

RESOLUTION NO. P.C. 153-91

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF THE DALLES APPROVING ZONING ORDINANCE TEXT AMENDMENTS REGARDING DAY CARE CENTERS (AMENDMENT #40-90).

I. Recitals

- A. The Planning Commission initiated the procedure for a Zoning Ordinance amendment on December 6, 1990, subject to review and approval of changes recommended by staff concerning non-residential day care providers.
- B. The Planning Commission has heretofore held public hearings on December 19, 1990, and January 3, 1991. The following persons testified at the hearings in favor of the proposed amendments:

James M. Habberstad, Kathryn Aylward, Valerie Kendrick, Scott McKay, and Judy Cochran.

The following persons testified in opposition to the proposed amendments:

Meredith Van Valkenburgh, Dewanda Clark

The following persons submitted letters in support of the proposed amendments:

Kathy McBride, Jane Thompson, Carol Olson, Annette Hazelett, Maureen Kiefert, Marian Smith

- C. The following facts were adduced at the public hearings:
1. In 1987, the Oregon State legislature enacted legislation which provided that a city could not enact or enforce a zoning ordinance which prohibited the use of a residential dwelling, located in an area zoned for residential or commercial use, as a family day care provider's home facility.
 2. In 1988, the City Council adopted Ordinance No. 88-1092, which amended the provisions of the City's zoning ordinance concerning day care in residential and commercial districts. The intent of the ordinance was to bring the City's zoning

ordinance into compliance with the 1987 state legislation.

3. Due to ambiguous provisions in Ordinance No. 88-1092, questions have arisen as to whether the zoning ordinance allows non-residential day care providers in certain residential and commercial zoning districts.
4. The City of The Dalles has a strong need for qualified and licensed day care facilities. A survey conducted in Spring, 1990, by the Wasco County Children and Youth Services Commission, identified the establishment of affordable, quality child care as a top priority. The State of Oregon is seeking the cooperation of cities and counties to facilitate the establishment of child care programs.
5. A concern was expressed by opponents of the proposed amendments that allowing non-residential day care providers to operate a facility in a residential zone would constitute a threat to the livability of the residential neighborhood.
6. The primary criteria for a zoning ordinance amendment is that the amendment is consistent with the provisions of the Comprehensive Plan.

II. RESOLUTION: Now, therefore, be it FOUND, DETERMINED, and RESOLVED, by the Planning Commission of the City of The Dalles as follows:

- A. In all respects as set forth in Recitals, Part I of this Resolution.
- B. The amendments to the zoning ordinance, shown in Exhibit "A" attached hereto, are based upon the following findings.
 1. The legislative process to consider adoption of the amendments to the zoning ordinance is completely distinct from the appeal involving the child care center operated by the Mid-Columbia Medical Center, which is pending before the Land Use Board of Appeals, and it should proceed regardless of the LUBA appeal.
 2. The integrity and livability of residential neighborhoods is an important goal to maintain and preserve. Allowing non-residential day care providers to operate day care facilities in

residential structures, through the conditional use permit process, will ensure that neighbors have continued input into the planning process, and will ensure that necessary restrictions and controls can be placed upon the facilities to achieve the goal of protecting and enhancing residential neighborhoods.

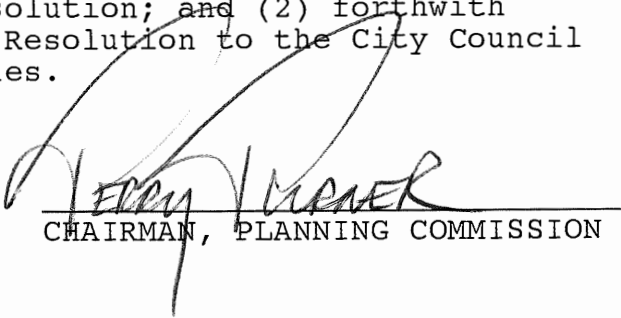
3. Day care for children is appropriately located in residential zones, whether conducted in the provider's residence, or otherwise, and residential zones are an appropriate environment for the location of day care facilities. Allowing day care to be provided at a child care center, or by a family day care provider providing for 13 or more children, as a conditional use in certain residential or commercial zones, is consistent with the intent of the legislation enacted in 1987, as set forth in ORS 418.805 to 418.890.
 - a. There is a critical shortage of affordable, quality day care service in The Dalles, and the zoning ordinance should be implemented in a manner that encourages the provision of day care services, imposing as little cost and encumbrance on the provider as is consistent with wholesome and safe care of children, and with minimum disruption to and interference with the surrounding neighborhood.

4. Goal No. 9 of the Comprehensive Plan is "To encourage improvement of the community's economic base through a diversity of business and industry in a manner compatible with the maintenance and protection of the area's environmental resources." Policy No. 1 of the Comprehensive Plan Goal No. 11 states the City should "Encourage the development of the public and private facilities that meet the community's economic, social, cultural, health, and educational needs."
 - a. Establishment of day care facilities in residential and commercial zones will contribute to the community's economic growth, and diversity of business by providing working parents with local child care resources to allow them to maintain their employment, and will allow employers to attract and retain new employees by offering a valuable benefit. Socially, the community will benefit from the sense of trust and confidence which parents can place in


qualified day care providers. The record reflects that both family day care providers and non-residential providers can operate facilities offering a safe and healthy environment for children. Day care facilities provide a valuable service by offering programs which address the educational needs of the community's children.

- b. The Planning Commission has recently approved three conditional use permit applications for non-residential day care providers to operate day care centers in residential neighborhoods. Additional applications from both residential and non-residential providers are anticipated. The Planning Commission finds that the need for day care facilities and the benefits provided by such facilities outweigh the minimal loss to the community's residential housing supply occasioned by the use of residential structures by non-residential day care providers.
- c. The amendments to the zoning ordinance are consistent with the City's Comprehensive Plan.

C. The Secretary of the Commission shall (1) certify to the adoption of the Resolution; and (2) forthwith transmit a copy of the Resolution to the City Council of the City of The Dalles.


CHAIRMAN, PLANNING COMMISSION

ATTEST:


Scott Keillor, Secretary

Ayes: Terry Turner, Carol Cutler, Ken Farner and Rod Runyon
Noes:
Absent: Walter Hoffman, Carrie Ramsey and Steven Day
Abstain:

EXHIBIT "A"

1. Amend Section 3(b) of General Ordinance No. 80-986 to add new definitions of "Family day care provider" and "Child care center"

"Family day care provider. A day care provider who regularly provides day care in the provider's home in the family living quarters."

"Child care center. A facility for the care of children the activity of which shall be conducted between the hours of 7:00 A.M. and 7:00 P.M.. Even though some instruction may be offered in connection with such care, the facility shall not be considered a school within the meaning of this ordinance."

2. Add the following as a Permitted Use to Sections 7.2(A)4, 8.2(A)8, 9.2(A)7, 10.2(A)8, 12.2(A)12, 13.2(A)16, and 14.2(A)20 of General Ordinance No. 80-986:

"Day care provided by a family day care provider who provides care in the home of the provider for fewer than 13 children, including children of the provider, regardless of full-time or part-time status."

3. Add the following as a Conditional Use to Sections 7.2(B)9, 8.2(B)9, 9.2(B)11, 10.2(B)11, 12.2(B)5, 13.2(B)12, and 14.2(B)10 of General Ordinance No. 80-986:

"Day care provided at a child care center, where it is not a prerequisite that the provider reside within the residential structure, or provided by a family day care provider who provides care in the home of the provider for 13 or more children."