

CITY OF THE DALLES PLANNING COMMISSION MINUTES

Thursday, April 19, 2012

City Hall Council Chambers

313 Court Street

The Dalles, OR 97058

Conducted in a handicap accessible room

CALL TO ORDER:

Chair Lavier called the meeting to order at 6:03 PM.

BOARD MEMBERS PRESENT:

Bruce Lavier, Mark Poppoff, John Nelson, Dennis Whitehouse

BOARD MEMBERS ABSENT:

Chris Zukin, Ron Ahlberg

STAFF MEMBERS PRESENT:

Community Development Director Dan Durow, Senior Planner Richard Gassman, City Attorney Gene Parker, Administrative Secretary Carole Trautman

APPROVAL OF AGENDA:

It was moved by Nelson and seconded by Whitehouse to approve the agenda as submitted. The motion carried unanimously, Zukin and Ahlberg were absent.

APPROVAL OF MINUTES:

It was moved by Whitehouse and seconded by Nelson to approve the March 15, 2012 minutes as submitted. The motion carried unanimously, Zukin and Ahlberg were absent.

PUBLIC COMMENT:

None

QUASI-JUDICIAL HEARINGS:

Application Number CUP 157-10, Dirt Hugger LLC; Request: Review of the pavement of the access road; Property is located at 4350 River Trail Way, The Dalles, Oregon, and is further described as 2N 13E 21 tax lot 800. Property is zoned "I" – Industrial District.

Chair Lavier read the rules for conducting a public hearing. Lavier asked the Commissioners if they had any bias, conflict of interest, or ex-parte contact that would prohibit them from making an impartial decision in the matter. Commissioner Poppoff stated he had done business with the applicant in the past, but he did not believe it would affect his decision-making process. City Attorney Parker stated that since Commissioner Poppoff had not discussed the application with the applicant, there would be no problem.

Chair Lavier opened the public hearing at 6:10 PM.

Senior Planner Gassman presented the Staff Memorandum. Gassman explained that the reason for the hearing was because one of the conditions of approval to the Conditional Use Permit (CUP) called for

a review one year from the date of approval. Gassman advised that the applicant's business was on property that Google had first option to purchase, so at the time of approval of the CUP, no public improvements were required. Since that time, Gassman stated, Google had not exercised its purchase option of the property, and it was now time to bring the condition of approval back to the Planning Commission for review. Dirt Hugger still must lease on a month-to-month basis, and the business is growing, Gassman reported. Gassman pointed out that the Port of The Dalles was in the process of working out a Master Plan for that area, and the Port did not wish to commit to any long term lease or purchase commitments even though Dirt Huggers would be interested in purchasing the property. Gassman reported that Dirt Hugger and Staff met with the Port, and the Port indicated there may be other plans for the area that would not mesh with any tentative plans the Port may have. Therefore, staff recommends to defer any requirements for public improvements for a period of time, possibly a year, to see how the situation develops.

Commissioner Whitehouse asked Senior Planner Gassman what the scope of public improvements entailed. Gassman answered that there is pavement up to and beyond the gate of the property. Typically, Gassman said, the City would require the user to pave an access way up to the business location; a portion would be public improvement, a portion would be private improvement. Gassman explained that the applicant had some pavement, but there was a fairly lengthy gravel driveway that still existed.

Commissioner Nelson asked if landscaping would be included in the improvements. Senior Planner Gassman answered that the current provision for landscaping in the Industrial District did not apply easily to Dirt Hugger's location, and the applicant had done some landscaping.

Commissioner Whitehouse asked if staff thought there would be resolution in one year. Gassman answered, at best guess, probably not.

Commissioner Zukin arrived at the Public Hearing at 6:17 PM.

Testimony:

Proponents:

Pierce Lewis, 721 May Street, Hood River, Oregon, a Dirt Hugger applicant, stated that at the start of the business when they were searching for land, the current location was ideal for business and for a month-to-month lease. Lewis said that when Google opted out of purchasing the property, Dirt Huggers approached the Port of The Dalles about acquiring a long term lease. At this time, however, Lewis stated, this did not seem feasible, and the public improvement requirement would be approximately 900 feet of paving.

Commissioner Nelson asked if the applicants had looked elsewhere. Lewis said they were trying to locate other land of approximately five to 30 acres in size. Nelson suggested County properties in agricultural areas. Lewis said industrial areas would be more ideal. Commissioner Poppoff suggested the area east of the rail yard as a potential business site.

Commissioner Nelson asked if the applicants were addressing the odor problem. Lewis answered that they were targeting odor issues, and they were trying hard to minimize the odor. The applicants planted 65 trees this year, Lewis said.

Chair Lavier asked Commissioner Zukin if he had any bias, conflict of interest, or ex parte contact regarding this application. Commissioner Zukin said he had none.

Tyler Miller, 1585 Nunamaker, Hood River, Oregon emphasized that there was a great opportunity to grow the business, but the large focus was on securing land. Miller stated the best land was at the end of the road from the current location for many reasons, and stated that the Port of The Dalles was open to a lease of that property at this time. Miller reported that, to date, the applicants had expended \$150,000 into the land and \$150,000 into sweat equity.

Chair Lavier closed the public hearing at 6:29 PM.

Deliberation:

Commissioner Poppoff stated that he did not wish to place any more expenses on the applicants' business. He believed the applicants provided an important business to the area and there was no other source of compost in the area.

Commissioner Nelson stated he concurred with the staff's recommendation to defer the public improvements for another year. He stated he believed the applicants had done their best to work with the situation at hand.

Commissioner Whitehouse asked if a review in one year seemed liked the right time period. Commissioner Zukin suggested a year-to-year basis for the CUP review.

It was moved by Zukin and seconded by Nelson to approve the amendment of condition of approval #7 of CUP #157-10 which would waive the improvement and paving requirements for one year. The motion carried unanimously, Ahlberg was absent.

Application Number CUP 167-12, Nicholas Miles; Request: To approve a parking reduction. The property is located at 701 E. 3rd Street and 310 Madison Street, The Dalles, Oregon, and is further described as 1N 13E 3DB tax lot 1501. Property is zoned "CBC" – Central Business Commercial District.

Chair Lavier asked if the Commissioners had any bias, conflict of interest, or ex-parte contact that would prohibit them from making an impartial decision in the matter. None were noted.

Chair Lavier opened the public meeting at 6:35 PM.

Senior Planner Gassman presented the staff report and indicated there was one comment submitted by Mr. Bob Fraley, 710 E. 2nd Street, The Dalles, Oregon, 97058, which was in opposition to the request. Gassman also handed out an aerial photo of the property in discussion. The proposed use, Gassman pointed out, had parking requirements, and parking spaces are currently not available. Gassman further explained that the Planning Commission had options to either reduce or waive parking requirements at the time of a new or different user. The issue in this situation, Gassman emphasized, was that with no parking relief, the applicant would either not be able to use the building or would have to share or purchase some parking spaces. Gassman said he believed this would be difficult for the applicant to accomplish. Staff's recommendation was approval of a parking reduction.

Chair Lavier asked what type of business was going into the building. Gassman said it was a fitness training facility offering fitness classes for the public.

Commissioner Whitehouse asked what the hours of operation were going to be. Gassman said he did not know, but the applicant could answer during public testimony. Commissioner Whitehouse asked if the request covered both of the applicant's buildings. Gassman indicated that it would apply to the warehouse building. The other building, Gassman said, had been in use all along, and the parking would probably be grandfathered in.

Commissioner Zukin asked if the property was in the "parking exempt" area of the Central Business Commercial District area. Gassman answered that this property was one or two blocks outside of the parking exempt area.

Testimony:

Proponents:

Katelyn Gunkel, 470 El Camino Rio, White Salmon, Washington stated she would be conducting the fitness classes, and the good thing about the business use was that the operating hours would be during the early morning and late afternoon hours of the day—not so much during peak business hours. The proposed hours of operation, Ms. Gunkel stated, would be Monday through Friday, 6:00 to 7:00 AM, and 4:30 to 7:30 PM, Saturdays at 9:00 AM for one hour, and possibly an occasional special event during peak business hours. Ms. Gunkel stated that she had been searching for property for over a year, and the proposed property site fit her business specifications perfectly. Class loads, Gunkel stated, max out at 15 students per class, and she re-emphasized that classes would be held early morning and early evening with no class activity during peak business hours.

Robin Miles, 1516 E. 10th Street, The Dalles, Oregon, stated she was one of the property owners, and she and her husband had been developing the property for a few years. The parking issue was a surprise to them, Ms. Miles stated, and if she and her husband had known of the parking issue in the first place, they probably would not have purchased the property. Ms. Miles stated that the entire City block was currently vacant, and it would be an advantage to the community to have their buildings occupied with businesses.

Commissioner Nelson asked Ms. Miles if parking spaces on Madison Street had been counted. Ms. Miles said there were 14 parking spaces on Madison Street, and most of those spaces were used by Salvation Army and the furniture store.

Opponents:

Senior Planner Gassman offered the Bob Fraley letter of opposition as Exhibit 1.

Commissioner Nelson asked Senior Planner Gassman for clarification on the meaning of the last paragraph of the Exhibit 1 letter. Gassman answered that he believed the intent of Mr. Fraley's comment was that there were other vacant buildings in the area that apparently would have available parking.

Rebuttal:

Robin Miles, 1516 E. 10th Street, The Dalles, Oregon, asked if the Exhibit 1 letter was presented only on behalf of Mr. Fraley individually, or did the letter also represent comments from other tenants as well. Senior Planner Gassman said the letter was submitted only on behalf of Mr. Fraley, there was no signed petition. Ms. Miles stated that she did not believe Mr. Fraley's property was in the same block as her property.

Katelyn Gunkel, 470 El Camino Rio, White Salmon, Washington, stated that she looked at other properties in The Dalles, and there were none that met her business requirements.

Commissioner Whitehouse asked Ms. Gunkel if she had conducted her business at other locations. Ms. Gunkel answered that she had conducted the same business at other locations. Commissioner Poppoff asked Ms. Gunkel how many vehicles visited her other business locations at any one time. Ms. Gunkel stated that there were approximately nine vehicles present at one time.

Chair Lavier closed the public hearing at 6:55 PM.

Deliberation:

Commissioner Nelson stated that the good thing about this application was that it would bring activity and people to a vacant portion of the downtown area.

Chair Lavier pointed out it would be a good thing to get businesses into the downtown area, it would be positive.

Commissioner Zukin stated he agreed with Nelson, the community needed more businesses, and he saw this as an opportunity to place a business downtown. Zukin also stated that a parking problem downtown is a good thing, not a bad thing.

It was moved by Nelson and seconded by Zukin to approve CUP 167-12 based on the findings of fact including the recommended conditions of approval as specified in the staff report. The motion carried unanimously, Ahlberg was absent.

RESOLUTIONS:

Resolution No. P.C. 520-12, Nicholas Miles, CUP 167-12

It was moved by Zukin and seconded by Whitehouse to approve Resolution No. P.C. 520-12 based on the findings of fact and the conditions of approval as submitted in the staff report. The motion carried unanimously, Ahlberg was absent.

Resolution No. P.C. 521-12, Dirt Hugger, LLC, CUP 157-10

It was moved by Zukin and seconded by Whitehouse to approve Resolution No. P.C. 521-12 for the amendment of condition of approval #7 of CUP 157-10. The motion carried unanimously, Ahlberg was absent.

WORK SESSION – LUDO Amendments:

Senior Planner Gassman presented his memorandum of LUDO Amendments and highlighted the following proposed amendments [Note: The memorandum item numbers precede the LUDO Section references listed below]:

3. Section 6.010.030L. Fences

4. Section 6.020.040 I. Other Laws, Ordinances, and Regulations

Senior Planner Gassman stated that staff proposed two changes on fencing. The first would be a change in the requirement on the installation of fences higher than four feet. On a corner lot, once out of the 15 foot front yard area, a property owner could install up to a six-foot fence, even along a side street, with the exception of a 10-foot triangle area adjacent to an alley or driveway where the fence must remain at four feet. Secondly, a no-fee permit would be required for any fence higher than four feet.

Commissioner Nelson suggested that the City work with realtors who could disperse informational guidelines regarding fences to prospective property buyers at the time of sale. Senior Planner Gassman suggested the City could prepare an informational brochure that could be given to realtors and title companies to hand out.

Commissioner Poppoff suggested to remove the word “hedges” from memo item #3, because it could become a semantics issue. On item #4, Poppoff commented that sometimes dogs needed to be confined, and a 4-foot fence would not be sufficient. Poppoff suggested an open mesh wire fence could be used above a four-foot fence.

Director Durow stated that the primary purpose of a four-foot fence in the front yard was for aesthetics and safety on the corner, so aesthetics played a role in the guidelines. Also, Durow stated, the staff struggled with the 10-foot triangle on the alley corner because residents wish to have privacy, yet there could be a visual hindrance with fences higher than four feet. Commissioner Zukin commented that residents could choose to angle the six-foot fence and leave the 10-foot triangle area open at the alley. Durow concurred that could be an option.

Commissioner Nelson said he disagreed with Commissioner Poppoff on excluding hedges from the wording on item #3, because he had experienced visual clearance problems at a couple of properties, one in particular that had thick bamboo about 10-12 feet high by the alley. After further discussion, staff and commissioners agreed to add some definition language regarding visibility in the four to eight foot area and address the definition of “vision clearance.”

6. 6.030.020 C. Location - Staff proposed a change in setback requirements. Currently, Gassman explained, a detached accessory structure could be set back up to three feet from a property line. A problem develops when a resident builds a separate garage then wishes to attach the garage to the primary dwelling later on or converts the garage to a living space. Staff recommended a change so that only small structures could still be set back three feet, but they must be structures that do not require a building permit. The types of structures that require a building permit are garages or detached accessory buildings over 200 square feet in size.

Commissioner Poppoff asked why a three-foot setback was required at the alley. Senior Planner Gassman stated that his understanding was that Public Works did not like structures right up to the alley because many alleys have utilities in them. Poppoff suggested to remove the three-foot setback requirement at an alley, because the three-foot space often ended up being filled with junk. After further discussion, staff and commissioners decided that no setback would be required at an alley for

small structures if the alley was at least 20 feet wide. For alleys less than 20 feet wide, small structures must be placed 10 feet from the center line of the alley.

7. 6.030.020 C. Location – Staff recommended that side yards for setbacks for garage/carports on alleys may be waived per the following....”

11. 11.020 Permitted Structures – Senior Planner Gassman reported that last year the City eliminated the use of mobile homes built prior to 1976 on an individual lot. At that time, Gassman reported, the City did allow them to be placed in mobile home parks. Staff now recommended the change to eliminate the placement of mobile homes built prior to 1976 in mobile home parks.

15. 10.030 Timing of Improvements. A. General. – Staff recommended to establish a one-year time limit for improvements to be installed. Commissioner Poppoff asked if the timeline could be changed to two years, because some businesses might have difficulty getting established in one year. Chair Lavier suggested the City could negotiate with the business owner after one year and wait to see if the owner planned on making the improvements. One year would give the City some leverage to talk to the commercial owner, Lavier commented. Director Durow stated that if the limit was set at two years, then the business would probably take three years. Durow recommended one year, then staff could work with the business owner after that if necessary. Commissioner Zukin suggested to clarify the language regarding the City installing improvements after one year if the business owner does not make the improvements.

16. 12.020 Development Standards – Staff recommended changing the five-acre requirement to one acre. Senior Planner Gassman explained that, in item #17, an RV park could be allowed in a Commercial General area as a Conditional Use Permit and go on a case-by-case basis. Gassman said it could expand to any zone except residential.

18. 10.120. Mail Delivery Facilitites. – Senior Planner Gassman reported that the State required local governments to provide language similar to State Building Codes language regarding accessibility to cluster mail boxes. Staff recommended language that states compliance to State Building Codes requirements is necessary.

19. New interpretation for food wagons and similar uses –Senior Planner Gassman gave an explanation on the history and implementation of the City’s Transient Merchant license. Gassman emphasized that times have changed since the inception of the Transient Merchant license. Currently, there are food wagons and similar uses that do not move off the premises at the end of the business day as is the nature of the transient merchant. Some vendors remain at the same premises at the end of each business day, sometimes very long term. These vendors, Gassman explained, also hook up to temporary power, and some even have self-contained water systems. Staff’s thoughts were that such merchants should be treated as other businesses to be fair to the established businesses and be required to submit a Site Plan Review, have utility hook up, and be reviewed for system development charges (SDCs).

Commissioner Zukin clarified if staff was asking food wagon vendors to hook up to power, water, sewer, etc. Senior Planner Gassman answered that staff was requiring this if the food wagon vendors chose to remain at one location without moving off the premises at the end of each day. Gassman further explained that food wagons had the choice to move at the end of each day and obtain a

Transient Merchant license, and such merchants had seven days out of 60 days to remain at one location. Then transient merchants were required to move to another location where they could operate for seven out of 60 days at a second location, Gassman reported.

Director Durow pointed out there was one food wagon on Chenoweth that had remained at one location for at least 10 years without paying any SDCs, etc. to the City. Durow stated the one vendor staff had been dealing with was located on 9th and Trevitt Streets.

Commissioner Zukin asked if there had been complaints from restaurant owners. Director Durow stated there had been no complaints registered from restaurant owners, but staff has received many complaints from neighbors surrounding the 9th and Trevitt food wagon. Zukin stated he was a little uncomfortable with this new approach, because there was something attractive and different about a food cart service as opposed to a sit-down restaurant. If SDCs were charged, Zukin commented, the food cart vendors would give up due to the cost. Zukin asked staff about a case scenario whereby if a transient merchant pulled off one property after seven business days and moved to a second location, would the merchant be able to start operating for seven days immediately? Gassman explained that under the definition of the Transient Merchant license, a vendor could stay at the same location for years as long as the vendor pulled off the property at the end of the day.

Commissioner Nelson suggested the possibility of different rates for a food cart business in the interest of fairness. Senior Planner Gassman explained that the largest SDC expense for merchants is the Transportation SDC. Gassman reported that he worked up a quick calculation for the food wagon located at 9th and Trevitt, and because the wagon was so small, the SDC charge did not seem that exorbitant (about \$3,000) compared to what restaurants could be charged.

Commissioner Whitehouse clarified and asked if staff was classifying the food wagons as a restaurant. Director Durow answered that food wagons needed to be one or the other—Transient Merchant or food service such as a restaurant.

Senior Planner Gassman also emphasized that not every food service merchant that pulls out at the end of a day qualified as a transient merchant because of the type of structure that is used. Gassman explained that, under the transient merchant guidelines, the transient merchant was defined as operating either out in the open, or used a tent or some other structure that was not a completed structure, not a building, and not a vehicle.

Commissioner Zukin pointed out that the community needed another food service category for completed structures that move off the premises at the end of the day.

Commissioner Whitehouse asked if item number 2 of the LUDO staff memorandum was meant to address the issue that came up with the Oregon Military Department regarding large structures in a residential area. Gassman answered yes, it was meant to address that issue, and the proposed language was the same language as in the General Commercial standards. Whitehouse also asked if staff had addressed the question on structures that stood out or were overwhelming to the surrounding area. Gassman said it was addressed in the same proposed language in item number 2. Gassman reported he had met with the architects for the armory project, and he reminded them that they needed a Site Plan approval to proceed. Commissioner Whitehouse reported that his understanding was that the college

was going to be able to use the armory as match and, therefore, the college was looking to add another building, a separate structure.

STAFF COMMENTS:

Senior Planner Gassman reported that at the last City Council meeting the Mayor nominated two new Planning Commissioners and one continuing Planning Commissioner. Chair Lavier was re-nominated for another term, and Mike Zingg and Jeff Stiles were nominated to replace Nan Wimmers and John Nelson on the Planning Commission. Therefore, as of May 1, the Planning Commission will have two new members. Gassman stated he was able to thank Commissioner Wimmers shortly after she resigned, and Gassman thanked Commissioner Nelson by stating he appreciated Nelson's service on the Commission, he had done an excellent job, and he had been a concerned voice for the citizens of the community at large. The Commissioners and staff applauded.

Director Durow reminded the Commissioners of the Joint Planning Commission work session to be held on Thursday, April 26, 2012 at the Discovery Center.

COMMISSIONER COMMENTS/QUESTIONS:

Commissioner Whitehouse commented that a new state law was passed where school districts and cities were required to coordinate timing processes, and he asked to meet with Director Durow to discuss that.

NEXT MEETING:

May 3, 2012

ADJOURNMENT:

The meeting was adjourned at 8:08 PM.

Respectfully submitted by Carole J. Trautman, Administrative Secretary.



Bruce Lavier, Chairman