

**AGENDA**

**PLANNING COMMISSION**

November 18, 2021

5:30 p.m.

**VIA ZOOM**

<https://zoom.us/j/95173124560?pwd=QVZXUHpQazlBZ1pNL1NUUWpaN3M4QT09>

Meeting ID: **951 7312 4560** Passcode: **864333**

Dial: 1-669-900-6833 or 1-253-215-8782

1. CALL TO ORDER
2. ROLL CALL
3. PLEDGE OF ALLEGIANCE
4. APPROVAL OF AGENDA
5. APPROVAL OF MINUTES – October 21, 2021
6. PUBLIC COMMENT
7. STAFF COMMENTS / PROJECT UPDATES
8. COMMISSIONER COMMENTS / QUESTIONS
9. QUASI-JUDICIAL PUBLIC HEARING

MIP 400-21: Luminous Enterprises, Inc., 2235 W. Tenth Street, 1N 13E 32 DA tax lot 2400

REQUEST: *The applicant is requesting Administrative review of a partition of one 0.60 acre property into three parcels of varying size.*

Minor Partition applications are typically reviewed as Administrative Applications; however, the Community Development Director has determined that continuous partitioning of this parcel may occur in subsequent years, therefore Staff has referred this application to the Planning Commission for a determination as to the applicability of The City of The Dalles Land Use and Development Ordinance subdivision requirements, pursuant to Section 10.9.030.040(A) of The Dalles Municipal Code (TDMC).

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**CITY OF THE DALLES**

"By working together, we will provide services that enhance the vitality of The Dalles."

10. LEGISLATIVE PUBLIC HEARING

ZOA 106-21: Shelter Housing Code Amendments, City of The Dalles

REQUEST: Consideration of proposed changes to The Dalles Municipal Code, Title 10 Land Use and Development. The amendment purpose is to expand the permitted uses in the Commercial General and Commercial Light Industrial zones to allow Shelter Housing, also defined as Established and Seasonal Shelters, as permitted uses subject to proposed standards.

11. ADJOURNMENT

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This meeting conducted via Zoom.

Prepared by/  
Paula Webb, Secretary  
Community Development Department

**MINUTES**

**PLANNING COMMISSION MEETING**

October 21, 2021  
5:30 p.m.

**VIA ZOOM**

**PRESIDING:** Cody Cornett, Chair

**COMMISSIONERS PRESENT:** Karly Aparicio, Alan Easling, Philip Mascher, Linda Miller, one position vacant

**COMMISSIONERS ABSENT:** Mark Poppoff

**STAFF PRESENT:** Director Alice Cannon, Secretary Paula Webb

**CALL TO ORDER**

The meeting was called to order by Chair Cornett at 5:33 p.m.

**PLEDGE OF ALLEGIANCE**

Chair Cornett led the Pledge of Allegiance.

**APPROVAL OF AGENDA**

It was moved by Aparicio and seconded by Miller to approve the agenda as submitted. The motion carried 5/0; Aparicio, Cornett, Easling, Mascher, and Miller voting in favor, none opposed, Poppoff absent, one position vacant.

**APPROVAL OF MINUTES**

It was moved by Easling and seconded by Aparicio to approve the minutes as presented. The motion carried 5/0; Aparicio, Cornett, Easling, Mascher, and Miller voting in favor, none opposed, Poppoff absent, one position vacant.

**PUBLIC COMMENT**

None.

**PLANNING COMMISSIONER TRAINING**

Director Cannon introduced Scott Edelman, Oregon Department of Land Conservation and Development (DLCD). Mr. Edelman provided training on Oregon's land use planning laws and programs, Exhibit 1.

Chair Cornett commented it was a great, very informative presentation.

### **STAFF COMMENTS / PROJECT UPDATES**

Director Cannon stated City Council set a goal to update the Community Vision. An email will invite participation in a kickoff event scheduled November 15, 5:30-7:00 p.m., at the Senior Center. **[Note to Commissioners: This in-person event has since been canceled, in light of COVID-19 health concerns. The project will instead promote involvement in an online survey, open from November 8 through December 6.]** A second survey will be available in January or February 2022. Project completion is scheduled in February or March 2022. Director Cannon encouraged the Commission to share the survey throughout the community.

The November 4, 2021 Planning Commission meeting is cancelled due to lack of business. The November 18, 2021 meeting will include a legislative hearing on the Shelter Housing Code. The Commission's recommendation will go to City Council in December.

A legislative update summary will be provided as time allows.

### **COMMISSIONER COMMENTS / QUESTIONS**

Commissioner Aparicio asked when in person meetings would resume. Director Cannon replied COVID numbers were still high; the Planning Commission will follow City Council's decision for in person meetings.

Chair Cornett stated he looked forward to in person meetings. Cornett is excited by the energy returning to town. Commissioner Miller said that energy showed at the Neon Sign Museum during the mural presentation. Director Cannon mentioned Quiet Riot was featured at the Granada Theatre.

Director Cannon stated she had interest from two separate developers for housing projects in the downtown area next year.

### **ADJOURNMENT**

Chair Cornett adjourned the meeting at 7:11 p.m.

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Submitted by/  
Paula Webb, Secretary  
Community Development Department

SIGNED: \_\_\_\_\_

Cody Cornett, Chair

ATTEST: \_\_\_\_\_


Paula Webb, Secretary  
Community Development Department

**Oregon's Statewide  
Planning Program**

**The Dalles  
Planning Commission**



October 21, 2021  
Scott Edelman,  
Central Region Representative



There is a shameless threat to our environment and to the whole quality of life, an unfettered despoiling of the land. Sagebrush subdivisions, coastal "condomania" and the ravenous rampage of suburbia in the Willamette Valley all threaten to mock Oregon's status as the environmental model for the nation. We are dismayed that we have not stopped misuse of the land, our most valuable finite resource...The interests of Oregon for today and in the future must be protected from the grasping wastrels of the land.

Tom McCall, 1973

**PLANNING IN  
OREGON**

Oregon Land Use Act of 1973 (SB 100)

Resulted in:

**Land Conservation and  
Development Commission**

**Department of Land  
Conservation and Development**



## State and Local Responsibilities

Oregon Statewide Planning Program

### State (LCDC, DLCD)

- Sets land use policy of statewide significance (goals and rules)
- Acknowledges city and county plans
- Helps enforce goals
- Reviews local government plan and zoning amendments
- Provides technical & financial assistance

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## State and Local Responsibilities

Oregon Statewide Planning Program

### Cities and Counties

- Address local vision and needs
- Adopt and amend plans and codes in compliance with statewide goals
- Enforce codes and ordinances
- Make land use decisions

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**Statewide  
Planning Goals**

1. Citizen Involvement
2. Land Use Planning
3. Agricultural Lands
4. Forest Lands
5. Natural Resources, Scenic and Historic Areas, and Open Space
6. Air, Water and Land Resources Quality
7. Areas Subject to Natural Hazards
8. Recreational Needs
9. Economic Development
10. Housing
11. Public Facilities and Services
12. Transportation
13. Energy Conservation
14. Urbanization
15. Willamette River Greenway
16. Estuarine Resources
17. Coastal Shorelands
18. Beaches and Dunes
19. Ocean Resources

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➤ **Goal 1 – Citizen Involvement**

➤ **Goal 2 – Land Use Planning**



**“Process” Goals**



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➤ **Goal 3 – Agricultural Lands**

➤ **Goal 4 – Forest Lands**

**“Rural” Goals**  
*(resource lands)*



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➤ **Goal 9 – Economic Development**

➤ **Goal 10 – Housing**

➤ **Goal 11 – Public Facilities**

➤ **Goal 12 – Transportation**

➤ **Goal 14 – Urbanization**

➤ **Goal 8 – Recreation**

**“Urban” Goals**



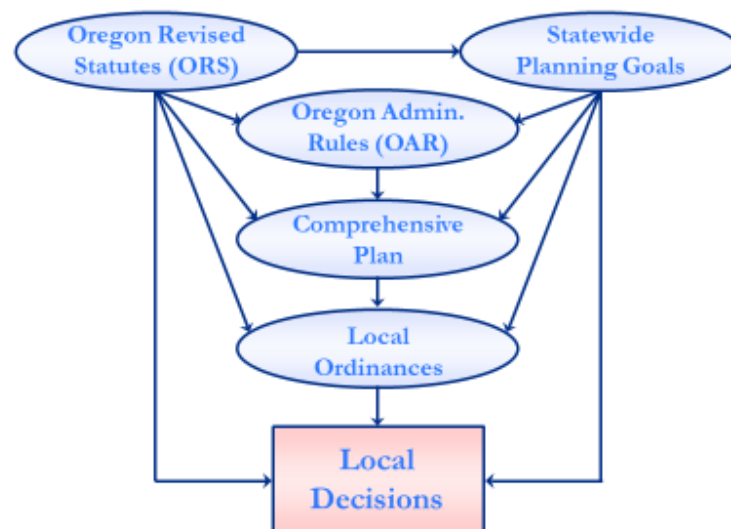
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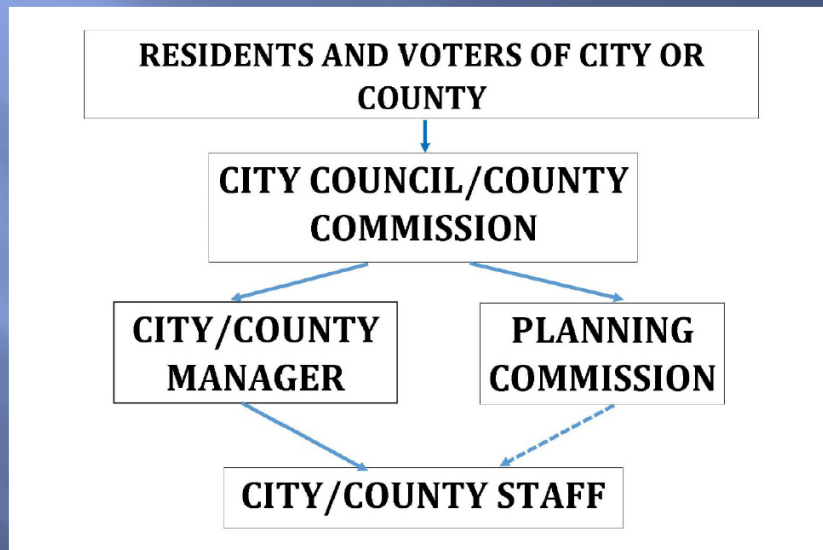
- **Goal 5 - Natural Resources, Scenic and Historic Areas, and Open Spaces**
- **Goal 6 – Air, Land & Water Quality**
- **Goal 7 – Areas Subject to Natural Hazards**



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## Planning Commission - Structurally



## PLANNING COMMISSION RESPONSIBILITIES

- ▣ Reflect Community Values
- ▣ Recommend Policies to City Council/County Commission
- ▣ Visioning and Long-Range Planning for the City/County
- ▣ Educate the public and provide a public forum
- ▣ Make Land Use Decisions

## RELATIONSHIP WITH ELECTEDS

- ▣ Clearly understand of responsibilities and authority vs. responsibilities and authority of the city council
- ▣ Make sound recommendations with adequate findings to ensure your reasoning is clear to the council
- ▣ Communicate regularly with the governing body
- ▣ Do not be afraid to give governing body advice on planning matters – that is your role

## RELATIONSHIP TO STAFF

- ▣ Not Supervisory
- ▣ Staff is a resource – communication – trust – respect – “work as a team” – BUT THAT DOESN’T MEAN YOU HAVE TO ALWAYS AGREE WITH A STAFF RECOMMENDATION
- ▣ Respect staff’s competing priorities (applications, public, other city staff)
- ▣ Planning Commission is a “conduit” for the public to the staff
- ▣ “Staff” sometimes includes a government attorney

## RELATIONSHIP WITH PUBLIC

- ▣ **“Golden Rule for public decision making – BE FAIR**
- ▣ Follow open meeting law
- ▣ Do your homework
- ▣ Conduct quasi-judicial hearings according to the required rules
- ▣ Be respectful to everyone, especially each other.
- ▣ Keep to the topic– don’t digress, and don’t let the participants digress either
- ▣ A “delicate balance” between thoroughness and efficiency

## PLANNING COMMISSION TOOLS: Comprehensive Plan

- **Overarching document that guides land use, infrastructure development, conservation of natural resources, housing, and economic development, etc.**
- **A comp plan includes the following components:**
  - Factual base – natural, social, and economic information
  - Goals and policies – statements of intent, used to guide implementing measures
  - Maps – future land use and zoning



## Zoning & Development Code

- Specific regulations designed to implement comprehensive plan policies
- Regulates uses, location, density, height, setbacks, etc.
- Sets forth the criteria or standards that each application must meet in order to be approved
- Includes zoning, permitting procedures, development standards, and subdivision and partition standards

**CONTRACT WITH THE COMMUNITY**



## Types of Decisions

### ➤ Legislative Land Use Decision

- Adoption and amendment of policies and ordinances
  - Large geographic area, many ownerships
  - No decision is required
  - Adopted by elected officials
  - Role of planning commission is to make a recommendation
  - Less procedural restrictions apply
  - Decision-makers sit as lawmakers
  - Information used in making a decision may come from many sources (ex parte contact is allowed)
  - Findings are less specific, but some are needed
  - No specific state-mandated notice requirements other than "Measure 56" notice
- EXAMPLE: ZONING ORDINANCE AMENDMENT





## Types of Decisions

### ➤ Quasi-judicial Land Use Decision

- Decision-makers sit as an impartial tribunal
- Application of pre-existing criteria and requiring exercise of discretion
- Single or few ownerships
- Action required
- Planning staff, hearings officer, or planning commission makes the initial decision; local appeal possible
- Opportunity for a hearing is required
- Impartiality requires:
  - Treat all parties fairly
  - Allow all parties to know what the decision makers “know”
  - Ex parte contacts must be announced so all parties know what information was provided to the receiver, and
  - Information considered by the decision maker should be factual
  - The process allows information placed before the Planning Commission to be challenged
  - To challenge information the parties need to know what has been submitted

EXAMPLES: LAND DIVISION, CONDITIONAL USE PERMIT, VARIANCE, DESIGN REVIEW



## Types of Decisions

### ➤ Ministerial Action

- Application of pre-existing criteria and requiring **no** exercise of discretion
- Usually one site
- Action required
- Staff makes the decision, with no appeal opportunity
- No hearing, no notice

EXAMPLE: BUILDING PERMIT





**Legislative Decisions**

**HEARING**

**➤ Legislative Hearing Procedures**

- Ensure everyone has the opportunity to participate
- No need to separate proponents and opponents
- No concerns with ex parte contact or bias, but conflict of interest concerns remain

Committee/MeetingName 21



**Quasi – Judicial Decisions**

What happens before the public hearing process

- Pre-application discussion
- Application submitted – review for completeness
- Additional materials submitted for incomplete applications

Committee/MeetingName 22



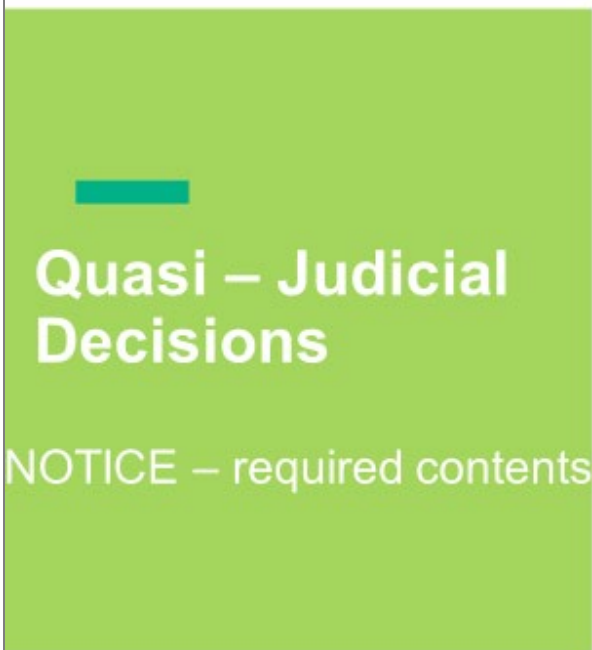


**Quasi – Judicial  
Decisions**

NOTICE – who gets it

- Notice to applicant
- Notice to nearby property owners – 100, 250, or 500 feet
- To recognized neighborhood association
- To DLCD if applicant requests

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**Quasi – Judicial  
Decisions**

NOTICE – required contents

- Explain the nature of the application and the proposed use or uses which could be authorized;
- List the applicable criteria from the ordinance and the plan that apply to the application at issue;
- Set forth the street address or other easily understood geographical reference to the subject property;
- State the date, time and location of the hearing;
- State that failure of an issue to be raised in a hearing, in person or by letter, or failure to provide statements or evidence sufficient to afford the decision maker an opportunity to respond to the issue precludes appeal to the board based on that issue;
- Be mailed at least twenty days before the evidentiary hearing; or if two or more evidentiary hearings are allowed, 10 days before the first evidentiary hearing;
- Include the name of a local government representative to contact and the telephone number where additional information may be obtained;
- State that a copy of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable cost;
- State that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and will be provided at reasonable cost; and
- Include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings.

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**Quasi – Judicial Decisions**

**HEARING**

Use a Script

- **Chair opens hearing**
  - Chair describes proceedings – rules of conduct for hearing
  - Raise-it-or-waive-it statement
  - Right to a continuance if the first hearing
  - Announcement of criteria
  - Declaration of ex parte contact, bias, conflict of interest
- **Staff report**
  - Proposed findings and recommendation

Committee/MeetingName 25



**Quasi – Judicial Decisions**

**HEARING**

- **Testimony** – time, place, manner set by commission rules
  - Applicant
  - Other Proponents
  - Opponents
  - Neutral
  - Applicant's rebuttal
- **Requests for continuance and leaving the record open** – automatic at least 7 days
- **Chair closes hearing**
- **Decision**
  - Discussion
  - Motion and second
  - Deliberation and amendments to motion
  - Vote
- **After the hearing** – written findings

Committee/MeetingName 25

## The 120 Day Rule

- Final action on quasi-judicial applications required within 120 days inside urban growth boundaries, 150 days outside of urban growth boundaries.
- Extensions can be granted by the applicant through a written request.
- What happens if a city does not act in 120 days?
  - City loses jurisdiction to make a decision
  - A court may order approval without detailed conditions
  - A partial refund may be ordered



## Findings

- Findings include statements of:
  - Relevant facts
  - How each approval criterion is satisfied by the facts
  - The facts relied upon and the justification for the decision
- Purposes of findings include:
  - Aiding careful consideration of criteria by the reviewing body
  - Establishing what evidence the reviewing body relied on
  - Explaining how the conclusions are supported by substantial evidence



## Findings

- **Tips for making good findings:**
  - Identify all of the applicable criteria
  - Address each criterion separately
  - State the fact that leads to the conclusion
  - Where there is inconsistent evidence, state there was conflicting evidence, but the hearings body believed certain evidence for certain reasons
  - Articulate the link between the project impact and the conditions being imposed
  - Put them in clear, understandable language



## Findings

- **Common problems with findings:**
  - Failure to address each criterion
  - Deferring a necessary finding to a condition of approval
  - Generalizing or making a conclusion without sufficient facts
  - Failure to establish causal relationship between facts and conclusions



## The Record

➤ The record includes:

- The written minutes of the hearing
- Tape or video of the hearing
- The decision including conditions of approval and findings
- Everything “placed before” the Planning Commission during the hearing
  - The application, studies, testimony of the applicant and its advisors, maps, photographs, drawings, etc.
  - The notice of hearing, staff report, comments from officials
  - Letters, emails, testimony, documents from public



## Burden of Proof

- The applicant (proponent) has the burden of proving that all elements necessary to grant the proposed application are met. All applicable criteria must be met.
- The burden is met by submitting a complete application with substantial evidence showing compliance with each applicable criterion.
- The applicant should respond to all issues raised by opponents by pointing to evidence in the record or bringing forward more evidence.
- Applicants should not rely on staff presentations alone to meet the burden.
- If an applicant provides new information at a hearing, the public must be given a chance to rebut it.



## Continuance and Keeping the Record Open

- A continuance is mandatory if requested by any participant prior to the closure of the first evidentiary hearing. Or, someone can request the record be left open to present additional information.
- If there is a request: continue the hearing by scheduling a date to finish the hearing (a continuance) or leave the record open for at least seven days for additional written evidence, argument or testimony.
- Consider the 120 or 150 Day Rule. Unless requested by the applicant, the clock rolls.
- At what point in the hearing will you pick up the hearing? Who will be able to speak at the next hearing? Be clear when you grant the continuance.
- If the record is left open to accept additional information, how will it be handled? A possible scenario:
  - Seven days to submit additional written information (including applicant)
  - Seven days for rebuttal opportunity to address new information submitted into the record – by any party
  - The applicant has the right to the final word, limited to addressing issues raised by opponents.



## Raise It Or Waive It

- The burden is on the local government to properly issue notice as required by ORS 197.763.
- By complying with the requirement, a local government benefits because participants must raise issues during local proceedings. Any issues not raised are waived if the matter is appealed to LUBA.
- The benefit to a local government is less appeals are remanded by the Land Use Board of Appeals (LUBA) to address new issues raised for the first time at LUBA.





## Impartial Tribunal

- Parties to a quasi-judicial land use proceeding have a right to an “impartial tribunal” – the hearing body must be free of personal interest or bias.
- Members of the hearing body may have certain situations arise that challenge the ability of the hearing body to make an impartial decision.
- The situations arise when there are ex parte contact, conflicts of interest, and bias.



## Ex Parte Contacts

- What are they?
  - Contacts by a party on a fact in issue under circumstances which do not involve all parties to the proceedings
  - Contacts may be oral or in writing.
  - Ex parte communications should be discouraged in favor of the public hearing process.
  - If ex parte contact occurs, action can be taken to address the issue: disclosure, make a record, continue without influence.





## Ex Parte Contact – Planning Commission

- If an ex parte contact takes place, what should you do?
  - Disclose - put the matter on the record at the next hearing on the matter before any testimony is received and before any proceedings on the matter take place.
  - Describe the substance of the contact or communication.
  - Be sure the disclosure is noted in the record of the hearing.
  - The Commission should provide a right to comment on the statement of the communication.



## Site Visits

- During a site visit a commissioner may gain information outside the public hearing which may or may not otherwise be part of the record..
- Site visits are OK – if there is disclosure.
- What should a commissioner do if they make a site visit:
  - Make a disclosure as early as possible on the record to give other interested parties a chance to rebut the evidence, and
  - State on the record in detail what was observed, who was talked to, what was discussed, etc. during the site visit.



## Conflict of Interest - Potential

- “Potential conflict of interest” means any ... decision ... by a person acting in a capacity as a public official, the effect of which **could be** to the private pecuniary benefit or detriment of
  - You
  - Your relative
  - Member of the household, or
  - Business with which you, your relative, or member of the household is associated
- You must declare but “may” participate in a decision, action or recommendation



## Conflict of Interest - Potential

- What should you do if you have a potential conflict?
  - Publicly announce the potential conflict prior to participating in debate and voting on an issue – provide details
  - Announce the potential conflict when the chair calls for declarations before the hearing is opened, have it recorded
  - If the conflict is not apparent until the hearing has begun, ask to be recognized and make the disclosure as soon as possible
  - When there is a potential conflict, the commissioner can take part in the hearing. But, be concerned about appearance.
  - If there is more than one hearing on the matter – announce each time the matter is on the agenda.



## Conflict of Interest - Actual

- “Actual conflict of interest” means any ... decision ... by a person acting in a capacity as a public official, the effect of which **would be** to the private pecuniary benefit or detriment of
  - You
  - Your relative
  - Member of the household, or
  - Business with which you, your relative, or member of the household is associated
- You must declare and must not participate in a decision, action or recommendation.



## Conflict of Interest - Actual

- What should you do if you have an actual conflict?
  - Publicly announce the conflict prior to participating in the hearing, and
  - Refrain from participating in a debate on the issue or from voting on the issue
  - Have the declaration go into the minutes of the hearing
  - Make the announcement at each meeting the matter is on the agenda
  - Best practice tip: leave the hearing room after making the declaration. You can return for the next agenda item.



## Actual Conflict of Interest - Exception

- ORS 244.120(B) provides an exception if an official's vote is necessary to meet a minimum number of votes to take official action.
- The exception is limited to "be eligible to vote, but not to participate as a public official in any discussion or debate on the issue out of which the actual conflict arises."
- Be cautious.



## Personal Bias

- Bias is when a commissioner cannot render fair judgment in a matter because of:
    - An acquaintance or relationship
    - With someone or something in the land use case.
- Personal bias differs from conflict of interest because there is no potential for financial gain only the existence of a relationship.



## Bias: What to Do

### ➤ When bias exists a commissioner should:

- Disclose the nature of the bias
- State whether or not in their opinion it requires disqualification

Simple bias does not require disqualification, but if you cannot be fair and impartial in the matter, you should step down.

Best practice: when there is a sufficient quorum to conduct business without participation of a commissioner who has been challenged for bias, they should consider recusal.



## QUESTIONS?

### My Contact Information:

Scott Edelman

[scott.edelman@dlcd.state.or.us](mailto:scott.edelman@dlcd.state.or.us)

541-306-8530



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## CITY of THE DALLES

313 COURT STREET  
THE DALLES, OREGON 97058

(541) 296-5481 ext. 1125  
COMMUNITY DEVELOPMENT DEPARTMENT

### STAFF REPORT

*For a determination as to the applicability of The City of The Dalles Land Use Development Ordinance subdivision requirements in regards to application:*

**Minor Partition No. 400-21**  
**Luminous Enterprises, Inc.**

**Procedure Type:** Quasi-Judicial  
**Public Hearing Date:** November 18, 2021  
**Assessor's Map:** Township 2 North, 13 East, Section 32 DA  
**Tax Lot:** 2400  
**Address:** 2235 W. 10<sup>th</sup> Street  
**Zoning District:** "RM" Medium Density Residential  
**Prepared by:** Joshua Chandler, Associate Planner

**REQUEST:** Applicant is requesting approval to partition one 0.60 acre property into three (3) parcels of varying size.

Minor Partition applications are typically reviewed as Administrative Applications; however, the Community Development Director has determined that continuous partitioning of this parcel may occur in subsequent years, therefore has referred this application to the Planning Commission for a determination as to the applicability of The City of The Dalles Land Use and Development Ordinance subdivision requirements, pursuant to Section 10.9.030.040(A) of The Dalles Municipal Code (TDMC).

**BACKGROUND INFORMATION:** On May 18, 2021, the Applicant submitted a pre-application, Site Team, request for a five (5) lot subdivision at 2235 W. 10<sup>th</sup> Street. This Site Team meeting was held on May 27, 2021, and detailed the requirements of subdivision development. (See Appendix I)

On September 10, 2021, the Applicant submitted a request for a three (3) parcel minor partition application at the same address, rather than moving forward with the subdivision request. For reference, a partition is the creation of three (3) parcels within a calendar year, while a subdivision is the creation of four (4) lots within a calendar year (10.9.010.020). (See Appendix II)



On September 14, 2021, Staff sent out a Notice of Application for Administrative Action (NOAA) for the minor partition request, in which time the Community Development Director reviewed the request and referred the application to the Planning Commission citing Section 10.9.030.040(A).

**NOTIFICATION:** A NOAA was sent on September 14, 2021 to property owners within 100 feet, City Departments, franchise utilities, Mid-Columbia Fire & Rescue, Wasco County Health Department, and State Building Codes.

In addition, a notice for the November 18, 2021 public hearing was sent on November 5, 2021 to property owners within 300 feet, City Departments, franchise utilities, Mid-Columbia Fire & Rescue, Wasco County Health Department, and State Building Codes.

**COMMENTS RECEIVED:** One (1) comment was received during the 14-day comment period:

- September 28, 2021: Seth Thompson, Oregon Department of Aviation (ODA)  
Oregon Department of Aviation did not have comment on the proposal.

**RESPONSE #1:** No response.

## **REVIEW CRITERIA:**

### **I. City of The Dalles Municipal Code, Title 10 Land Use and Development**

#### **Section 10.3.010.040 Applications**

##### **A. Acceptance**

**FINDING #1:** The Applicant submitted a Site Team request for a subdivision on May 18, 2021. This meeting was held on May 27, 2021. Following the Site Team meeting, Staff provided the Applicant with a set of notes that summarized the meeting and outlined the application process, as well as requested additional information to include with the application material. On September 10, 2021, the Applicant submitted a minor partition application for the same property, resulting in withdrawing the subdivision application. **Criterion met.**

##### **B. Completeness**

**FINDING #2:** The application was deemed complete on September 13, 2021. **Criterion met.**

#### **Section 10.3.020.050 Quasi-Judicial Actions**

##### **A. Decision Types, (9) Any public hearing of an administrative action at the request of the Commission, the Director, or the applicant, or parties of record raising legitimate criteria.**

**FINDING #3:** Pursuant to 10.9.030.040 (A), the Community Development Director referred this application to the Planning Commission, pursuant to Section 10.3.020.050: *Quasi-Judicial Actions* for a determination as to the applicability of The City of The Dalles Land Use and Development Ordinance (Title 10 of The Dalles Municipal Code) subdivision requirements.

*B. Staff Report*

**FINDING #4:** This document serves as a supplementary staff report to Minor Partition application (MIP 400-21) and will only address Section 10.9.030.040(A). Following the Planning Commission's determination of the presented staff report, Staff will either: 1) prepare an additional staff report for MIP 400-21 consistent with all applicable minor partition criteria addressed in TDMC, or 2) deny MIP 400-21 and request the Applicant submit a subdivision application for review. **Criterion met.**

*C. Public Hearings*

**FINDING #5:** On September 22, 2021, the Community Development Director referred the application to the Planning Commission. On September 24, 2021, Staff provided the Applicant with an email detailing the Director's referral with the option to: 1) proceed with review at Planning Commission, or 2) withdraw the application and reapply for a subdivision application. Both of these dates were within the 14-Day Comment period.

On October 15, 2021, the Applicant responded to Staff's email and requested to proceed with Planning Commission review. Due to timelines and noticing requirements, the next regularly scheduled Planning Commission meeting was on November 18, 2021.

*D. Notice of Hearing*

**FINDING #6:** Appropriate mailings to property owners within 300 feet and notice to affected departments and agencies were made on November 5, 2021. **Criterion met.**

***Section 10.9.030.040 Partition Application Review***

*A. Review Procedure. Partition applications shall be processed as administrative actions, per the provisions of Section 10.3.020.040: Administrative Actions. Where the Director determines that continuous partitioning of a tract of land may occur in subsequent years, potentially resulting in the need for new road(s), utilities, or stormwater drainage facilities to be constructed and unmitigated impacts to City services and surrounding property, the application shall be referred to the Planning Commission, pursuant to Section 10.3.020.050: Quasi-Judicial Actions for a determination as to the applicability of the LUDO subdivision requirements.*

**FINDING #7:** At the discretion of the Community Development Director, this application was referred to the Planning Commission for a determination as to the applicability of subdivision requirements of TDMC. In reviewing the submitted application material (both the minor partition application and the originally submitted subdivision application with associated Site Team notes) as well as the current conditions of the subject property, Staff outlined key points that resulted in referring this application to the Planning Commission. These points include:

- Parcel size
- Submitted information
- Differences between partitions and subdivisions
- Improvement needs
- Utilities.

Each of these points have been detailed below.

### **Parcel Size**

The subject property is zoned Medium Density Residential. Pursuant to The Dalles Comprehensive Plan (TDCP), the size of the subject property (0.6 acre) could accommodate four (4) to 10 dwelling units. The current arrangement of the existing dwelling at the western corner of the subject property creates a fairly attainable pathway to meet this density. Additionally, the minimum density of the subject property is four (4) dwelling units, per 10.5.030.060 of TDMC. The application request is for the creation of three (3) parcels; therefore, not meeting minimum density requirements. Without developing as a subdivision, duplex or multi-family on Parcel 3, this three (3) parcel proposal cannot meet minimum density requirements.

### **Submitted Information**

As mentioned in the Background, the Applicant originally submitted a subdivision request to divide the property into five (5) lots. Following the Site Team meeting, the Applicant chose to move forward with a minor partition instead for the creation of three (3) parcels. The preliminary partition plat as submitted outlines the three (3) proposed parcels; however, included additional lines labeled as “future lot lines” that demonstrate a configuration of five (5) total lots on the subject property, similar to original subdivision layout. From this information, Staff has reason to believe that the intent of the Applicant is to further develop the subject parcel at a later date. (See Appendix I and II).

### **Partitions vs. Subdivisions**

Although partitions and subdivisions follow a similar review process administered through Chapter 10.9 *Land Divisions*, the major difference between the two applications are the requirements of Chapter 10.10 *Improvements Required with Development*. Minor partitions are reviewed through Article 9.030, while subdivisions are reviewed through Article 9.040, in addition to Chapter 10.10; which includes addressing pedestrian, bicycle, and street improvements, as well as utilities. Minor partitions are exempt from street improvements requirements pursuant to Section 10.9.030.050 (B, 2) which states:

*a partition of a vacant parcel of property which is zoned for residential development, or a partition of a parcel upon which an existing residential structure is located, prior to the approval of the final plat, the applicant shall not be required to install required street improvements, [but rather defers these improvements to a later date]: installation of required street improvements shall occur consistent with the provisions of Section 10.10.030, A.*

This language implies that the developer of a partition is not required to install improvements or provide utilities, but rather defers this requirement to prospective buyers of newly created parcels:

*The construction, installation, placement, or addition of one or more dwelling units on a lot, including one that replaces another dwelling or structure, shall initiate the requirement of full public improvements, including street, curb, sidewalk, and storm sewer (10.10.030, A).*

However, Resolution 15-017 adopted by The Dalles City Council in 2015 limits the City from requiring sidewalks for new single-family dwellings (in addition to duplexes, as required by HB 2001). When the new dwelling is located on a City designated “Network Street”, sidewalks are required with new development (e.g. new dwelling) when a curb line is established; however, new development located on non-“Network Streets” do not require sidewalks even when a curb line is established.

As a result of these two provisions, at no point in the development process of a newly partitioned parcel is an applicant required to install sidewalks if a curb line does not exist. A subdivision application would be required to establish curb lines for each of the created lots. The timing of sidewalk installation would coincide with new development, no matter the “Network Street” classification, consistent with Resolution No 15-017 and Section 10.10.030 (B, 2). This timing allows for flexibility in individual lot design at the time of new development, most notably, the location of the driveway.

Whether expressed or implied, one major difference between partitions and subdivisions is the responsibilities of the developer versus that of the buyer. With a partition, the developer defers the majority of development costs onto the buyer, whereas a subdivision requires that the developer cover the majority of development costs thus providing the buyer with a more “ready-to-build” lot.

### **Improvement Needs**

The subject property is bordered on three (3) sides by City right-of-way (ROW): W. 10<sup>th</sup> Street, Myrtle Street, and W. 9<sup>th</sup> Place. No curb lines or sidewalks exist on W. 10<sup>th</sup> and Myrtle Streets, and W 9<sup>th</sup> Place is entirely undeveloped (with the NE portion fenced off and absorbed into a neighboring yard area). West 10<sup>th</sup> Street is listed in The Dalles Transportation System Plan (TSP) as a Major Collector “Network Street” with future plans for sidewalk and bicycle improvements along the property frontage. As stated in 10.9.010.010, the purpose of Chapter 10.9 *Land Divisions* is to ensure that parcels/lots are created to *ensure economical, safe, and efficient routes for pedestrians, bicycles, and motor vehicles*. (See Appendix III)

The future sidewalk and bicycle improvements along W. 10<sup>th</sup> Street as listed in the TSP, align with the purpose of Chapter 10.9; however, the City’s restriction on requiring improvements for partitions contradicts this code section and does not promote safe and efficient routes for pedestrians and bicycles. This property is located within ¼ mile from the corner of W. 10<sup>th</sup> and Walnut Streets; an intersection that experienced one (1) of 11 city-wide “fatal to severe-injury” accidents between 2010 and 2014.<sup>1</sup> In addition, this stretch of roadway has a Bicycle Level of Traffic Stress (LTS) rating of 3. For reference, the “LTS methodology classifies four (4) levels of traffic stress that a cyclist can experience on the roadway, ranging from LTS 1 (little traffic stress) to LTS 4 (high traffic stress)”.<sup>2</sup>

In addition to improvements along W. 10<sup>th</sup> and Myrtle Streets, a subdivision application would require improving one-half of the W. 9<sup>th</sup> Place frontage to City standards. A partition application would not require any improvements along W. 9<sup>th</sup>

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<sup>1</sup> Kittelson & Associates, Inc., *The Dalles Transportation System Plan* (March 2017): Figure 3-12

<sup>2</sup> Kittelson & Associates, Inc., *The Dalles Transportation System Plan* (March 2017): page 67

MIP 400-21 – Luminous Enterprises, Inc.

Supplementary Staff Report, Section 10.9.030.040(A)

Page 5 of 7

Place. Currently, this portion of W. 9<sup>th</sup> Place does not connect to Myrtle Street and dead-ends just east of the subject property. Unlike a cul-de-sac which is designed to allow for an efficient vehicle turnaround, this dead-end requires vehicle traffic to maneuver within the ROW or within driveways of neighboring parcels for the purposes of turning around. Furthermore, dead-ends do not comply with street connection standards of 10.10.060 (E, 1, b), specifically regarding emergency vehicle access: *Residential streets shall connect with surrounding streets to permit the convenient movement of traffic between neighborhoods or facilitate emergency access or evacuation.* Establishing this connection to Myrtle will align with the purpose of Chapter 10.9 and will allow for an efficient motor vehicle route through W. 9<sup>th</sup> Place.

### **Utilities**

Regarding the overall cost to the developer when subdividing, these costs are determined on a case by case basis and fully dependent on available infrastructure in the vicinity. At the May 27, 2021 Site Team meeting, it was determined that the property has an adequate supply of nearby water, sewer, and storm services, with main lines for each fronting the subject property. As stated in TDMC, all new development located within 300' of existing utilities must connect to City services. If reviewed as a minor partition, the Applicant would not be required to provide these newly created parcels with lateral utility connections. This would be the responsibility of the new buyer at the time of a building permit. If reviewed as a subdivision, the Applicant would be required to install lateral connections to each newly created lot. With main lines readily available to the subject property, the overall cost to provide utilities to the entire subdivision at one time could ultimately be less expensive than installing new connections individually. System Development Charges (SDCs) are only collected at the time of development and solely the responsibility of the new buyer, whether the property is developed as a partition or a subdivision. Due to the fact that the subject property has an existing single-family home, no additional connection costs or SDCs would be collected for that parcel.

**CONCLUSION:** Staff finds that the Planning Commission should apply The City of The Dalles Land Use and Development Ordinance subdivision requirements for the proposed land division, consistent with Section 10.9.030.040 *Partition Application Review*:

*Partition applications shall be processed as administrative actions, per the provisions of Section 10.3.020.040: Administrative Actions. Where the Director determines that continuous partitioning of a tract of land may occur in subsequent years, potentially resulting in the need for new road(s), utilities, or stormwater drainage facilities to be constructed and unmitigated impacts to City services and surrounding property, the application shall be referred to the Planning Commission, pursuant to Section 10.3.020.050: Quasi-Judicial Actions for a determination as to the applicability of the LUDO subdivision requirements.*

## COMMISSION ALTERNATIVES:

1. **Staff recommendation:** *Move to require the proposed land division at 2235 W. 10<sup>th</sup> Street be reviewed as a Subdivision application and direct staff to deny Minor Partition 400-21.*
2. Direct staff to review Minor Partition 400-21 as submitted. Pursuant to State ORS 227.178, Staff will be required to render a decision on the matter no later than January 11, 2022.

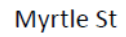
## ATTACHMENTS:

Appendix I and II

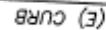
Appendix III – Existing Conditions

Appendix III – Existing Conditions – Plus Proposed TSP Projects

## 194ft



## (BASIS OF BEARING)





## EXISTING CONDITIONS



— Sidewalks

*2015 Aerial imagery; not all existing development is displayed*





Figure  
**6-1**

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# The Dalles Transportation System Plan

**ID:** B-2

## W 10<sup>th</sup> Street from Foley Lakes to Cherry Heights Road

**Description:** Widen the existing bicycle lane to a 7-ft buffered bicycle lane from Foley Lakes to Cherry Heights Road.

**Project Type:** Bicycle Lane



**Grouping:** N/A

**Priority:** Low



**Cost:** \$7,000

**Potential Funding Sources:** City

**Considerations:** No pavement widening.

**Project Goals:**

Safety and Mobility



Accessibility and Connectivity



Integration



Economic Development

**Project Location/Images:**



# The Dalles Transportation System Plan

**ID:** P-2

## W 10<sup>th</sup> Street Sidewalk

**Description:** Add a sidewalk on both sides of the street to fill sidewalk gaps from Chenoweth Loop Road to Vey Way.

**Project Type:** Sidewalk



**Grouping:** N/A

**Priority:** Medium



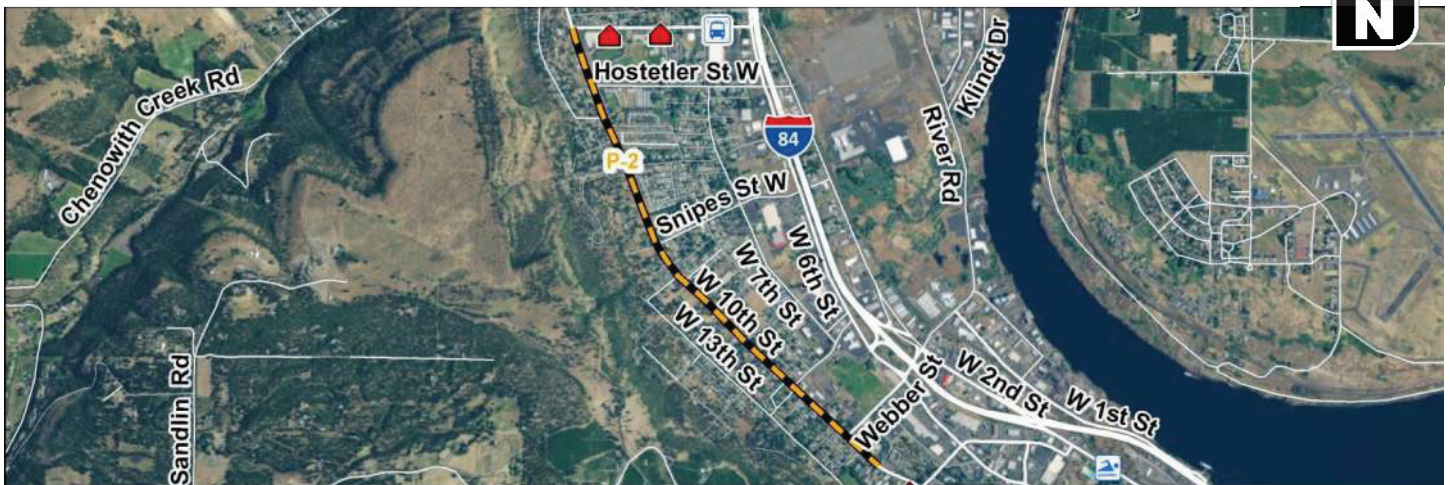
**Cost:** \$610,000

**Potential Funding Sources:** The City

**Considerations:** N/A

Project Goals:	Safety and Mobility	Accessibility and Connectivity	Integration	Economic Development
	✓	✓	✓	

### Project Location/Images:





## EXISTING CONDITIONS -- Plus Proposed TSP Projects

Appendix III

### TSP Sidewalk Project (ID: P-2)

Add a sidewalk on both sides of the street to fill sidewalk gaps from Chenoweth Loop Road to Vey Way.

### TSP Bicycle Project (ID: B-2)

Widen the existing bicycle lane to a 7-ft buffered bicycle lane from Foley Lakes to Cherry Heights Road.



Sidewalks

2015 Aerial imagery; not all existing development is displayed





## CITY of THE DALLES

313 COURT STREET  
THE DALLES, OREGON 97058

(541) 296-5481 ext. 1125  
COMMUNITY DEVELOPMENT DEPARTMENT

# The Dalles Planning Commission

## STAFF REPORT

Zoning Ordinance Amendment #106-21

**PROCEDURE TYPE:** Legislative

**HEARING DATE:** November 18, 2021

**REQUEST:** Approval of proposed changes to The Dalles Municipal Code, Title 10 - Land Use and Development. Amendment to expand the permitted uses in the Commercial General and Commercial Light Industrial zones to allow Shelter Housing, also defined as Established and Seasonal Shelters, as permitted uses subject to proposed standards.

**PROPERTIES:** All properties located in the Commercial General and Commercial Light Industrial Zoning Districts within the City of The Dalles Urban Growth Boundary.

**APPLICANT:** City of The Dalles, Community Development Department

**PREPARED BY:** Dawn Marie Hert, Senior Planner

### BACKGROUND INFORMATION:

The State of Oregon has the second-highest level of unsheltered houseless people in the country and leads the nation in its number of unsheltered houseless families. In response to these statistics, the City Council enacted Emergency Resolution No. 20-025 and resolved to address the unhoused public health crisis and temporary shelter emergency by permitting temporary shelter for its unhoused population at a City-owned site, funded largely with grants from community partners. The City has been committed to providing safe shelter to its entire population.

In the 2021 Regular Session of the Oregon Legislative Assembly, House Bill 2006 (HB 2006) requires cities to approve proposed shelter housing if they meet certain criteria, meet building codes and pose no health or safety threat. These bills are set to expire on July 1, 2022, though shelters established under the bill will be allowed to remain open after that date. To date, the

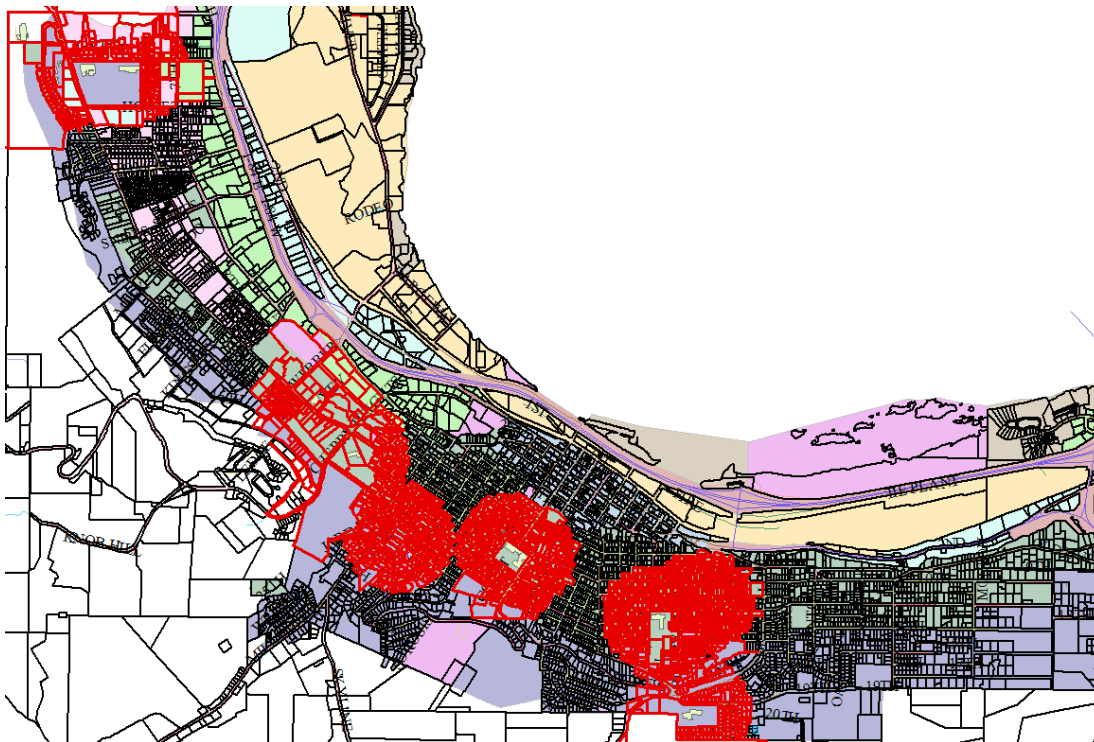


Community Development Department has not processed any applications for shelters under these regulations.

In January 2021, prior to the passage of HB 2006, staff was directed by City Council to review the land use code and make recommendations that would include shelter housing as a permitted use. These proposed amendments were presented as a discussion item of the City Council on July 26, 2021; staff shared them with The Dalles Unhoused Task Force on August 17, 2021. Comments from these sessions were reviewed and incorporated in the amendments where appropriate.

In addition, these proposed amendments were presented at a work session of the Planning Commission on October 13, 2021. The Planning Commission asked staff to consider two items: providing a buffer around schools that would be similar to the marijuana code buffers; and increase the landscaping standards to ensure that the shelter housing provided added greenspace that was well kept/maintained. Staff has reviewed the suggestions and provides the following analysis:

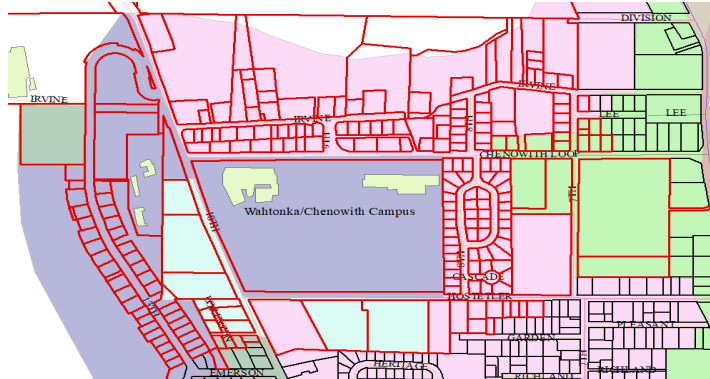
- 1,000 ft. School Buffer. Staff reviewed the buffers and number of properties that could be impacted. While staff is not recommending these added buffers, the Planning Commission may still recommend the buffers be placed.
  - Below is a map of buffers applied to all schools in The Dalles. Properties outlined in red are within the specified 1,000 ft. distance.



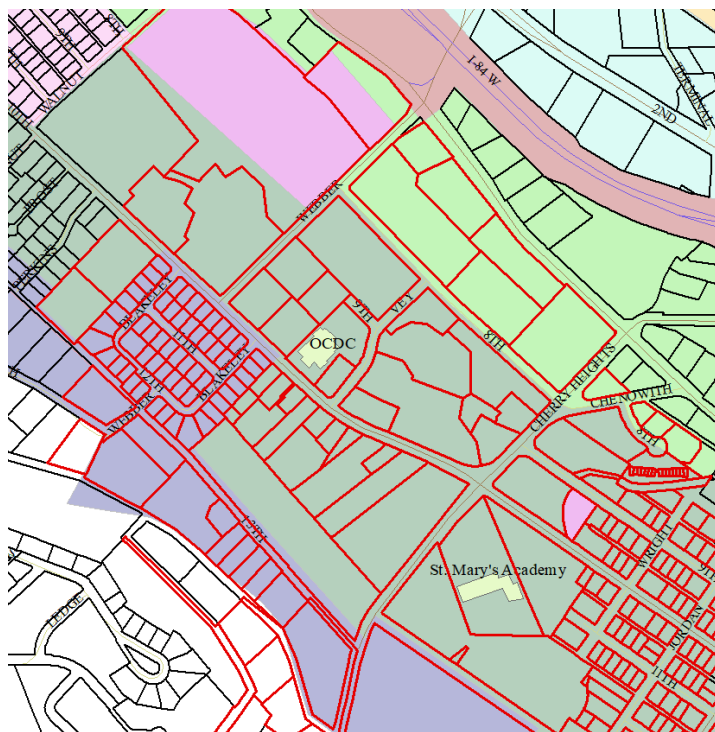
- There are three operating schools within 1,000 ft. of the Commercial General (CG) Zoning District (green) and one school within 1,000 ft. of the Commercial Light Industrial (CLI) Zoning District (light blue). These schools are identified in yellow and labeled in the maps below: Wahtonka High School, Chenoweth Elementary, St.

Mary's Academy and Oregon Child Development Coalition. Wahtonka and Chenoweth share one campus.:

- The Wahtonka/Chenoweth Campus impacts 15 “CG” parcels and 11 “CLI” parcels. All parcels except one (vacant grocery store) are currently being used either commercially or residentially.



- The St. Mary's Academy and Oregon Child Development Coalition (OCDC) together impact 11 “CG” parcels. All parcels except a portion of one (old armory site) are currently being used commercially.



- Increase the Landscaping Standards and ensure it is maintained. Staff reviewed the proposed amendments and found while screening is required for both temporary and permanent shelters, general landscaping is required only for permanent shelters. The proposed code language requires all areas not occupied by buildings, walkways, parking, streets and shelters be landscaped per the provisions of the existing code. The requirement for landscaping in the CG and CLI zones is based on a percentage of the first floor area of all structures. The CG

zone requires 20%, and the CLI zone requires 15%. Staff is recommending the landscaping standards follow existing standards for permanent shelter housing, and that no additional landscaping be required in temporary shelter standards due to the fact that the structures are only intended to be in place for six months or less. Landscaping maintenance is addressed with existing code enforcement regulations.

The City of The Dalles Municipal Code, Title 10 - Land Use and Development, is the City's regulatory code for all land use located within The Dalles Urban Growth Boundary. This zoning ordinance amendment application is considered a legislative action under the provisions of Article 10.3.110 - Ordinance Amendments, Section 10.3.110.020 Review Procedures, and Section 10.3.020.060 (A) (2) Ordinance Amendments.

## **NOTIFICATION**

Notice of this public hearing was published in the local newspaper, sent to all local news media, sent to Wasco County Planning and posted on the City's website and social media accounts.

## **COMMENTS**

No comments were received by the time the staff report was prepared.

## **REVIEW CRITERIA:**

### **CITY OF THE DALLES MUNICIPAL CODE – TITLE 10 - LAND USE AND DEVELOPMENT**

#### **I. PROCEDURE:**

##### ***Chapter 10.3 – Application Review Procedures, Section 10.3.010.040 Applications.***

*F. Applications for Legislative Actions. A legislative action may be initiated by the Director, the Historic Landmarks Commission, the Planning Commission, the Council, or at the request of an applicant or resident of the City.*

**FINDING #1:** This application is initiated by the City Council pursuant to the provisions of Section 10.3.010.040 F.

##### ***Article 10.3.020.060 Legislative Actions:***

***Section A. Decision types.***

***2. Ordinance Amendments; and***

***4. Amendments to the Comprehensive Plan:***

**FINDING #2:** This application is for Ordinance Amendments and Amendments to the Comprehensive Plan per Article 10.3.110.

##### ***Section B. Public Hearings.***

- 1. The Commission shall hold at least one legislative public hearing to review applications for legislative actions and, by duly adopted resolution, make a recommendation to the Council to approve, approve with conditions, or deny the request.*

**FINDING #3:** The public hearing has been set for Thursday, November 18, 2021.

***Notice of Hearing as required by ORS 227.186.***

*ORS 227.186 requires that all property owners whose property is rezoned must be provided notice at least 20 days, but no more than 40 days, prior to the date of the first hearing. For purposes of this provision, rezone includes any change that limits or prohibits uses previously allowed in a zone.*

**FINDING #4:** This request increases the permitted uses for the General Commercial and Commercial/Light Industrial Zoning Districts. It has been determined by staff that the notice of hearing detailed in *ORS 227.186* is not required.

***Notice of Amendments as required by the State of Oregon, Department of Land Conservation and Development.***

*The Department of Land Conservation and Development requires a 35 day advance notice of any proposed amendments.*

**FINDING #5:** The required notice was sent and accepted by the Department of Land Conservation and Development on October 13, 2021, which is 36 days prior to the first public hearing.

***Section 10.3.020.070(A) (3) Staff Report.***

*A staff report shall be presented 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 #6:** The staff report has identified the criteria and standards as they relate to this application and has summarized the basic findings of fact. The staff report includes a recommendation for approval.

**II. REVIEW:**

***Section 10.3.110.030 Review Criteria***

*Proposed text amendments shall be consistent with the Comprehensive Plan, and State Laws and Administrative Rules, including the State Transportation Planning Rule OAR 660-012-0060.*

*Proposed text amendments shall be consistent with the adopted Transportation System Plan and the planned function, capacity, and performance standards of the impacted facility or facilities. Requirements of the State Transportation Planning Rule shall apply to those land use actions that significantly affect the transportation system, as defined by OAR 660-012-0060.*

**FINDING #7:** The City of The Dalles has broad discretion to adopt zoning textual changes. Each of the proposed amendments is consistent with the Comprehensive Plan, State Laws, and Administrative Rules.

**COMPREHENSIVE PLAN**

***Goal #1. Citizen Involvement.*** *To develop a citizen involvement program that ensures the opportunity for citizens to be involved in all phases of the planning process.*

***Policy 3.*** *The land-use planning process and policy framework shall include opportunity for citizen input as a part of the basis for all decisions and actions related to the use of land.*

**FINDING #8:** This proposal is consistent with goals and policies of the Comprehensive Plan. A notice of public hearing has been published and the public has an opportunity to provide testimony on the proposed changes to the Commission. The Commission can make alterations to the proposed amendments based on testimony at this hearing. There

will be another public hearing before the City Council; that body will also have the opportunity to consider citizen testimony and make changes.

**Goal #2. Land Use Planning.** *To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.*

**Policy 6.** *Implement this Plan through appropriate ordinances and action. Implementing measures shall be developed to allow administrative review and approval authority.*

**FINDING #9:** These amendments update the existing zoning ordinance, following the directive of the Comprehensive Plan.

**Goal #10. Housing.** *To provide for the housing needs of citizens of the state.*

**Policy 8.** *Flexibility in implementing ordinances is needed to accommodate infill and to foster a variety of development scenarios and housing options.*

**FINDING #10:** Proposed amendments are consistent with the Comprehensive Plan Goal #10, Policy 8 by adding shelter housing options as permitted uses in the Commercial General and Commercial/Light Industrial zones. Including temporary and permanent shelters fosters an added housing option for the houseless populations.

**Policy 21.** *The City will support programs that would enable low and middle income people to obtain safe and sanitary housing through public and private for profit or non-profit efforts.*

**FINDING #11:** Proposed amendments are consistent with the Comprehensive Plan Policy #21 by expanding the opportunities for shelter housing types that will enable people to obtain safe and sanitary housing through public and private efforts. These proposed changes will allow for opportunities to develop both temporary and permanent shelter housing for the houseless populations of the community.

### III. DISCUSSION

The attached document entitled ***Proposed Shelter Housing Code Amendments*** (Exhibit A) details the proposed text amendments to the code. All of the proposed amendments are subject to revision or deletion. The Commission will forward a recommendation on the amendments to the City Council. Final decision on all proposed amendments will be made by the City Council.

### STAFF RECOMMENDATION:

***Staff recommends the Planning Commission move to recommend to the City Council the approval of Zoning Ordinance Amendment #106-21, adopting Code amendments attached herein and adopting findings included in this staff report with any additional changes from the Commission at the November 18, 2021 hearing.***

### ATTACHMENT

- **Exhibit A** – Proposed Shelter Housing Code Amendments.

## CITY OF THE DALLES

### PROPOSED SHELTER HOUSING CODE AMENDMENTS

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The proposed additions to The Dalles Municipal Code, Title 10- Land Use and Development are shown as underlined text and proposed deletions are shown in ~~striketrough~~ text as follows:

**Title 10**                      **LAND USE AND DEVELOPMENT**  
**Chapter 10.2**            **DEFINITIONS**  
**10.2.030**                **Meaning of Specific Words and Terms**

**Homeless.** An individual, group, or population lacking a fixed, regular, and/or adequate nighttime residence in accordance with and as classified under OAR Chapter 813 Division 240 State Homeless Assistance Program.

**Shelter, Established.** A building or group of buildings permanently used or intended for providing homeless shelter and incidental services.

**Shelter, Seasonal.** A building or group of buildings temporarily used or intended for providing homeless transitional or emergency shelter and incidental services for a maximum of six (6) months.

**Title 10**                      **LAND USE AND DEVELOPMENT**  
**Chapter 10.5**            **ZONE DISTRICT REGULATIONS**  
**Article 5.060**            **CG GENERAL COMMERCIAL DISTRICT**

**10.5.060.020 Permitted Uses**

- A. Primary Uses Permitted Outright. The following primary uses shall be subject to the provisions of Article 3.030: Site Plan Review, and all other applicable requirements of this Title and other City ordinances:

~~29. Other uses determined by the Director to be similar to the above uses.~~

29. Shelter housing.

a. Established and seasonal shelters. Established and Seasonal shelters shall:

- i. Provide sleeping and restroom facilities for clients,
- ii. Comply with State Building Code standards, and
- iii. Be operated by one or more of the following:

1. A local government as defined in ORS 174.116,

2. An organization with at least two years' experience operating low-income housing programs or reasonable equivalent and is:

- a. A local housing authority as defined in ORS 456.375,

- b. A religious corporation as defined in ORS 65.001, or
  - c. A public benefit corporation, as defined in ORS 65.001, whose charitable purpose includes the support of homeless prevention and has been recognized as exempt from income tax under section 501(a) of the Internal Revenue Code for at least three years prior to submitting its application for a seasonal shelter, or
- 3. A nonprofit corporation partnering with any other entity described in this subsection.
- iv. The shelter shall maintain a written operational plan shall include the following information:
  - 1. Description of purpose and scope of services of the shelter,
  - 2. Bed capacity for guests,
  - 3. Hours of operation, if applicable, and
  - 4. Twenty-four-hour staffing and emergency contact.
- v. Setbacks. Setbacks shall be the same as setbacks required by the zone district.
- vi. Access.
  - 1. Access shall be from an arterial or collector street, or shall be from a street with sufficient width and ease of access to allow any vehicle to enter and exit without causing undue traffic problems. If the access is not from an arterial or collector street, each access shall be evaluated on a case-by-case basis to determine if access is adequate for the type of vehicles anticipated to enter into, and exit from, the site. The evaluation will include on-street parking allowances and the condition of the street.
  - 2. In order to facilitate ease of entry and exit, the Planning Director may authorize a wider driveway entrance than is otherwise provided for in this Title.
  - 3. Site access connections to public streets shall meet the requirements of Section 10.6.050: Access Management.
- vii. Screening. Except for the access roadway into the shelter, the shelter shall be screened per Section 10.6.010.050.
- viii. Bicycle parking for residents shall be installed to be consistent with Section 10.7.040 Bicycle Parking Design Standards and 10.7.060.010 Minimum and Maximum Off-Street Parking Requirements.
- b. Established Shelters, additional requirements.
  - i. Surfacing. All areas used for vehicular and required pedestrian walkways shall be paved with asphalt, concrete or similar material, and be designed to provide for the control of runoff or surface water.



- ii. Parking Requirement. There shall be a minimum of 1 parking space per every 10 beds and a maximum of 1 parking space per shelter unit. Parking areas shall meet all of the requirements of Section 10.7.030: General Design Standards for Surface Parking Lots.
- iii. Bicycle Parking Requirement. There shall be a minimum of 1 bicycle parking space per every 5 beds. Bicycle Parking shall meet all the requirements of Article 7.040: Bicycle Parking Standards.
- iv. Landscaping. All areas not occupied by buildings, walkways, parking, streets, and shelters shall be landscaped per the provisions of Section 10.6.010: Landscaping. A landscape plan is required prior to the City signing a building permit application. The landscaping plan may include internal shade trees.
- v. Shelter Maintenance and Storage. Each shelter shall at all times keep a neat appearance. All storage shall be contained in a building or enclosed shed. Except for the allowed vehicles, there shall be no outside storage of materials or equipment belonging to the shelter or to any of the guests.

30. Other uses determined by the Director to be similar to the above uses.

B. Accessory Uses Permitted Outright

- 7. Services incidental to Established and Seasonal Shelter, including but not limited to the provision of utilities, showering or bathing facilities, laundry services, bedding, security, transportation, sustenance, low-impact recreation areas, case management and social welfare services, storage sheds or lockers, and minor repairs undertaken specifically to make suitable space available for shelter.

<p><b>Title 10</b>  <b>Chapter 10.5</b>  <b>Article 5.070</b></p>	<p><b>LAND USE AND DEVELOPMENT</b>  <b>ZONE DISTRICT REGULATIONS</b>  <b>CLI COMMERCIAL/LIGHT INDUSTRIAL DISTRICT</b></p>
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**10.5.070.020 Permitted Uses**

- A. **Primary Uses Permitted Outright.** The following primary uses shall be subject to the provisions of Article 3.030: Site Plan Review, and all other applicable requirements of this Title and other City ordinances.

~~28. Other uses determined by the Director to be similar to the above uses.~~

28. Shelter housing.

- a. Established and seasonal shelters. Established and Seasonal shelters shall:
  - vi. Provide sleeping and restroom facilities for clients,
  - vii. Comply with State Building Code standards, and

- viii. Be operated by one or more of the following:
  - 1. A local government as defined in ORS 174.116,
  - 2. An organization with at least two years' experience operating low-income housing programs or reasonable equivalent and is:
    - a. A local housing authority as defined in ORS 456.375,
    - b. A religious corporation as defined in ORS 65.001, or
    - c. A public benefit corporation, as defined in ORS 65.001, whose charitable purpose includes the support of homeless prevention and has been recognized as exempt from income tax under section 501(a) of the Internal Revenue Code for at least three years prior to submitting its application for a seasonal shelter, or
  - 3. A nonprofit corporation partnering with any other entity described in this subsection.
- ix. The shelter shall maintain a written operational plan shall include the following information:
  - 1. Description of purpose and scope of services of the shelter,
  - 2. Bed capacity for guests,
  - 3. Hours of operation, if applicable, and
  - 4. Twenty-four-hour staffing and emergency contact.
- x. Setbacks. Setbacks shall be the same as the setbacks required by the zone district.
- xi. Access.
  - 1. Access shall be from an arterial or collector street, or shall be from a street with sufficient width and ease of access to allow any vehicle to enter and exit without causing undue traffic problems. If the access is not from an arterial or collector street, each access shall be evaluated on a case-by-case basis to determine if access is adequate for the type of vehicles anticipated to enter into, and exit from, the site. The evaluation will include on-street parking allowances and the condition of the street.
  - 2. In order to facilitate ease of entry and exit, the Planning Director may authorize a wider driveway entrance than is otherwise provided for in this Title.
  - 3. Site access connections to public streets shall meet the requirements of Section 10.6.050: Access Management.
- xii. Screening. Except for the access roadway into the shelter, the shelter shall be screened per Section 10.6.010.050.

- xiii. Bicycle parking for residents shall be installed to be consistent with Section 10.7.040 Bicycle Parking Design Standards and 10.7.060.010 Minimum and Maximum Off-Street Parking Requirements.
- c. Established Shelters, Additional requirements.
  - i. Surfacing. All areas used for vehicular and required pedestrian walkways shall be paved with asphalt, concrete or similar material and be designed to provide for the control of runoff or surface water.
  - ii. Parking Requirement. There shall be a minimum of 1 parking space per every 10 beds and a maximum of 1 parking space per shelter unit. Parking areas shall meet all of the requirements of Section 10.7.030: General Design Standards for Surface Parking Lots.
  - iii. Bicycle Parking Requirement. There shall be a minimum of 1 bicycle parking space per every 5 beds. Bicycle Parking shall meet all the requirements of Article 7.040: Bicycle Parking Standards.
  - iv. Landscaping. All areas not occupied by buildings, walkways, parking, streets, and shelters shall be landscaped per the provisions of Section 10.6.010: Landscaping. A landscape plan is required prior to the City signing a building permit application. The landscaping plan may include internal shade trees.
  - v. Shelter Maintenance and Storage. Each shelter shall at all times keep a neat appearance. All storage shall be contained in a building or enclosed shed. Except for the allowed vehicles, there shall be no outside storage of materials or equipment belonging to the shelter or to any of the guests.

29. Other uses determined by the Director to be similar to the above uses.

B. Accessory Uses Permitted Outright

- 6. Services incidental to Established and Seasonal Shelter, including but not limited to the provision of utilities, showering or bathing facilities, laundry services, bedding, security, transportation, sustenance, low-impact recreation areas, case management and social welfare services, storage sheds or lockers, and minor repairs undertaken specifically to make suitable space available for shelter.