



AGENDA
CITY OF THE DALLES PLANNING COMMISSION

CITY HALL COUNCIL CHAMBERS
313 COURT SREET
THE DALLES, OREGON 97058
CONDUCTED IN A HANDICAP ACCESSIBLE MEETING ROOM

THURSDAY, AUGUST 4, 2016

6:00 PM

- I. CALL TO ORDER
- II. ROLL CALL
- III. APPROVAL OF AGENDA
- IV. APPROVAL OF MINUTES – May 25, 2016
- V. PUBLIC COMMENT (Items not on the Agenda)
- VI. QUASI-JUDICIAL HEARING

Application Number: VAR 125-16 AXIS Design Group for Tonkin Motors: This application is for a Variance to the maximum height restrictions for the re-location of an existing nonconforming sign. The property is located at 2222 W. 6th Street and is further described as 2N-13E-33 CB 100 and is zoned “CG” – General Commercial.

- VII. **Resolution - #552-16 for VAR#125-16**

- VIII. QUASI-JUDICIAL HEARING

REVIEW: Revocation Review of SPR #42-83 by A&P Recycling for Failure to Meet Conditions of Approval.

- IX. STAFF COMMENTS
- X. FUTURE MEETING – August 4, 2016
- XI. COMMISSIONER COMMENTS/QUESTIONS
- XII. ADJOURNMENT

City of The Dalles

STAFF REPORT

Variance 125-16

AXIS Design Group for Tonkin Motors

Prepared by: Nick Kraemer, Associate Planner

Procedure Type: Quasi-Judicial

Decision Date: August 4, 2016

Assessor's Map: Township 2 North, Range 13 East, Map 33CB

Tax Lot: 100

Addresses: 2222 West 6th Street

Property Owner: Stone Management, LLC

Comprehensive Plan Designation: "C" Commercial

Zoning District: "CG" General Commercial

REQUEST: Applicant is requesting a variance to the maximum height restrictions of 40' for the relocation of an existing nonconforming sign that is 47' tall on the same subject site.

NOTIFICATION: Property owners within 300 feet, City Departments and Franchise Utilities.

COMMENTS RECEIVED: No comments were received.

RECOMMENDATION: Approval with conditions based on the following findings of fact.

A. LAND USE AND DEVELOPMENT ORDINANCE 98-1222:

Section 3.010.040 Applications

B. Completeness.

FINDING #1: The application was found to be complete on July 14th, 2016. Criterion met.

Section 3.020.050 Quasi-Judicial Actions

A. Decision Types. Variance applications shall be processed as quasi-judicial actions.

FINDING #2: This application is for a variance to height restrictions and will be processed as a quasi-judicial action with a Planning Commission Hearing. Criterion met.

B. Staff Report. Staff shall prepare a staff report which identifies the criteria and standards that apply to the application and summarizes the basic findings of fact. The staff report will also include a recommendation for approval, with conditions or denial.

FINDING #3: This document serves as the staff report. Criterion met.

D. Notice of Hearing.

FINDING #4: Appropriate mailings were sent to property owners within 300 feet and notice to affected departments and agencies were made on July 18th, 2016. Criterion met.

E. Time Limits. All applications processed as quasi-judicial actions shall be heard at a regularly scheduled Commission or Council meeting within 45 days after the filing of a complete application.

FINDING #5: The 45 day deadline from July 18, 2016 is September 3, 2016. The application will be heard at the August 4th Planning Commission Meeting. Criterion met.

Section 3.070.030 Variance Review Criteria

A. Review Criteria.

A variance to the requirements of this Ordinance shall be granted only in the event that each of the following circumstances is found to exist:

- A. The proposed variance will not be contrary to the purposes of this Ordinance, policies of the Comprehensive Plan, or any other applicable policies and standards adopted by the City..*

FINDING #6: The requested variance to the sign height maximum of 40' above street grade to accommodate the relocation of a 47' sign on the same property is not contrary to policies in the Comprehensive Plan or other applicable policies. The General Commercial zoning of the subject site is intended to allow the types of commercial uses that are currently taking place on the site. The location of the subject site is also within

the “13.040.080 Signs in the Highway District” – which is intended to allow greater visibility of signs from the nearby freeway. Staff also believes that the variance of 7’ is relatively minor and will not be contrary to applicable policies. Criterion met.

B. Exceptional or extraordinary circumstances apply to the subject property, which do not apply generally to other property in the same zone or vicinity. Such circumstances are a result of lot size or shape, topography, or circumstances over which the applicant has no control.

FINDING #7: The existing development on the subject property is similar to other car dealerships within the GC zone along W 6th Street. The subject property is relatively exceptional in that it contains two different showrooms for different makes of vehicles – which may justify the need for two large free-standing signs. In addition, the triple-frontage of the subject property on W 6th, W 7th and Myrtle – allows the subject property to have a significant amount of signage allowed on one site. Another exceptional circumstance that exists for the subject property is that an existing, non-conforming sign is already on the site and they have requested the variance in order to utilize this existing sign – just in a different location. . Criterion met.

C. The variance is necessary for the preservation of a property right of the applicant which is substantially the same as owners of other property in the same zone or vicinity.

FINDING #8: We are not aware of other existing, non-conforming signs within the same zone or vicinity. However, there are several similar businesses in the vicinity and they all have similar free-standing signage. Again, the Sign Highway District is intended to allow for greater visibility of signs from the highway – so granting a variance for this sign relocation would meet the intent of that district and be relatively compatible with the businesses in the vicinity. Criteria met.

D. The conditions or circumstances justifying the variance have not been willfully or purposely self-imposed, and do not result from a violation of this Ordinance since its effective date.

FINDING #9: The 47’ tall sign is an existing, non-conforming use – so the circumstance is not necessarily self-imposed and is not a violation of the ordinance. The applicants are seeking to relocate the sign on the same parcel – which triggers the application of the height maximum in our current sign ordinance. The variance request seeks an increase in the height maximum to accommodate this relocation and allows the property owner to utilize an existing sign. Criterion met.

E. The proposed variance will not substantially reduce the amount of privacy enjoyed by users of neighboring land uses if the variance were not allowed.,

FINDING #10: There are no direct impacts to neighboring properties – as the proposed location of the sign is adjacent to W 6th and I-84. Criterion met.

F. The proposed variance is the minimum variance which would alleviate the difficulty.

FINDING #11: As stated previously, the applicant is making the variance request in order to use the existing, nonconforming sign. Therefore, the variance requested is the minimum needed to be able relocate the existing 47' tall sign. Criterion met.

Section 3.070.040 Conditions of Approval:

If granting the variance, the Commission may attach any reasonable conditions deemed necessary to insure that the review criteria are met.

FINDING #12: Staff is recommending that the variance be granted.

Proposed Conditions of Approval

1. The applicant will need to obtain a Sign Permit and pay the Sign Permit Fee of \$90 for each free-standing sign
2. The applicant will need to obtain a MCCOG building permit.
3. Except as modified by this decision, all other aspects of signs on the subject property must meet the other requirements of Land Use Development Ordinance 98-1222, as amended.

Google Maps Mosier-The Dalles Hwy



Image capture: May 2012 © 2016 Google

The Dalles, Oregon

Street View - May 2012





RESOLUTION NO. P.C. 552-16

Approval of Variance application VAR 125-16 AXIS Design Group for Tonkin Motors requesting a Variance to the maximum height restrictions for the re-location of an existing nonconforming sign. The property is located at 2222 W. 6th Street and is further described as 2N-13E-33 CB 100 and is zoned "CG" – General Commercial.

I. RECITALS:

- A. The Planning Commission of the City of The Dalles has on August 4, 2016 conducted a public hearing to consider the above request. A staff report was presented, stating the findings of fact, conclusions of law, and a staff recommendation.
- B. Staff's report of Variance 125-16 and the minutes of the August 4, 2016 Planning Commission meeting, upon approval, provide the basis for this resolution and are incorporated herein by reference.

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. Variance 125-16 is hereby approved with the following conditions of approval:
 1. The applicant will need to obtain a Sign Permit and pay the Sign Permit Fee of \$90 for each free-standing sign
 2. The applicant will need to obtain a MCCOG building permit.
 3. Except as modified by this decision, all other aspects of signs on the subject property must meet the other requirements of Land Use Development Ordinance 98-1222, as amended.

III. APPEALS, COMPLIANCE, AND PENALTIES:

- A. 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.
- B. Failure to exercise this approval within the time limits set either by resolution or by ordinance will invalidate this permit.
- C. 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.

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 5th DAY OF AUGUST, 2016

Bruce Lavier, Chairman
Planning Commission

I, Richard Gassman, Planning Department Director for the City of The Dalles, hereby certify that the foregoing Resolution was adopted at the regular meeting of the City Planning Commission, held on the 4th day of August, 2016.

AYES:

NAYS:

ABSENT:

ABSTAIN:

ATTEST:

Richard Gassman, Planning Department Director
City of The Dalles

**City of The Dalles
Staff Report
Site Plan Review No. 42-83
A & P Recycling**

Prepared by: Richard Gassman, Director
Procedure Type: Quasi-Judicial
Hearing Date: August 4, 2016
Assessor's Map: 2N 13E 33 C tax lot 900
Address: 280 Webber Street
Comprehensive Plan Designation: CLI –Commercial/Light Industrial
Zoning District: CLI – Commercial/Light Industrial
City Limits: Inside
Request: To revoke site plan approval

BACKGROUND INFORMATION

The subject property is located at 280 Webber Street. It is a recycling facility, operating since 1983 under approval of Site Plan Review #42-83. One of the requirements of that approval was that any outside storage “shall be effectively screened by a wall, fence or planting so that such materials will not be visible from a public way”.

The City is seeking revocation of the site plan approval based on a failure to meet the conditions of approval.

NOTIFICATION

Property owners within 300 feet, City Departments, franchise utilities, Mid-Columbia Fire & Rescue, Wasco County Health Department, and State Building Codes were mailed a notice on July 18, 2016, as required by Section 3.020.040 C for site plan review. A notice was published in The Chronicle on July 24, 2016.

COMMENTS

As of the date of the preparation of this report, no comments have been received from the public.

DISCUSSION

Staff recommends that a finding be made that the owner is not in compliance with the conditions of approval of Site Plan Review #42-83, specifically the condition that requires that any outside storage “be effectively screened by a wall, fence or planting so that such materials will not be visible from a public way”. Under Section 3.030.010, if the Planning Commission determines that there has been a failure to meet the condition concerning the screening of outdoor storage materials, the Commission should revoke the Site Plan Approval. If the business continues to operate after revocation of the Site Plan Approval, the City would need to institute further enforcement efforts to stop the operation of the business. Section 3.030.010 allows an alternative for the business activity to continue on the property after revocation of the City Plan approval. The alternative allows for a stay of the revocation procedures, if in the opinion of the Planning Director, the property owner demonstrates a good faith willingness to comply with the approval requirements concerning screening of outdoor storage materials within a reasonable time period.

LAND USE AND DEVELOPMENT ORDINANCE 98-1222

Section 3.030.100 Revocation

The Director may institute a proceeding to revoke an approved Site Plan Review application, per the provisions of Chapter 15: Enforcement of this Ordinance, when reasonable grounds exist that one of the following events have occurred:

- A. Failure to Meet Conditions. Any conditions of approval are not being met.

FINDING 1: Condition number one of approval from 1983 states “*All business, servicing, manufacturing or processing of materials, goods or products shall be conducted within completely enclosed buildings. Storage may be permitted outdoors but shall be effectively screened by a wall, fence or planting so that such*

materials will not be visible from a public way.” For a considerable period of time storage has been visible from a public way as shown by the pictures included with this staff report. The business is not in compliance with this condition of approval.

Section 15.055 Stop Use Order

Whenever any land or structure is being used contrary to the provisions of this Ordinance, or contrary to the provisions of any application approved under this ordinance, the Director may order the use stopped by notice in writing served on the property owner or on any person or persons engaged in the use of the property. After service the use shall immediately be stopped until the use is authorized by the Director. Both the property owner and the user of the property are subject to the provisions of such notice.

FINDING 2: This is one of the enforcement options available to the City. Given the length of time this facility has been operating, it was decided that a more appropriate enforcement method was to use the revocation provision in Section 3.030.100, which allows for a public hearing.

Section 15.080 City Attorney to Pursue Enforcement

As soon as the compliance deadline has expired, the City Attorney shall proceed with any legal or equitable action deemed appropriate unless:

- A. It has been demonstrated to the City Attorney that the violation has been corrected, removed, or will not be committed.
- B. A court of competent jurisdiction has halted enforcement pending the outcome of a proceeding before it concerning the violation.

FINDING 3: Both staff and the City Attorney have informed the owner of the failure to comply with the conditions of approval. Copies of letters from staff and from the City Attorney are included with this staff report. No response has been received at any time. The compliance deadline has passed. The failure to comply continues. No court has halted enforcement. The City has proposed revocation and this hearing provides a chance for the owner to avoid revocation.

RECOMMENDATION: Staff recommends that Site Plan Review #42-83 be **REVOKED**, s with the following options:

1. Option #1: The revocation procedures would be stayed for a period of 60 days, until October 3. The property owner would have to demonstrate a willingness to comply with the condition of approval concerning the screening of outdoor storage of materials,

which is approved by the Planning Director. The following are some suggested provisions for a plan to address the outdoor screening requirement;

- A. No further outdoor storage of materials visible from the public way would be permitted.
- B. The property owner would immediately begin to remove items which are visible from the public way into the enclosed building, or begin the process to remove the items from the property.
- C. By August 18th, the property owner would have obtained approval for a plan for outdoor storage of materials to be effectively screened by a wall, fence or planting so that the materials would not be visible from a public way.
- D. By September 5, 2016, the approved method for screening the outdoor storage of materials would be completed, and the property owner would begin the process of moving materials which are not going to be stored in an enclosed building, to the area which has been effectively screened from public view.
- E. By October 3, 2016, all storage of materials outdoors would have to be done within the area which has been effectively screen, No storage of any materials outdoors which is visible from a public way would be allowed.
- F. Failure to comply with the requirements of the plan approved by the Director would result in the lifting of the stay of the revocations proceedings. The City would institute enforcement effects to stop the business from operating and require the property owner to remove any items from the property which are not properly stored.

The Planning Commission could recommend to the Planning Director that certain deadlines in the plan be revised if the Planning Commission had concerns whether the proposed deadline for completion of the plan was feasible.

Option #2: If the Property Owner is unwilling to present a plan to bring the property into compliance with the condition concerning the outdoor storage of material screened from a public way, or if a plan is presented which in the Director's opinion presents an unreasonable period of time to bring the property into compliance, the revocation of the site plan approval would be effective immediately. The City would institute enforcement proceedings to stop the business from operating and requiring the property owner to remove any items from the property which have not been properly stored.



CITY OF THE DALLES

313 COURT STREETS
THE DALLES, OREGON 97058

(541) 296-5481 ext. 1122
FAX (541) 296-6906

January 29, 2016

Certified Mail – Return Receipt Requested

Paul & Garnet Lepinski
280 Webber Street
The Dalles, OR 97058

Re: Notice of Land Use Violation

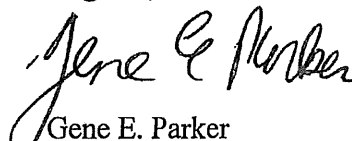
Dear Mr. and Mrs. Lepinski:

According to the records at the Wasco County Assessor's Office, you are the owners of the property located at 280 Webber Road, which is also described as Assessor's Map No. 2N 13 33C Tax Lot 900. In 1983, the City Planning Department approved Site Plan Application #42-83 for A & P Recycling for a recycling center and processing plant. The site plan approval included several conditions of approval, including one which permitted the storage of material outdoors, but required that the material be screened by a wall, fence or planting so that the material would not be visible from a public way.

Nick Kraemer, Associate Planner for the City Planning Department, sent you two letters concerning a complaint regarding the outdoor storage of material upon the property. These letters advised you there were two options to bring the property into compliance. The first option was to remove the materials being stored on the property which are visible from Webber Road. The second option was to present a revised site plan to the City Planning Department which shows the location where materials would be stored outside, the location of a sight-obscuring fence, and where customer parking would be located. The City did not receive any response to Mr. Kraemer's letters.

Failure to comply with the condition of approval of the site plan concerning outdoor storage is a violation of the City's Land Use and Development Ordinance. The materials being stored on the property which are visible from Webber Road must be removed by February 12, 2016. Failure to remove these items will result in the initiation of proceedings to revoke the approval of the site plan. Revocation of the site plan means the business located upon the property will have to cease operation.

Regards,


Gene E. Parker
City Attorney

cc: Planning Department
Julie Krueger



CITY of THE DALLES

313 COURT STREET
THE DALLES, OREGON 97058

(541) 296-5481 ext. 1132

January 7, 2016

Paul and Garnet Lepinski
280 Webber Street.
The Dalles, OR 97058

RE: A&P Recycling – Outside Storage and Screening – SECOND NOTICE

You did not respond to the original letter sent in December – this is a Second Notice. We recently received a complaint about the outside storage of materials at your business on 280 Webber Street.

The original Site Plan land use approval was received in April 1983 and included several conditions of approval. Specifically the following condition is not being met at your site:

“All business, servicing, manufacturing, or processing of materials, goods or products shall be conducted within completely enclosed buildings. Storage may be permitted outdoors but shall be effectively screened by a wall, fence, or planning to that such materials will not be visible from a public way.”

See attached for the Site Plan and Conditions that were a part of the 1983 decision.

The storage of materials along the Webber Street frontage was not approved and sight obscuring fencing was supposed to be installed throughout the site. Several follow-up letters from the Planning Department regarding the fencing are in the property file – but it appears that compliance was never achieved.

You have two options for coming into compliance with the original conditions of approval:

- 1) Remove the materials being stored from the area along Webber
- 2) Present a revised site plan to the City Planning Department that shows where you would like to store materials outside, the location of a sight-obscuring fence, and where customer parking will be relocated.

You have 2 weeks from this notice (January 21, 2016) to make contact with the Planning Department to explain what option you would like to pursue to gain compliance.

If you have any questions, please contact me at the Planning Department, 541-296-5481 ext. 1132.

Regards,

Nick Kraemer
Associate Planner
City of The Dalles

CC: Property File



CITY of THE DALLES

313 COURT STREET
THE DALLES, OREGON 97058

(541) 296-5481 ext. 1132

December 15, 2015

Paul and Garnet Lepinski
280 Webber Street.
The Dalles, OR 97058

RE: A&P Recycling – Outside Storage and Screening

We recently received a complaint about the outside storage of materials at your business on 280 Webber Street.

The original Site Plan land use approval was received in April 1983 and included several conditions of approval. Specifically the following condition is not being met at your site:

“All business, servicing, manufacturing, or processing of materials, goods or products shall be conducted within completely enclosed buildings. Storage may be permitted outdoors but shall be effectively screened by a wall, fence, or planning to that such materials will not be visible from a public way.”

See attached for the Site Plan and Conditions that were a part of the 1983 decision.

The storage of materials along the Webber Street frontage was not approved and sight obscuring fencing was supposed to be installed throughout the site. Several follow-up letters from the Planning Department regarding the fencing are in the property file – but it appears that compliance was never achieved.

You have two options for coming into compliance with the original conditions of approval:

- 1) Remove the materials being stored from the area along Webber
- 2) Present a revised site plan to the City Planning Department that shows where you would like to store materials outside, the location of a sight-obscuring fence, and where customer parking will be relocated.

You have 3 weeks from this notice (January 5, 2016) to make contact with the Planning Department to explain what option you would like to pursue to gain compliance.

If you have any questions, please contact me at the Planning Department, 541-296-5481 ext. 1132.

Regards,

Nick Kraemer
Associate Planner
City of The Dalles

CC: Property File



CITY of THE DALLES

313 COURT STREET
THE DALLES, OR 97058

(541) 296-5481

February 7, 2006

A & P Recycling
Attn: Paul N. & Garnet L. Lepinski
280 Webber Rd
The Dalles, OR 97058

Dear Property Owners,

A complaint was filed in this office regarding the parking of vehicles in the public right-of-way in the 200 block of Webber Road. The vehicles were obstructing a train crossing signal from vehicular traffic approaching from the West 2nd intersection with Webber road. Clear vision needs to be maintained from the railroad crossing warning painted on Webber Street (See photo) to the signals.

General Ordinance No. 97-1217, Section 2. Scope of Regulatory Control. The city has jurisdiction and exercises regulatory control over each public right-of-way whether the city has a fee, easement, or other legal interest in the right-of-way. This does not obligate the city to maintain or repair any part of the right-of-way.

You are required to come into compliance immediately. No vehicles are to be parked in the right-of-way, which would obstruct the railroad crossing signal from any vehicles (scooter, bicycle, motorcycle, car, truck, etc.) traveling North on Webber Street to its intersection with the railroad tracks.

If you have any questions, please, call me or the Public Works Department, 1900 West Sixth Street, The Dalles, Oregon, 296-5401, ext. 2011.

Cordially,



John E. Dennee, Planning Code Compliance Officer
Tele: 296-5481x1150

CC: Daniel C. Durow, CDDD (Email)
Brian R. Stahl, PWD (Email)
Bill Barrier, Transportation Manager
Property file







CITY of THE DALLES

313 COURT STREET
THE DALLES, OREGON 97058

(541) 296-5481 ext. 1125
FAX: (541) 298-5490
PLANNING DEPARTMENT

July 25, 2016

Paul and Garnet Lepinski
280 Webber Street
The Dalles, OR 97058

Re: A & P Recycling

Dear Lepinskis,

You are listed as the owners of the property at 280 Webber Street according to the Wasco County Assessor's Office. We have previously sent you letters regarding the outside storage of your recycling items. As explained, the outside display of recycling items is contrary to the conditions of approval for your business. You have not responded to the previous letters, and the site remains out of compliance. Your unresponsiveness leaves us no choice but to proceed to the next level of enforcement. Please read the rest of this letter carefully as further enforcement actions may affect the future of your business at this location.

We have scheduled a hearing with the Planning Commission to consider revocation of your land use approval. This hearing will be on August 4, 2016 at 6 p.m. in City Hall, 313 Court Street. A separate notice of the hearing has been sent to you. A copy of the staff report that will be presented to the Commission will be sent once it is ready. I urge you to read the staff report carefully. I also urge you to be present at the hearing and to be prepared to respond to the evidence presented about your operation. You may want to obtain legal assistance.

If the Planning Commission revokes your land use approval, the continuation of your business at this location is in jeopardy.

If you have any questions, please feel free to contact me.

Sincerely,

Richard Gassman
Planning Director