



CITY of THE DALLES

313 COURT STREET
THE DALLES, OREGON 97058

(541) 296-5481 ext. 1125

FAX: (541) 298-5490
COMMUNITY DEVELOPMENT DEPT.

AGENDA CITY OF THE DALLES PLANNING COMMISSION

CITY HALL COUNCIL CHAMBERS

313 COURT SREET

THE DALLES, OREGON 97058

CONDUCTED IN A HANDICAP ACCESSIBLE MEETING ROOM

THURSDAY, SEPTEMBER 20, 2012

6:00 PM

- I. CALL TO ORDER
- II. ROLL CALL
- III. APPROVAL OF AGENDA
- IV. PUBLIC COMMENT (Items not on the Agenda)
- V. **QUASI-JUDICIAL HEARINGS:**
 - A. **Application Number: APL 23-12; Jennifer Blevins;** 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.
 - B. **Application Number: ADJ 12-016; Spiro Sassalos;** Request for 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 E, Map 11 BB, tax lot 8600. Property is zoned "RL/NC" Low Density Residential District with Neighborhood Center Overlay.
- VI. RESOLUTION
P.C. Resolution No. 527-12; Spiro Sassalos; ADJ 12-016
- VII. STAFF COMMENTS
- VIII. COMMISSIONER COMMENTS/QUESTIONS
- IX. NEXT SCHEDULED MEETING DATE
October 4, 2012
- X. ADJOURNMENT

City of The Dalles

Staff Report

Appeal 23-12

Appeal of Interpretation

Jennifer Blevins

Residential Parking Requirements

1215-1217 Blakely Drive

Prepared by: Dick Gassman, Senior Planner

Procedure Type: Quasi-judicial

Hearing Date: September 20, 2012

Assessor's Map: Township 1 North, Range 13 East, Map 5 AA, tax lot 200

Address: 1215 and 1217 Blakely Drive (Duplex)

Comprehensive Plan "RL" Low Density Residential

Zoning District: "RL" Low Density Residential

City Limits: Inside

Applicant: Jennifer Blevins

Application: Request for Director's interpretation on parking requirements for one and two family dwellings.

Appeal: Applicant is appealing the Director's interpretation.

BACKGROUND INFORMATION

The subject property is currently occupied with a duplex. A duplex is required to provide four off street parking spaces. The applicant has questioned the size of the parking area and whether it is sufficient for the four parking spaces required. The applicant submitted a Petition for Enforcement of City Code, dated May 15, 2012, a copy of which is attached. That was referred by the City Council to the Community Development Director for an interpretation of the City's parking dimensions for one and two family dwellings. The Director prepared an interpretation, a copy of which is also attached.

LUDO Section 1.090 states that interpretations may be appealed to the Commission according to the provisions of LUDO Section 3.020.080.

NOTIFICATION

Notice of public hearing was mailed on September 7, 2012.

COMMENTS

No comments were received as of the preparation of this staff report. Any comments received prior to the hearing will be presented to the Commission at the hearing.

REVIEW

A. LAND USE AND DEVELOPMENT ORDINANCE 98-1222

Section 3.020.080 Appeal Procedures:

Subsection A. De Novo. Appeals shall be a de novo evidentiary hearing.

FINDING 1: The hearing set for September 20 will be a de novo evidentiary hearing. The Planning Commission will have the opportunity to review the entire application and make a new decision. Criterion met.

Subsection B. Right to Appeal Decision. Any party of record may file an appeal.

FINDING 2: The appeal was filed by the applicant. Criterion met.

Subsection C. Filing Appeals.

FINDING 3: The filing of the appeal with the information required in the appeal, and payment of the appeal fee, was completed within the time lines set out in the ordinance. Criterion met.

Subsection G. Notification of Appeal Hearing. For appeals from an interpretation there is no notice requirement, other than to the appellant who in this case is also the applicant.

FINDING 4: The applicant was notified of the hearing on September 7, 2012. Criterion met.

Subsection H. Decision of Appeal. The Commission may affirm, reverse, or modify the interpretation. The Commission shall make findings and conclusions, and make a decision based on the hearing record.

FINDING 5: To help the Commission in its deliberations, attached to this report is a copy of the request, a copy of the interpretation, and a copy of the appeal from the applicant. Criterion will be met with the Commission's decision.

DISCUSSION

The LUDO does not prescribe the size of parking spaces for one and two family dwellings. The only requirement is that a total of four off street parking spaces be provided. For commercial areas the LUDO has a series of dimensional requirements, depending on the angle. Looking at those parking spaces with a 90 degree angle, the minimum width for commercial spaces is 8 feet wide and the minimum depth is 18.5 feet.

While there are no specific dimensional standards for one and two family homes, the parking arrangement still must meet the overall purposes of the LUDO as contained in Section 6.060.010: "... ensure that traffic congestion and hazards are avoided, vehicular and public safety are protected, and adequate vehicular circulation is maintained at connections to City streets and alleys."

In one and two family dwellings, unlike commercial parking areas, cars are allowed to be stacked, meaning they can be parked one behind the other. With no more than four parking spaces, cars are also allowed to back out into the street.

If we are to take a practical approach it is useful to look at the length of a typical passenger vehicle. Vehicles come in all sizes, but for purposes of determining what is an adequate space, the average length of a typical passenger vehicle is most relevant. This topic was looked at in a study for the City of Portland which found that the average length of mid-sized sedans measured just over 13.5 feet in length. Using that length as a rough idea of what might be considered adequate for a residential parking area, we then look at the actual space on site to determine if four vehicles could be parked off street.

The property in question has a driveway in front of a converted garage. No spaces are contained in the garage, so the driveway must have room for all four required spaces. The driveway is an irregular shape. The width is generally uniform and has been measured at various times as 25 feet to 27 feet 11 inches. In any situation, the width is sufficient for three cars to be parked side by side. The length varies from about 35 feet on the south end to more than 35 in the middle and then back to about 31 feet on the north end. A map drawn by John Dennee of the City is attached for your information. Using the information from the Portland study which shows the average length is about 13.5 feet, then it follows that a length of over 30 feet is sufficient to accommodate two cars. With length dimensions from 31 to over 35 feet on the driveway, two average vehicles could be stacked in the driveway. Two of these cars could be stacked on the driveway most easily using the middle portion, but could also be stacked on the southern

side of the driveway, and might also be able to be stacked on the north side. This would allow for a total of at least four parking spaces, and possibly five or six spaces.

There is no code requirement that cars actually be parked in off street spaces, only that such spaces be provided. It is possible that if cars have to be stacked, the owners will choose to park what would be the stacked car in an on street parking space if one is available. Cars may be parked in available spaces on the street on a first come, first served basis, even if space is available for off street parking.

In conclusion, where dimensional requirements for parking spaces are absent, we have looked at the site on a more practical basis. Using this approach there is adequate space on site for at least four parking spaces, the minimum required. If cars are being parked on site in a manner which encroaches into the public right of way, that could be a violation. If it is, that would be subject to enforcement by the City Police. Improper parking such as extending into the right of way is not a LUDO violation.

If the Commission agrees with the Interpretation of the Director that the onsite parking is adequate, then the Commission should deny the appeal, with appropriate findings of fact. If the Commission agrees with the appellant, the Commission will then need to either prepare a new interpretation or give guidance to staff to prepare a new interpretation to be presented to the Commission at a later date.

RECOMMENDATION

Staff recommends that the Commission deny the appeal and confirm the Director's interpretation.

Attachments

1. Petition for Enforcement of City Code, dated May 15, 2012.
2. Interpretation of Off-Street Parking Requirements, dated July 3, 2012.
3. Appeal of Interpretation from Attorney Hennessy, dated July 13, 2012.
4. Hand drawn map of driveway area at 1215-1217 Blakely Drive.

REEVES, KAHN, HENNESSY & ELKINS

ATTORNEYS AT LAW

4035 SE 52nd AVENUE
P.O. BOX 86100
PORTLAND, OREGON 97286-0100

Please Reply To P.O. Box

TELEPHONE (503) 777-5473
FAX (503) 777-8566

direct e-mail:
phennessy@rke-law.com

H. PHILIP EDER (1927-2004)
TIFFANY A. ELKINS*
J. MICHAEL HARRIS
PEGGY HENNESSY*
GARY K. KAHN*
MARTIN W. REEVES*

*Also Admitted in Washington

May 15, 2012

Mayor Jim Wilcox
The Dalles City Hall
313 Court Street
The Dalles, Oregon 97058

Carolyn Wood, Councilor At Large
The Dalles City Hall
313 Court Street
The Dalles, Oregon 97058

Timothy McGlothlin, Councilor, Position #1
The Dalles City Hall
313 Court Street
The Dalles, Oregon 97058

Dan Spatz, Councilor, Position #2
The Dalles City Hall
313 Court Street
The Dalles, Oregon 97058

Bill Dick, Councilor, Position #3
The Dalles City Hall
313 Court Street
The Dalles, Oregon 97058

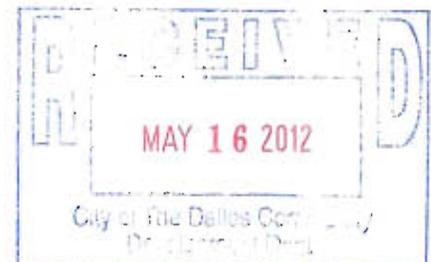
Brian Ahier, Councilor, Position #4
The Dalles City Hall
313 Court Street
The Dalles, Oregon 97058

Re: Jennifer Blevins – Petition for Enforcement of City Code
Failure to Provide Mandatory Off-Street Parking at 1215-1217 Blakely Drive

Dear Honorable Mayor Wilcox and Members of the City Council:

Our office represents Jennifer Blevins with respect to her interest in the enforcement of the off-street parking requirements for her neighbor's property. I am enclosing our formal Petition for Enforcement of City Code.

When the existing garage on the subject property was converted to living space, one of the off-street parking spaces was lost. Ms. Blevins has attempted to resolve this matter with the City Attorney and the City Code Enforcement Officer. However, notwithstanding photographic evidence of repeated encroachment by vehicles into the public right of way, and the inability to provide two 9' by 18' stacked parking spaces in addition to the other two single vehicle spaces, the City has found that the property is in compliance with the City Code.



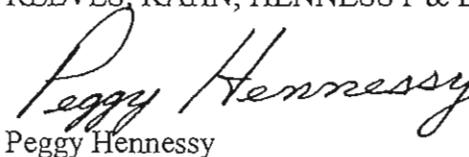
Mayor and City Council
The Dalles, Oregon
May 15, 2012
Page 2

As the governing body of the City of The Dalles, the City Council is to interpret the City Code, and reviewing bodies will defer to that interpretation. Accordingly, Ms. Blevins respectfully requests that you make a determination as to whether the property at 1215-1217 Blakely Drive, The Dalles, Oregon can accommodate four legitimate off-street parking spaces (without the single car garage space), as required by the City Code.

Please let me know when this issue will be placed on the City Council agenda. Thank you for your consideration of our request.

Sincerely,

REEVES, KAHN, HENNESSY & ELKINS



Peggy Hennessy

PH/blb

Enclosures

cc: Nolan Young, City Manager (w/encl.)
Gene Parker, City Attorney (w/encl.)
John Dennee, Planning Code Compliance Officer (w/encl.)
David Bustos, Property Owner (w/encl.)
Client (w/encl.)



BEFORE THE CITY COUNCIL

FOR THE CITY OF THE DALLES, OREGON

In the Matter of the Failure to Provide Four
Off-Street Parking Spaces for the Duplex at
1215-1217 Blakely Drive, The Dalles,
Oregon in Violation of the City Code

DAVID J. BUSTOS /Owner

Case No.

PETITION FOR
INTERPRETATION
OF CITY CODE
(Off-Street Parking Requirements)

I. INTRODUCTION

This Petition is filed on behalf of Jennifer Blevins (hereinafter, "Petitioner") based on the failure of David J. Bustos (hereinafter, "Owner") to provide (and the City's failure to require) four legitimate off-street parking spaces (as mandated by Section 7.060 of the City Code), for the duplex at 1215-1217 Blakely Drive, The Dalles, Oregon (hereinafter, "Property"). There appear to be three uncovered parking spaces on site. In addition to the three spaces in the driveway, the site previously included a single car garage which constituted the fourth on-site parking space required for the duplex. However, since the conversion, the garage is no longer available for parking.

When the existing garage was converted to living space, this was an expansion of the nonconforming use as a duplex, and the burden was on the Owner to show that the off-street parking requirements could still be met. Prior to conversion, the 4-space requirement was met by including one off-street parking space in the garage. The owner has not carried his burden to show compliance with the City Code. Petitioner seeks an interpretation of the City Code by the City Council to determine whether there are four legitimate off-street parking spaces remaining on the Property after exclusion of the parking spot in the converted garage.

II. FACTS

The City has approved the subject Property for use as a duplex, which is a non-conforming use. The prior owner converted the garage to living space, thereby eliminating one of the off-street parking spaces. On August 24, 2010, the City Attorney notified the current Owner that he is required to comply with the City's off-street parking requirements which mandate provision of four off-street parking spaces for this Property. Exhibit 1.

Petitioner, who lives across the street from the subject Property, has repeatedly requested compliance with the mandatory off-street parking requirements. The lack of adequate parking space results in unsafe encroachment of the vehicles into the public right of way. The attached photographs show that the site cannot reasonably accommodate more than three cars. Exhibit 2.

Notwithstanding the lack of space for more than three vehicles, the City Code Enforcement Officer and the City Attorney have taken the position that there are, indeed, four *legitimate* off-street parking spaces – even without the garage. On April 22, 2010, John Dennee reported to the City Attorney that “[a]mple space is available for four vehicles, which is the minimum for the two dwelling units planned for the properties.” Exhibit 3. On March 4, 2011, Gene Parker, the City Attorney, reiterated that the “City’s Planning Code Enforcement Officer has inspected the driveway for the subject properties, and has determined that there is sufficient space to satisfy the City’s requirement for four off-street parking spaces.” Exhibit 4. Mr. Parker recently confirmed that “[t]he City’s position is that this property is in compliance with [the City’s] LUDO requirements and [the City] will not pursue any enforcement action unless there is documented evidence that the LUDO has been violated.” Exhibit 5. Petitioner believes that there is, indeed, documented evidence that the LUDO has been violated. Exhibit 2.

III. ARGUMENT

Section 7.060 of the City's Land Use and Development Ordinance provides that there must be four off-street parking spaces for a duplex. The duplex at 1215 - 1217 Blakely Drive previously met this requirement with a single car garage, plus three parking spaces in the driveway. When the former owner of the duplex converted the garage to living space, this was an expansion of the nonconforming duplex use and the owner was required to show how the property was still in compliance with the applicable parking regulations.

The City has no mandatory dimensional requirements for each parking space, but appears to acknowledge that 9 feet by 18 feet is a relatively standard size. Exhibit 5. Petitioner does not dispute that there is sufficient space for three vehicles pulled in at 90 degree angles. However, Mr. Parker alleges that there is also room to stack two vehicles in the center space, "the center area can accommodate two parking spaces that would measure at least 18 feet in length by 9 feet in width." Exhibit 5. There is *no* available area in the driveway, which measures 9 feet in width by 36 feet in length, to accommodate two stacked vehicles on site.

Moreover, the photographs showing actual use of the parking area demonstrate that attempts to stack vehicles result in the second vehicle extending into the public right of way. Exhibit 2. The Property cannot accommodate four off-street parking spaces without using the garage as one of the four spaces.

In his March 4, 2011 letter, the City Attorney stated that "[i]f it is established that the vehicles are being parked in the driveway in such a manner that they violate the above cited provisions [7.060 and 6.060], the City will pursue appropriate enforcement proceedings to ensure that the use of the off-street parking spaces complies with [the] LUDO." Exhibit 4.

Notwithstanding the photographic evidence that there are not four legitimate off-street parking spaces which can keep four separate vehicles entirely on the premises (Exhibit 2), and notwithstanding the photographic evidence that the length of the driveway cannot accommodate stacked vehicles in a manner that prevents vehicles from backing into the flow of traffic on a public street or causing unsafe conflicts with on-site circulation, the City has taken the position that there is no documented evidence to show that the LUDO has been violated. Accordingly, the City Code Enforcement Officer (with the support of the City Attorney) has refused to take any enforcement action. Exhibit 5.

The City Council, as the governing body, has the responsibility to interpret the City Code. Petitioner believes that City staff has misinterpreted the requirements of Sections 7.060 and 6.060 of the City's LUDO with respect to their application to the subject Property. Accordingly, Petitioner respectfully requests a determination by the City Council of whether the subject Property is in full compliance with Sections 7.060 and 6.060 of the LUDO.

IV. CONCLUSION

Petitioner seeks a formal City Council interpretation of the applicable parking and driveway requirements that mandate the accommodation of four separate vehicles, without any encroachment into the public right of way and without the creation of any unsafe conflicts with on-site circulation. Based on the foregoing, because the Property cannot accommodate four off-site parking spaces without the garage, Petitioner respectfully requests that:

1. The City Council declare that the Property is in violation of Section 7.070 of the LUDO based upon the failure to provide four functional off-street parking spaces for the duplex on the subject Property;

2. The City Council declare that the Property is in violation of Section 6.060 of the LUDO based upon the failure to provide a driveway design (to accommodate the 4 mandatory spaces) which prevents vehicles from backing up into the flow of traffic on Blakely Drive and which causes unsafe conflicts with on-site circulation by blocking unobstructed ingress and egress; and

3. The City Council prohibit continued use of the Property as a duplex unless the garage is restored to provide a fourth functional off-street parking space (this would effectively allow the continued nonconforming status for the duplex while assuring compliance with the City's off-street parking requirements); or, in the alternative,

4. If the Owner chooses not to restore the garage to provide a legitimate parking space, that the City Council limit use of premises to a single family dwelling which does not require four off-street parking spaces because the expansion of the nonconforming duplex use cannot satisfy the requirements of the City's LUDO.

DATED this 15th day of May, 2012.

Respectfully submitted,

REEVES, KAHN, HENNESSY & ELKINS



Peggy Hennessy, OSB #872505

Attorney for Petitioner Jennifer Blevins



CITY OF THE DALLES

313 COURT STREET
THE DALLES, OREGON 97058

(541) 296-5481 ext. 1122
FAX (541) 296-6905

August 24, 2010

FILE COPY

Mr. David J. Bustos
P.O. Box 113
The Dalles, OR 97058

Re: 1215 and 1217 Blakely Drive

Dear Mr. Bustos:

It is my understanding you recently purchased the property located at 1215 and 1217 Blakely Drive. As you may be aware, the City has approved the property for the use as a duplex as a non-conforming use. One of the conditions for the non-conforming use to continue is that the residential off-street parking requirements of the City's Land Use and Development Ordinance must be met. These requirements provide that four off-street parking spaces must be provided.

I have recently received concerns raised by local neighbors who are convinced that there is not sufficient room in the existing driveway to allow for the parking of four vehicles. The neighbors have claimed that they have observed the back part of certain vehicles hanging out into the street while they are parked in the driveway, which is a violation of the City's ordinances.

In order to address the neighbor's concerns, I would like to meet with you to discuss these concerns, and what your plans are to ensure that the off-street parking requirements will be satisfied. Please contact my office to schedule an appointment at your earliest convenience.

Very truly yours,

Gene E. Parker
Gene E. Parker
City Attorney

Exhibit 1
Page 1 of 1







Exhibit 2
Page 3 of 5



Exhibit 2
Page 4 of 5



Exhibit 2
Page 5 of 5

Gene Parker

From: John Dennee
Sent: Thursday, April 22, 2010 5:00 PM
To: Gene Parker
Subject: 1215 Blakely Dr.

Gene,

I made contact with David Bustos today regarding his plans for the duplex at 1215 Blakely Drive. His plans are to do some remodeling and maintain it as a duplex. As reported to you this morning he had the third meter head removed by PUD in the past two or three weeks since he acquired the property. The present tenants have been notified that they are to vacate the premises within the next week or so. He said that there are at least five unrelated adults living in the one duplex. His intent is to have the new renters keep their vehicles on the parking area and not hanging out into the public right of way.

Ample space is available to park four vehicles, which is the minimum for the two dwelling units planned for the property.

I asked him to keep us in the loop and to give us a call if he has any questions.

John



CITY OF THE DALLES

313 COURT STREET
THE DALLES, OREGON 97058
(541) 296-5481 ext. 1122
FAX (541) 296-6906

March 4, 2011

Ms. Peggy Hennessy
Reeves, Kahn, Hennessy & Elkins
Attorneys at Law
4035 SE 52nd Avenue
P.O. Box 86100
Portland, OR 97286-0100

Re: 1215 & 1217 Blakely Drive, The Dalles, Oregon

Dear Ms. Hennessy:

In response to your letter of February 22, 2011, Section 7.060 of the City's Land Use and Development Ordinance, which provides that a structure including two dwelling units must provide four off-street parking spaces, does not contain any specific requirements as to the dimensions for such parking spaces. Section 7.020.020 of the LUDO provides that development applications for one and two family structures are subject to the appropriate requirements of Section 6.060, Driveway and Entrance Standards. A copy of Section 6.060 is enclosed for your reference.

Section 6.060.020 provides that "The length of driveways shall be designed to accommodate the anticipated storage length for entering and exiting vehicles to prevent vehicles from backing up into the flow of traffic on a public street or causing unsafe conflicts with on-site circulation". The City's Planning Code Enforcement Officer has inspected the driveway for the subject properties, and has determined that there is sufficient space to satisfy the City's requirement for four off-street parking spaces.

If it is established that vehicles are being parked in the driveway in such a manner that they violate the above cited provisions, the City will pursue appropriate enforcement proceedings to ensure that the use of the off-street parking spaces complies with our LUDO.

Very truly yours,

Gene E. Parker
Gene E. Parker
City Attorney

Exhibit 4
Page 1 of 1

cc: Planning Department

COPY

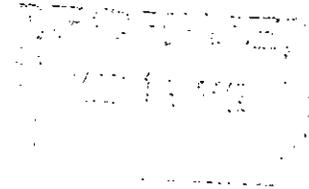


CITY OF THE DALLES

313 COURT STREET
THE DALLES, OREGON 97058

(541) 296-5481 ext. 1122
FAX (541) 296-6906

Ms. Peggy Hennessy
Reeves, Kahn, Hennessy & Elkins
4035 SE 52nd Avenue
P.O. Box 86100
Portland, OR 97286-0100



Re: 1215-1217 Blakely Drive

Dear Peggy:

For your information, I am enclosing copies of photographs that were taken by the Planning Code Compliance Officer on March 31, 2011 and April 26, 2011. These photographs show the yellow areas that mark off three parking areas on Mr. Bustos's driveway. The photographs also show a dividing mark in the middle parking area.

The diagram showing the measurements of the parking area, which has been provided to you, show that the width of this area adjacent to the structure measures a total of 27 feet, 11 inches. The enclosed photographs show that on the left side of the driveway, there is sufficient room for a parking space that would measure at least 18 feet in length by 9 feet in width; the center area can accommodate two parking spaces that would measure at least 18 feet in length by 9 feet in width; and the right side of the driveway can accommodate a parking space which measures at least 18 feet by 9 feet.

Although these pictures show a recycling container and waste container in a portion of the parking area, it is Mr. Bustos's responsibility to ensure the vehicles fit within the area that can provide parking spaces. The City's position is that his property is in compliance with our LUDO requirements, and we will not pursue any enforcement action unless there is documented evidence that the LUDO has been violated.

Very truly yours,

Gene E. Parker
Gene E. Parker
City Attorney

cc: John Dennee

Exhibit 5
Page 1 of 1



CITY of THE DALLES

313 COURT STREET
THE DALLES, OREGON 97058

(541) 298-5481 ext. 1125
FAX: (541) 298-5490
Community Development Dept.

Memorandum

To: Peggy Hennessy, REEVES, KAHN, HENNESSY & ELKINS
From: Daniel C. Durow, Community Development Director 
Date: July 3, 2012
Re: Off-Street Parking Requirements; Petition for Interpretation of Code

The City Council was sent a petition from you on behalf of your client, Ms. Blevins, for an interpretation of the City's Land Use and Development Ordinance (LUDO), specifically the off-street parking requirements. The City attorney advised that interpretations of the LUDO are first provided by the Community Development Director as outlined in the procedures described in the LUDO. The Director's interpretation can then be appealed to the Planning Commission, which can subsequently be appealed to the City Council.

City staff, including the City Attorney, Code Enforcement Officer, Senior Planner, and myself, has reviewed your petition for interpretation of the LUDO, along with the extensive files on this issue, specifically for off-street parking requirements in a residential zone. The LUDO Sections 7.060 and 6.060 are specifically cited in your petition.

It is clear, and agreed, that the residential use at 1215 & 1217 Blakely Drive is a two family dwelling. It is also clear, and agreed, from the language in Section 7.060 of the LUDO that four (4) off-street parking spaces are required for a two family residential dwelling.

The LUDO Section 6.060 Driveway and Entrance Standards, and specifically Section 6.060.020 General Standards, states that "[t]he length of driveways shall be designed to accommodate the anticipated storage length for entering and exiting vehicles to prevent vehicles from backing up into the flow of traffic on a public street or causing unsafe conflicts with on-site circulation". There are no length or width standards indicated for residential off-street parking spaces in the LUDO. Section 6.060.020 of LUDO provides that there should be enough room for four vehicles to park and not violate the intent, which is to not block the flow of traffic or cause other unsafe, on-site conditions.

Every property has conditions that are unique and these must be considered in the context of the site. In this case, although not in an ideal configuration, the record shows that there is sufficient room to

park four vehicles of 'standard size' and not violate the general intent in Section 6.060.020. This standard size would be a reasonable "anticipated" storage length needed to meet the general intent. Whether the residents in fact always park accordingly is an enforcement issue. If the four vehicles parking at this site were extended cab, dual-wheel, pickup trucks, then from a practical standpoint the general intent of this section may not be met because the vehicles could block the flow of traffic or cause some on-site safety issues. It is also reasonable to believe that as many as six or eight Smart Cars could park in this same space and not violate the general intent.

However, these situations do not change the fact that there is sufficient room for parking four vehicles of a more standard size or in various sizes to fit the spaces. Since there are no stated length or width standards for residential off-street parking, having sufficient room for standard size vehicles would be the correct and reasonable interpretation of the general intent stated in Section 6.060.020. The record shows that the general intent for off-street, residential parking provided at this two-family dwelling has been met.



CITY OF THE DALLES
NOTICE OF APPEAL FOR LAND USE DECISIONS

APPELLANT'S NAME & ADDRESS: Jennifer Blevins
1212 Blakely Drive
The Dalles, OR 97058

Please state the reasons why the appellant qualifies as a party entitled to file a notice of appeal:
Appellant Jennifer Blevins, qualifies as a party entitled to file a notice of appeal because she was the Petitioner seeking an interpretation of the applicable parking and driveway requirements that mandate the accommodation of four separate vehicles, without any encroachment into the public right of way and without the creation of any unsafe conflicts with on-site circulation.

Please provide the date and a brief description of the decision being appealed:
The decision is dated July 3, 2012; however, it was mailed on July 5, 2012. The Community Development Director ("Director") agreed that the residential use of the subject duplex property requires provision of four (4) off-street parking spaces. Then, he found that the record shows that there is sufficient room to park four vehicles of "standard size" and there is no violation of the general intent of Section 6.060.020. A copy of the Director's Decision is attached hereto.

Please cite the specific grounds why the decision should be reversed or modified, and cite the applicable criteria or procedural error which supports the grounds for the appeal:*

The subject property is in violation of Section 6.060 of the LUDO based upon the failure to provide a driveway design (to accommodate the 4 mandatory spaces) which prevents vehicles from backing up into the flow of traffic on Blakely Drive and which causes unsafe conflicts with on-site circulation by blocking unobstructed ingress and egress.

(see attached pages for additional explanation of the grounds for appeal)

*Additional sheets may be attached as necessary to this form explaining the appeal grounds

7/14/12 Appeal fee received

Continued explanation of the specific grounds why the decision should be reversed:

While the City code does not specify mandatory dimensional requirements for each parking space, the City's own parking lot has *standard* spaces which are 9 feet by 18 feet. There is *no* available area in the designated parking area of the duplex to accommodate four 9 by 18-foot parking spaces on site.

The evidence in the record shows that actual use of the parking area often results in vehicles extending into the public right of way or impeding on-site circulation, in violation of LUDO Section 6.060.020, which provides that:

[t]he length of driveways shall be designed to accommodate the anticipated storage length for entering and exiting vehicles to prevent vehicles from backing up into the flow of traffic on a public street or causing unsafe conflicts with on-site circulation.

The Director erred in finding that the parking situation is consistent with the intent of this section, when the evidence shows repeated violations. He further erred in determination that the recurring code violations (extension into the public right of way and creation of unsafe conditions on site) are merely *enforcement* issues which are unrelated to the question of whether four vehicles *can* be accommodated on site.

The fact that four Smart Cars *could* fit in the designated parking area does not satisfy the requirement for four *standard* parking spaces. None of the tenants has a Smart Car and there is no requirement that all duplex tenants drive Smart Cars. Therefore, the size of a Smart Car is not a relevant consideration. There is *no* evidence in the record showing four lawfully parked *standard sized* vehicles.

Prior to conversion of the garage to living space, there were four *legitimate* parking spaces on site: three in front plus the garage. Upon the conversion of the garage, one space was lost and it has not been replaced. The Director cannot simply state that there is *sufficient* room for four vehicles in light of the well-documented and repeated situations in which the vehicles extend from the parking area into the public right of way.

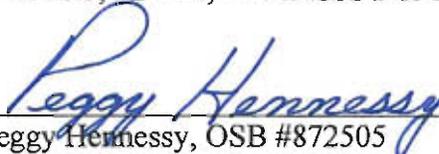
Based upon the foregoing, we respectfully request that the planning commission reverse the Director's decision and enforce the requirement for four off-street parking spaces by:

- 1) Restoring the garage parking space; or
- 2) Creating a fourth parking space on the property that is otherwise consistent with the City's code requirements.

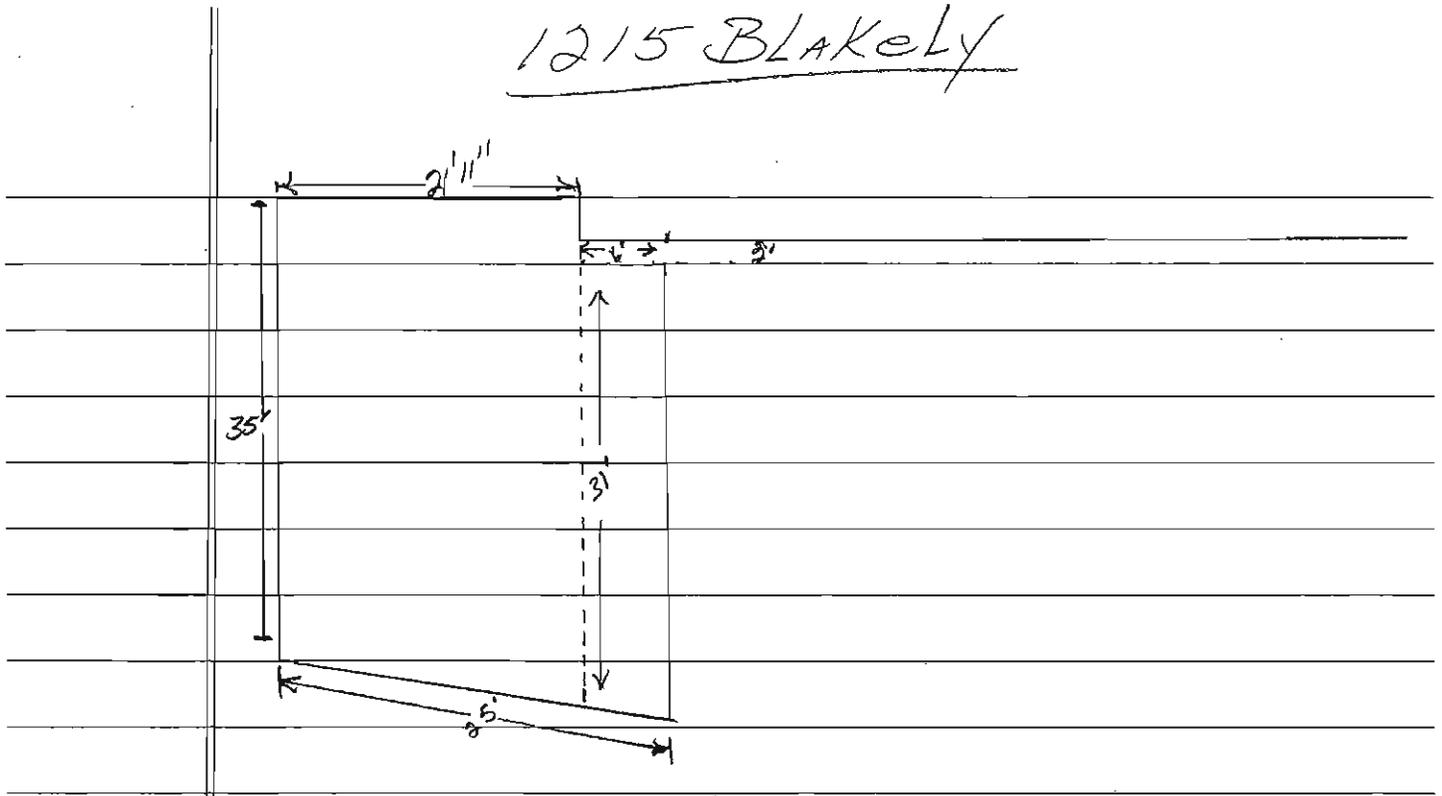
DATED this 13th day of July, 2012.

Respectfully submitted,

REEVES, KAHN, HENNESSY & ELKINS


Peggy Hennessy, OSB #872505
Of Attorneys for Appellant, Jennifer Blevins

1215 Blakely



City of The Dalles

Staff Report

Adjustment No. 12-016

Spiro Sassalos

Prepared by: Dick Gassman, Senior Planner

Procedure Type: Quasi-judicial

Hearing Date: September 20, 2012

Assessor's Map: 1N 13E 11BB, tax lot 8600

Address: 1815 Nevada Street

Comprehensive Plan Designation: "RL/NC" Low Density Residential District with Neighborhood Center Overlay

Zoning District: "RL/NC" Low Density Residential District with Neighborhood Center Overlay

City Limits: Inside

Request: To place a home on a lot without meeting the front yard setback requirements of the Land Use and Development Code (LUDO).

BACKGROUND INFORMATION

The subject property is currently vacant. The lot is at the northwest corner of East 19th and Nevada Streets. The right of way adjacent to this lot is unusually wide as compared to the right of way of the lot to the north. The applicant is seeking an adjustment to the front yard setback requirement.

This is a quasi-judicial adjustment request as specified in LUDO Section 3.080.020 D. 1.

NOTIFICATION

Property owners within 300 feet, City Departments and other agencies were mailed a notice on September 10, 2012 as required by sections 3.080.030 and 3.020.050

COMMENTS

No comments have been received as of the time of preparation of this staff report. If comments are received prior to the hearing, those will be presented to the Commission at the hearing.

REVIEW

A. LAND USE AND DEVELOPMENT ORDINANCE 98-1222

Section 3.010.040 Applications

B. Completeness. An application shall be considered complete when it contains the information required by this Ordinance, addresses the appropriate criteria for review and approval of the request, and is accompanied by the required fee, unless waived by the City Council per Section 1.120: Fees of this Ordinance. Complete applications shall be signed and dated by the Director.

FINDING #1: The application was found to be complete on August 28, 2012. Criterion met.

Section 3.020.050 Quasi-judicial Actions

A. Decision types. Quasi-judicial actions include adjustments.

FINDING #2: This application is for an Adjustment per Section 3.080.

Adjustments may be either administrative actions or quasi-judicial actions. The specific request is for an adjustment to the front yard setback, more than 33%, but less than 50%, putting this in the quasi-judicial action process per Section 3.080.020 D. Criterion met.

B. Staff Report. The Director shall prepare and sign a staff report for each quasi-judicial action, 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 with conditions, or denial.

FINDING #3: The staff report will detail criteria and standards relevant to a decision, all facts will be stated, and explanations given. This will be detailed through a series of findings directly related to relevant sections and subsections of the ordinance as they relate to this request. Criterion met.

C. Public Hearing. Applications for quasi-judicial planning actions shall be heard at a regularly scheduled Commission or Council meeting with 45 days from the date the application is deemed complete.

FINDING #4: The 45 day deadline from August 28, 2012 is October 12, 2012.

The hearing is scheduled for September 20, 2012, within the required time line. Criterion met.

D. Notice of Hearing. At least 10 days before a scheduled quasi-judicial public hearing, notice of the hearing shall be mailed to a variety of individuals, including the applicant and owners of property within 300 feet.

FINDING #5: The appropriate notices were mailed on September 10, 2012. Criterion met.

Section 3.080.030 Review Procedures

Quasi-Judicial Adjustment review procedures shall be the same as those specified for Quasi-Judicial Actions in Subsection 3.020.020 B 2.

FINDING #6: The application has been reviewed as required in Subsection 3.020.020 B 2. Criterion met.

Section 3.080.040 Review Criteria

A. An adjustment will be approved if the review body finds that the applicant has shown that either approval criteria 1 through 5 or 6 through 8 below, has been met.

1. If in a residential zone, the proposal will not significantly detract from the livability or appearance of the residential area.
2. If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project which is still consistent with the overall purpose of the zone; and
3. City designated scenic resources and historic resources are preserved; and
4. Any impacts resulting from the adjustment are mitigated to the extent practical; and
5. If in an environmental sensitive area, the proposal has as few detrimental environmental impacts on the resource and resource values as is practicable,
Or
6. Application of the regulation in questions would preclude all reasonable economic use of the site; and
7. Granting the adjustment is the minimum necessary to allow the use of the site; and
8. Any impacts resulting from the adjustment are mitigated to the extend practical.

FINDING #7:

7. 1. This is a residential zone. Approval of this adjustment will not significantly detract from the livability or appearance of the area. The lot fronts on both East 19th and Nevada Streets, but the access will be from Nevada. The requested setback reduction will not be obvious from either East 19th or Nevada due to the unusual arrangement of the right of way on the Nevada Street frontage.

7. 2. Only one adjustment is requested.

7. 3. There are no City designated scenic or historic resources involved with this

request.

7. 4. No mitigation is recommended since the setback will appear to be normal.

7. 5. The area is not an environmentally sensitive area.

Criteria 1 through 5 met.

B. Additional Criteria. If the applicant meets the approval criteria above, then the Approving Authority may also take into consideration, when applicable, whether the proposal will:

1. Result in a more efficient use of the site;
2. Provide adequate provisions of light, air, and privacy to adjoining property;
3. Provide for accessibility, including emergency vehicles, per City standards;
4. Result in a structure that conforms to the general character of the neighborhood or zone district;
5. If a reduced number of parking is requested, provide adequate parking based on low demand users, or supplement on-site parking with joint use agreements.

FINDING #8: The requested adjustment would result in a more efficient use of the site since it would allow more use of the back yard. It would also allow more use of the unusually wide right of way on Nevada which affects this lot only. Criteria met.

3.080.050 Conditions of Approval

In granting the adjustment, the Approving Authority may attach any reasonable conditions deemed necessary to insure that the review criteria are met.

FINDING #9: Recommended conditions of approval are listed below. Criterion met.

RECOMMENDATION: The request to place a dwelling on the lot without meeting the standard front yard setback requirement of the LUDO should be approved with the following conditions:

1. Except as modified by this decision, all development must be completed in accordance with Land Use and Development Ordinance 98-1222, as amended.
2. The applicant can place a porch in the front yard up to three feet from the front property line.

VARIANCE APPLICATION
Adjustment

CITY OF THE DALLES
Community Development Department
313 Court Street
The Dalles, OR 97058
(541) 296-5481, ext. 1125
Fax (541) 298-5490
www.ci.the-dalles.or.us

Date Filed 8/28/2012
File# 120-12
Date Deemed Complete 8/28/2012
Hearing Date 9/20/2012
Approval Date _____
Permit Log # _____
Other Cross Reference# _____

APPLICANT

LEGAL OWNER (If Different than Applicant)

Name SPINO SASSALOS

Name Same

Address 30564 SE HALEY Rd
Boring, OR 97009

Address _____

Telephone # 503-793-7275

Telephone # _____

E-mail Address S. SASSALOS@COMPAST.NET

*If applicant is not the legal owner, attach either [1] owner consent letter, or; [2] copy of earnest money agreement, or; [3] copy of lease agreement.

PROPERTY INFORMATION

Address 1726 E 19th (1815 Nevada)

Map and Tax Lot IN 13E 11BB tax lot 8600

Size of Development Site _____

Zone District/Overlay RL/NC

Comprehensive Plan Designation _____

REQUEST

- New Construction Expansion/Alteration Change of Use Amend Approved Plan

Brief Explanation: Requests a 3 foot setback in front yard for a porch rather than 5 foot as required in HUDO.

JUSTIFICATION OF REQUEST

- 1. What are the special circumstances (size, shape or topography of lot, location of surroundings) that do not apply to other properties in the same vicinity and zone?

It is highly unlikely that Nevada Street will ever be widened due to the slope of the existing terrain and its position to 19th Street. In addition, my property is the only property in the intersection that would be affected by the widening of Nevada.

- 2. What difficulties and unnecessary hardships will be created without a variance to the Ordinance?

It would not allow the best site layout of the property. There is approximately 17ft of distance between the curb and the property line, which would create an extended driveway, a deep front yard and a smaller rear yard. Having a smaller rear yard is not as marketable & it would also increase our driveway costs substantially.

- 3. Explain why the variance will not be detrimental to the public safety, health and welfare.

In my opinion, a variance as requested would not have any negative effect on public safety, health or welfare. There would still be a standard front set back and as stated in #2, I believe it would actually be safer, in the event there are children at the residence.

- 4. Explain why this variance, if granted, would not be contrary to the intent of the Zoning Ordinance.

I assume that the residential zoning of this lot was created to fit into the overall neighborhood and meet the housing demands of the immediate area and the street right away was created for the future growth if it were ever needed.

PARKING INFORMATION

Total Number of Spaces Proposed _____ Total Number of Handicap Spaces Proposed _____

Total Number of Compact Spaces Proposed _____ What material will be used for the surface of the parking area _____.

LANDSCAPING INFORMATION

Total Square Footage Landscaping Proposed _____ Percent of Landscaping Irrigated _____

ECONOMIC DEVELOPMENT INFORMATION

Proposed Project is located in the Enterprise Zone

_____ Full Time Equivalent (FTE) jobs are currently provided.

_____ FTE jobs are expected to be created by the proposed project.

UTILITIES

How will the site be served with water and sewer?

Water: City Water Chenoweth Irrigation Private Well

Sewer: City Sewer Private Septic

Signature of Applicant

[Handwritten Signature] 8/28/12
Date

Signature of Property Owner*

[Handwritten Signature] 8/28/12
Date

* Notarized Owner Consent Letter may substitute for signature of property Owner

NOTE: This application must be accompanied by the information required in Section 3.070: Variance, contained in Ordinance No. 98-1222, The City of The Dalles Land Use and Development Ordinance.

PLANS SUBMITTED:

At least 15 copies of concept site plan.

2 copies detailed landscape plans

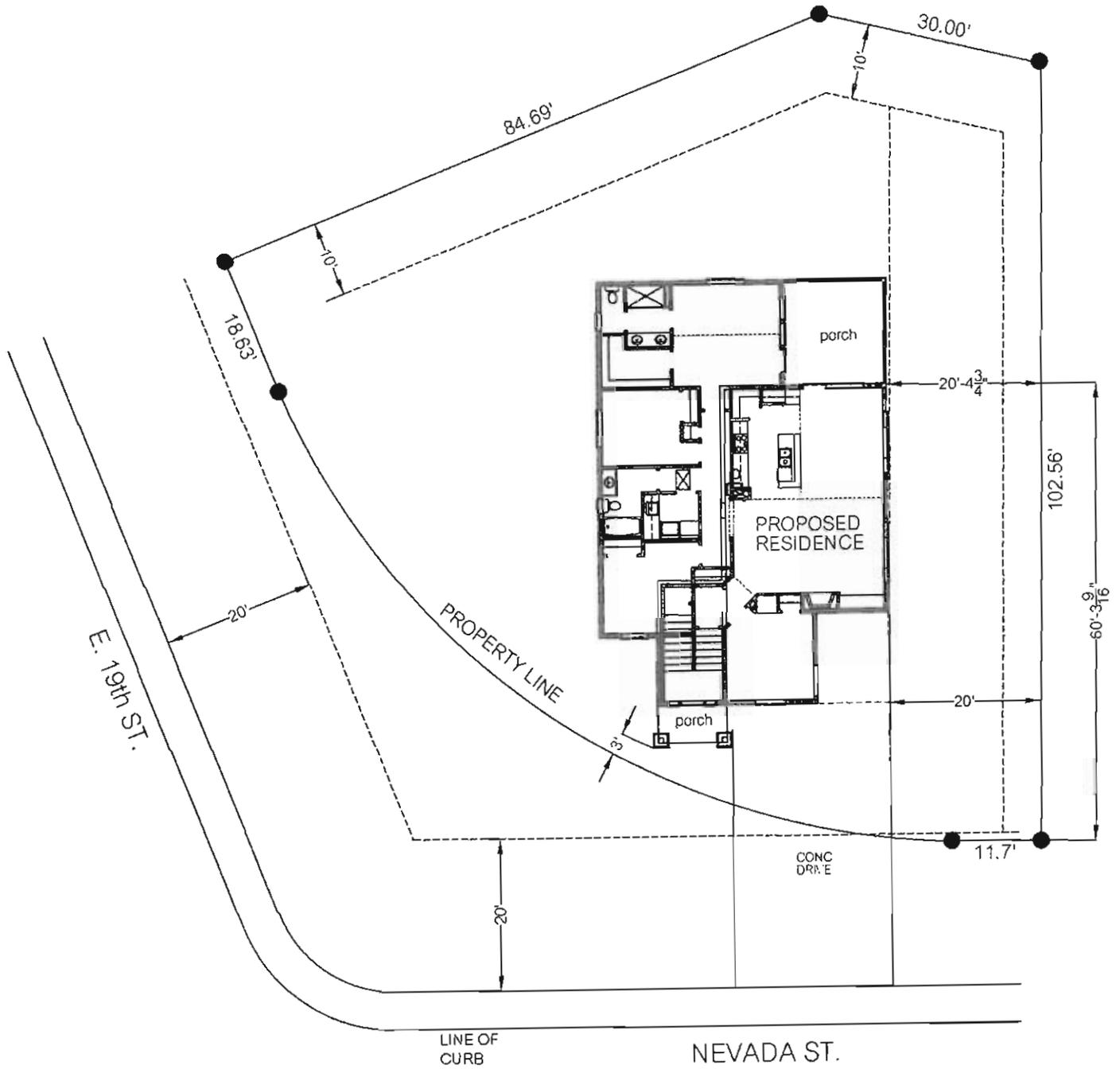
2 copies construction detail plans

INFORMATION REQUIRED WITH APPLICATION

There are 3 types of plan information that can be combined on the same plan or separated onto different plans and reviewed at different times through the approval process. The minimum plan requirements which must accompany a Site Plan Review Application are those specified in the Concept Site Plan below.

1. Concept Site Plan. The concept site plan shall clearly indicate all of the following information applicable to the particular development proposal.

- Project Name
- A separate vicinity map indicating location of the proposed development.
- Scale – The scale shall be at least one inch equals 50 feet (1:50), unless a different scale is authorized by the Director.



SITE PLAN
 SCALE: 1"=20'



RESOLUTION NO. P.C. 527-12

Approval of Adjustment Application 12-016 of Spiro Sassalos to place a home on a lot without meeting the front yard setback requirements of the Land Use and Development Code (LUDO).

I. RECITALS:

- A. The Planning Commission of the City of The Dalles has on September 20, 2012 conducted a public hearing to consider the above request. A staff report was presented, stating the findings of fact, conclusions of law, and a staff recommendation.
- B. Staff's report of Adjustment 12-016 and the minutes of the September 20, 2012 Planning Commission meetings, upon approval, provide the basis for this resolution and are incorporated herein by reference.

II. RESOLUTION:

Now, therefore, be it FOUND, DETERMINED, and RESOLVED by the Planning Commission of the City of The Dalles as follows:

- A. In all respects as set forth in Recitals, Part "I" of this resolution. Adjustment 12-016 is hereby approved with the following conditions of approval:
 - 1. Except as modified by this decision, all development must be completed in accordance with Land Use and Development Ordinance 98-1222, as amended.
 - 2. The applicant can place a porch in the front yard up to three feet from the front property line.

III. APPEALS, COMPLIANCE, AND PENALTIES:

- A. Any party of record may appeal a decision of the Planning Commission to the City Council for review. Appeals must be made according to Section 3.020.080 of the Land Use and Development Ordinance, and must be filed with the City Clerk within ten (10) days of the date of mailing of this resolution.
- B. Failure to exercise this approval within the time limits set either by resolution or by ordinance will invalidate this permit.
- C. All conditions of approval must be met within the time limits set by this resolution or by ordinance. Failure to meet any condition will prompt enforcement proceedings that can result in: 1) permit revocation; 2) fines of up to \$500.00 per day for the violation period; 3) a civil proceeding seeking injunctive relief.

The Secretary of the Commission shall (a) certify to the adoption of the Resolution; (b) transmit a copy of the Resolution along with a stamped approved/denied site plan or plat to the applicant.

APPROVED AND ADOPTED THIS 20th DAY OF SEPTEMBER, 2012.

Bruce Lavier, Chairman
Planning Commission

I, Dan Durow, Community Development Director for the City of The Dalles, hereby certify that the foregoing Resolution was adopted at the regular meeting of the City Planning Commission, held on the 20th day of September, 2012.

AYES:

NAYS:

ABSENT:

ABSTAIN:

ATTEST: _____
Dan Durow, Community Development Director
City of The Dalles

