

**COLUMBIA CITY PLANNING COMMISSION
REGULAR MEETING / PUBLIC HEARING
VIA "ZOOM" FORUM ONLY
DECEMBER 20, 2022 - 6:30 P.M.**

PLANNING

COMMISSIONERS:

Kelly Niles, Chair*
Barbara Gordon, Vice-Chair
Coralee Aho
Bill Amos
Doug Calkins
Chris Thurman*
Dana Marble

*Denotes Commissioner absent

STAFF:

Lauren Scott, City Planner
Helen Johnson, Planning Administrative Assistant
Michael McGlothlin, City Administrator
Steven Petersen, City Attorney

OTHERS:

(presented testimony)

John Hansen, 2015 8th Court
Agnes Petersen, Attorney representing Spencer Deschamps
Amy, female resident, 2015 8th Court
Wendy Wells, 2010 9th Court

MEETING TO ORDER:

Vice-Chair Barbara called the meeting to order at 6:30 p.m.

APPROVAL OF MINUTES:

IT WAS MOVED (CORALEE) AND SECONDED (DOUG) TO APPROVE THE MINUTES OF THE FEBRUARY 15, 2022 MEETING. MOTION CARRIED UNANIMOUSLY.

CITIZEN INPUT AND REQUESTS:

None.

PUBLIC HEARING:

VICE-CHAIR BARBARA CLOSED THE REGULAR SESSION AND OPENED THE PUBLIC HEARING.

Vice-Chair Barbara stated the hearing this evening is regarding a Type I Home Occupation permit at 2105 Eighth Street for Blue Heron Septic and Drain Service, Inc. and she outlined the steps for the hearing.

Staff report:

Lauren provided a brief overview of the staff report outlining criteria for a Type I Home Occupation permit, the timeline for this specific home occupation and a summary of the alleged violations. She stated the Sergeants memo, which is included as an exhibit to the staff report, details the complaints that he has responded to including dates and times confirming violations took place along with photo evidence.

Also in the written record are public comments describing the alleged violations and written response from the home occupation business operator's attorney on behalf of the operator. Complaints are alleging various traffic, noise, odor and neighborhood compatibility issues in violation of home occupation standards. The complaints allege that the home occupation is not compatible with the residential zoning designation and with the overall neighborhood character.

Lauren explained that a Type I Home Occupation permit under the City's code is approved administratively if an applicant demonstrates they meet City standards. The Blue Heron application is included as an exhibit and the written responses to the application questions are shown in that exhibit as well. Lauren stated the application occupation complied with City standards at time of approval and no public or neighborhood notification is required under a Type I Home Occupation permit process.

Lauren pointed out that in the exhibits the applicant signed the City's home occupation permit which enumerates the requirements and operating standards for home occupations. She stated the requirements include the fact that no additional employees outside of those residing in home may visit the site or take part in the home occupation use. The standards also prohibit any more than one commercially licensed vehicle which may be parked outside of any structure. Lauren said they also do not permit any additional parking or vehicle traffic. The complaints being received allege that noise and odor from vehicles and other business operations are not subordinate to the residential use of the property and are disruptive in terms of appearance and operation to neighboring properties and residents.

Lauren stated that under the City's code, the home occupation chapter outlines the Planning Commission is tasked with reviewing any complaints and has the authority to approve the use as it exists, revoke the permit or add additional measures to ensure compliance and compatibility. She explained the options are outlined in the staff report with sample findings.

Lauren explained because of the Sergeant's memo and written complaints, staff does not recommend the Commission approve the use as it exists.

Lauren introduced the City Staff present as Helen Johnson, Jerry Bartolomucci Police Operations Sergeant and Mike McGlothlin, City Administrator.

Lauren then asked Helen to explain the City's code enforcement process on this application. Helen explained that on February 1, 2022 she had a conversation with Christine Deschamps because the 2022 business license had been received and the St. Helens address had been crossed out and the business address of 2105 Eighth Street had been added and there was not a home occupation permit on record for that address. Christine stated it was just a home office. Helen explained the business would still need to apply for a home occupation and she emailed the information on that same day.

Helen explained the City had received an unofficial complaint about the business around April 25, 2022 and that reminded her the Home Occupation review had not been completed. She sent a violation warning letter along with a copy of the home occupation code by email and mail.

Helen said on August 29, 2022 and again on August 31, 2022 Sergeant Bartolomucci had seen one of the pump trucks on or leaving the property. She stated on August 31, 2022 a violation letter was sent along with the home occupation determination highlighting the areas of concern about the vehicles being on the property. She stated that Agnes Petersen had called on September 20, 2022 to let her know Mr. Deschamps had received the violation notice and the vehicles had been removed except for what is allowed. On October 23, 2022, Helen stated she received an inquiry from Officer Mansheim asking questions about an illegal business being run from the property. She stated on October 31, 2022 Spencer Deschamps had come into the office and she spoke to him verbally about the specific violations

of employees coming to and from the property and the vehicles being on the property. On November 1, 2022 she followed up her conversation with Spencer by sending a letter and email with copies of code. Helen stated on November 30, 2022 another violation letter was sent very clearly outlining that the Type I Home Occupation shall exhibit no evidence that a business is being conducted, additional individuals may be employed by the business as long as they don't report to work, deliver or dispatch at the home and also outlined the code perimeters related to storage of vehicles and other business related items.

Conflicts of Interest, Bias or Ex-parte Contacts:

Helen stated for the record that she and Barbara had discussed the application earlier in the day, as Barbara had some questions.

Applicant presentation:

Agnes Petersen stated Mr. Deschamps and she were present, and he is willing to comply with the requirements of the permit. She also stated that a lot of the materials submitted into the record are totally irrelevant. Agnes stated that Mr. Deschamps has some concerns about some of the information presented and his response was sent to Helen and she had distributed it accordingly.

Vice-Chair Barbara confirmed the Commissioners had received and reviewed Mr. Deschamps response.

Agnes said this has been a neighborhood fight and so you've got a bunch of neighbors that are all stirred up next door, like Mrs. Wells and Mr. Hansen and the other gentleman that just sent a report tonight.

Public Testimony:

John Hansen, who lives at 2015 8th Court, spoke stating he has lived in Columbia City since September 8, 2021. He lives the closest to where Blue Heron Septic and Drain have moved their trucks and dispatch operation. He objects to the issuance of a home occupation permit to Blue Heron Septic and Drain and asks the Planning Commission to revoke the permit for failure to comply with home occupation 7.104. He explained his reasons: #1 a home occupation must occur within the home, that's in the dwelling. There is no way a pump to pump septic tank truck nor the repair of a drain are located in the home. This type of business does not fit under a home occupation permit that occurs within the home. #2 Employees are not allowed on site. He has photos of employees coming to the site and says there are two employees dispatched with each pumper truck, one driver and one laborer. #3 There shall be no dispatching of trucks from site. John stated they have photos of trucks more than one at a time on the site arriving and being dispatched. He stated they are dispatched almost every morning. #4 There shall be no evidence of a business. John said that when a Ford F750 tanker truck operates outside of your bedroom, you have evidence of a business. Especially when the truck has a backup siren and sometimes they just sit and idle the trucks for 40 minutes. He said it seems like they don't have a care in the world. #5 The business shall fit in the neighborhood and a septic tank truck business does not fit in the neighborhood. John stated the business will cause property values to decline and result in high turnover of homes. He asked if you would like to dine in a fine restaurant overlooking a septic tank pumping truck business? Flies?, no problem. Diesel trucks starting and stopping, the noise of the air brakes engaging and squeal of truck brakes piercing the air?, no problem. He said and if that isn't enough, the sound of blaring backup alarms. No, that is an obvious problem. John also said don't forget head and tail lights flashing through your window. Oh yeah, there are also employees yelling to one other and glaring at you, you can see it in their faces, saying "you got a problem with this?" He stated he thinks you will agree, yes, I have a problem with truck dispatch operations outside my bedroom. He doesn't feel they have the right to operate this type of business near his home. John went on to say, so you have gotten over the noise, the stares, you are settling back for some peace and quiet, birds are chirping, sun is setting, then it hits you, what's that smell? *This concluded John's 3 minutes of testimony.*

Amy, lives at 2015 8th Court, and for the record, she objects to the home occupation for lots of reasons. She mentioned she sent in a lengthy letter describing all the violations and concerns they have. She explained her letter was so long so the Planning Commission and decision makers would have a really good example of what it is like for them on a daily basis. Amy explained she put in the letter when the employees came, what kind of noises were experienced, what kind of odors were experienced, the vibration, the evidence of a business. She continued to say you can only imagine, they have people running around outside, you have trucks coming and going, and as John just described the trucks, plus you have storage in the back. She stated it was a code complaint that was not on the list. She said there were two other code complaints, one had been sent into Mr. McGlothlin and he did witness on that same day when he came under Wendy Wells and Paul's phone call. He came and visualized this himself. There is storage in the back, a large burn pile, the storage of trailers, pallets, three giant tents, equipment and cabinet parts. She also stated she believed there are two work vans, but one has been gone for about 5 months. There are also two septic pumper tank trucks that carry sewage and they have a real concern with the public health of this. Amy also mentioned they reported the G Street incident as well, which is the business impeding traffic. This traffic concern was also about accessing G Street. Amy stated she did read Ms. Petersen's letter stating that "he" (Spencer Deschamps) didn't know. She said it is clearly very visible to everyone on that street and on Highway 30 that there are no trucks, she again stated it is a very large truck sign. She stated that as far as she knew the police report on that is still open. Amy said so there is storage outside, there is G Street traffic complaints along with all the other nuisances going on. She asked how the City could entertain this type of home occupation because it is a septic sewer business. She pointed out on the application Mr. Deschamps clearly stated that this is not going to be in the home and it still went forward. Then she said clarification was asked about, and the Deschamps's stated that no we don't have employees, no we won't have storage and no we won't have any of these things. Then it happens, it is witnessed, they are given a warning, they continue to do it, they are given another warning, they continue to do it, until it became so obtrusive and in our face. Again Ms. Petersen said some of this is irrelevant, harassment and intimidation is not relevant to the home occupation and she agreed. *This concluded Amy's 3 minutes of testimony.*

Wendy Wells, 2010 Ninth Court, wanted to reiterate what everyone else has said so far, she has experienced the same odors, noise and crazy hours of noise. She stated she didn't understand how this can be a home occupation when there are industrial vehicles involved that are driving up and down the fence line and when there are employees gathering in the mornings and talking loudly and returning at night. She did want to say that she emailed with Gordon Thistle and Michael McGlothlin after they had met with Mr. Deschamps in October and even after those warnings his violations continued. She is concerned by the information that came out today about a possible building on that site in the back of the property so that vehicles and pumper trucks can be stored. It is in the back of her mind that perhaps he is going to store more than his two, because she knows he is good friends with another septic sewer pumping business. She would object to any home occupation in any form.

Written materials submitted:

Written materials have been submitted and Helen asked Commissioners to verify they had received the emails from today from Matt Schroyer and Agnes Petersen. It was confirmed that all had been received.

Applicant rebuttal:

Ms. Petersen stated their written comments cover their rebuttal and they have no additional comments.

Staff comment:

Lauren stated she didn't have any additional comments except to recognize that the City Attorney, Steve Petersen is also in attendance this evening. She stated he is available if anyone should have any questions.

VICE-CHAIR BARBARA CLOSED THE PUBLIC HEARING AT 7:00 p.m. AND RECONVENED THE REGULAR SESSION.

Commissioner Dana stated he would agree there are obvious violations. He stated even though Mr. Deschamps stated through his attorney those violations will not continue, Commissioner Dana feels there is more needed than that.

Vice-Chair Barbara explained the options before the Commission as outlined in the staff report.

Commissioner Dana stated that with all the violations and information presented and the opportunities the business has had to comply with code he thinks the City should revoke the license immediately.

Commissioner Coralee agreed.

IT WAS MOVED (COMMISSIONER DANA) THAT THE LICENSE FOR BLUE HERON SEPTIC AND DRAIN INC BE REVOKED IMMEDIATELY.

It was then questioned whether or not an outlined timeframe should be given in order to comply with the revocation. Vice-Chair Barbara asked Steve Petersen, City Attorney, if there was any legal requirement about timeline for compliance. Steve stated he was not aware of any time line that needed to be followed, but would suggest giving him a reasonable time to comply.

Vice-Chair Barbara asked for input on what was to be considered a reasonable amount of time. Commissioner Doug suggested January 30th.

Commissioner Bill asked to let the motion presented by Commissioner Dana to die as the Commissioners are now having good discussion and can later make another more precise motion. Vice-Chair Barbara asked Commissioner Dana if he was ok with that and he agreed.

Commissioner Bill said code is clear, stating that home offices are allowed and lots of people have them, but you can't create an industrial site in a residential zone and that is where the concern is with this business.

Commissioners did discuss that the pump trucks in the City are not a violation, they service residences as part of their job. If a spill were to occur, then obviously there would be a concern.

I WAS MOVED (COMMISSIONER DOUG) AND SECONDED (COMMISSIONER DANA) TO REVOKE THE HOME OCCUPATION PERMIT IMMEDIATELY AND ENFORCEMENT ACTIONS TO START AS OF TOMORROW. MOTION PASSED UNANIMOUSLY.

Lauren outlined the penalties of violation as also outlined in the staff report. She also stated the noise ordinance time line is 7:00 a.m. to 6:00 p.m. and there are measures available regarding violations.

Steve Petersen agreed with Lauren's outline.

Commissioners and staff discussed at length the options for timeline and perimeters of revocation. It was decided that Lauren, Steve Petersen, Michael McGlothlin and Helen will get together tomorrow and discuss the recommendations for enforcement and timeline.

Ms. Petersen, asked for clarification if the office where Christine Deschamps takes phone calls and processes paperwork is allowed to continue and the Commissioners confirmed that yes that would be allowed.

Commissioner Bill did state and Lauren confirmed that the business operator can appeal the Planning Commission's decision to the City Council and this will be outlined in the notice of decision. Lauren stated the complaining parties will also receive a copy of the notice of decision.

UNFINISHED BUSINESS:

None.

NEW BUSINESS:

Helen advised there would not be a meeting for January.

ADJOURNMENT:

Meeting adjourned at 7:39 p.m.

Barbara Gordon
Planning Commission Vice-Chair

Attest by:

Helen K Johnson
Planning Administrative Assistant