

RESOLUTION NO. P.C. 104-88

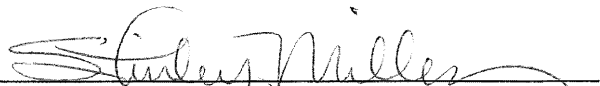
A RESOLUTION OF THE PLANNING COMMISSION OF THE  
CITY OF THE DALLES APPROVING ZONING ORDINANCE  
TEXT AMENDMENTS (AMENDMENT #36-88)

I. Recitals.

- A. The Planning Commission initiated the procedures for a Zoning Ordinance amendment on June 16, 1988, subsequent to review and approval of staff recommended changes.
- B. The Planning Commission has heretofore on July 28, 1988 conducted a public hearing to consider Zoning Ordinance text amendments. Testimony was heard and considered, and the Commission approved amendments proposed in Resolution No. P.C. 103-88 with the exception of those relating to bed & breakfast establishments. The latter was referred to staff for further study.
- C. The criteria for a Zoning Ordinance amendment is consistency with 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. Approval of the amendments, shown in Exhibit "A" attached to this Resolution for the following reasons:
  - 1. The amendments are designed to (1) strengthen enforcement efforts; (2) insure site plan review compliance; (3) respond to changes in a State law regarding day care; and (4) clarify existing provisions pertaining to surfacing requirements for off-street parking and nonconforming uses.
  - 2. The amendments are consistent with the City of The Dalles Comprehensive Plan.
- C. The Secretary of the Commission shall (1) certify to the adoption of the Resolution; and (b) forthwith transmit a copy of the said Resolution to the City Council of the City of The Dalles.

  
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CHAIRMAN, PLANNING COMMISSION

I, Jack Lesch, Secretary to the Planning Commission of the City of The Dalles, do hereby certify that the foregoing Resolution was adopted at a Regular Meeting of the Planning Commission of the City of The Dalles, held on the 25th day of August, 1988.

AYES:	COMMISSIONERS:	Cutler, Earl, Farner, Miller, Peickert & Turner.
NOES:	COMMISSIONERS:	None
ABSENT:	COMMISSIONERS:	Byrne
ABSTAIN:	COMMISSIONERS:	None

ATTEST:

  
Secretary, Planning Commission

EXHIBIT "A"

1. Amend Section 3 to delete definition of Child Care Center:

"Child Care Center. An institution for the care of children, the activity of which shall be conducted between the hours of 7 a.m. and 7 p.m. Even though some instruction may be offered in connection with such care, the institution shall not be considered a "school" within the meaning of this Ordinance."

Add new definition of "Day Care":

"Day Care: The care, supervision and guidance on a regular basis of a child, unaccompanied by a parent, guardian or custodian, provided to a child during a part of the 24 hours of the day, in a place other than the child's home, with or without compensation."

2. Add "Day Care" to Sections 7-10, 12-14, "R1" Single Family Residential, "R2" and "R3" Multiple Family Residential, "RMH" Mobile Home Residential District, "CN" Neighborhood Commercial District, "CB" Central Business District, "CG" General Commercial District, Principal Uses 7.2 (A) 4., 8.2 (A) 8., 9.2 (A) 7., 10.2 (A) 8., and 12.2 (A) 12., 13.2 (A) 16., 14.2 (A) 20.:

"Day care for fewer than 13 children, including the provider's own in residential homes."

3. Delete "Child Care Center" from Sections 7-10, "R1" Single Family Residential District, "R2" and "R3" Multiple Family Residential Districts, RMH Mobile Home Residential District, Sections 7.2 (B), 8.2 (B), 9.2 (B) and 10.2 (B), Conditional Uses Permitted, and add in its place where it appears in the list.

"Day care for 13 or more children, including the provider's own in residential homes."

4. Add to "CB" Central Business District, "CG" General Commercial District, and "CN" Neighborhood Commercial District, Section 12.2 (B), 13.2 (B), and 14.2 (B), Conditional Uses Permitted:

"Day care for 13 or more children."

Delete from "M1" Light Industrial and Manufacturing District, and "M2" Heavy Industrial and Manufacturing District, Sections 15.2 (B) 2., and 16.2 (B) 2., Conditional Uses Permitted:

"liquor stores"

Replace with:

"Day care"

5. Amend Sections 7-10, "R1" Single Family Residential, "R2" and "R3" Multiple Family Residential and "RMH" Mobile Home Residential Districts, Sections 7.2 (B) 10., 8.2 (B) 10., 9.2 (B) 12., and 10.2 (B) 12., Conditional Uses Permitted:

"Outdoor storage on residential lots of more than two unlicensed or inoperable vehicles. Unlicensed vehicles are those without current State registration plates, stickers, permits, tabs or other permitted identification devices."

6. Delete language in Design Requirements of "M1" Light Industrial and Manufacturing Districts and "M2" Heavy Industrial and Manufacturing District, Sections 15.3 (F) 3., and 16.3 (F) 3.:

"All off-street parking or loading areas shall be surfaced with dust-free materials."

7. Amend Section 27, OFF-STREET PARKING Chapter, Section 27 (A), 4., a., by adding the following underlined language:

"All loading areas, access drives, and required parking areas shall have a durable, dust-free surfacing of asphaltic concrete, cement or other material approved by the City Engineer."

8. Delete the following parking requirements from Section 27, OFF-STREET PARKING, Section 27 (C), Parking Space Requirement:

"Industrial:

Light Industrial: 1 space per 500 square feet  
(except warehousing)

Warehouse: 1 space per 1,000 square feet."

9. Add the following to Section 27, OFF-STREET PARKING, Section 27 (C), Parking Space Requirements, in place of the above deleted requirements:

Manufacturing, storage, wholesale, rail or trucking terminal:	1.2 spaces per employee on largest shift, plus <u>either</u> 1 space per 500 square feet of office, or customer receiving area, <u>or</u> to be determined during <u>site review</u> .
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10. Add the following underlined language to Section 27, OFF-STREET PARKING Chapter, 4., Development Standards for

Parking Areas, a., Surfacing:

All parking areas shall have a durable, dust-free surfacing of asphaltic concrete, cement concrete or other materials approved by the City Engineer. A paving permit must be obtained before paving parking areas for all uses except single family dwellings and duplexes. Permits will be issued by the Community Development Department, but will require a sign-off by the City Engineer.

11. Add to Section 29, SITE PLAN REVIEW, Section 29 (E), Approval Standards, the following requirements:
  5. If public improvements are a condition of Site Plan approval, the following requirements shall apply. For purposes of this section, public improvements shall include any improvement proposed in any easement of public right-of-way.
    - a. The City Engineer shall review and approve all plans prior to construction.
    - b. Work on public improvements shall not commence until after the site plan is approved.
    - c. All public improvements shall be constructed in accordance with City of The Dalles standards or as specified by the City Engineer.
    - d. If public improvements are to be constructed by the applicant, the City Engineer shall design and oversee the construction at the applicant's expense, or the applicant shall furnish proof acceptable to the Planning Director that a civil engineer registered in the state of Oregon shall design, prepare plans, oversee construction, and provide a certificate of completion to the City that all design standards have been met.
  6. Agreement for future street improvements shall be required where development is adjacent to a street that does not meet City improvement standards and the applicant has received Planning Commission approval to delay making the improvements. These agreements, when executed, will run with the land and be recorded with the deed records of Wasco County.
12. Add to Section 29, SITE PLAN REVIEW, a new Section:
  - F. Bonding of Improvements
    1. A performance or surety bond, executed by a surety company authorized to do business in the state of Oregon, for 110% of the cost of on-site improvements shall be required by the Planning

Commission where the applicant wishes to delay making certain improvements such as paving, landscaping or installing curbs and sidewalks for a specified period of time. The bond shall be conditioned upon the applicant carrying out the obligation and fulfilling the other requirements of his or her site plan approval. The bond shall remain in the custody of the City until the obligation is completed or the bond is forfeited.

2. Noncompliance with Provisions under Obligation

- a. If the Director finds that an applicant is not fulfilling an obligation, the Director shall, in written notice to the applicant and the applicant's surety, specify the details of noncompliance. Unless the Director allows more time for compliance because of circumstances beyond the applicant's control, within 30 days after receiving the notice, the applicant or the applicant's surety shall commence the compliance and proceed diligently to complete fulfillment of the obligation.
- b. If the applicant or the applicant's surety does not commence the compliance within the 30 days or the additional time allowed by the Director, or has so commenced but fails diligently to complete the compliance, or the compliance is otherwise not completed within the time specified in granting the site plan approval, the City may take the following action:
  - (1) Enter upon the site of the development and carry out the obligation in accordance with the provisions agreed upon under the acknowledgment.
  - (2) Notify the permittee and the applicant's surety of the applicant's failure to perform as required by this Ordinance.
  - (3) Demand payment from the applicant for the unfulfilled obligation.
  - (4) Notify the surety that has furnished the bond that reimbursement for the expense for fulfillment of the obligation is due and payable to the City.
- c. If a bond is not sufficient to compensate

the City for expenses necessary to fulfill the obligation, the amount due to the City for the obligation is a lien in favor of the City and upon the entire contiguous real property of the owner of the land subject to the obligation.

- d. The lien attaches upon the filing with the City Clerk of notice of the claim for the amount due for the fulfillment of the obligation. The notice shall demand the amount due, allege the insufficiency of the bond or other security to compensate the City fully for the expense of the fulfillment of the obligation, and allege the permittee's failure to do the required obligation.
- e. The lien may be foreclosed in the manner prescribed by law for foreclosing other liens on real property.

Change the lettering of the last two Sections of Chapter 29 to:

(G) Appeal of Planning Commission Decision

(H) Approved Site Plan

- 13. Delete Section 30, Nonconforming Uses, Continuations, Extensions and Abandonment.

Reorganize the same language into these new sections as follows:

Sec. 30. Continuations & Extensions

Except as otherwise provided in this Chapter, uses of land, buildings or structures existing at the time of the adoption of this Ordinance may be continued, although the particular use, or the building or structure does not conform to the regulations specified by this Ordinance for the district in which the particular building or structure is located or use is made; provided, however, no nonconforming structure or use of land may be extended to occupy a greater area of land upon which the building is situated than is owned by the property owner at the time of adoption of this ordinance.

Sec. 30.1 Change of Nonconforming Use

If no structural alterations are made therein, a nonconforming use of a nonconforming building

may be changed to another use of the same or more restrictive classification upon the securing of a use permit. If the nonconforming use is replaced by a more restrictive nonconforming use or conforming use, the occupancy thereafter may not revert to a less restrictive use.

Sec. 30.2 Enlargement, Reconstruction, Alteration, Etc.

Any building or structure existing at the date of the adoption of this Ordinance which is nonconforming either in use, design or arrangement shall not be enlarged, reconstructed or structurally altered unless a use permit is first secured in each case, or unless such enlargement, extension, reconstruction or alteration is in compliance with the regulations set forth in this Ordinance for the district where such building or structure is located; provided, however, any such nonconforming building or structure may be maintained, repaired or portions thereof replaced so long as such maintenance, repairs or replacements do not exceed the building's assessed valuation in any one year, as shown on the latest assessment roll.

Sec. 30.4 Abandonment

If any use is wholly discontinued for any reason except pursuant to a valid order of a court of law, for a period of six months, it shall be conclusively presumed that such use has been abandoned within the meaning of the Section and all future uses shall comply with the regulations of the particular district in which the land or building is located.

14. Add a new section to Section 30, Nonconforming Uses, as follows:

Sec. 30.3 Use Permits for Change of Nonconforming Uses and Expansion, Alteration and Reconstruction of Nonconforming Uses or Structures

- A. Applications for Use Permits for Changes of Nonconforming Uses or Expansion, Alteration and Reconstruction of Nonconforming Uses or Structures shall be made in writing by the owners of the property, lessee, purchaser in escrow, or optionee with the consent of the owners, on a form prescribed by the Planning Director. The application shall be accompanied by a site plan, in accordance

with the provisions of Section 29.

- B. Upon receipt of the application of the Use Permit, the secretary of the Planning Commission shall set a date for public hearing on such application. Such hearing will be held within 30 days after the filing of the application. Notice of such hearing shall be given as set forth in Section 39 (A).
- C. Planning Commission action. The Commission, before it grants or denies a Use Permit shall make findings of fact and state the reasons for its action with respect to such permit. Such findings of fact shall include a determination that the change, expansion, alteration or reconstruction of the nonconforming use will have no greater adverse impact on the neighborhood considering:
  - (1) The character and history of the development and of development in the surrounding area;
  - (2) The comparable degree of noise, vibration, dust, odor, fumes, glare or smoke detectable at the property line;
  - (3) The comparative numbers and kinds of vehicular trips to the site;
  - (4) The comparative amount and nature of outside storage, loading and parking;
  - (5) the comparative visual appearance;
  - (6) The comparative hours of operation;
  - (7) The degree of service or other benefit to the area;
  - (8) Other factors which tend to reduce conflicts or incompatibility with the character or needs of the area.
- D. After the public hearing, the Planning Commission shall approve or deny the request for the Use Permit. If granting approval, the Planning Commission may attach conditions consistent with established policies of the City.
- E. A decision of the Planning Commission may

be appealed in accordance with Section 36.

15. Amend Section 37, AMENDMENTS AND ZONING OF ANNEXED AREAS, Section 37 (E) as follows, new language added is underlined:

(E) After the close of the public hearing or continuations thereof, the Planning Commission shall make a report of its findings and its final determination with respect to the proposed amendment. Their decision shall be based on the final criteria:

- (1) The proposed amendment conforms to the Comprehensive Plan or substantial changes have occurred which render the Comprehensive Plan inapplicable to the requested change and the Plan should be amended as proposed by the proponent of the change (in which case the Plan must be amended prior to final action on the District Amendment).
- (2) If residential zoning is involved, the proposed residential zone or zones best satisfies the objectives of the Comprehensive Plan and does not exclude opportunities for adequate provision of low and moderate income housing within the subject neighborhood area.

The Commission report shall include a list of persons who testified at the hearing, a summary of the facts adduced at the hearing, the findings of the Commission, and copies of any maps or other data and documentary evidence submitted in connection with the proposed amendment. Copy of the findings document shall be transmitted to the City Council within thirty (30) days from the date of the final determination. The Planning Commission decision shall be final unless appealed as set forth in Section 36 or unless the Council passes a motion to review the decision of the Planning Commission.