



CITY of THE DALLES

313 COURT STREET
THE DALLES, OREGON 97058

(541) 296-5481 ext. 1125
FAX: (541) 298-5490
Planning Department

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, OCTOBER 3, 2013
6:00 PM

- I. CALL TO ORDER
- II. ROLL CALL
- III. APPROVAL OF AGENDA
- IV. APPROVAL OF MINUTES - August 22, 2013
- V. PUBLIC COMMENT (Items not on the Agenda)
- VI. **LEGISLATIVE HEARING**
Application Number: ZOA 85-13; City of The Dalles; Request: Amendments to the Land Use and Development Ordinance as they pertain to the provisions of House Bill 3479.
- VII. STAFF COMMENTS
- VIII. COMMISSIONER COMMENTS/QUESTIONS
- IX. NEXT SCHEDULED MEETING DATE
October 17, 2013
- X. ADJOURNMENT

CITY OF THE DALLES PLANNING COMMISSION MINUTES

Thursday, August 22, 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:

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

ROLL CALL:

BOARD MEMBERS PRESENT:

Chris Zukin, Dennis Whitehouse, Mike Zingg, Jeff Stiles, Mark Poppoff

BOARD MEMBERS ABSENT:

Bruce Lavier, Rob Raschio

STAFF MEMBERS PRESENT:

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

APPROVAL OF AGENDA:

Administrative Secretary Trautman noted the next scheduled meeting date should be changed from June 20, 2013 to September 5, 2013. It was moved by Zingg and seconded by Whitehouse to approve the agenda as amended. The motion carried unanimously; Lavier and Raschio were absent.

APPROVAL OF MINUTES:

It was moved by Whitehouse and seconded by Stiles to approve the July 18, 2013 minutes as submitted. Zukin, Whitehouse, Poppoff, and Stiles voted in favor; Zingg abstained. The motion carried; Lavier and Raschio were absent.

PUBLIC COMMENT:

None.

QUASI-JUDICIAL HEARINGS:

Application Number: CPA 40-13 and ZOA 84-13; **Karl Rozentals; Request: Application to gain approval to change the Comprehensive Plan Map and Zoning Ordinance Map from RM – Medium Density Residential to NC-Neighborhood Center Overlay District. The property is located at 1015 Walnut Street, The Dalles, Oregon and is further described as 2N 13E 33CC t.l.1100. Property is zoned “RM” – Medium Density Residential District.**

Acting Chair Zukin read the rules for a public hearing and asked if the board members had any ex-parte contact, bias, or conflict of interest that would prohibit them from making an impartial decision. None were noted.

Acting Chair Zukin opened the public hearing at 6:06 p.m.

Director Gassman presented an overview of the staff report. Gassman noted the property owner had owned the property and operated the property as a commercial use for many years. When he came into the Planning Department, it was discovered that there were no public records regarding the applicant’s file. The assumption, Gassman stated, was that there were no permits or land use issues evident over the last 30 years since the City’s

jurisdiction. Therefore, Gassman said, no one knew how the property went from a commercial zone to an RM zone. Staff recommended approval of the zone and map change because it seemed the fair thing to continue the commercial usage, and there was a good amount of commercial property across the street from the applicant's property.

Whitehouse asked if the request for commercial zoning was only for this one parcel, and would adjacent properties, in the future, need to go before the Planning Commission to request a commercial usage. Gassman said the request was only for the one parcel, and other nearby parcels would be required to go before the Planning Commission. Other nearby property owners would have a more difficult time requesting commercial usage, Gassman explained, because the commission probably would not grant an extension of the NC zoning. The only reason this request was supported by staff was because the property had operated for many years as a commercial usage and may have, at one point, been zoned commercial. Gassman said there had been no complaints or comments from citizens over the years regarding Mr. Rozental's current commercial usage.

Poppoff noted earlier in the meeting that the acreage size listed in the staff report should be changed from 2.26 acres to .226 acres.

Testimony:

Proponents

Karl Rozentals, 2103 East 12th Street, The Dalles, Oregon, stated that when he purchased the property in 1972, it was zoned commercial through the County. As he expanded his business, it doubled in size. When he came in to the City Planning Department, he was "dumbfounded" that the property was not zoned properly.

No questions were asked by the board members.

Opponents

None.

Acting Chair Zukin closed the public hearing at 6:12 p.m.

Deliberation

None.

It was moved by Stiles and seconded by Poppoff to recommend approval to the City Council, including the amended acreage size of .226 acres, requesting a rezone from RM to NC for the lot located at 1015 Walnut Street, based upon findings of fact presented in the staff report, staff recommendation, and the hearing testimony. The motion carried unanimously; Lavier and Raschio were absent.

RESOLUTIONS:

It was moved by Zingg and seconded by Whitehouse to approve P.C. Resolution #533-13, CUP #40-13 and ZOA #84-13, applicant Karl Rozentals, as submitted. The motion carried unanimously; Lavier and Raschio were absent.

STAFF COMMENTS:

Staff handed out information on the upcoming Planning Commissioner Training Conference to be held in Portland, Oregon on September 26, 2013.

Director Gassman advised that the Planning Department posted a part time Associate Planner position. If the position is filled, the planner would start in October or November.

Director Gassman reported that he and City Attorney Parker had developed Land Use and Development Ordinance amendments pertaining to House Bill #3479. Following due process, Gassman stated, the proposed changes would go before the Planning Commission the first week of October. Gassman said the second part, not yet developed, would be a broad based discussion on the residential infill issue. This portion of the City Council's directives, would be discussed by the Planning Commission this fall. The strategy would be to start with the big concepts, try to obtain a consensus on those concepts, and work backwards from there to attempt to come to an understanding of the smaller details. Chair Zukin asked if the Planning Commissioners could invite others from the community to participate in the discussions. Gassman said that would be allowed, because such discussions were different from the more formal public hearing. Eventually, Gassman stated, the Planning Commission would make recommendations to the City Council.

NEXT MEETING:

September 5, 2013

ADJOURNMENT:

Acting Chair Zukin adjourned the meeting at 6:24 p.m.

Respectfully submitted by Carole J. Trautman, Administrative Secretary

Bruce Lavier, Chairman

**City of The Dalles
Planning Commission Staff Report**

**Amendments to the
Land Use and Development Ordinance**

ZOA 85-13

Prepared by: Richard Gassman, Planning Director *RLG*

For: City of The Dalles Planning Commission

Procedure Type: Legislative Hearing

Meeting Date: October 3, 2013

Request: Amendments to the Land Use and Development Ordinance

Properties: All properties within the City of The Dalles land use jurisdiction

Applicant: City of The Dalles
Planning Department
313 Court Street
The Dalles, OR 97058

BACKGROUND INFORMATION

The Land Use and Development Ordinance (LUDO) contains the City's procedural and substantive requirements for land division, property development, and zoning. From time to time the City amends the base document as needed to keep the LUDO up to date. The list of amendments attached to this staff report is in response to House Bill 3479, passed by the State of Oregon during the last legislative session.

This application is a legislative action under the provisions of Section 3.110.020 and 3.020.060(A)(2). The role of the Planning Commission is to review the proposed amendments, amend as needed, and forward a recommendation to the City Council. The final decision on the proposed amendments will be made by the City Council.

NOTIFICATION

Notice of this public hearing was published in The Dalles Chronicle on September 22, 2013. Notice of the proposed amendments was sent to the State Department of Land Conservation and Development on August 20, 2013.

COMMENTS

As of the date of the preparation of this staff report, no comments had been received.

REVIEW

A. LAND USE AND DEVELOPMENT ORDINANCE 98-1222

1. PROCEDURE

a. Section 3.010.040 Applications:

FINDING A-1: This application is initiated by the Director pursuant to the provisions of Section 3.010.040 F. Criterion met.

b. Section 3.020.060 Legislative Actions:

Subsection A. Decision types. 2. Ordinance Amendments:

FINDING A-2: This application is for a group of Ordinance Amendments per Section 3.110. Criterion met.

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

FINDING A-3: The public hearing has been set for October 3, 2013. Criterion met.

d. Section 3.020.060 Legislative Actions:

Subsection C. Notice of Hearing. At least 10 days before the legislative hearings, notice of the hearing shall be published in a newspaper of general circulation.

FINDING A-4: A notice of hearing containing the information required was published in The Dalles Chronicle on September 22, 2013. Criterion met.

e. Notice of Hearing as required by ORS 227.186.

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

FINDING A-5: Staff has determined that none of the proposed amendments comes within the definition of rezone as contained in the statute. Notices to individual property owners were not required. Criterion met.

f. Section 3.020.070(A)(3) Staff Report.

A staff report shall be presented which identifies the criteria and standards applying to the application and summarizes the basic findings of fact. The staff report may also include a recommendation for approval, approval with conditions, or denial.

FINDING A-6: The staff report has identified the criteria and standards as they relate to this application and has summarized the basic findings of fact. The staff report does include a recommendation for approval. Criterion met.

2. REVIEW

a. Section 3.110.030 Review Criteria

Proposed text amendments shall be consistent with the Comprehensive Plan, and State Laws and Administrative Rules.

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

B. COMPREHENSIVE PLAN

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

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

FINDING B-1: This proposal is consistent with goals and policies of the Comprehensive Plan. A notice of public hearing has been published and the public has an opportunity to provide testimony on the proposed changes to the Commission. The Commission can make alterations in the proposed amendments based on testimony at this hearing. There will be another public hearing before the City Council and that body will also have the opportunity to consider testimony from citizens and make changes. Criterion met.

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

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

FINDING B-2: These amendments update the existing zoning ordinance, following the directive of the Comprehensive Plan. Criterion met.

DISCUSSION

In the recent legislative session, the State adopted HB 3479 which prohibits the City of the Dalles from making certain requirements as part of a minor partition. The attached language is intended to bring the City's LUDO into compliance with the provisions of HB 3479. The bold print indicates new language, the strikethrough indicates text to be removed. All of the proposed amendments are subject to revision or elimination.

This is the first part of a two part review. The next part will be a more in depth review of the requirements associated with the residential development process.

STAFF RECOMMENDATION

Staff recommends that the Planning Commission recommend to the Council the approval of the amendments as shown on the attached pages, with any additional changes from the Commission.

Proposed LUDO Amendments to Address
House Bill 3479

1. Definition of "Development" Page 2-6. Revise the definition of development as follows:

Development - Making a material change in the use or appearance of a structure (internal and external) or land, ~~dividing land into two or more parcels,~~ **creation of three or more units of land in a calendar year**, changing the land use designation, or creating or terminating a right of access. Where appropriate to the context, development refers to the act of developing or the result of development. Development includes, but is not limited to, constructing, filling, grading, paving, excavating, and drilling.

2. Section 6.110 **WAIVER OF RIGHT TO REMONSTRATE** Page 6-67. Revise the section to read as follows:

Effective February 12, 2007, an applicant who submits a request for a single family dwelling building permit or a single family accessory structure will not be required to execute a waiver of remonstrance agreement for the formation of a local improvement district. Waivers of remonstrance shall be required for **non-residential** planning actions and for other building permit applications if the proposed development would increase traffic flow on any street not fully improved to City standards. Waiver of remonstrance agreements executed prior to February 12, 2007, shall be processed ~~under the provision of Resolution No. 07-007, establishing an implementation policy for the City Council for local improvement districts under~~ **pursuant to the provisions of General Ordinance No. 91-1127, which set forth the procedures for formation of local improvement districts.**

~~In the event the Director has determined, pursuant to a review of the applicable criteria set forth in Section 3 of Resolution No. 07-007 that installation of full street improvements (including paving, curb, gutter, sidewalk, sanitary sewer, water, and where applicable, storm sewer) is not required at the time of development, the applicant submitting the request for the building permit for a new residential unit or units, or for a planning action shall pay the amount established by the City annually on a front footage basis, into the City's improvement fund, subject to any provision for multi-frontage relief.~~

3. Section 9.020.030(B) Waiver of Right to Remonstrate. Page 9-10. Subsection B would be deleted as follows:
 - B. ~~Waiver of Right to Remonstrate. In all cases, applicants who develop residential rear lots shall agree to waive any future rights to remonstrate against future public improvements, per the provisions of Section 6.110: *Waiver of Right to Remonstrate*. All waivers of right to remonstrate shall be deed recorded.~~

The current subsections (C) through (I) would be renumbered (B) through (H).

4. Section 9.030.040 Partition Application Review, Subsection C, Page 9-17. This section would be revised to read as follows:

(C) Period of Approval. Approval of a partition application shall be valid for a period of one year from the effective approval date. Upon written request, filed with the Director prior to the expiration date, approvals may be extended annually four times provided the relevant provisions of this ordinance have not changed. If **an approval is extended**, any fees or charges, ~~including the pay into the fund option~~, will be assessed at the rate in existence at the time they are paid, not the rate in existence at the time of the original approval. If no final partition plat is submitted within one year, or within any timely extension, the partition application shall become void and a new application required.

5. Section 9.030.050 Final Partition Plat Review. Subsection B. Review of Final Partition Plat Application, Page 9-19. Subsection (B)(2) would be revised to read as follows:

2. ~~Any required improvements not completed shall be subject to the Agreement for Improvement provisions in Section 9.040.050(H): *Installation of Required Improvements*.~~

(a) **For a partition of non-residentially zoned property, on which no existing residential structure is located, any required street improvements (including paving, curb, sidewalk, sanitary sewer, water and where applicable, storm sewer) shall be subject to the Agreement for Improvement provisions in Section 9.040.060(H); *Installation of Required Improvements*.**

(b) **For a partition of a vacant parcel of property which is zoned for residential development, or a partition of a parcel upon which an existing residential structure is located, prior to the approval of the final plat, the applicant shall not be required to install required street improvements; installation of required street improvements shall occur consistent with the provisions of Section 10.030(A).**

6. Section 9.030.050 Final Partition Plat Review. Subsection C. Final Plat Approval. Page 9-19. Subsection C(1) would be revised by inserting the following new subsections (1) and (2):

C. Final Plat Approval. Prior to final approval, the City shall be assured that:

1. ~~The applicant has installed, agreed to install for nonresidential development, or has gained approval to form an improvement district for installation of required improvements in~~

accordance with the provisions of Chapter 10: *Improvements Required with Development*. For a partition of non-residentially zoned property, on which no existing residential structure is located, the applicant has installed, or executed a deferred development agreement, or has gained approval to form an improvement district for installation of required improvements in accordance with the provisions of *Chapter 10: Improvements Required with Development*, or the applicable provisions of General Ordinance No. 06-1275 concerning reimbursement districts. Improvements that may be required include street, street lights or other signals, sanitary sewer, storm drainage, water, pedestrian way and bikeway improvements, electrical power, natural gas, cable television, telephone service, and other improvements required with the partition application.

2. For a partition of a vacant parcel which is zoned for residential development, or a partition of a parcel of property upon which an existing residential structure is located, the applicant's responsibility for installing required public street improvements shall occur in accordance with the provisions of Section 10.030(A).