

# CITY OF THE DALLES PLANNING COMMISSION MINUTES

**Thursday, April 4, 2013**

City Hall Council Chambers

313 Court Street

The Dalles, OR 97058

*Conducted in a handicap accessible room*

6:00 p.m.

## **CALL TO ORDER:**

Chair Lavier called the meeting to order at 6:00 p.m.

## **BOARD MEMBERS PRESENT:**

Bruce Lavier, Chris Zukin, Rob Raschio, Dennis Whitehouse

## **BOARD MEMBERS ABSENT:**

Mark Poppoff, Mike Zingg, Jeff Stiles

## **STAFF MEMBERS PRESENT:**

City Attorney Gene Parker, Planning Director Richard Gassman, Administrative Secretary Carole Trautman

## **APPROVAL OF AGENDA:**

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

## **APPROVAL OF MINUTES:**

It was moved by Zukin and seconded by Lavier to approve the February 7, 2013 minutes as submitted. The motion carried unanimously; Poppoff, Zingg and Stiles were absent.

## **PUBLIC COMMENT:**

None

## **LEGISLATIVE HEARING:**

**Application Number: ZOA 83-13; City of The Dalles; Request: Amendments to the Land Use and Development Ordinance.**

Director Gassman presented an overview of the Staff Report. Two amendments to the Land Use and Development Ordinance (LUDO) were being considered, one generated by City Council and one generated by the Planning Commission.

City Council, Gassman stated, conducted workshops regarding development policies, in particular requirements for public improvements associated with minor partitions. Staff was tasked to develop Council's proposed changes into specific language that would substantially change the public improvement requirements.

Currently, Gassman explained, the ordinances and policies required that streets would be brought up to full improvement for the entire property frontage at the time of the minor partition application submittal, and if the City was not prepared to improve the streets at the time of application, then the

property owner would pay estimated costs for the improvements into the City's development fund. The Council was interested in facilitating the minor partitions. Therefore, the proposed LUDO amendment language would require that, at the time of a minor partition application, no public improvements would be required by the property owner. Each related parcel of the minor partition would have a recorded document that would subject the parcels to improvement at the time of certain events: 1) if a Local Improvement District (LID) was initiated that included the property; or 2) the development of a residential dwelling unit on a vacant partitioned parcel occurred. With the development of a residential dwelling unit, the property owner of record would be required to either make the required street improvements or pay into the development fund only for the frontage of the parcel to be developed.

Director Gassman explained the second proposed amendment. Any structure that was open on the side adjacent to another property would be treated as an architectural feature that could go up to within three (3) feet of the property line. With this language, Gassman stated, property owners would not need to apply for a variance or meet any other requirements. Gassman clarified that the proposed three foot requirement was as close as staff felt the ordinance could be amended because Building Codes required a three (3) foot setback.

Regarding the public improvements amendment, Chair Lavier suggested that a cross reference for the LID be placed in the development amendment for clarity.

Whitehouse asked if it would be highly unlikely that there would be a situation where there was a stand-alone area of street improvements in front of a new residence on an unimproved street. Director Gassman said it could occur, but was unlikely.

**Testimony:**

Randy Hagar, 2804 East 10<sup>th</sup> Street, stated that the staff developed ordinance amendment language contrary to what City Council had requested—to allow property owners to apply for a minor partition without being required to develop street improvements or pay into the development fund. Hagar said that, because of the size of his property, the City's estimated cost for street improvements was approximately \$80,000; a private contractor's estimate for the same work was approximately \$20,000. Mr. Hagar asked Director Gassman to read into the record former Mayor Wilcox's letter that requested City Council to remind staff that the original amendment request was to provide relief to property owners at the time of a minor partition application from obligatory street improvement costs. Director Gassman explained that the proposed amendment language did allow for property owners to minor partition property without paying into the fund or installing street improvements. Gassman clarified that the proposed ordinance language was only found in the proposed ordinance attachment to the staff report, not in the attached Memorandum dated March 15, 2013 that Mr. Hagar addressed. According to the proposed amendment, at the time of a minor partition, the full property frontage would be encumbered, but improvements would only be required when one or more partitioned parcel was developed, Gassman stated.

Steve Stroud, 3004 E. 12<sup>th</sup> Street, asked why the City was pushing so hard to make improvements, because the costs would fall on the property owners and would be expensive. Mr. Stroud stated that his improvement costs would be approximately \$110,000, and he did not believe the improvements were necessary.

Jerry Johnson, 3102 E. 13<sup>th</sup> Street, stated that stand-alone areas of infill were already in existence; for instance, on Old Dufur Road. Mr. Johnson stated he was concerned that there was no City Council

representative for the Urban Growth Boundary (UGB) citizens. He owns 4.5 acres on a public access street where citizens are responsible for improvement costs, not the City. Commissioner Raschio asked Mr. Johnson if the proposed amendment would provide some flexibility in his situation. Mr. Johnson said that it would to a certain extent, but the amendment would still hold the property owner responsible for improvements. Without representation on City Council and the Urban Growth headed east, Mr. Johnson stated he believed it would force some property owners to move into town because of potential improvement expenses.

Chair Lavier commented that it seemed as if the City was forcing residents to develop to City standards, and it seemed inappropriate. Director Gassman said that this ordinance was not intended to address the types of lots being described in this meeting's testimony. The ordinance was intended for property owners with one or two parcels. Mr. Johnson re-emphasized that there was no representation on City Council for property owners with large parcels. Chair Lavier said that, in one way, there was representation, because City Council's actions on the ordinance would go before Wasco County where there would be representation for UGB residents. City Attorney Parker reported that City Council planned on discussing in the future what kind of standards should be developed for residents in the Urban Growth Boundary (UGB). Director Gassman pointed out that the flip side of the issue was that if the City allowed development without installing improvements, and the area became more densely populated, it could lead to a fairly dense neighborhood where no improvements would most likely ever be made. Gassman said such areas as this were in existence now.

Randy Hagar, 2804 E. 10<sup>th</sup> Street, stated that growth in his area was slow. One house had been developed in 12 years. Mr. Hagar said his property could have another home developed on it, but he could not afford the expenses.

John Dennee, 2651 E. 10<sup>th</sup> Street, stated the cost for him to partition his 4.9 acre lot was approximately \$52,000. Mr. Dennee stated that, under the proposed LUDO amendment, a lien would be placed on the undeveloped partitioned parcels for improvements. Selling the partitioned parcels would be difficult because of costly improvement liens that he would either have to bargain down in a land sale or pay the encumbrances himself. Dennee said private land owners could not install their own services because the City had not done the necessary preliminary work to accomplish such installations.

Raschio asked what expenses were incurred for a minor partition. Director Gassman listed City filing fees and County recording fees that totaled less than \$1,000 plus surveyor costs.

Jerry Johnson, 3102 E. 13<sup>th</sup> Street, said that the County wanted to give his street to the City at one time, but no agreement was made. His street became a public access street which meant he was responsible for street improvements. Mr. Johnson said he wanted to ask the County to take the UGB areas back so he could be under the County's jurisdiction rather than the City's jurisdiction.

Chair Lavier stated it would be better to make improvements at the time of development, but he did not see a need to require improvements in the UGB at this time. Raschio said the amendment provided a cost shift off of the property owner to install improvements at the time of a minor partition application. The property owner could decide to partition a parcel and possibly find a buyer who understood the encumbrances. Raschio stated it could affect the land sale, but at least the property owner could sell a partitioned parcel without having to install all of the improvements in advance. Mr. Hagar said it was much more complicated than that because the cost, or potential cost, of encumbrances on some of these lots far exceeded the lot values in most cases. Mr. Raschio said he understood that, but the issue under

consideration was about whether minor partitions could be allowed without property owners paying for improvements at the time of application.

Chair Lavier stated it was difficult to make a determination because the Planning Commission was not involved in the City Council's discussion of the amendment. Lavier said the process seemed backwards. Discussion should have originated with the Planning Commission and sent on to City Council. Whitehouse said he believed this amendment was placing a "band aid" on the issue and the protocol of the process was backwards. Raschio said he somewhat understood the broader implications of the issue, but the basic discussion at this meeting was about waiving improvement costs at the time of a minor partition application. Zukin stated the amendment supported a very small change that moved the timing of the improvement payment, but there were much larger issues involved that included the amount of payments. Zukin suggested a task force be formed rather than offering a piecemeal solution. Chair Lavier said he felt as if the amendment was a band aid and could make matters far worse. Raschio disagreed. He felt the amendment stimulated growth that allowed a property owner to partition and potentially sell land and negotiate the costs. Raschio stated he believed the bigger problem was the case scenario where an interior lot of three lots could be developed with improvements with no other improvements around it. Raschio said it would not look right. Whitehouse asked if it would inhibit growth to place large dollars on properties in the UGB that would be unaffordable. Zukin said there was a balance. If there was development, there needed to be improvements. Raschio stated that the issue was who was responsible to pay the expense. Zukin said the property owner must pay for improvements, it was not the City's responsibility. But beyond that, Zukin said, the issues were very complicated.

Director Gassman gave a brief explanation of the proposed amendment to Section 6.080A.2. of the LUDO. It was moved by Raschio and seconded by Zukin to recommend approval of the proposed amendment to Section 6.080A.2. as written to the City Council. The motion carried unanimously; Poppoff, Zingg and Stiles were absent.

Chair Lavier stated he had problems with the process and the substance regarding the proposed LUDO residential partition approval amendment, and he asked staff if a joint work session with City Council would be proper process. City Attorney Parker said the ordinance didn't speak to a joint work session and he offered to take the Commission's concerns back to the City Council to determine the next course of action. It was not the intent of the Council to "railroad" the Planning Commission, Parker stated. Director Gassman said the Council clearly saw this ordinance as an improvement for property owners over the current situation, and the Council wanted to adopt the amendment. Staff could communicate to Council that the general consensus of the Planning Commission was to be involved in further discussions with City Council on this matter.

It was moved by Zukin and seconded by Whitehouse to recommend the formation of a Task Force to discuss standards, costs, and methods of determining the costs of development fees. The Task Force would then report to the Planning Commission for review, and the Planning Commission would make a recommendation, based on its review, to City Council.

Raschio pointed out that City Council had heard the issues regarding minor partitioning and had asked the Planning Commission to approve the amendment that would shift improvement costs to a future buyer. Chair Lavier said the Planning Commission had no objection to the intent, but to recommend this amendment might not solve the big problem. Lavier also stated that The Dalles was at a critical point with land use issues, and the City needed to be very careful with the remaining land use that was available. Lavier felt the recommendation was not good for the people who gave testimony or for

some people within the City limits. Raschio said he agreed with Lavier's comment on land use limitations that the City faced, but he felt the policy change was a good choice.

Chair Lavier called for the vote, the motion carried unanimously; Poppoff, Zingg, and Stiles were absent.

Raschio said he understood the last motion to be the Planning Commission's acknowledgement of the problem the people who gave testimony had towards development, but that it was not a motion regarding the proposed ordinance amendment.

After further discussion, it was moved by Raschio and seconded by Zukin to adopt the proposed ordinance amendment as written for residential infill policies.

Zukin stated he was ambivalent towards the revision. It did no harm, but it could send a message to Council that small, piecemeal changes would work for the Council. Zukin indicated he would vote in favor of the amendment but wanted to send a message that his vote in favor of the amendment was to help the property owners. His favorable vote was not an approval of the method in which Council was dealing with the development fee issues. Zukin stated he hoped there would be a wide-range overhaul of the development system.

Whitehouse commented that he hoped this resolution would come back to the Planning Commission if no resolution to the bigger issue was reached within a period of a few years.

Raschio stated he would vote yes, but agreed with the other three Commissioners that City Council needed to start addressing all of the issues and not piecemeal the situation.

Chair Lavier called for the vote. Raschio and Zukin voted in favor, Whitehouse and Lavier opposed; Poppoff, Zingg and Stiles were absent. The motion failed.

#### **STAFF COMMENTS:**

Director Gassman advised the Commission that there had been a slight increase in planning activity over the last month.

#### **COMMISSIONER COMMENTS/QUESTIONS:**

Raschio asked if the damaged fence at the triangle park on 1925 E. 10<sup>th</sup> would be repaired. City Attorney Parker said the fence would be repaired. Raschio also commented that he was concerned about the appearance, specifically the lack of signage, at 1012 West Sixth Street. Director Gassman stated that Staff was aware of the property.

Zukin reported that patrons to the gymnastics building located at the intersection of Bargeway Road and River Road continued to park around the bend, in the bike lane, and in the street. Other drivers had to pull out around the parked cars to see eastbound traffic on River Road. Director Gassman said staff had received complaints about the parking and it was considered a parking violation issue. Zukin suggested the curb should be painted red or yellow to prohibit parking, or it could be resolved with the re-alignment of the Riverfront Trail.

**NEXT MEETING:**

April 18, 2013

**ADJOURNMENT:**

Chair Lavier adjourned the meeting at 8:22 p.m.

Respectfully submitted by Carole J. Trautman, Administrative Secretary.

  
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Bruce Lavier, Chairman