

RESOLUTION NO. P.C. 512-11

A RESOLUTION APPROVING CONDITIONAL USE PERMIT APPLICATION #165-11 OF THE OREGON MILITARY DEPARTMENT TO CONSTRUCT A NEW ARMORY BUILDING WITH PARKING FOR MILITARY VEHICLES AND A SEPARATE PARKING AREA FOR PRIVATE VEHICLES ALONG WITH STANDARD UTILITY INFRASTRUCTURE, TO BE BUILT UPON THE CAMPUS OF THE COLUMBIA GORGE COMMUNITY COLLEGE

**WHEREAS**, on August 4, 2011, the Planning Commission conducted a public hearing to consider a request for the approval fo Conditional Use Permit #165-11; and

**WHEREAS**, having considered the information presented in the Staff Report and the testimony and comments offered during the public hearing, the Planning Commission voted 4 to 3 to approve Conditional Use Permit Application #165-11 of the Oregon Military Department to construct a new Armory/Readiness Center, with nine recommended conditions of approval, subject to findings of fact and conclusions of law to be prepared by City staff; and

**WHEREAS**, the Planning Commission has reviewed the proposed findings of fact and conclusions of law as set forth in Exhibit "A";

**NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION AS FOLLOWS:**

Section 1. The Planning Commission hereby adopts and approves the findings of fact and conclusions of law set forth in Exhibit "A". Based upon these findings of fact and conclusions of law, and the testimony and comments presented during the August 4, 2011 public hearing, the Planning Commission approves the Conditional Use Permit Application #165-11 of the Oregon Military Department to construct a new Armory/Readiness Center upon the site, which includes the Columbia Gorge Community College, referred to as CUP #153-09, with the following conditions of approval:

**CONDITIONS OF APPROVAL:**

1. All development must be completed in accordance with Land Use and Development Ordinance No. 98-1222.
2. Detailed plans for buildings and other site improvements will require site plan review approval.
3. Detailed plans consistent with the master plan and this application will be handled as a quasi-judicial hearing through a Site Plan Review application. The Site Plan Review procedures and criteria are located in Section 3.030.

4. Parking must meet requirements of Chapter 7 of the LUDO. The Applicant has submitted a concept plan showing 152 parking spaces. Parking requirements in the LUDO are set by type of use. An Armory is not among the listed uses. The Applicant has submitted a breakdown of the types of uses. A brief review of existing requirements shows only one use in the LUDO that requires more than 3 spaces per thousand square feet of floor space. The Applicant has proposed parking spaces in excess of 3 spaces per thousand square feet. It is highly likely that the proposed number of 152 spaces will satisfy the LUDO requirements.
5. Parking areas must provide Landscaping as regulated by Section 7.030.040.
6. General landscaping for the site must meet the provisions for the CG zone, equal to 20% of the first floor area of all structures.
7. The City will need easements for any public utilities located on the site.
8. This application supplements and modifies the College's master plan approval under CUP #136-05.
9. The hours of operation for non-military uses of the Armory/Readiness Center, shall be subject to the following time restrictions: For Sunday through Thursday, such uses shall be ended as of 10:00 P.M., and for Friday and Saturday, such uses shall be ended as of 11:00 P.M.

#### **APPEALS, COMPLIANCE AND PENALTIES**

Section 2. Any party of record may appeal a decision of the Planning Commission to the City Council for review. Appeals must be made according to Section 3.020.080 of the Land Use and Development Ordinance, and must be filed with the City Clerk within ten (10) days of the date of mailing of this resolution. Failure to exercise this approval within the time limits set either by resolution or by ordinance will invalidate this permit. All conditions of approval must be met within the time limits set by this resolution or by ordinance. Failure to meet any condition will prompt enforcement proceedings that can result in: 1) permit revocation; 2) fines of up to \$500.00 per day for the violation period; 3) a civil proceeding seeking injunctive relief.

#### **EFFECTIVE DATE**

Section 3. This Resolution shall be effective upon its passage and approval. The Secretary of the Commission shall (a) certify to the adoption of the Resolution; (b) transmit a copy of the Resolution along with a stamped approved/denied site plan or plat to the Applicant.

APPROVED AND ADOPTED THIS 18<sup>TH</sup> DAY OF AUGUST, 2011.

*Bruce E Lavier*

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Bruce Lavier, Chairman  
Planning Commission

I, Daniel Durow, Community Development Director for the City of The Dalles, hereby certify that the foregoing Resolution was adopted at a regular meeting of the City Planning Commission, held on the 18<sup>th</sup> day of August, 2011.

AYES: *Lavier, Ahlberg, Nelson, Whitehouse, Wimmers*

NAYS: *None*

ABSENT: *Toppoff, Zukin*

ABSTAIN: *None*

ATTEST: *Daniel Durow*  
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Daniel Durow, Community Development Director  
City of The Dalles

## EXHIBIT "A"

### FINDINGS OF FACT AND CONCLUSIONS OF LAW FOR CONDITIONAL USE PERMIT #165-11

#### BACKGROUND INFORMATION

The address of the subject site is 400 East Scenic Drive, The Dalles, Oregon, and the property is more particularly described as Assessor's Map Township 1 North, Range 13 East, Map 9, Tax Lot 100. The Comprehensive Plan Designation and Zoning District is described as "R-L" Low Density Residential District with a Community Facility Overlay Zone. The subject property is currently developed with buildings and the campus for Columbia Gorge Community College. The College obtained approval for a master plan Conditional Use Permit (CUP) in 2006. During the application process for that CUP, there was discussion concerning a variety of changes and new buildings for the College, including a proposed Armory/Readiness Center, but approval of the Armory/Readiness Center was not included in the decision approving the CUP for the College in 2006.

In 2009, the Oregon Military Department submitted a conditional use permit request (CUP #153-09) seeking approval for a conditional use permit to construct a new Armory/Readiness Center building with parking for military vehicles and a separate parking area for private vehicles along with the standard utility infrastructure, to be built upon the College. That request was approved by the Planning Commission, appealed to the City Council; initially approved by the City Council on June 8, 2009, and ultimately reconsidered and reapproved by the City Council on September 28, 2009. A copy of the City Council Resolution #09-031, approving CUP #153-09, is attached hereto, and by this reference incorporated herein.

A Conditional Use Permit is valid for one year. If no development occurs for the approved application, and no request for an extension is received, the approval for a Conditional Use Permit expires. The approval for CUP #153-09 expired in June, 2010. The Applicant has submitted a new application seeking concept approval for the same project as the one described in CUP #153-09. If the application for CUP #165-11 is approved, it will be considered a supplement to the original CUP #136-05 for Columbia Gorge Community College.

#### REVIEW OF APPLICABLE CRITERIA

##### LAND USE AND DEVELOPMENT ORDINANCE NO. 98-1222

##### Chapter 3. Application Review Procedures

*Section 3.010.040(B). Completeness. An Application shall be considered complete when it contains the information required by this Ordinance, addresses the appropriate criteria for review and approval of the request, and is accompanied by the required fee, unless waived by the City Council per Section 1.120: Fees, of this Ordinance. Complete applications shall be signed*

and dated by the Director.

**FINDING #1:** The Application was found to be complete on July 18, 2011. The 120 day State mandated decision deadline is November 16, 2011. The hearing date is set for August 4, 2011.

**CONCLUSION:** The criteria in Section 3.010.040(B) have been satisfied.

*Section 3.020.050(A)(3). Decision Types. Conditional Use Permits.*

**FINDING #2:** This Application is for a Conditional Use Permit as required in Section 5.100.030(A). Conditional Use Permits require a quasi-judicial hearing in accordance with Section 3.050.030. The hearing before the Planning Commission is a quasi-judicial hearing.

**CONCLUSION:** The criteria in Section 3.020.050(A)(3) have been satisfied.

*Section 3.020.050(B). Staff Report. The Director shall prepare and sign a staff report for each quasi-judicial action, which identifies the criteria and standards applying to the application and summarizes the basic findings of fact. The staff report may also include a recommendation for approval, approval with conditions, or denial.*

**FINDING #3:** The staff report will detail criteria and standards relevant to a decision, all facts will be stated, and explanations given. This will be detailed through a series of findings directly related to relevant sections and subsections of the ordinance as they related to this request.

**CONCLUSION:** The criteria in Section 3.020.050(B) have been satisfied.

*Section 3.020.050(C). Public Hearings. Applications for quasi-judicial planning actions shall be heard within 45 days from the date the application is deemed complete.*

**FINDING #4:** The public hearing is scheduled for August 4, 2011, within 45 days from July 18, 2011.

**CONCLUSION:** The criteria in Section 3.020.050(C) have been satisfied.

*Section 3.020.050(D). Notice of Hearing. At least 10 days before a scheduled quasi-judicial hearing, notices shall be mailed to property owners within 300 feet of the property.*

**FINDING #5:** Appropriate mailings to property owners within 300 feet of the property, and notices to affected departments and agencies were made on July 22, 2011.

**CONCLUSION:** The criteria in Section 3.020.050(D) have been satisfied.

*Section 30505.030(A). Review Procedures: Applications. Conditional Use Permit applications shall be accompanied by at least 15 copies of the concept site plan, and when required two*

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*copies of the detailed landscape and construction/design plans, pursuant to Section 3.030; Site Plan Review.*

**FINDING #6:** The Plans that were submitted by the Applicant were adequate for this review.

**CONCLUSION:** The criteria in Section 3.050.030(A) have been satisfied.

*Section 3.050.030(C): Review Procedures: Concept Review. The City offers a two stage concept approval process for conditional uses. The applicant may request initial concept approval using the quasi-judicial process. If approval of the concept is granted, the applicant must then submit a detailed site plan and get final approval through the site plan process.*

**FINDING #7:** The Applicant has elected to use the concept process. If approval is obtained, a site plan review application will be required to review the proposal in detail.

**CONCLUSION:** The criteria in Section 3.050.030(C) have been satisfied.

*Section 3.050.040(A). Review Criteria: Permitted Conditional Use. The proposed use is conditionally permitted in the zone district where it is proposed to be located.*

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**FINDING #8:** Community Facilities are conditionally allowed in the "RL" zone. The College is a community facility and the Community Development Director has determined that the Armory/Readiness Center is use similar to the other uses allowed in the CFO zone. The Planning Commission hereby adopts as additional findings Finding #8 in City Council Resolution No. 09-031.

**CONCLUSION:** The criteria in Section 3.050.040(A) have been satisfied.

*Section 3.050.040(B) Review Criteria; Standards. The proposed use conforms to all applicable standards of the zone district where the use is proposed to be located. The proposed use will also be consistent with the purposes of this ordinance, applicable policies of the Comprehensive Plan, and any other statutes, ordinances, or policies that may be applicable.*

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**FINDING #9:** The Planning Commission hereby adopts and approves Finding #9 in City Council Resolution No. 09-031. The Applicant testified that the proposed structure would not exceed two stories in height. Without a detailed site plan submitted by the Applicant indicating what the actual height of the proposed Armory/Readiness Center will be, concerns raised by neighbors of the potential negative impact upon their views and their property values, are premature and speculative in nature. Section 5.100.040 of the LUDO sets forth the development standards for the "CFO" Community Facilities Overlay District, with the exception that height is not specified. The proposed structure complies with the development standards set forth in Section 5.100.040. The decision approving the conditional use permit for CUP #136-05 for the College which was previously approved by the Planning Commission, established that the height of new buildings on the College campus could not exceed the height of existing buildings on the campus. The Planning Commission concludes that the application is consistent with the

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applicable provisions of the LUDO. No specific provisions of the City's Comprehensive Plan have been identified as providing relevant approval criteria for the application.

**CONCLUSION:** The criteria in Section 3.050.040(B) have been satisfied.

*Section 3.050.040(C). Impact. The proposed structure(s) and use(s) shall be designed and operated in such a way as to meet the standards of this section. Impacts caused by the construction of the conditional use shall not be considered regarding a decision on the validation of the application.*

1. *Noise impacts across the property line shall not exceed 60 decibels. Noise related to traffic impacts shall not be included in this determination. Nothing in this section shall modify other noise ordinance standards as adopted by the City.*

**FINDING #10:** The Planning Commission hereby adopts and approves Finding #10 in City Council Resolution No. 09-031. The Planning Commission concludes that with the limited nature of the operations that will occur outside the facility, the design of the facility which will confine noise to the interior of the facility, and the provision restricting the hours of non-military uses of the facility, the proposed use will comply with the provisions of Section 3.050.040(C)(1).

**CONCLUSION:** The criteria in Section 3.050.040(C)(1) have been satisfied.

*Section 3.050.040(C)(2). Lighting impacts across the property line shall not exceed 0.5 foot candles (a foot candle is the amount of light falling upon a 1-square-foot surface which is 1 foot away from a 1-candlepower light source).*

**FINDING #11:** The Planning Commission hereby adopts and approves Finding #11 in City Council Resolution No. 09-031. The Planning Commission concludes that requiring the Applicant to apply for a detailed site plan in accordance with the provisions of the LUDO will ensure that the proposed use complies with the provisions of Section 3.050.040(C)(2) which will mitigate the lighting impacts of the proposed use upon adjacent properties.

**CONCLUSION:** The criteria in Section 3.050.040(C)(2) have been satisfied.

*Section 3.050.040(C)(3). Dust and other particulate matter shall be confined to the subject property.*

**FINDING #12:** The Planning Commission hereby adopts and approves Finding #11 in City Council Resolution No. 09-031. The Planning Commission concludes the provisions of Section 3.050.040(C)(2) concerning the generation of dust and other particulate matter have been addressed.

**CONCLUSION:** The criteria in Section 3.050.040(C)(3) have been satisfied.

*Section 3.050.040(C)(4). The following odors shall be completely confined to subject property:*

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- a. *industrial and/or chemical grade chemicals, solvents, paints, cleaners, and similar substances;*
  - b. *fuel, and*
  - c. *fertilizers, manure, or other animal waste products, other than for landscape installation and maintenance.*

**FINDING #13:** The Planning Commission hereby adopts and approves Finding #13 in City Council Resolution No. 09-031. The Planning Commission concludes the provisions of Section 3.050.040(C)(4) concerning the generation of odor have been addressed.

**CONCLUSION:** The criteria in Section 3.050.040(C)(4) have been satisfied.

*Section 3.050.040(C)(5). Vibrations shall not be felt across the property line.*

**FINDING #14:** The Planning Commission hereby adopts and approves Finding #14 in City Council Resolution No. 09-031. The Planning Commission concludes the provisions of Section 3.050.040(C)(5) concerning the generation of vibration have been addressed.

**CONCLUSION:** The criteria in Section 3.050.040(C)(5) have been satisfied.

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*Section 3.050.040(C)(6). The transportation system is capable, or can be made capable, of supporting the additional transportation impacts generated by the use. Evaluation factors shall include, but are not limited to:*

- a. *Street designation and capacities; and*
- b. *On-street parking impacts.*

**FINDING #15:** The Planning Commission hereby adopts and approves Finding #14 in City Council Resolution No. 09-031. During the public hearings upon the applications for CUP #153-09 and CUP #165-11, concerns were raised by adjacent neighbors as to the potential for increased costs associated with the increased traffic and vehicle weights associated with the proposed use. During the hearing on CUP #153-09, a detailed traffic study analysis was submitted concerning the operation of the proposed Armory/Readiness Center. The Executive Summary noted the study included the following findings regarding intersections that would be affected by the proposed use:

- \* All study intersections currently operate acceptably during the 2005 weekday a.m. and p.m. peak hours.
  - \* With full build-out of the funded near-term development plan, all study intersections are forecast to operate acceptably during the 2007 weekday a.m. and p.m. peak hours.
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- \* Under year 2017 total traffic conditions (with build-out of the master plan), all study intersections are forecast to operate acceptably during the weekday a.m. and p.m. peak hours.

The Planning Commission concurs with the City Council's finding in Finding 15 of Resolution No. 09-031 that the methodology of the traffic study was reliable. The Planning Commission concurs with the Council's finding that capacity of the City's streets is sufficient to handle the type of transportation impact generated by the proposed use. The Planning Commission concurs with the Council's finding that the testimony concerning the potential for increased maintenance costs associated with the proposed use, does not present any relevant review criteria for this application. The Planning Commission also concurs with the Council's finding that the traffic study submitted by the Applicant (prepared by Kittleson and Associates) is sufficient to establish that the transportation system is capable of supporting the additional transportation impacts generated by the proposed use, as required by Section 3.050.040(C)(6).

**CONCLUSION:** The criteria in Section 3.050.040(C)(6) have been satisfied.

*Section 3.050.040(C)(7) In areas designated as Historic Districts, proposed development and redevelopment shall require review and approval of the Historic Landmarks Commission in accordance with the procedures of the Historic Resources Ordinance (General Ordinance No. 94-1194).*

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**FINDING #16:** The Planning Commission hereby adopts and approves Finding #16 in City Council Resolution No. 09-031.

**CONCLUSION:** The criteria in Section 3.050.040(C)(7) do not present any relevant approval criteria for this application

*Other issues raised concerning applicable review criteria.*

**FINDING #18:** Jennifer Blevins cited Section 1.020 Purpose, and asserted the application did not comply with this section. The Planning Commission concludes that this section does not present any relevant approval criteria for this application. Ms. Blevins also cited Section 10.020 General Construction Standards, and asserted the application did not comply with this section. The Planning Commission concludes that this section does not present any relevant approval criteria for the application. Testimony was also presented during the hearing that other appropriate sites for the project existed within the City. The Planning Commission concludes that such testimony does not address any relevant review criteria for a conditional use permit, and that such testimony is irrelevant.

#### Section 3.050.050 Zone Specific Review Criteria

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Certain conditional uses in certain zones require specific conditions to guard against impacts that, in addition to those in the previous section, may adversely affect the health, welfare, safety, privacy, and/or neighborhood character of the surrounding persons and property.

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Uses in the RL-Low Density Residential District zone: The RL zone is the most restrictive of the residential zones, focusing primarily on single-family residences on the majority of lots. To preserve the residential character of this zone, the size, location, and other characteristics of certain conditional uses in this zone shall be regulated.

The majority of existing conforming structures in the RL zone is substantially below the maximum allowable limits for building height, lot coverage, and front and/or rear yard setbacks. It would therefore be possible for the structure of a conditional use to adhere to the zoning standards for the RL zone, but still appear out-of-character with the existing residential uses, resulting in negative impacts on the visual continuity and aesthetics of the neighborhood.

- A. Floor Area Ratio. Certain uses may not have a Floor-Area Ratio (FAR) greater than ten percent (10%) over the greatest FAR for any structure within the Neighborhood Area, as defined in Section 3.040.020(A) - Neighborhood Area.

Floor area for subterranean basements shall not be included in the FAR calculation. Floor area for daylight/walkout basements shall be included in the FAR calculation. For the purposes of this section, "daylight/walkout basement" shall be defined as a partially-subterranean living area that: is built into a sloping site; has at least one full-height (6'8") exterior passage door, that leads out to the ground level without more than one step; and has a minimum interior ceiling height of 7'0".

- B. Uses. Uses allowed conditionally in the RL zone shall meet the landscaping requirement of chapter 6 for the CG zone.
- C. Conditional Uses. The standards shall apply to the following Conditional Uses in the RL zone:
1. Child Care Centers;
  2. Funeral and Interment Services (interring and cemeteries only); and
  3. Community Facilities.
- D. Operations. Business hours for commercial and industrial uses in residentially zoned neighborhoods shall be limited to 7:00 a.m. to 6:00 p.m., Monday through Friday, and 8:00 a.m. to 5:00 p.m. on Saturday.

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**FINDING #19:** Concerning the language which states as follows: "Uses in the R-L Low Density Residential District Zone: The RL Zone is the most restrictive of the residential zones, focusing primarily on single-family residences on the majority of the lots", the Planning Commission concurs with the City staff's interpretation that this language should be construed to indicate that the intent of Section 3.050.050 is to be applied in a scenario involving the analysis of single family residential structures located within a block. Such an interpretation supports the objective of ensuring the neighborhood character of the surrounding property within the block. The proposed Armory/Readiness Center is not a residential structure surrounded by other residential

structures on a typical City block. The proposed use is separated from other development in the RL zone, and the floor to area ratio issues are not applicable to CUP #165-11.

**CONCLUSION:** The criteria in Section 3.050.050(A) concerning floor to area ration does not present any relevant approval criteria for this application.

**FINDING #20:** Concerning the criteria in Section 3.050.050(B) and (C), as the College is designated as a Community Facility, the College must comply with the standards in the LUDO for landscaping. The CFO standards refer to the underlying zone landscaping requirements. The RL zone does not specify any particular amount of landscaping. The Planning Commission finds that Condition of Approval #6 providing that general landscaping for the site must comply with the provisions of the CG zone, which requires landscaping equal to 20% of the first floor area of all structures., is sufficient to ensure compliance with the applicable criteria.

**CONCLUSION:** The criteria in Section 3.050.050(B) and (C) have been satisfied.

**FINDING #21:** Concerning the criteria in Section 3.050.050(D), the Planning Commission finds the Armory/Readiness Center is not a commercial or industrial use, so the limitation on hours of operation does not apply. The Planning Commission concurs with the City Council's decision to include a condition of approval concerning limitation on the hours of operation for non-military uses.

**CONCLUSION:** The criteria in Section 3.050.050(D) have been satisfied.