

CITY OF THE DALLES PLANNING COMMISSION MINUTES

Thursday, October 1, 2009

City Hall Council Chambers

313 Court Streets

The Dalles, OR 97058

Conducted in a handicap accessible room

CALL TO ORDER:

Chair Lavier called the meeting to order at 6:30 pm.

BOARD

MEMBERS PRESENT: Bruce Lavier
Ron Ahlberg
Mark Poppoff
Dean Wilcox
Chris Zukin

BOARD

MEMBERS ABSENT: Benjamin Hoey
Ted Bryant

STAFF PRESENT:

City Attorney Gene Parker
Community Development Department Director Dan Durow
Senior Planner Richard Gassman
Administrative Secretary Brenda Green

APPROVAL OF AGENDA:

It was moved by Ahlberg and seconded by Wilcox to approve the agenda as submitted. The motion carried unanimously; Hoey and Bryant absent.

PUBLIC COMMENT: none

CONTINUATION OF LEGISLATIVE PUBLIC HEARING:

The purpose of the hearing was to receive testimony in preparation of making a recommendation to the City Council regarding the proposed I-84/ Chenoweth Interchange Area Management Plan (IAMP). The hearing was a legislative type hearing pursuant to Land Use and Development Ordinance Section 3.020.060. The hearing was opened on September 17, 2009. At the end of the public testimony the Commission began deliberations and decided to continue the hearing on October 1, 2009 with additional information requested from staff.

Senior Planner Gassman went over the steps remaining to adopt an IAMP. He then discussed the packet that was sent to the commissioners which included a memo from City Attorney Parker regarding condemnation proceedings and inverse condemnation claims. Gassman also distributed and explained a memo distributed to each commissioner, which contained potential language should they decide to

recommend the IAMP with modifications. He then stressed the point that proposing a change to the traffic system is not the problem; the problem is that when traffic gets to an increased level, traffic would dictate the changes that have to be made. The purpose of the IAMP is to mitigate those challenges and find funding sources before the changes are required. He also stressed that if traffic numbers do not reach the benchmarks set out, the proposed changes would not happen.

City Attorney Parker went over the memo regarding condemnation in more detail; and summarized the information for the audience members. He explained that condemnation is a statutory process implemented under the power of eminent domain. Parker went over the steps required by law as well as example cases and the decision made on those cases.

Commissioner Poppoff asked which process the properties along Hostetler would go through if the proposed IAMP was implemented and resulted in a lack of access for them. City Attorney Parker responded that if it became a complete loss of access it would potentially be an inverse condemnation claim, or the City might need to look at acquiring the property and paying just compensation.

Commissioner Ahlberg inquired about how it could be handled if access could be negotiated with an adjacent property owner. City Attorney Parker explained that if there was still a partial loss of access it could still be considered cause for some compensation.

Mark Butorac, consultant with Kittelson & Associates responded to the three issues that were raised at the hearing on September 17, 2009. Butorac explained that in response to the concern regarding the Sixth Street median, the plan for a median was pulled off of the current proposed IAMP and placed onto a list of things to consider during future reviews. In regards to the concerns surrounding a Hostetler underpass, Butorac stated that the undercrossing idea was also being pulled from the current proposal and being put onto the list for future possibilities. He explained that the amended IAMP will utilize the existing at grade crossing. Butorac assured the Commission that once ideas were taken off of the IAMP they would not go back into the plan unless an amendment was approved by all of the involved agencies. He added that the deleted ideas would be available as options during future IAMP reviews and then described the situations that would trigger an IAMP review. The third item that was raised at the last meeting was a closer examination of the Webber Street Interchange. Butorac suggested a modification to the IAMP that would read "ODOT and the City shall work together to identify and pursue funding for the Webber street IAMP". In conclusion, Butorac stated that if the Planning Commission recommends adoption of the modified IAMP the next step will be a hearing before the City Council on October 26, 2009.

Commissioner Zukin inquired if there would be another round of hearings before the plan could be updated. Mr. Butorac replied yes, any major changes to the plan would need to go through the entire legislative hearing process again.

Public Testimony

Doug Hattenhauer; PO Box 1397, stated that he owns the 76 gas station and Pacific Pride at 3902 W 6th St. Mr. Hattenhauer shared his concern that the amendment was only happening due to an interagency agreement between WM3, ODOT and the City. Hattenhauer felt that the proposed IAMP went beyond the normal scope of an IAMP; he then went over information to support his statement; including time frame, interchange capacity, and reasons to modify an IAMP. Hattenhauer also felt that Kittelson and Associates had failed to research several options and traffic flow considerations in

regards to the properties that would be affected. He also felt that Kittelson and Associates had not followed the steps required by not taking input from affected property owners, and by not completing a feasibility study. Hattenhauer stated that if the plan goes through as proposed, his business would be eliminated due to difficulties of customers accessing his property. Hattenhauer felt that the city should invest in its own study rather than relying on the one paid for by ODOT. In conclusion he suggested other locations to create an underpass, suggested not blocking off left turns, and stated that a plan of this size is not necessary based only on speculation.

Chair Lavier pointed out that one of tonight's proposed amendments would delete the option for a median. Mr. Hattenhauer stated that he understood, but that also his left turn from Division would be closed. Chair Lavier asked for clarification of how Mr. Hattenhauer's property would be affected considering the new amendments. Mr. Butorac explained that the only way Mr. Hattenhauer's access point would be closed is if he ever re-developed his property. Mr. Hattenhauer felt that would be acceptable.

Director Durow stated that he understood the community members concerns, stating that it's hard to imagine the day when traffic would be so heavy that there will be a car every three seconds. However, he stated, when that date arrives, all left turns will become impossible and the result will be a defacto right in right out. Durow stated that the purpose of an IAMP is to have a plan on how to fix it before it becomes a problem.

Karen Feil, 3591 Klindt Drive, Ste 220, attorney representing Doug Hattenhauer. Ms. Feil asked for clarification in regards to the proposed amendments. She asked if it meant that at this time a center median is not being proposed and that Mr. Hattenhauer's access will remain open. She received an affirmative response. She also asked for clarification that there would not be any left turn restrictions either to or from his property. She again received an affirmative response. Feil spoke in regards to Director Durow's comments about traffic dictating a solution. However, she disagreed about guessing what and where the traffic patterns would look like; pointing out that it is borrowing trouble from tomorrow. According to Feil the property owners concerns were twofold. The first one being a cloud put on their title by discussions of loss of access potentially taking place. The second point of harm is when and if the actual improvements go into place. Chair Lavier pointed out that the amendments being considered were an attempt to take those potential points of harm out of the plan. Feil acknowledged that attempt and gave her thanks. In conclusion, Feil suggested that the IAMP in its current form violates Oregon law; pointing out that it had not been developed in coordination with affected property owners and that the plan did not consider whether improvements to local street networks are feasible. According to Feil a feasibility study should have been done.

Brad Timmons, 3591 Klindt Drive, Ste 220, attorney representing Northwest Aluminum Specialties. Mr. Timmons explained that Jim Shaver of NW Aluminum had the same concerns about his access point being closed that Mr. Hattenhauer had. Timmons asked for verification that Mr. Shaver's access point would also not be closed. Mr. Butorac responded that if the current amendments are adopted, the access point would not be affected unless there were changes made to the property. Commissioner Zukin added that even in the future, the access point will not be affected unless all the agencies agree together to modify the IAMP. Chair Lavier interjected that even before that point, there would need to be the required traffic numbers to trigger any changes.

Shirly Hovda, 4475 Orchard Road, asked for a copy of the draft motion the commission was

considering. She was given a copy of them. Hovda expressed her concern that her property on Hostetler and West 2nd will lose its access if the undercrossing is constructed. She stated that she would be fine with an at grade crossing. Hovda emphatically stated that her main concern was the loss of value her property now has; questioning who would want her property when they know that every five years or so there would be a chance that the access will be closed. She then discussed the letter City Attorney Parker had sent her in regards to the possible purchase of her property that was later withdrawn. Hovda communicated her feeling that the City had not been forthright with her, and that there was not any concern for the property owners.

Chair Lavier asked Ms. Hovda if she understood that the amendments being proposed were in response to the comments received by the public. She replied yes, she understood that.

Commissioner Wilcox reinforced the idea that the underpass was out of consideration until the next trigger point, which he understood would be in five years. After considering the possibility that it will be a long time before that large of a traffic increase will occur, Wilcox suggested the possibility of not putting the Hostetler Street underpass idea on the table at the five year trigger point, but to wait until a modification is submitted for the NW Aluminum property. He reasoned that the only project to affect Mrs. Hovda's property would be modifications to the aluminum property. Wilcox also discussed the at grade crossing, expressing his opinion that the railroad would not suddenly close that crossing, so there is no need to force a different crossing until that happens.

There was a general discussion about the trigger points. Mr. Butorac explained that the reason for time triggers is to keep the plan on everyone's front burner; and that the other triggers are all directly connected to development. He also pointed out that the time triggered reviews will only be a review; if no changes are needed nothing will happen. There was also a general discussion about what would drive a change at the railroad crossing, as well as a discussion of the possibilities at other intersections; with Webber Street specifically being identified.

Director Durow shared that the goal of the City is to protect the future. He explained that if anything, the forecasted numbers are higher than what will actually happen. He stated that the review every five years will allow them to look at the development that has actually happened. If at that time development is less than forecasted, the requirements could possibly be reduced. Durow argued that the time triggered reviews should be left in the plan.

Chair Lavier suggested changing the verbiage of the time trigger. Senior Planner Gassman clarified his suggestion summarizing it as; although a review will happen every five years, modifications will not occur until a trigger is met. Mr. Butorac read the section of the plan that defined reviews versus adjustments.

John Nelson, 524 W 3rd Place, asked about a compensation offer that the city made to Mrs. Hovda. City Attorney Parker replied that he was unable to speak on the subject due to confidentiality of things discussed during executive session. There was a discussion about the rules surrounding executive sessions and why media is allowed to stay. Mr. Nelson concluded that it was odd that the City had made a move when no decisions had been officially made yet.

Rebuttal: Mark Butorac with Kittelson & Associates responded to the comments and concerns presented. In reference to Mr. Hattenhauer's concern of the analysis going out until the year 2030,

Butoruc explained that it goes out that far because there is a buffer built in due to the length of time it takes to have a plan adopted. He expects a plan to be adopted by 2010 which would equal a twenty year plan. Butoruc then clarified that the mobility standard cited by Hattenhauer was a temporary reduction and that it will go back to the .85 once the IAMP is adopted and the adjustment goes away. In reference to the Access Management Plan not being required in all the areas it touches on; Butoruc explained that the IAMP must manage access within 1320 feet of the interchange terminal, which explains why the plan went so far down Sixth Street and River Road. In regards to the concern of not researching local street feasibility, Butoruc went over the process of identifying possible options and then the procedure that was used to research those options. One suggestion that had been brought up again, was the possibility of going over Second Street. Butoruc assured the Commission that one of the proposed alternatives considered that option, but that it had been estimated at costing five and a half million dollars more than the current proposed plan.

Regarding the concerns brought up by Mr. Hattenhauer and Ms. Feil of a feasibility study not being completed in coordination with property owners, Butoruc again touched on the steps that had been completed up to the present, pointing out all of the meetings in which property owners and the community had been invited to. Butoruc also mentioned the signature sheets that showed which of the property owners attended those meetings. He stressed the point that those early meetings with the affected property owners were when all the original alternatives were put together, and that those meetings were the coordination. Butoruc summarized by stating that the public has been involved along the entire process. He pointed out that the changes that have been made to the proposed plan were taken directly from requests by the community.

Deliberation:

Commissioner Ahlberg shared that he liked the amendments that had been developed, and that he really liked the idea of looking into Webber being the underpass location. He also felt that an undercrossing at Webber would make it easier to negotiate the continuation of the Hostetler at grade crossing.

Commissioner Zukin stated that he also was comfortable with the amendments and felt that they very accurately addressed the concerns that had been brought up and fixed the problems. He also pointed out that in order to change any of the issues back, will require the same process that is currently being done.

Commissioner Poppoff brought up the issue of the traffic problems that arise near the Denny's intersection as well as the westbound ramp that comes off near Lumberman's. There was a general discussion that pointed out that both of those issues would be included with a Webber Street study.

Motion:

Zukin moved to adopt resolution PC 491-09 to recommend the I-84 Chenoweth Interchange Area Management Plan dated August 2009 to the City Council with the following modifications:

- Amend the IAMP Transportation Improvement List (Table 7-1) to remove Project #W-1 (installation of a median on 6th Street from River Road to Chenoweth Loop) and project #E2 (grade-separation of the Hostetler Street railroad crossing) and relocate them to a new table in Section 7 that identifies projects to be reconsidered at the first triggered IAMP Review. Note this distinction of Figure 7-1 as well.
- Amendment to the action items on page 167 and 168 to include that ODOT and the City

shall work together to identify and pursue funding for the Webber Street IAMP. The action item will note that the Webber Street IAMP should include reconsideration of the I-84 Chenoweth IAMP projects, specifically 6th Street widening, and that the IAMP should provide coordinated land use managements and financing for both interchange areas upon final adoption.

The motion was seconded by Ahlberg and carried unanimously; Hoey and Bryant absent.

COMMISSIONER COMMENTS

There was a general discussion about the construction going on in and around town.

STAFF COMMENTS

Senior Planner Gassman pointed out the Draft LUDO amendments that each Commissioner had received. He stated they were just for them to review and that they will be discussed at a future Planning Commission meeting.

Chair Lavier brought up the idea of how to disseminate the information once the LUDO is updated; paper versus electronic. Senior Planner Gassman replied that a decision had not been made but that the goal has been to start doing as much electronically as possible.

City Attorney Parker gave an update on the Walmart related cases before LUBA. He stated that they just requested another two weeks so a decision is expected around the end of October. Regarding the application from the Armory, Parker stated that the City Council modified their decision and took out the language that would have allowed the college to allow a use that goes beyond what the campus has established. He stated that at this point it sounds like all of the parties have agreed to the modifications.

Director Durow introduced Nora Donovan, RARE planner working part time for The Port of The Dalles and part time in the Community Development Department.

Nora Donovan introduced herself and explained that she would be working on the development of the downtown area.

NEXT MEETING: The next scheduled meeting is October 15, 2009.

ADJOURNMENT: The Planning Commission meeting was adjourned at 8:10 p.m.

Submitted by
Brenda Green, Administrative Secretary



Bruce Lavier, Planning Commission Chair