of your property or we will not give you a permit. Chair Lavier asked if Mr. Murray is a lawyer. Mr. Murray stated he didn't have to be. He then suggested that the Commission verify with City Attorney Parker details of the Dolan case before they make their decision.

City Attorney Parker stated that yes, Mr. Murray is correct in that land taking was one of the arguments. However, Senior Planner Gassman is correct in what the principles of the Dolan case are. Parker stated that the heart of the case was that when the city imposes conditions, there must be a rough proportionality between the conditions the city is imposing and what the city is trying to address.

Chair Lavier closed the public testimony portion of the hearing.

**Deliberation:** Commissioner Ahlberg stated that if a condition could be added in which wheel stops can be placed so that vehicles don't hang over, leaving at least a 3 foot walkway, then he would support the application.

Commissioner Zukin explained that he was still concerned about the difference of the City's position between this application and the Church. He felt that a case could also be made for the church that the requirement was excessive. Chair Lavier pointed out that at this hearing they should only be looking at the school's application. Zukin explained that he felt the Commission needs to be consistent. Senior Planner Gassman informed the Commission that they will be having a chance to hear the reasoning and the analysis behind the requirements being requested of the church at the next Planning Commission meeting.

Commissioner Ahlberg pointed out that most improvements are already there; streets, curbs. He felt that if the school was asking to do much more than just add modular buildings he would be looking at it differently. Chair Lavier added that the school is not changing a use; whereas the church was asking for a change of use.

Chair Lavier stated that he was in favor of adding the additional condition for wheel stops to preserve a walkway. Senior Planner Gassman suggested deciding on a width for the walkway, sharing that the City's standard for a sidewalk is 5 feet, ADA requires 3 feet. Commissioner Ahlberg felt the width should be decided administratively.

Commissioner Wilcox suggested deleting the sentence on condition #2 that referenced bicycles considering that these modular buildings are not for the purpose of adding additional students.

City Attorney Parker suggested Condition #8 could read: Applicant will install wheel stops or some similar device to prevent vehicles from encroaching into the area which measures from the front of the parked vehicles to the edge of Chenoweth Loop Road, effectively allowing for a minimum four foot area for pedestrian use.

Ahlberg moved to approve CUP 146-08 with modified condition #2 and additional condition #8 as discussed. Hoey seconded the motion. The motion carried unanimously, Hiser and Poppoff absent.

**RESOLUTION:** Ahlberg moved to adopt Resolution PC 475-08 approving CUP 146-08 with modified condition #2 and additional condition #8 as discussed. Hoey seconded the motion. The motion carried unanimously, Hiser and Poppoff absent.

**QUASI-JUDICIAL PUBLIC HEARING:**

**APPLICATION NUMBER:** CUP 147-08 of North Wasco County School District #21 **REQUEST:** This application is for a Conditional Use Permit to install two modular buildings east of the existing Dry Hollow Elementary School. **LOCATION:** Property is located at 1314 E 19<sup>th</sup> Street and is further described as 1N 13E 10 tax lot 100. Property is zoned "RL" – Low Density Residential with a "CFO" – Community Facility Overlay.

Chair Lavier stated that since no one new had entered the room he would 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. None were declared. 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. He explained that this hearing was similar to the first in most respects. Gassman stated that there is plenty of room on the property for the two modular buildings and that Dry Hollow Elementary has all required improvements in place. He then commented that there has been controversy about this application due to concerns about the traffic patterns around the school. However, the school is aware of the concerns of the community and these modular buildings are being proposed to handle the current population; they will not be increasing the traffic problem. Gassman mentioned that this application also has the bicycle parking requirement, consequently the applicant may want to provide information showing that there is an ample supply of bicycle parking.

**Questions of Staff:** none

**Public Testimony:** Dennis Whitehouse; 3632 W 10<sup>th</sup> St; Facility Director for School District #21. Mr. Whitehouse informed The Commission that this application is similar to the first; the purpose of adding the buildings is in anticipation of expanding to a full day Kindergarten program. He shared how they decided where the buildings would be placed. Mr. Whitehouse also asked for relief of the number of bicycle parking spaces; stating that they have spaces for 45 bicycles but currently only see about 5 bicycles normally using them.

**Opponents:** Kenneth Warner, 1315 E 19<sup>th</sup> St; Mr. Warner felt that this application was putting the cart before the horse. He informed the Commission that 19<sup>th</sup> Street is currently a two lane street with four lanes of traffic for several hours each day. Mr. Warner stated he is concerned about the kids getting injured crossing the road. He recounted that when he went to school everyone walked; now 90% of kids are driven to school. Consequently, he stated provisions need to be made for this change.

Mr. Warner summarized that he is not opposed to increasing the classroom size of the school but felt strongly that the traffic issue needs to be considered before any more increases are made.

Robert McNary, 1525 E 9<sup>th</sup> St; Mr. McNary shared that he has served on the Traffic Safety Commission for 8 years and stated that the issue of traffic during the time when children are arriving and being picked up at Dry Hollow has been the most reoccurring problem they have had on the commission. Mr. McNary recounted to the Commission that when Rick Corey was principal at Dry Hollow he appeared at a Traffic Safety meeting and assured them that before the School District expanded, or added any more facilities at Dry Hollow, this traffic issue would be solved. Mr. McNary described the changes on 19<sup>th</sup> that Traffic Safety has initiated. According to Mr. McNary this is a breach of contract.

**Rebuttal:** Dennis Whitehouse, School District #21. Mr. Whitehouse stated that he was unaware of any promises that were made but is willing to work with the Traffic Safety Committee to help solve the issues.

Commissioner Ahlberg asked if some traffic would actually be eliminated due to Kindergartners going all day instead of two half day classes. Mr. Whitehouse stated he was unsure; there might also be more if it appeals to more parents to attend the full day schedule.

Commissioner Ahlberg inquired if there was a limit of how many students could attend the school. Mr. Whitehouse stated no. He further explained how studies are being done to decide classroom sizes, and how much space is needed for each student, teacher and activity. He stated requirements are constantly changing.

Commissioner Ahlberg commented about the paved ADA sidewalk near the proposed modular buildings and asked if this project was going to eliminate or hamper that access. Mr. Whitehouse stated no.

**Questions for staff:** none

Chair Lavier closed the public portion of the hearing.

**Deliberation:** Commissioner Hoey acknowledged the traffic issues but felt the scale of this application would not justify requiring any improvements to 19<sup>th</sup> Street.

Commissioner Wilcox added that it would be impossible to add any street width to that area and concluded that The City is forced to live with what they have.

Commissioner Ahlberg suggested bussing more kids. Commissioner Wilcox added more kids could walk like students used to do.

Chair Lavier agreed that this project will not resolve the traffic problems; it's been that way for a long time. He then expressed the opinion that condition # 2 should be modified by deleting the requirement for more bicycle parking.

Commissioner Wilcox moved to approve CUP 147-08 with modified condition #2 as discussed. Hoey seconded the motion. The motion carried unanimously, Hiser and Poppoff absent.

**RESOLUTION:** Ahlberg moved to adopt Resolution PC 476-08 approving CUP 147-08 with modified condition #2. Hoey seconded the motion. The motion carried unanimously, Hiser and Poppoff absent.

**RESOLUTION:** City Attorney Parker explained that this Resolution is needed in response to approving Appeal #17-08 of Pacer Propane that was decided at the last Planning Commission meeting.

Commissioner Zukin moved to adopt Resolution PC 474-08 upholding appeal #17-08 and reversing the decision of staff. Wilcox seconded the motion. The motion carried with Wilcox, Zukin, Lavier and Hoey voting in favor, Ahlberg abstained, Hiser and Poppoff absent.

**COMMISSIONER/STAFF COMMENTS:** Chair Lavier commented that he felt the stumbling block on that decision was the definition of bulk storage and asked if a definition should be added to the LUDO. Senior Planner Gassman responded that it's not an easy thing to do because there seems to always be a way around a definition, however he stated it can be looked at as well as differentiating between outside storage and underground storage. Gassman also suggested considering a definition for retail vs. wholesale. The Commissioners agreed it's all subjective.

Commissioner Wilcox brought up the question of what is the purpose of the Planning Commission. He stated his opinion of what the purpose and his role is. The Commissioners discussed how they fit into the decision of the Pacer Propane decision and discussed their opinions. The Commissioner's conclusion was that the Commission's purpose is to interpret the rules that are in place.

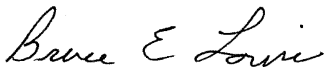
Senior Planner Gassman shared what items will be on the next agenda.

Commissioner Ahlberg asked how a business is allowed to operate without proper sanitation; specifically the portable businesses. Senior Planner Gassman shared that a new requirement being proposed will require that if a business is using water they will be required to hook up to the sewer. Gassman also explained that those businesses are monitored by the Health Department.

**NEXT MEETING:** The next scheduled meeting is June 19, 2008.

**ADJOURNMENT:** The Planning Commission meeting was adjourned at 8:12 p.m.

Submitted by  
Brenda Green, Administrative Secretary



Bruce Lavier, Planning Commission Chair