

**CITY OF WHITE SALMON  
PLANNING COMMISSION MINUTES**

**September 11, 2002**

**Roll Call** – Present were: Chairman Shirley Cox, Commissioners Eichner, Marx and Travis. (Comm. Johnson excused), Director of Public Works and Planning Wil Keyser, Associate Planner Dixie Walker and audience members Lee Courtney, Joe Carter, Bonnie Neal, Cory Williams, Susan Benedict, Roberta Cripe, Donna Rockwell and David Frew.

**MINUTES of August 14, 2002.** *Motion by Comm. Eichner to approve as mailed; seconded by Comm. Marx. Motion to approve carried.*

**PUBLIC HEARING – WHITE SALMON REZONE WS-R-2002-0001.** Applicants:  
Lee Courtney – 260 NE Church Street  
Lowell & Donna Everett – Washington Street  
Robert J. Carter – 220 NE Church Street  
Marvin A. Wayne – 156 NE Lincoln Street

Public Hearing opened at 5:32 PM. Recital of public hearing determination of qualifications of members of the Planning Commission revealed no ex-parte contact, conflict of interest or bias. No one in the audience objected to the participation of any of the sitting members.

**STAFF REPORT** by Wil Keyser, Director of PW/Community Planning.

**PROJECT:** To *Rezone* the entire east half of an Irregular Tract of Land in White Salmon in the NW ¼ of the SW ¼ of Section 19, Township 3 North, Range 11 East, W.M. More specifically, Tax Lots 28, 28A, 29, 29A, 30 and 30A, *from General Commercial to R-2 Two Family Residential.*

**FINDING OF FACT:**

1. All of the Applicant's residences within the Commercial District are of a *Non-Conforming Uses*.
  - a) Municipal Code 17.76.050 “Change or enlargement of uses. *No nonconforming uses of land shall be changed to another nonconforming use...provided, further, that no such nonconforming use shall be enlarged or increased, nor shall any nonconforming use be extended to occupy a greater area of land or building than that occupied by such use at the time of the adoption of said ordinance, unless by such moving it brings the use closer to conformance with this title.”*
  - b) Municipal Code 17.76.100 Restoration of damaged structures. *“ When a building or other structure containing a nonconforming use is damaged by fire*

*or any other cause so that the cost of renewal of the damaged parts exceeds seventy-five percent of the cost of the replacement of the entire building (excluding foundations), using new materials, then such building shall not be rebuilt, unless the building and its construction and uses conform full to this title and other codes of the city as applied to new buildings and structures and to uses for the district in which it is located, or unless such building restoration construction is commenced within six months of the date of the damage to the structure and is in conformance with all current building codes.”*

2. The intent of the Applicants is to achieve approval by the City Planning Commission and the City Council for a *Rezone* from the existing General Commercial designation to (R-2) Two-Family Residential for the lots subject to this *Rezone* Application.
3. With the exception of the Everett Lot, the primary, historical and traditional use of the lots proposed for *Rezone* has been for residential use and occupancy. Each applicant has enjoyed the privilege of a residential dwelling or garage for as much as 97 years. As a Non-Conforming Use the inability to modify existing structures, or the restrictive limitations to rebuild in case of catastrophic event, would create an unreasonable financial hardship on property owners.
4. There is no existing alleyway access or other public facility separating the subject lots of this proposed *Rezone* Application from the adjacent General Commercial lots that share a common property line on the West property boundary of the lots of this proposed *Rezone* Application, and no such access is proposed or intended by the Applicants.
5. The “Irregular Tract” was known as the “Trana Tract” which was never platted. Mr. Everett’s lot is substandard according to today’s Code. The garage was originally a church which was built pre-1910. It has been used as a storage unit for vintage gas powered agricultural equipment for the past 18 years.
6. It is believed that the intent of Zoning Ordinance No. 256 dated September 19, 1973 and its Use Classifications were to encourage General Commercial Use beyond the Jewett Blvd. corridor. It is unlikely that Rezoning of these residential parcels will impact the Commercial growth potential of the community.
7. The parcel size of each Applicant is as follows:
  - 1) Courtney - .34 Acre (14,810.40 S.F.)
  - 2) Everett - .09 Acre (4,000 S.F.)
  - 3) Carter - .16 Acre (6,969.6 S.F.)
  - 4) Wayne - .27 Acre (11,761.20 S.F.)
8. From the facts presented, it does not appear that the *Rezone* is in conflict with the provisions of Municipal Code 17.88.71 requiring that public health, safety, welfare and convenience will be best served by this re-classification.
9. Reclassification from General Commercial to R-2 for the subject properties does not appear to require a Site Plan as indicted in Municipal Code 17.88.030. Site Plan Review for the individual lots will occur through the Building Permit Application process.

10. Reclassification does not appear to create “spot zoning”, i.e., the arbitrary and unreasonable zoning action by which a small area is singled out of a larger area or district and specially zoned for a use classification of surrounding land, and not in accordance with the Comprehensive Plan. “Spot Zoning” per Washington Land Use and Environmental Law and Practice 2.11 (c) “A *spot or limited area of land may be subject to different zoning regulations as long as the different treatment is rationally related to the public interest and private benefit is merely incidental*”.
11. Staff is not aware of any existing hazardous conditions, natural or man caused, on the properties that are subject to this Rezone Application. It is anticipated that any future residential development of any of the properties will not create or present any hazardous environmental issues or concern.

**STAFF RECOMMENDATION:**

This Rezone Application 2002-0001 as submitted, appears to be in general agreement with Municipal Code 17.88 Rezoning Procedure and with the Land Use Element of the White Salmon Comprehensive Plan.

Staff recommends Planning Commission approval of Rezone 2002-0001. Should the Planning Commission elect to approve this Rezone Application, staff would recommend your consideration and approval of the following conditions:

1. All new development upon the subject properties requiring utility services shall provide for the placement of underground utilities ONLY.
2. All new construction upon the subject properties shall submit Building Plans to the City of White Salmon that conform to Uniform Building, Mechanical, Fire and Plumbing Codes.
3. All density provisions shall comply with the R-2 Two-Family Residential zoning.

The Planning Commission’s action to approve Rezone Application 2002-0001 shall constitute its recommendation to the White Salmon City Council for the approval of Ordinance No. 2002-09-\_\_\_\_\_ providing final approval of the Rezone.

**Questions by Planning Commission the Staff Report – None**  
**Applicants Testimony –**

- Lee Courtney – 260 NE Washington Street. With his property zoned Commercial, in case of catastrophic event his insurance would not pay off. (He is) stuck with a commercial lot that he can’t sell which would be finance devastating to his family. The home was built in 1905 and at one time had a small hair salon within the confines of the home. Applicant requested the Commission rezone to R-2.
- Robert Carter – 220 NE Church Street. With property zoned commercial he can not build onto home for his kids and if it burns down it is a total loss.

**Questions by Planning Commission on Staff Report:** Robert Travis, was it revealed at time of purchase that the property was zoned commercial? No, it was purchased through a private property.

- Memorandum from Marvin A. Wayne *“Thank you for allowing my testimony via this written statement. My duty as physician director for the Northwest Washington Hazmat / Bio response team precludes my being there on September 11. At the time I purchased the property it was my belief that it was zoned R-2, allowing 1-2 family dwellings. Even the realtor held that belief and that was how she listed the property. I was truly surprised, as has been my neighbors, to learn that this information was not correct. My purpose in purchasing this property was several. First that someday I might retire here, with my wife, so that we might enjoy all that the Gorge has to offer. Second, that I would eventually remodel the current property to allow my daughters and grandchildren to visit on a regular basis. The remodel would assure there was ample room for them to visit in “harmony”. It was a considerable shock when I learned that the current zoning would preclude much of those goals. Thus obviating much of the reasons I purchased the property. Therefore, I make my request for the zoning change to R-2 on the following basis: First, my belief, at time of purchase, that it was R-2 zoned. Second that the purposes of the original commercial zoning have never, nor is likely in the foreseeable future to come to fruition. Third, that the best interest of all of my neighbors, and I will be serviced by this rezone. Fourth that the best interest of the community will be served by a stable, well-developed, residential, neighborhood. Thank you for your time in allowing me to make these comments. I look forward to the results of your learned deliberations”*
- Letter from Lowell & Donna Everett *“Due to circumstances beyond our control we are unable to attend the rezone meeting scheduled for September 11<sup>th</sup>. We do look forward to the results of this meeting and feel that approval will be in the best interest of the property owners, as well as the City of White Salmon”.*

**Testimony from all those opposed to the application – None.**

**Questions of Staff:** Robert Travis said that he walked the area and the roads are not set up for commercial use. Church Street is narrow and the lower half is a one-way. Questioned if curbs and sidewalks would be a project in the future. Director Keyser said that Church, Lincoln and Washington will be ACP overlay only; no sidewalks are anticipated as they would be within the road right-of-way which would further reduce homeowner’s usable property. Comm. Cox questioned if a rezone would have an impact to the commercial use of the west side of the block. Director Keyser said no and since there is not an alley separating the commercial use to the proposed R-2 use it will be a benefit to rezone.

Public Hearing closed at 5:52 PM.

Comm. Eichner questioned if Mr. Everett was content to continue using his property as garage storage. Yes.

*Motion by Comm. Travis to approve Rezone R-2002-0001 based upon the Findings of Fact No. 1 through 11 and Staff Recommendations No. 1 through 3; seconded by Comm. Marx, motion carried.*

**PUBLIC HEARING WHITE SALMON VARIANCE 2002-0001.** Applicant: Bonnie Neal. Location – 707 NE Tohomish Street.

The Public Hearing opened at 5:59 PM. Recital of public hearing determination of qualifications of members of the Planning Commission revealed no ex-parte contact, conflict of interest or bias. No one in the audience objected to the participation of any of the sitting members.

**STAFF REPORT** by Wil Keyser, Director of PW/Community Planning. Director Keyser reminded the Commission that the City does not have a Tree Ordinance at this time.

**ORIENTATION & BACKGROUND:** The applicant has purchased a 65.52' x 99.46' (6,170 S.F.) lot on NE Tohomish Street. In order to accommodate a new manufactured home comprised of 1,066 Sq. Ft. a very large, old maple tree would have to be cut down in order to accommodate the Density Provisions of Municipal Code 17.24.040 (f) – Minimum Front Yard Depth: 20 feet.

**EXTRAORDINARY CIRCUMSTANCES:**

*“A large old Maple tree is located centrally and towards the back of the small lot. If the proposed house were to be placed 20 feet back from the property line, as required, the Maple tree would have to be cut down. It would be only 5 feet from the house. The roots on Maples stay close to the surface and go out far. Adding 10 feet between it and the house would give 15' for the tree and possibly save it.”*

**FINDING OF FACT:**

1. The existing Tohomish Street right-of-way is 60-feet of width with a variable paved running surface of 18 to 22 feet.
2. Most, if not all of the existing residential dwellings located along either side of NE Tohomish and east of Orchard Avenue are encroached into the area of required Front Yard Set Back along NE Tohomish Street.
3. Most, if not all, of the existing residential dwelling located on either side of NE Tohomish Street (east of Orchard Avenue) do not meet the minimum 20 foot depth for Front Yard Setback, a tradition of precedent has been set allowing the reduced setback, in most cases 10 feet to 15 feet of depth
4. The City will not consider the vacation of any portion of the existing NE Tohomish Street right-of-way. If 10' of the street right-of-way were vacated in many cases the lot line adjustments for a number of the existing residential lots would result in the

adjusted private property line being established into the existing paved street traffic lane. This is neither feasible nor permissible to occur.

5. Municipal Code 17.80.050 (B) provides, *“That any variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privilege inconsistent with the limitation upon other properties in the vicinity and district in which the subject property is situated, and that the following circumstances are found to apply:*
  1. *“Because of special circumstances applicable to subject property, including size, shape, topography, location and surroundings, the strict application of this title is found to deprive subject property of the rights and privileges enjoyed by other property in the vicinity and under identical zoning district classifications.”*
  2. *“That the granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zoning district in which the subject property is situated.”*

It is determined that, if approved, the Neal WS-V-2002-0001 will meet and comply with these provisions.

6. Historically, the Planning Commission has encouraged property owners to maintain tree canopy whenever possible.

**STAFF RECOMMENDATION:**

The Neal WS-V-2002-0001, as submitted, appears to meet the requirements, provisions, and standards of, Title 17-Zoning, and more specifically with Chapter 17.80-Conditional Uses, Variances, Appeals, and Site Plan Review, of the White Salmon Municipal Code.

Staff recommends Planning Commission approval of the Neal Variance Application WS-V-2002-0001.

Should the Planning Commission elect to approve this Variance Application, staff would recommend your consideration and approval of the following conditions:

1. The Applicant shall comply with 17.24.040 Density Provisions (g) Minimum side yard width of five feet; (i) Minimum rear yard requirement of twenty feet.
2. Placement of the manufactured home shall be done in such a manner so as to provide that no portion of the manufactured home, i.e., front deck, carport or garage, shall be placed within the Front Yard Set Back as approved and authorized through this Variance Application.
3. The Applicant shall comply with Municipal Code 17.24.050 Off-street parking space. In the R-1 district, at least two permanently maintained off-street parking spaces or a private garage shall be on the same lot as the dwelling, or be attached thereto or made a part of the building. Each parking space shall be not less than

ten feet wide and twenty feet long. The size of the garage shall not exceed the size of the dwelling.

**Questions of Planning Commission on the Staff Report:** Comm. Travis: Q: Is the right-of-way based on the center line. Yes. Comm. Cox – all houses are significantly set back from Tohomish however from Orchard Street going east nearly every home is encroached (into the ROW).

**APPLICANT'S TESTIMONY:** Bonnie Neal, 5 Mt. View Ranch Road, Goldendale, WA. Wants to save the old maple tree which is at least 60 years old. Contacted the original owners of property who say the tree was there in the 1940's. Also contacted Forest Service and they say maples live to be 80-100 years old. A Variance would enable the tree to live. She did not realize that the (front) set back was so much when she purchased the lot; she thought she had from the edge of the street. Comm. Travis questioned a revised version of the plot plan. The applicant changed the original plan to allow for parking on the east side of the home and property. She will have to cut down the Ponderosa in order to have parking but it is a much younger tree.

**Testimony from all those in favor of the application:**

Cory Williams, 4 Wallace Road, White Salmon most of the existing homes to the east of this lot are right at the edge of the pavement it would not be right to deny the Variance because what the applicant is proposing is substantially further away and the tree is a nice tree that could live as much as 40 or 50 years longer.

**Testimony from those opposed to the application:**

- Susan Benedict 673 NE Tohomish Street. In favor of saving the tree, however she has talked to several contractors who say they can put a stick home on that lot without a Variance and without cutting the tree down. You don't have to put a manufactured home on the lot. Twenty foot set back required should not allow encroachments to occur. Has an issue with parking on each side of street and can not get emergency vehicles down Tohomish because it is a substandard street. Granting a Variance will create more of a liability due to parking. "Quote: *Municipal Code 17.80.050 (1) the strict application of this title is found to deprive subject property of the rights and privileges enjoyed by other property in the vicinity and under identical zoning district classifications*". A stick home will allow all rights and privileges without lowering personal property rights. A manufactured home in area will decrease property value and rights of people already there. A Manufactured home will deprive us of rights and privileges enjoyed by others which is having adequate property values.
- Chairman Cox interrupted to say that the Washington State Legislature and Federal Law prohibit cities from zoning out manufactured homes. Director Keyser said that the Commission can not make a decision based on property valuations of neighbors based upon a manufactured home. It is difficult to negotiate the road with a single car during ball games but the Commission can not make a rendering

other than on traffic safety and access for emergency so long as there are no posted signs that say “No Parking”. Without this signage, they can park on the street.

- Donna Rockwell- 505 NE Spring. Would like to see a density provisions per block for manufactured home which totally lowers her property values. Is glad to see the applicant saving tree. Will talk to City of Bingen to see how they can have a density provision for manufactured homes. Can the city change their siting criteria? A: Private individuals can limit the type of housing on their properties by covenants and restrictions in the Short Plat or Subdivision process. The Federal law prohibits this selective discrimination against manufactured housing.
- Dave Frew – 720 NE Center Street. Supports the Variance request because of the protection of the maple which screens his view of the parcel. Made an appeal to Ms. Neal to build a stick built home.
- Roberta Cripe – Read letter into record. *“I feel we are in an unpleasant situation. We find it interesting to be asked by the White Salmon Planning Commission for our opinion (even though as your letter states, our opinion may or may not be taken into consideration) regarding a 10 foot variance at 707 NE Tohomish. We live at 718 NE Tohomish, right across the street and were not asked for our opinion regarding putting a 40’ double wide on a narrow 65’ lot. Its very presence will lower our property value. If the variance permits the double wide to be placed 10’ closer to the road, and the family has two cars, where will they be parked? Don’t misunderstand, I love that maple tree, but something has to give! Jerry and Roberta Cripe.*

**Rebuttal or clarification of testimony given:**

- In response to Susan Benedict with the 20 foot setback a porch or deck can be placed in the front yard and it will not make an impact to parking.
- Comm. Marx – have you considered a stick built home.
- Bonnie Neal – It is cost prohibitive
- Cory Williams – The trees add to the neighborhood and access by fire trucks can be made from the cross streets. Yes it is a prefabricated home but it is not garbage.

Public Hearing closed at 6:50 PM.

**Deliberation:**

- Comm. Eichner – Not against the manufactured home but the applicant can build something to fit the property. Not removing the tree and granting a Variance will be setting a precedence.
- Comm. Travis – Parking was an issue/concern but that has been remedied.
- Director Keyser – Parking can be end-to-end. A garage or carport will be the Building Department’s issue.
- Comm. Marx – In order to put a home there, there must be a sacrifice. A Variance would be setting a precedence.

- Comm. Cox – The applicant has stated under testimony that the Ponderosa must come down in her revised plans. It is not up to the Planning Commission to design her site plan. Is saving a maple tree the right decision for granting a variance.

**Review of Finds of Fact** – *Motion by Comm. Eichner; seconded by Comm. Marx to deny the Variance 2002-0001 for non-agreement with Finding of Fact No. 5 (1) and (2). Motion carried.*

**Commission Comment** – Director Keyser, Tom Stein, Kent Bleakney and Bill Weiler of the US Fish & Wildlife met this date to work out mitigations issues for the Stein Subdivision and the endangered Western Grey Squirrel. One of the scenarios is the dedication of property to the city (from Stein) for a Wildlife Corridor adjacent to the Mamie Gaddis Park. Most of the nests are in the area of dedication. The Transportation Survey revealed that minimal impact would be made to the neighborhood surrounding the subdivision. Commissioners will be anxious to see this study. The Mitigation for Determination of Non-Significance will be revised by the Director and the project will move forward. The Director asked Dixie to get a list of proposed land development to the Commission by the next meeting of September 25<sup>th</sup>. Chairman Cox requested an update of the quarterly building permits report.

Meeting adjourned at 7:40 PM.

Respectfully submitted by Dixie Walker, Associate Planner/PW Admin. Assistant.

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Wil Keyser, Director PW/Planning

\_\_\_\_\_  
Date

\_\_\_\_\_  
Shirley Cox, Planning Chairman

\_\_\_\_\_  
Date