

# CITY OF THE DALLES PLANNING COMMISSION MINUTES

**Thursday, September 20, 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 6:00 PM.

## **BOARD MEMBERS PRESENT:**

Bruce Lavier, Dennis Whitehouse, Chris Zukin, Mike Zingg, Jeff Stiles

## **BOARD MEMBERS ABSENT:**

Mark Poppoff, Robert Raschio

## **STAFF MEMBERS PRESENT:**

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

## **APPROVAL OF AGENDA:**

It was moved by Zingg and seconded by Zukin to approve the agenda as submitted. The motion carried unanimously, Poppoff and Raschio were absent.

## **PUBLIC COMMENT:**

None

## **QUASI-JUDICIAL HEARINGS:**

**Application Number:** APL 23-12, **Jennifer Blevins; Request:** Appeal of a land use interpretation of off-street parking requirements dated July 3, 2012. Property is located at 1215-1217 Blakely Drive, The Dalles, Oregon, and is further described as Township 1 North, Range 13 East, Map 5 AA, tax lot 200. Property is zoned "RL" – Residential Low Density District.

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

Chair Lavier opened the public hearing at 6:06 PM.

Senior Planner Gassman presented his staff report and explained that no written comments had been submitted for or against this application. Gassman pointed out that there are no dimensional requirements for one and two family dwelling parking in the Land Use and Development Ordinance (LUDO). LUDO requires two parking spaces for single family dwellings and four parking spaces for duplexes for off-street parking. The key issue for this application was whether or not there was adequate space for four parking spaces at this property, Gassman said, and the driveway was the parking area. Without having specific parking dimension requirements, Gassman reported, it would be necessary to look at the amount of space that was there, determine the average size of a vehicle, and determine if there was sufficient room for the vehicles. Gassman stated that staff concluded there was

sufficient off-street parking space provided at the property. Gassman also emphasized that “helter skelter” parking, such as vehicles parked in such a manner that they were hanging out into the street area, was more of a parking violation issue, not a land use issue.

Mr. Gassman reviewed the property’s parking area diagram and pointed out that there were portions of the area that were 25 to 27 feet in width and 35 feet and longer. If 15 feet was used as a typical length for a vehicle and 8 feet for the width, there would be enough room for three vehicles to park appropriately and enough room to stack cars two deep, Gassman commented. Gassman said it was clear there was sufficient room to park appropriately based on those figures.

In conclusion, staff recommended the Planning Commission uphold the Director’s interpretation.

Commissioner Zukin asked if three vehicles could be parked at a 90 degree angle to the house and one vehicle parked parallel to the street in the driveway. Senior Planner Gassman said that code would allow such a configuration, but that would not necessarily be a logical way to park. Gassman stated that even if the vehicles were stacked one behind the other, there would be sufficient room.

Commissioner Whitehouse asked if there was a permitting process wherein the parking space requirements would have been addressed when the property was converted to a duplex. Gassman answered that the parking spaces would be addressed in a typical situation, but this property had a history of nonconformance where building permits were not acquired by previous property owners.

Commissioner Stiles stated it appeared one portion of the structure was farther back from the street than another portion. Stiles asked if stacked parking would work on the side that was farther back. Senior Planner Gassman said two cars would need to be parked very carefully on that side, the longest portion was in the center portion.

### **Testimony**

#### **Proponents:**

Jennifer Blevins, 1212 Blakely Drive, The Dalles, Oregon presented her supporting summary letter dated September 20, 2012 (Exhibit 1) that outlined the history of the subject property located at 1215-1217 Blakely Drive, The Dalles, Oregon. In her summary, Blevins pointed out the history of former property owners’ non-conforming development of the duplex structure over the years. Through the development of non-conforming additions to the structure, Blevins claimed that the additional living space resulted in traffic and parking impacts, and that the impacts of the increased density created an unreasonable interference with the rights of surrounding residents. The additional dwelling space not only increased the number of additional drivers to the residence, it removed one off street parking space in the garage, Blevins reported. In April of 2009, Blevins said, the City of The Dalles determined that four off street parking spaces would be required, but there was no documentation to support four off street parking spaces existed. The current owner, David Bustos, in his letter dated September 25, 2009, stated he would convert the garage addition back into a garage if he was awarded the foreclosure bid purchase of the 1217 property (see Exhibit 1, attachment #36). Mr. Bustos was, of course, awarded the purchase. To date, Blevins stated, Mr. Bustos had not provided documentation that showed the garage expansion had been converted back to a garage or documentation to support that said property provided four off-street parking spaces. Blevins later challenged the City on the determination of the four parking spaces, and the City sent Code Enforcement Officer John Dennee out to investigate. Mr. Dennee determined there were four parking spaces provided, and he provided a dimensional diagram of the parking area, Blevins stated. Community Development Director, Dan Durow, in his interpretation, supported Dennee’s determination, and the City’s position stated that the

garage expansion could remain as is, provided four standard-sized parking spaces (18 feet by 9 feet) existed in the driveway and that any vehicles extending into the public right of way should be reported to the police department, Blevins reported. Blevins purported the driveway lacked sufficient parking space because four standard sized vehicles project out into the public right of way, and there are no pedestrian buffers between the structure and stacked vehicles. In closing, Blevins requested the Planning Commission base its decision on the Non-Conforming Development chapter of the Land Use and Development Ordinance (LUDO).

Rich Williams, 1212 Blakely Drive, The Dalles, Oregon, stated that he wished to correct Senior Planner Gassman's statement regarding parallel parking to the street. Williams stated that LUDO required the off street parking to be perpendicular, and the code did not allow parallel parking. Williams stated that, over the years, because of the expansion of living space to the structure, as many as 10 vehicles at a time had been parked at the property causing unsafe traffic conditions. Williams stated that Blevins was led to believe by the City that Mr. Bustos would correct the problem. Williams pointed out that there are no dimensional vehicular parking requirements in LUDO for residential parking, and he brought out the point that LUDO only addressed commercial parking dimensions. Williams purported that the same vehicles parked at commercial sites would park in residential areas.

Commissioner Stiles asked Mr. Williams that, if the appeal issue was the parking and not the non-conforming structure, would the relocation of the mailbox (allowing the expansion of the driveway) alleviate the parking issue? Williams answered that the driveway was already over the allowed width, therefore the driveway could not be expanded.

Commissioner Zukin asked Mr. Williams if he knew what the requirements for ingress and egress were. Williams said the requirements could be obtained from the fire department, he did not know. LUDO requires that fire codes be considered for safety issues, Williams stated.

Commissioner Zingg asked staff if the center of the driveway was longer than 35 feet. Senior Planner Gassman stated the center of the driveway was more than 35 feet, the exact footage was unknown.

**Opponents:**

Michael Bustos, 2232 West 10<sup>th</sup> Street, The Dalles, Oregon stated he was the property owner's father, and he helped purchase the property for his son. Bustos stated he would like to see the letter his son signed stating the son would convert the garage addition back to a garage. At this point in the hearing Ms. Blevins showed a copy of the letter to Mr. Bustos. Mr. Bustos stated he was not aware of such a letter, but in defense of his son, all his son was trying to do was to improve the property. Bustos stated there was no staircase leading to the window in the structure. The staircase was to the right side, and there was an opening past the window to access the area below. His son reopened the opening to get access, Bustos said.

**Rebuttal:**

Jennifer Blevins stated there was no documentation to support what Michael Bustos testified concerning the staircase.

Commissioner Zukin stated he had questions on vehicles being stacked, perpendicular or parallel parking requirements, and ingress and egress requirements around the driveway area. Senior Planner Gassman said there were no code requirements regarding ingress and egress around cars. Regarding the stacking, there is only a provision in the code concerning allowing one and two family dwelling parked vehicles to back out onto a public right of way if there was a maximum of four parking spaces,

Gassman reported. The purpose, Gassman said, was to distinguish one and two family dwelling parking requirements from commercial parking requirements. Gassman referred to LUDO, Section 6.060.020.B.3, and pointed out that this section did not require that a vehicle be parked at a 90-degree angle, and it did not indicate that a car could not be parked at some other angle.

Commissioner Zukin asked City Attorney Parker if the history of the non-conforming structure had any bearing on the off street parking appeal. City Attorney Parker answered that, in his understanding, the other issues were not relevant to the appeal issue.

Discussion followed between Commissioners and staff regarding the average length of vehicles. Director Durow brought out the fact that the City of Portland determined the average car length as 13.5 feet. Chair Lavier stated he believed the average car length in The Dalles would be longer than in the Portland area. Commissioner Stiles asked if the driveway would still conform to the same width if the structure was a duplex. Senior Planner Gassman said code required a minimum width of 12 feet with a maximum width up to 24 feet if there was 51 feet of structure frontage. Gassman was uncertain of this property's frontage footage.

Chair Lavier asked City Attorney Parker what the consequences would be either way the Commission decided. Parker answered that, if the Commission affirmed Durow's interpretation, the appellant could file a further appeal; and if the Commission denied the interpretation, staff would need direction from the Planning Commission on what kind of interpretation would be considered by the Commission. Chair Lavier stated that he believed there were two possible issues that pertained to the appeal 1) the proper development of the structure—a matter which probably should be dealt with separately, and 2) the parking issue. Lavier said the first issue should not to be dealt with in this hearing.

Rich Williams urged the Planning Commission to take the time to review the appellant's documentation. City Attorney Parker suggested the Commission could close the hearing, review the documents, and reconvene at a later date to deliberate.

Commissioner Whitehouse asked what the next steps would be specifically if the Commission decided in favor of the appellant. Senior Planner Gassman said staff would look to the Planning Commission to determine what was adequate sizing for one and two family dwelling parking areas. Since no vehicular dimensions are required in residential areas by LUDO, staff would need help in determining dimensions, Gassman stated.

Commissioner Zukin emphasized it would be very helpful to have a detailed mapping of the driveway to determine if larger vehicles would fit in the existing parking area. After further discussion, it was determined City staff could map out the parking area, not the property owner.

Roxann Bustos, 2232 West 10<sup>th</sup> Street, The Dalles, Oregon, asked if this determination would set a precedent for all the other residential areas. Chair Lavier answered that the determination would only apply to this specific property. Ms. Bustos asked what size vehicle would be used for the drawing. Commissioner Zukin suggested the mapping would be a drawing of the largest sized vehicle that could fit in the parking space provided.

Jennifer Blevins stated that, in previous conversations with Mr. Parker, it was suggested to Mr. Parker to take four standard sized vehicles and show that they would fit in the parking area. If he would have done that, Blevins said, she would not have filed an appeal. Chair Lavier commented that the

Commission was trying to remove the past from the hearing and deal with the present. Commissioner Zukin stated that it was not Mr. Parker's responsibility to draw vehicle shapes and map parking areas.

It was moved by Whitehouse and seconded by Stiles to continue the public hearing to October 4 to allow time to receive additional evidence on the parking area mapping and to consider the width of the driveway. The motion carried unanimously, Poppoff and Raschio were absent.

Chair Lavier called a recess at 7:17 PM. Chair Lavier reconvened the meeting at 7:23 PM.

**Application Number:** ADJ 12-016; **Spiro Sassalos;** **Request:** Approval to place a home on a lot without meeting the front yard setback requirements of the Land Use and Development Ordinance (LUDO). Property is located at 1815 Nevada Street, The Dalles, Oregon, and is further described as Township 1 North, Range 13 East, Map 11 BB, tax lot 8600. Property is zoned "RL/NC" – Low Density Residential with Neighborhood Center Overlay.

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

Chair Lavier opened the public hearing at 7:25 PM.

Senior Planner Gassman reviewed the staff report. Gassman stated that no comments were received on this case. Gassman also mentioned that staff assigned a new address to the subject property after some notices were sent out. Staff recommended approval of the adjustment application with a setback of 3 feet from the front property line and approximately 20 feet back from the sidewalk.

**Proponents:**

Spiro Sassalos, 30564 SW Haley Road, Boring, Oregon, stated he was the property owner, and he was very satisfied with staff's presentation.

Robert Correll, 2810 NE 22<sup>nd</sup> Court, Gresham, Oregon, thanked the Commission for considering the application, and if the Commission determined in favor of the application it would be a good use of the site.

There were no opponents.

Commissioner Whitehouse asked Mr. Sassalos if this property was going to be a rental property. Sassalos said the property would be for sale.

With no further questions, Chair Lavier closed the public hearing at 7:32 PM.

It was moved by Zingg and seconded by Zukin to approve application number ADJ 12-016, based on the findings of fact and to include the conditions of approval as listed in the staff report. The motion carried unanimously, Poppoff and Raschio were absent.

**RESOLUTION:**

**P.C. Resolution No. 527-12; Spiro Sassalos, ADJ 12-016**

It was moved by Whitehouse and seconded by Zukin to approve Resolution number P.C. 527-12, ADJ 12-016, to adjust the front property line setback from 5 feet to 3 feet, based on findings of fact and to include the conditions of approval as set forth in the staff report. The motion carried unanimously, Poppoff and Raschio were absent.

**STAFF COMMENTS:**

Senior Planner Gassman advised the Commission that there will be a Planning Commission meeting on October 4, 2012.

**COMMISSIONER COMMENTS/QUESTIONS:**

The Commissioners asked Senior Planner Gassman some follow up questions regarding the mapping of the Blakely Drive parking area.

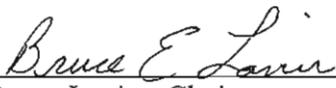
**NEXT MEETING:**

October 4, 2012

**ADJOURNMENT:**

The meeting was adjourned at 7:45 PM.

Respectfully submitted by Carole J. Trautman, Administrative Secretary.

  
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Bruce Lavier, Chairman