

AGENDA

REGULAR CITY COUNCIL MEETING

September 8, 2014

5:30 p.m.

CITY HALL COUNCIL CHAMBER

313 COURT STREET

THE DALLES, OREGON

1. CALL TO ORDER
2. ROLL CALL OF COUNCIL
3. PLEDGE OF ALLEGIANCE
4. APPROVAL OF AGENDA
5. PRESENTATIONS/PROCLAMATIONS
6. AUDIENCE PARTICIPATION

During this portion of the meeting, anyone may speak on any subject which does not later appear on the agenda. Five minutes per person will be allowed. If a response by the City is requested, the speaker will be referred to the City Manager for further action. The issue may appear on a future meeting agenda for City Council consideration.

7. CITY MANAGER REPORT
8. CITY ATTORNEY REPORT
9. CITY COUNCIL REPORTS
10. CONSENT AGENDA

Items of a routine and non-controversial nature are placed on the Consent Agenda to allow the City Council to spend its time and energy on the important items and issues. Any Councilor may request an item be "pulled" from the Consent Agenda and be considered separately. Items pulled from the Consent Agenda will be placed on the Agenda at the end of the "Action Items" section.

- A. Approval of July 28, 2014 Regular City Council Meeting Minutes

**CITY OF THE DALLES**

*"By working together, we will provide services that enhance the vitality of The Dalles"*

- B. Approval of July 25, 2014 Special City Council Meeting Minutes
- C. Approval of Request for Refund of Land Use Appeal Fee
- D. Resolution No. 14-027 Concurring With the Mayor's Appointments to Various Committees

11. PUBLIC HEARINGS

- A. Public Hearing to Receive Testimony Regarding Appeal of Minor partition Conditions by Taner Elliott [**Agenda Staff Report #14-066**]

12. ACTION ITEMS

- A. Resolution No. 14-024 Amending the City's Fee Schedule to Include a Fee for Use of the Commercial Dock [**Agenda Staff Report #14-065**]
- B. Resolution No. 14-025 Granting Appeal #28-14 for Minor Partition #311-14 for Randy Hager for the Purpose of Modifying Certain Conditions of Approval [**Agenda Staff Report #14-062**]
- C. General Ordinance No. 14-1336 Approving Re-zone and Comprehensive Plan Amendment for Wasco County [**Agenda Staff Report #14-061**]
- D. General Ordinance No. 14-1335 Amending Certain Provisions of General Ordinance No. 06-1266 Governing Systems Development Charges [**Agenda Staff Report #14-064**]
- E. Resolution No. 14-026 Declaring the Intention of the City Council to Construct Improvements, Establishing a Local Improvement District and Directing Notice and Publication for West Seventh Street Extension Improvements [**Agenda Staff Report #14-063**]

13. ADJOURNMENT

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This meeting conducted in a handicap accessible room.

Prepared by/  
Julie Krueger, MMC  
City Clerk

  
\_\_\_\_\_



**CITY of THE DALLES**

313 COURT STREET  
THE DALLES, OR 97058

PH. (541) 296-5481  
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**AGENDA STAFF REPORT**  
**CITY OF THE DALLES**

<b>MEETING DATE</b>	<b>AGENDA LOCATION</b>	<b>AGENDA REPORT #</b>
September 8, 2014	Consent Agenda 10, A - D	N/A

**TO:** Honorable Mayor and City Council

**FROM:** Julie Krueger, MMC, City Clerk 

**THRU:** Nolan K. Young, City Manager

**DATE:** August 25, 2014

**ISSUE:** Approving items on the Consent Agenda and authorizing City staff to sign contract documents.

A. **ITEM:** Approval of July 28, 2014 City Council Meeting Minutes.

**BUDGET IMPLICATIONS:** None.

**SYNOPSIS:** The minutes of the July 28, 2014 City Council meeting have been prepared and are submitted for review and approval.

**RECOMMENDATION:** That City Council review and approve the minutes of the July 28, 2014 City Council meeting.

B. **ITEM:** Approval of July 25, 2014 Special City Council Meeting Minutes.

**BUDGET IMPLICATIONS:** None.

**SYNOPSIS:** The minutes of the July 25, 2014 special City Council meeting have been prepared and are submitted for review and approval.

**RECOMMENDATION:** That City Council review and approve the minutes of the July 25, 2014 special City Council meeting.

C. **ITEM:** Approval of Request for Refund of Land Use Appeal Fee.

**BUDGET IMPLICATIONS:** If a refund is granted, it would reduce General Fund revenue by that amount.

**SYNOPSIS:** Randy Hager appealed the conditions of a minor partition application, first to the Planning Commission and then to the City Council. Mr. Hager included a request for refund of the \$380 appeal fee in both appeals. A memorandum from the Planning director is included. Also attached is the Land Use Development Ordinance (LUDO) section setting forth the process to consider a refund of appeal fees.

**RECOMMENDATION:** The City Manager recommends refund of one of the two appeal fees (\$380) because of the unusual aspects of this issue.

D. **ITEM:** Resolution No. 14-027 Concurring With the Mayor's Appointments to Various Committees.

**BUDGET IMPLICATIONS:** None.

**SYNOPSIS:** Mayor Lawrence has selected Sherry DuFault to fill a vacancy on the Planning Commission and Jennifer Dewey to fill a vacancy on the Urban Renewal Advisory Committee.

**RECOMMENDATION:** That City Council adopt Resolution No. 14-027 concurring with the Mayor's appointments to various Committees.

## MINUTES

REGULAR COUNCIL MEETING  
OF  
JULY 28, 2014  
5:30 P.M.

THE DALLES CITY HALL  
313 COURT STREET  
THE DALLES, OREGON

**PRESIDING:** Mayor Steve Lawrence

**COUNCIL PRESENT:** Bill Dick, Carolyn Wood, Dan Spatz, Tim McGlothlin, Linda Miller

**COUNCIL ABSENT:** None

**STAFF PRESENT:** City Manager Nolan Young, City Attorney Gene Parker, City Clerk Julie Krueger, Public Works Director Dave Anderson, Administrative Intern Rich Wachter, Finance Director Kate Mast, Police Chief Jay Waterbury, Planning Director Dick Gassman, Engineer Dale McCabe

### CALL TO ORDER

Mayor Lawrence called the meeting to order at 5:30 p.m.

### ROLL CALL

Roll call was conducted by City Clerk Krueger; all Councilors present.

### PLEDGE OF ALLEGIANCE

Mayor Lawrence invited the audience to join in the Pledge of Allegiance.

### APPROVAL OF AGENDA

Action Item 12, C was removed from the agenda. It was moved by Dick and seconded by Spatz to approve the agenda as amended. The motion carried unanimously.

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### **PRESENTATIONS/PROCLAMATIONS**

#### **Certificate of Recognition to Doug and Melissa Kirchhofer and Nolan Hare for Fort Dalles Fourth Celebration**

Mayor Lawrence read a Certificate in recognition of the leadership shown in creating a community celebration for Independence Day.

#### **Presentation of Medal of Valor to Jamie Carrico**

Police Chief Waterbury presented a Medal of Valor to Police Detective Jamie Carrico in recognition of an incident in which Carrico had been shot in the line of duty.

### **AUDIENCE PARTICIPATION**

Columbia River Gorge Commissioner Dan Ericksen, 3240 Knob Hill Road, The Dalles, provided the Council with a paper outlining resource needs of the Commission, noting the immediate need for additional staff. He said the Commission would be presenting their budget to the Governor and Legislature and asked that the City provide a letter of support for their budget.

It was the consensus of the City Council to direct staff to prepare a letter of support for the Columbia River Gorge Commission's budget proposal to the Oregon Governor and Legislature.

Bill Lennox, 1005 Federal Street, The Dalles, commended the staff of the Water Department for their response to his concern about a water line issue in his neighborhood. He said they worked out a process to fix the problem and let him know when the project would be scheduled. Lennox said he appreciated the great attitudes of the staff.

Alex Hattenhauer, 122 West 17<sup>th</sup> Street, The Dalles, said there had been a 20% increase in fuel tax revenues for the City over the past four years. He said he had read articles in the newspaper recently about utility rates and said the City needed to make good decisions for the citizens. Hattenhauer said the City Manager was pushing the fuel tax increase but the City Council should be directing what they want to do and if it was placed on a future ballot, they should be able to explain the reasoning for it. He said people who had spoken at Council meetings were all in opposition of the proposal and that the Stat was working on a transportation package and moving it forward.

Brad Lynch, 1408 East Ninth Street, The Dalles, said he believed it was ridiculous to propose a fuel tax increase. He said the City was saying it needed a new sewer plant, but the previous upgrades to the plant were supposed to include future population growth. Lynch said the

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prediction of a population of 30,000 by the year 2025 was not reasonable. He said the City was moving funds to purchase a lot of real estate such as the Sunshine Mill and proposed downtown hotel property. Lynch said the City had the highest water and sewer rates and taxes in the State and said he hoped the City didn't charge more money for docking fees than the other cities were charging. Lynch said there was no need to raise fees anymore.

Debbie Richelderfer, 2310 East 19<sup>th</sup> Street, The Dalles, addressed the Council regarding a requirement to install sidewalks along the property she was developing at 924 East 19<sup>th</sup> Street. She said the property could not be subdivided because it was also in the National Scenic Area and said she would like to place sidewalks only on the portion of the property where the home was being constructed. Richelderfer said the City had not implemented the requirements of the House Bill regarding residential development fees. She said she was also angry that the City had not made any repairs on Thompson Street. She provided photographs of it's poor condition and said the citizens who live there pay property taxes and should not have to participate in the cost of improvements to that street.

Dan Ericksen said the Gorge Commission was starting the process to look at overlapping boundary lines and sorting out which properties were in urban areas.

Ms. Richelderfer said she asked Wasco County Commission to correct the problem many ears ago and was told they were waiting for the City to implement an urban growth boundary plan.

### **CITY MANAGER REPORT**

City Manager Young reported that the Chamber of Commerce had hired a person to fill the position of tourism coordinator.

Young reported that the Finance Department had been conducting some demonstrations from software vendors because the current software no longer met the needs of the City any longer. He said they may move to the next step and issue a Request for Proposals later this year, but if they proceeded, the cost would be amortized so as not to cost more money than was currently budgeted to continually update the current software.

City Manager Young said there had recently been some letters to the newspaper regarding water rates and subsidizing the General Fund with water rates. He provided the City Council with an updated budget issue paper, outlining the administrative transfers from the Water Fund to General Fund for services they receive. Young noted the information had also been provided to the Budget Committee and placed on the City's website as an information piece.

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Young said there had been a letter recommending discontinuing use of the water treatment plant. He noted the wells did not have enough capacity to meet the maximum usage during the summer months as were used to supplement the water from the treatment plant.

### **CITY ATTORNEY REPORT**

City Attorney Parker said he continued to work on the foreclosure process for nuisance properties. He noted five of the properties had already been foreclosed on so the City wouldn't be able to collect on those ones.

### **CITY COUNCIL REPORTS**

Councilor Wood reported that the Mid-Columbia Council of Governments had hired a new Building Codes Director. She said there had been no Historic Landmarks Commission or QLife Agency meetings.

Councilor McGlothlin reported he had attended the Traffic Safety Commission meeting but had not attended the Airport Board meeting. He said the business park work had been completed and the flex space hangar project was moving forward.

Councilor Spatz said he had attended the Mid-Columbia Economic Development District and Regional Solutions Team meetings, noting the two groups had many issues in common. He said City Clerk Krueger would be serving as the City's point of contact for the Sister Cities Association.

Councilor Miller said she attended the Urban Renewal Advisory Committee meeting, where a project had been presented for the Elks Club Building. She said the proposal was for a neon and antique sign museum. Miller said a marketing study was requested and that would be reviewed by the Committee in August.

Mayor Lawrence said he had read a proclamation for the 24<sup>th</sup> anniversary of the Americans With Disabilities Act. He read the proclamation to the City Council.

### **CONSENT AGENDA**

It was moved by Wood and seconded by Miller to approve the Consent Agenda as presented. The motion carried unanimously.

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Items approved by Consent Agenda were: 1) approval of June 30, 2014 work session minutes; 2) approval of July 14, 2014 regular City Council meeting minutes; and 3) Resolution No. 14-023 concurring with the Mayor's appointments to various commissions.

## **PUBLIC HEARINGS**

### **Public Hearing to Receive Testimony Regarding Appeal of Planning Commission Conditions of Approval for Minor Partition by Randy Hager**

Mayor Lawrence reviewed the procedures to be followed for the hearing. No Councilors declared bias or conflict of interest. Lawrence asked if anyone in the audience wanted to challenge a Councilor's ability to hear the case. No challenges were declared.

The staff report was reviewed by Planning Director Gassman. He noted that a permit had been issued in 2011 for an accessory dwelling unit, which was not considered to be a single family dwelling, so no systems development charges (SDC) had been assessed and that an accessory dwelling did not trigger annexation. Gassman said the appellant had applied for a minor partition last year to have a single family dwelling on one portion and the accessory building on another portion of the property which would create a new single family dwelling, now subject to pay SDC's and be annexed, according to City policy.

Mayor Lawrence asked why the Planning Commission hadn't required annexation in the conditions of approval for the partition. City Attorney Parker said the Land Use Development Ordinance (LUDO) used the word "may", so they believed it was discretionary.

Councilor Miller asked if other properties in the area had been annexed. Planning Director Gassman said 10<sup>th</sup> Street and the properties on the other side of the street were annexed.

Councilor McGlothlin asked if the City Council had the authority to refund the appeal fee. City Attorney Parker said there was a separate process for requesting a refund. It was noted Mr. Hager had paid two separate fees, one to appeal the decision to the Planning Commission, and another fee to appeal their decision to the City Council.

Councilor McGlothlin said he was opposed to charging fees for appeals. City Attorney Parker said the issue could be discussed at another time. Planning Director Gassman said a specific process was set by LUDO for requesting refunds.

Mayor Lawrence questioned why that matter couldn't be considered at this meeting. Parker said it was a separate issue.

Testimony of Appellant

Appellant Randy Hager, 2804 East 10<sup>th</sup> Street, The Dalles, said his request was to rescind condition #6, to pay systems development charges. He said House Bill 3479 had been passed by the Legislature and he should no longer be required to pay SDC's according to the legislation. Hager said the City Council had directed staff to stop assessing SDC's, except when a building permit was issued, but that the Planning Director had told him he was not aware of that language. Hager said he did have an accessory building, less than 600 square feet, which he built to live in and that when it was approved he had been told by Public Works Department that extending the storm sewer to the area was not planned. Hager asked the Council to remove condition #6 and to direct staff not to put a condition of annexation on his property. He said the Planning Commission had decided annexation should not be required because his property was not contiguous to the city limits. Hager urged the Council to grant his appeal.

Councilor Wood asked which structure on the map was the accessory dwelling. Hager said it was the one described as carriage house on the map. He said he had not been aware he could have two access points, but now that he knew that, he planned to put in a second access.

Testimony in Support of Appeal

Jim Wilcox, 416 West 7<sup>th</sup> Street, The Dalles, spoke in favor of the appeal. He said when he was on the City Council, the Council agreed that the trigger for assessing SDC's was if someone got a building permit for a dwelling. Wilcox said he believed there were many other properties that could be partitioned and had more than one dwelling. He said it was more common than people may think and questioned whether the City would try to assess them as well. Wilcox recalled a work session of the Council and Planning Commission where it was agreed a building permit would be the trigger for SDC's. He said he was unhappy that a State law had to be passed to address the issue and said staff didn't seem to understand that law regarding annexation, Wilcox said the LUDO did contain discretionary language and urged the Council to support the decision of the Planning Commission and not require a consent to annexation. Wilcox said the minor partition had originally contained eight conditions and only two were appealed. He said the only condition being appealed at this hearing was the requirement to pay the SDC's.

Brad Lynch, 1408 East 9<sup>th</sup> Street, The Dalles, said to quote the City Attorney and Police Chief, ignorance of the law was no excuse.

Testimony in Opposition of the Appeal

None.

Mayor Lawrence asked if the City Council was prepared to deliberate to a decision.

Planning Director Gassman said there were not a lot of properties in the situation of having more than one dwelling on them, as stated by Mr. Wilcox. He said this situation was not one of a property having two single family dwellings, but that of one dwelling and one accessory dwelling. He said the partition would create a new single family dwelling which should be charged the SDC's.

Mayor Lawrence asked if the accessory dwelling was already connected to the utilities, and said if so, there would be no additional impact to the utility systems. Planning Director Gassman said there was potential, once the property was divided, to make it a larger dwelling, having a greater impact on the utility systems.

Councilor Miller said it was the same structure whether you called it an accessory dwelling or single family dwelling.

Councilor Dick said it was his understanding that if the house was added on to in the future, the building permit issuance would then trigger SDC's to be paid. He asked Mr. Hager is that was also his understanding. Mr. Hager said he would do what was required by the law.

Hearing no further testimony, the public hearing was closed.

#### Council Deliberation

Councilor Wood said she agreed that a minor partition would not trigger payment of SDC's.

Councilor McGlothlin agreed, saying a building permit was the mechanism for charging SDC's.

Councilor Dick said he continued to support the Council direction that a building permit was what would require an SDC. He said he respected the work of the Planning Commission but believed the condition for paying the SDC's should be removed. Dick said he did think the appeal fee was valid based on the amount of time to process the appeal and said he believed Mr. Hager did benefit from City services and supported annexation of the property.

Councilor McGlothlin said he supported granting the appeal and asking staff to bring back possible revisions to the current annexation policy.

Wood asked if the owner would be required to annex if his water or septic failed. Gassman said if sewer was available within 300 feet of the property, and the septic failed, he could be required to annex, but the water ordinance didn't specify reasons for annexation.

Councilor Spatz said he agreed with the comments made by Councilor Dick to grant the appeal of the SDC condition but to require the annexation.

It was moved by McGlothlin and seconded by Miller to grant the appeal for the purpose of deleting the condition requiring payment of the SDC's and direct staff to prepare a resolution setting forth the Council's decision based upon findings of fact and conclusions of law and further direct staff to bring back to the Council possible revisions of the current policy on annexation. The motion failed, Dick, Spatz and Wood voting no.

It was moved by Dick and seconded by Spatz to grant the appeal for the purpose of deleting the condition requiring payment of the SDC's and direct staff to prepare a resolution setting forth the Council's decision based upon findings of fact and conclusions of law and to reinstate the condition to sign a consent to annex.

Miller asked what the duration for a consent to annexation was. Planning Director Gassman said it was effective for one year. He said based on the current annexation policy, it would likely be annexed in January.

City Manager Young said staff could bring the current annexation policy as a discussion item for Council to consider.

The motion to grant the appeal for the purpose of deleting the condition requiring payment of the SDC's and direct staff to prepare a resolution setting forth the Council's decision based upon findings of fact and conclusions of law and to reinstate the condition to sign a consent to annex was voted on and carried, McGlothlin and Miller voting no.

Councilor Wood said she hoped the decision was in line with residential infill issues. City Manager Young said the Council had adopted a motion to implement the House Bill and staff did follow the Council's direction.

Mayor Lawrence said the process had been difficult for everyone and caused a lot of frustration. He said there needed to be a compromise to allow for non-punitive development.

Mayor Lawrence asked if the Council could now discuss the appeal fee of Mr. Hager. City Attorney Parker said the process needed to be followed and that issue would come before the Council at the next regular meeting.

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**ACTION ITEMS**

**Resolution No. 14-021 Calling for Engineer's Report for West 7<sup>th</sup> Street Local Improvement District**

The staff report was reviewed by Engineer Dale McCabe.

It was moved by McGlothlin and seconded by Wood to adopt Resolution No. 14-021 calling for the Engineer's Report for West 7<sup>th</sup> Street Local Improvement District. The motion carried unanimously.

**Resolution No. 14-022 Approving a Ballot Measure to Increase the Local Fuel Tax**

The staff report was reviewed by City Manager Young.

It was moved by McGlothlin and seconded by Miller to take no action to place the fuel tax increase on the ballot.

Councilor Wood asked if Wasco County had made a decision regarding the proposed County Road District.

City Manager Young said the County had two more public hearings scheduled and would make a decision on August 13. In response to a question regarding having two tax measures on the same ballot, Young explained the electors within the city limits would only vote on the fuel tax because the City had opted out of the road district and the electors outside the city limits would only vote on the road district issue.

McGlothlin asked what the cost to the City would be for an election. Young said there was no cost to place a measure on the ballot for a primary or general election.

Wood asked if there was a strong push at the State level to implement a new transportation package. City Manager Young said he would request information on any proposals. Young said another option for the Council was to wait for the May election in order to have time to get more information.

Mayor Lawrence said he had heard at a Regional Solutions Team meeting that there may be a proposal to allow for State transportation funds to be used for repairs and new roads, which would give more flexibility in using State funds for street repairs.

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The motion to take no action to place the fuel tax increase on the ballot was voted on and failed; Wood, Spatz and Dick in opposition.

Councilor Wood said the City should wait and see what the County decided to do with a proposed road district before making a decision about the fuel tax ballot. She said if needed, the Council could hold a special meeting to make a decision. There was agreement to have a meeting on August 14 at 5:30 p.m.

### **DISCUSSION ITEMS**

Discussion Regarding General Ordinance No. 14-1335 Amending Sections 2, 9, and 11 through 19 and Repealing Section 10 of General Ordinance No. 06-1266 Concerning Systems Development Charges

City Attorney Parker reviewed the staff report.

It was moved by Spatz and seconded by McGlothlin to support maintaining the job creation credit, specifying that only full-time jobs that pay at the county average or greater qualify toward the credit, with a cap of 25% and direct staff to include proposed revisions as summarized in the staff report bullet points in the ordinance. The motion carried unanimously.

### **ADJOURNMENT**

Being no further business, the meeting adjourned at 8:20 p.m.

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Submitted by/  
Julie Krueger, MMC  
City Clerk

SIGNED: \_\_\_\_\_

Stephen E. Lawrence, Mayor

ATTEST: \_\_\_\_\_

Julie Krueger, MMC, City Clerk

## MINUTES

SPECIAL COUNCIL MEETING  
OF  
JULY 25, 2014  
5:30 P.M.

THE DALLES CITY HALL  
313 COURT STREET  
THE DALLES, OREGON

**PRESIDING:** Mayor Steve Lawrence

**COUNCIL PRESENT:** Bill Dick, Carolyn Wood, Tim McGlothlin, Linda Miller

**COUNCIL ABSENT:** Dan Spatz

**STAFF PRESENT:** City Manager Nolan Young, City Attorney Gene Parker, City Clerk Julie Krueger, Public Works Director Dave Anderson, Administrative Intern Rich Wachter, Finance Director Kate Mast, Airport Manager Chuck Covert, Police Captain Ed Goodman, Engineer Dale McCabe, Wastewater Division Manager Steve Byers, Water Distribution Manager Ray Johnson, Water Treatment Manager Larry McCollum

### CALL TO ORDER

Mayor Lawrence called the meeting to order at 12:05 p.m.

### ROLL CALL

Roll call was conducted by City Clerk Krueger; Councilor Spatz absent.

### DISCUSSION REGARDING CITY'S SAFETY PROGRAMS AND WORKER'S COMPENSATION PROGRAMS

Mayor Lawrence said this meeting had been set up to review the City's safety programs as a result of concerns about worker's compensation premium increases. He provided a copy of the SAIF policy performance history report, noting the experience modification and premiums had been increasing substantially over the past several years. He asked what the expected 2014-15 premium would be based on current information.

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Mike Courtney, the City's worker's compensation agent, said the premiums could increase by \$40,000 to \$50,000 in the next fiscal year, based on current information. He said the average experience modification number was 1, but the City's recent modification numbers were well above that number. Courtney said the combination of a higher experience modification and severity of SAIF claims were both factors for the high premiums.

Luke Betts, Senior Safety Management Consultant for SAIF, said he had been working with the Public Works Department on some programs and quarterly training. He said they were currently working on ergonomics and supervisory training and assessment. Betts said SAIF underwriting would consider the training when they develop rates.

Mayor Lawrence asked what would happen if SAIF cancelled the policy. Courtney said SAIF discontinued service, the City would go into a high risk pool, which would result in much higher premiums. He said the National Council of Compensation Insurance operated the risk pool and would assign the city to a servicing company. Courtney said in addition to the higher premiums, an additional modifier would be added and that would increase the premiums even higher. He said the City would need to improve their safety performance over a period of time in order to bring the experience modifier back to a more average rating.

Councilor Miller asked if there was a cap on the number of loss time days before an employee would go on long term disability. Courtney said there was no cap, but that eventually, settlements were made. He said when an employee received a settlement, there was still a liability to the City as they could come back with related issues in the future and re-open a claim.

Mayor Lawrence asked if SAIF was comfortable with the programs in place at this time. Mr. Betts said the Action Plan was being worked on and when completed, SAIF may recommend an additional program. He said trends would be considered and whether incidents were less frequent and less severe. Betts said the City had a long history of loss and that a culture of change was needed for long term improvement. He said this was an issue that needed to start with the leadership personnel.

Mayor Lawrence suggested staff consider more frequent and substantial safety meetings be implemented. He said the Safety Committee should be reviewing accident and incident reports to offer suggestions on how to prevent accidents. City Manager Young said the City did use incident forms.

Mr. Courtney pointed out that many of the accidents were preventable, but that the programs put in place over this year should help turn things around.

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Mr. Betts reviewed the SAIF quarterly program review with the Council, including number of injuries and time loss, compared to industry averages, time loss days, cost of injuries and injuries by department and month.

There was a discussion regarding development of incentive programs and recognition for no accidents and injuries. Mr. Betts said it was better to implement an incentive program that would recognize employees doing something good, rather than to focus on a program that would only talk about time loss. He said that could have a negative impact in which employees didn't report accidents because they didn't want to impact other employees who may receive an incentive for no time loss accidents.

Councilor Miller said she disagreed because her place of employment had a large sign that had the number of days with no accidents and the employees took great pride in it, which made them work more safely and to have more concern for each other.

Mayor Lawrence compared the City's experience modification to Wasco County as similar entities and said the County's modification was at a 1. Courtney said the County had established a good safety record through a culture of safety.

Public Works Director Anderson said they were working hard to improve their safety record and taking an approach that all accidents were preventable. He said all accident reports were investigated immediately, identifying what caused an accident, why it happened and how to prevent it in the future. In response to a question, Anderson said each division had safety discussion at their morning muster. He said traffic control plans were developed before crews went out to work on projects and all vehicles were now equipped with lift gates.

Mayor Lawrence said the City had recently been issued two OSHA violations. He asked what the City's response was to the violations. Anderson said proper procedures had been developed and related to staff.

Police Captain Goodman said approximately half of the Police Department injuries occurred due to contact with suspects, which could not be avoided. He said he reviewed all accident and incident reports for the Police Department.

In response to a question regarding vehicle inspections, Anderson said the Public Works vehicles had daily CDL inspection and quarterly facility inspections. He said the Department also performed annual evaluations on the fleet.

Mayor Lawrence said the City needed to implement a formal plan to get the experience modification lowered on a consistent basis.

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City Manager Young noted that the City had a higher number of field workers, compared to Wasco County, which had an impact on the rates.

Mike Courtney said that was partially true, but the real problems with rates was the tier level and experience modification numbers.

The City Council asked to have Safety Committee minutes forwarded to them for review and a quarterly report from the City Manager on safety programs.

Councilor Dick said he believed the employees needed to have a safety culture to be proud of and said he agreed with Councilor Miller that signs with the number of days accident free, was a morale booster, not a detriment.

Mr. Betts said the sign alone would not work, that the most important key was to develop a culture of safety, starting with the City's leadership.

Mayor Lawrence asked that the City-wide Safety Committee review incident and accident reports and to review programs on a regular basis. City Manager Young said the departmental safety committees reviewed the details by site location.

Councilor McGlothlin said he had looked at the SAIF website and they had many free brochures on safety that could be placed in employee break rooms and that the Columbia Gorge Community College offered safety training. Public Works Director Anderson said staff did attend the classes at the college when appropriate.

#### **ADJOURNMENT**

Being no further discussion, the meeting adjourned at 1:48 p.m.

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Submitted by/  
Julie Krueger, MMC  
City Clerk

SIGNED:

\_\_\_\_\_  
Stephen E. Lawrence, Mayor

ATTEST:

\_\_\_\_\_  
Julie Krueger, MMC, City Clerk



## CITY of THE DALLES

313 COURT STREET  
THE DALLES, OREGON 97058

(541) 296-5481 ext. 1125  
FAX: (541) 298-5490  
PLANNING DEPARTMENT

# Memorandum

To: Nolan Young

From: Richard Gassman, Director

Re: Refund of Appeal Fees - Hager

Date: August 14, 2014

Randy Hager filed a Minor Partition application for his property at 2804 East 10<sup>th</sup>, which was approved with conditions. Mr. Hager then filed an appeal of the conditions to the Planning Commission. As part of this process Mr. Hager paid filing fees of \$380.00. The Planning Commission granted the appeal and approved the Minor Partition with changed conditions. Mr. Hager then appealed the decision of the Planning Commission to the City Council. As part of this second appeal, Mr. Hager paid a second appeal fee of \$380.00. The City Council granted the appeal, and approved the Minor Partition with conditions that were different from those of the Planning Commission.

In his appeal to the Planning Commission, Mr. Hager requested that his appeal fee be refunded. This issue was again raised and discussed at the Council level. The Council referred the refund request to staff. The process for a refund request is set out in the Land Use and Development Ordinance (LUDO) Section 3.020.080 I., entitled Refund of Appeal Fee.

The LUDO language anticipates that a refund request is started with the submission of a letter from the applicant. Mr. Hager has not submitted a letter as such, but did put forth the refund request in his appeal. I am treating that request as meeting the LUDO intent, in lieu of a separate letter. This Memorandum is provided as part of the LUDO process.

The LUDO provides a process for considering a refund request, but no criteria. A practical approach would be to look at the results of the appeals and see if there were significant changes made. In this case, due in part to the complexity of the issues, there were three different results, at the staff level, the Planning Commission and the City Council. Taking into account this unusual sequence plus the costs associated with preparing for the appeal, I would recommend that the City refund \$380.00, the amount of one appeal fee.

I. Refund of Appeal Fee. An applicant can request a refund of an appeal fee by letter submitted to the Community Development Department within 10 days after the appeal is determined. The letter shall state in detail the reason for the requested refund. Staff shall prepare a report and send the letter and report to the City Manager. The City Manager may consider the letter, the staff report, and any other factors in making a recommendation. The City Manager's recommendation shall be submitted for action on the City Council's consent agenda. No public hearing is required. Final action on the request shall be taken by the City Council.

**RESOLUTION NO. 14-027**

**A RESOLUTION CONCURRING WITH THE MAYOR'S  
APPOINTMENTS TO VARIOUS COMMITTEES AND COMMISSIONS**

**WHEREAS**, there are vacancies on the several Committees and Commissions; and

**WHEREAS**, the Mayor has selected Sherry DuFault to fill a vacancy on the Planning Commission; and

**WHEREAS**, Jennifer Dewey has been selected to fill a vacancy on the Urban Renewal Advisory Committee;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL AS  
FOLLOWS:**

Section 1. The City Council concurs with the appointment of Sherry DuFault to the Planning Commission, term to expire April 30, 2016.

Section 2. The City Council concurs with the appointment of Jennifer Dewey to the Urban Renewal Advisory Committee, term to expire December 31, 2015.

Section 3. This Resolution shall be effective September 8, 2014.

**PASSED AND ADOPTED THIS 8th DAY OF SEPTEMBER, 2014**

Voting Yes, Councilors: \_\_\_\_\_  
Voting No, Councilors: \_\_\_\_\_  
Absent, Councilors: \_\_\_\_\_  
Abstaining, Councilors: \_\_\_\_\_

**AND APPROVED BY THE MAYOR THIS 8th DAY OF SEPTEMBER, 2014**

SIGNED: \_\_\_\_\_

ATTEST: \_\_\_\_\_

Stephen E. Lawrence, Mayor

Julie Krueger, MMC, City Clerk



## CITY of THE DALLES

313 COURT STREET  
THE DALLES, OREGON 97058

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

# AGENDA STAFF REPORT

## CITY OF THE DALLES

MEETING DATE:	AGENDA LOCATION:	AGENDA REPORT #
September 8, 2014	Public Hearings 11, A	14-066

**TO:** Honorable Mayor and City Council

**FROM:** Richard Gassman, Planning Director

**THRU:** Nolan K. Young, City Manager *ny*

**DATE** September 8, 2014

**ISSUE:** Quasi-Judicial public hearing to hear appeal APL 30-14 by Elk Horn Development from decision of the Planning Commission regarding Minor Partition MIP 312-14.

**RELATED CITY COUNCIL GOAL:** None.

**PREVIOUS AGENDA REPORT NUMBERS:** None.

**BACKGROUND:** The applicant submitted an application for a subdivision to divide its lot at 1611 Thompson Street into five lots. That application was approved by staff with conditions. The applicant then removed the existing house and obtained a building permit for a new house. After the house was built, the applicant dropped plans for the subdivision and submitted an application for a minor partition. This was approved with conditions similar to the conditions on the subdivision. The applicant appealed the approval to the Planning Commission. The Planning Commission granted the appeal and modified the conditions of approval. The applicant has now appealed the decision of the Planning Commission to the City Council.

**PROCESS:** This is a quasi-judicial de novo public hearing. The Council has the ability to make any changes in the conditions of approval that are warranted by the evidence. The Council's decision is the final decision at the local level.

**ISSUE:** The issue is whether, under the circumstances of this case, the City can require a delayed development agreement for public improvements on Thompson Street. The applicant is

asking the Council to eliminate this condition of approval, which is condition number 7 in the approval by the Planning Commission.

**DISCUSSION:** What would have been a straightforward minor partition request is complicated by the construction of the new house. The Land Use and Development Ordinance provides that a voluntary replacement of a dwelling is treated the same as the initial construction of a dwelling. Prior to filing the subdivision request this property was developed with one single family dwelling. In 2012 the applicant filed an application for a subdivision which was approved. The applicant then submitted a building permit to replace the existing dwelling. This was also approved and the older dwelling was demolished and the new dwelling built. No conditions of approval were required for this building permit as the conditions were already covered in the approved subdivision application.

After the new house was built, the applicant dropped plans for a subdivision and applied for a minor partition to create three lots. The minor partition was approved, with conditions. That approval was appealed to the Planning Commission. The Commission granted the appeal, and approved the minor partition with modified conditions. The Commission retained the requirement for a delayed development agreement to cover public improvements for the length of the as yet not specified width of the future lot on Thompson which contains the new house.

If the applicant had completed the minor partition process, then demolished the older house and applied for a permit to build the new house, the same condition of approval would have been required. It is the construction of the dwelling which has brought on the requirement of the delayed development agreement, not the minor partition.

**BUDGET IMPLICATIONS:** The only potential budget implications would be due to future improvements on Thompson Street and to what extent this property would participate in those improvements.

**ATTACHMENTS:**

1. Resolution No. P.C. 541-14 of the Planning Commission's action, dated July 17, 2014.
2. Appeal from decision of the Planning Commission filed August 1, 2014.

**ALTERNATIVES:**

- A. **Staff Recommendation.** *Move to deny the appeal and leave the conditions of approval as set in Planning Commission Resolution No. P. C. 541-14, and direct staff to prepare a resolution setting forth the Council's decision based upon findings of fact and conclusions of law.*
- B. Move to grant the appeal for the purpose of deleting the condition requiring the signing of a delayed development agreement for the frontage associated with the lot with the new dwelling, and direct staff to prepare a resolution setting forth the Council's decision based upon findings of fact and conclusions of law

- C. Move to grant the appeal for other changes as determined appropriate by the Council, and direct staff to prepare a resolution setting forth the Council's decision based upon findings of fact and conclusions of law.

RESOLUTION NO. P.C. 541-14

A RESOLUTION OF THE PLANNING COMMISSION GRANTING APPEAL #27-14 FOR MINOR PARTITION #312-14 SUBMITTED BY ELK HORN DEVELOPMENT LLC, FOR THE PURPOSE OF MODIFYING CERTAIN CONDITIONS OF APPROVAL

WHEREAS, Elk Horn Development LLC submitted an application to partition one lot located at 1611 Thompson Street, which measures approximately 37,300 square feet, into three smaller lots, which application was assigned the file number Minor Partition #312-14 by the Planning Department; and

WHEREAS, the Planning Department issued a Notice of Administrative Decision for MIP #312-14 on March 24, 2014, approving the requested partition with certain conditions of approval; and

WHEREAS, Elk Horn Development LLC filed a notice of appeal of the Notice of Administrative Decision dated on April 7, 2014; and

WHEREAS, on June 19, 2014, the Planning Commission conducted a public hearing, and following the public hearing, the Planning Commission voted to grant the appeal for the purpose of modifying certain conditions of approval included in the Notice of Administrative Decision dated March 24, 2014, based upon findings of fact; and

WHEREAS, the Planning Commission has reviewed the proposed findings of fact and conclusions of law set forth in Exhibit "A", and desires to adopt a resolution approving the proposed findings of fact and conclusions of law.

NOW, THEREFORE, THE PLANNING COMMISSION RESOLVES AS FOLLOWS:

Section 1. The Planning Commission hereby approves and adopts the findings of fact and conclusions of law set forth in Exhibit "A", attached hereto and incorporated herein by this reference. The appeal filed by Elk Horn Development LLC is granted, with modification to the conditions of approval as set forth in Exhibit "A".

Section 2. This resolution shall be considered effective as of July 17, 2014.

Section 3. The Secretary of the Planning Commission shall certify to the adoption of the resolution, and transmit a copy of the resolution to the City Council of the City of The Dalles.

Bruce E. Lavin
Chairman, Planning Commission

Attest:
Richard Gassman
Richard Gassman, Secretary

Ayes: Lavier, Whitehouse, Poppoff, Zukin, Nelson, Stiles
Noes: None
Absent: None
Abstaining: None

## EXHIBIT "A"

### FINDINGS OF FACT AND CONCLUSION OF LAW FOR APPEAL #27-14

#### BACKGROUND INFORMATION

On February 21, 2014, Elk Horn Development LLC (hereinafter referred to as "Applicant") submitted an application to partition one lot which measures approximately 37,300 square feet, into three smaller lots. The subject property was previously approved for a subdivision under file number SUB 65-12. At the time of the subdivision application, the Applicant demolished an existing home upon the large lot, and built a new home upon the large lot. One of the conditions of approval for SUB 65-12 required the full half street improvement of Thompson Street, and East 15<sup>th</sup> and East 16<sup>th</sup> Streets. The City and the Applicant entered into a Delayed Development Agreement which was recorded with the Wasco County Clerk, which provided that the City would allow the Applicant to proceed with construction of the new home, with the understanding that the Applicant would not be allowed to proceed with development of any of the other proposed four lots until all of the required public improvements had been installed, and the final plat for the subdivision had been recorded.

On March 24, 2014, the Planning Department issued a Notice of Administrative Decision for MIP #312-14 approving the requested minor partition with certain conditions of approval. The Applicant filed a notice of appeal of the Notice of Administrative Decision on April 7, 2014.

The property located at 1611 Thompson Street and is further described as Township 1 North, Range 13 East, Assessor's Map No. 11 AB Tax Lot 900. The City's Comprehensive Plan designates the property as "R-L" Low Density Residential, and the property is located within the "R-L" Low Density Residential zoning district.

#### REVIEW OF APPLICABLE CRITERIA

##### LAND USE AND DEVELOPMENT ORDINANCE NO. 98-1222

##### Chapter 3. Application Review Procedures

*Section 3.020.080(A). De Novo. Appeals shall be a de novo evidentiary hearing. A De Novo hearing allows for the introduction of additional evidence on issues raised at a lower level and included in the notice of appeal, and for arguments or testimony based on those issues. It does not allow for new issues to be raised, nor does it allow for evidence, arguments or testimony to be presented on issues not raised in the appeal notice.*

**FINDING #1:** The hearing scheduled for June 19, 2014 was conducted as a de novo evidentiary hearing. The Planning Commission had the opportunity to review the entire application and make a new decision.

**CONCLUSION:** The criteria in Section 3.020.080(A) have been satisfied.

*Section 3.020.080(B)(1). Right to Appeal Decisions. The following may file an appeal to decisions resulting from planning actions described in this Section:*

1. *Any party of record to the particular action.*

**FINDING #2:** The appeal of the Notice of Administrative Decision of March 24, 2014 was filed on April 7, 2014, by the applicant, who is a party of record.

**CONCLUSION:** The criteria in Section 3.020.080(B)(1) have been satisfied.

*Section 3.020.080(C). Filing Appeals.*

1. *To file an appeal, an appellant must file a completed notice of appeal on a form prescribed by the Department. The standard appeal fee shall be required as part of the notice of appeal.*
2. *The notice of appeal and appeal fee must be received at the Community Development Department office no later than 5:00 PM on the tenth day following the date of mailing of the notice of decision. (See Section 1.110: Computation of Time for an explanation of how days are counted).*

**FINDING #3:** The appeal with the information required under Section 3.020.080(C)(1) was filed on April 7, 2014, within the ten day period set forth in Section 3.020.080(2), along with the required filing fee.

**CONCLUSION:** The criteria in Section 3.020.080(C) have been satisfied.

*Section 3.020.080(G). Notification of Appeal Hearing. The notice of appeal, together with notice of the date, time and place of the appeal hearing shall be mailed to all parties at least 14 days prior to the hearing.*

**FINDING #4:** The applicant was the only party of record and was notified of the hearing scheduled for June 19, 2014.

**CONCLUSION:** The criteria in Section 3.020.080(G) have been satisfied.

*Section 3.020.080(H). Decision of Appeal.*

1. *The Commission or Council may affirm, reverse, or modify the planning action decision being appealed, including approving, approving with conditions, or denying a particular application.*
2. *The Commission or Council shall make findings and conclusions, and make a decision based on the hearing record.*

3. *A Notice of Appeal Decision shall be sent to the all parties participating in the appeal.*

**FINDING #5:** A copy of Notice of Administrative Decision dated March 24, 2014, and a copy of the appeal notice submitted on April 7, 2014 was included with the Agenda Staff Report, On June 19, 2014, following the close of the public hearing, the Planning Commission voted 4 to 0, to grant the appeal for the purpose of modifying certain conditions of approval. With the adoption of Resolution No. 541-14 which includes the proposed findings of fact and conclusions of law, the provisions of Section 3.020.080(H) will be addressed.

**CONCLUSION:** The criteria in Section 3.020.080(H) have been satisfied.

*Section 9.020.020 Land Use Standards*

*Subsection A. Applicability. All land divisions shall be in conformance with the requirements of the zone district where the division is proposed, and all other applicable provisions of this Ordinance. Modifications to these requirements may be accomplished through a Planned Development per the provisions of Section 9.050: Planned Developments.*

**FINDING #6:** The partition application will divide a lot into three lots, each over 5,000 square feet. The minimum lot size in the "R-L" zone is 5,000 square feet.

**CONCLUSION:** The criteria in Section 9.020.020(A) have been satisfied.

*Subsection B. Annexation. Whenever any new lot is created inside the Urban Growth Boundary but outside of the City limits, the City may require annexation or the signing of a consent to annexation and a waiver of the one year limitation on consent to annexation.*

**FINDING #7:** The subject property is within the City limits.

**CONCLUSION:** The criteria in Section 9.020.020(B) have been satisfied.

*Subsection C. Blocks. There are a series of provisions in the LUDO indicating the size of blocks.*

**FINDING #8:** The subject property is located on Thompson Street extending between East 15<sup>th</sup> and East 16<sup>th</sup> streets. No additional public roads are needed adjacent to the subject property.

**CONCLUSION:** The criteria in Section 9.020.020(C) have been satisfied.

*Subsection D. General Lot Requirements*

*1. Size and Shape. Lot size, width, shape, and orientation shall be appropriate for location of the subdivision and for the type of use contemplated. No lot shall be dimensioned to contain part of an existing or proposed street. Lot sizes shall not be less than required by this*

*Ordinance for the applicable zone district. Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for off-street parking and service facilities required by the type of use proposed*

**FINDING #9:** The two proposed new lots are regular in shape, relatively the same size, are similar to other lots in the area, and are of appropriate size. The larger lot remaining is suitable for further division.

**CONCLUSION:** The criteria in Section 9.020.020(D)(1) have been satisfied.

2. *Access. Each lot shall abut on a public street, alley or approved private access drive for a width of at least the minimum lot width specified by the development standards for the zone district where the lot is located, with the following exception:*

a) *Lot access requirements for residential rear lot development created through a land partition process may be exempted from the access requirement above when all the provisions of Section 9.020.030: Residential Rear Lot Development below have been met.*

**FINDING #10:** All of the lots abut upon a public street.

**CONCLUSION:** The criteria in Section 9.020.020(D)(2) have been satisfied.

3. *Access Points. Arterial and collector streets access points shall either be established in the final plat or included in covenants recorded as part of the final plat.*

**FINDING #11:** East 15<sup>th</sup> and East 16<sup>th</sup> Streets are classified as local streets. Thompson Street is classified in the City's Street System Inventory as an arterial street. Only the middle lot will be allowed to have access off Thompson Street. That access point has previously been established. No new access point is being created and none will be allowed.

**CONCLUSION:** The criteria in Section 9.020.020(D)(3) have been conditionally satisfied.

4. *Through Lots. Through lots shall be avoided except where essential to provide separation of residential development from collector or arterial streets or to overcome specific disadvantages of topography and orientation. No rights of access shall be permitted across the rear lot line of a through lot.*

**FINDING #12:** The partition does not create a through lot.

**CONCLUSION:** The criteria in Section 9.020.020(D)(4) have been satisfied.

5. *Lot Side Lines. Sidelines of lots, as far as practicable, shall be at right angles to the street the lot faces.*

**FINDING #13:** The sidelines of the proposed lots intersect at a right angle.

**CONCLUSION:** The criteria in Section 9.020.020(D)(5) have been satisfied.

6. *Lot Grading. Lot Grading shall conform to the provisions of Section 8.050: Erosion, Slope Failure, and Cuts and Fill.*

**FINDING #14:** No development is proposed with the partition. This lot is in the East City Inactive Landslide Deposit Area. This zone has no special requirements.

**CONCLUSION:** The criteria in Section 9.020.020(D)(6) have been satisfied.

7. *Building Lines. Building setback lines may be established in a final plat or included in covenants recorded as a part of a plat.*

**FINDING #15:** Setback lines are not reflected on the submitted partition application. These lines will be required on the final plat or included in covenants recorded as part of the plat.

**CONCLUSION:** The criteria in Section 9.020.020(D)(7) have been conditionally satisfied.

8. *Redevelopment Plans. A redevelopment plan shall be required when dividing residential land into large lots that have the potential for further subdivision or partition at some future date. The redevelopment plan shall show street extensions, utility extensions, and lot patterns to:*
  - a) *Indicate how the property(ies) may be further developed to 70% of maximum Comprehensive Plan density for the particular zone district.*
  - b) *Demonstrate that the proposal will not inhibit development of adjacent lands.*

**FINDING #16:** The Applicant has discussed with staff future plans and the proposed partition allows for two additional lots, similar to the proposed lots in Subdivision #65-12.

**CONCLUSION:** The criteria in Section 9.020.020(D)(8) have been conditionally satisfied.

*Section 9.030.040 Partition Application Review, Subsection B Review Criteria:*

1. *The tentative plat meets the Wasco County recording requirements.*

**FINDING #17:** The requirements can be met with the required survey. This will be confirmed by receipt of two copies of the recorded plat from Wasco County.

**CONCLUSION:** The criteria in Section 9.030.040(B)(1) have been conditionally satisfied.

2. *The proposal is consistent with the purposes of this Chapter, relevant development standards of this Ordinance, policies and density requirements of the*

*Comprehensive Plan, Public Works Standards and policies, and any other applicable policies and standards adopted by the City Council.*

**FINDING #18:** The Applicant asserts that the provisions of House Bill 3479 should be interpreted such that the Applicant should not be required to sign a delayed development agreement for public improvements associated with the frontage of the lot adjacent to Thompson Street, upon which the new house was constructed. The Planning Commission concludes that the language of House Bill 3479 is very clear as to the types of conditions which the City can impose as a condition of approval for a minor partition. Pursuant to House Bill 3479, the City cannot assess a charge in lieu of forming a local improvement district, it cannot require a prepayment against an assessment for a local improvement district, and it cannot require an applicant for a minor partition to execute a waiver of remonstrance specifically for a local improvement district.

After the passage of House Bill 3479, the City Council approved a series of amendments to the City's Land Use and Development Ordinance ("LUDO") to change the provisions concerning public improvements which could be required for minor partitions. Those amendments included revisions to Section 9.030.050(C)(2) which provides as follows:

*"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)"*

Section 10.030(A) of the LUDO provides as follows:

*"General. Except sidewalks which are described below in Subsection (B), all improvements required by the standards in this Section shall be installed per the provisions of Section 9.040.060(H): Installation of Required Improvements. The construction, installation, placement, or addition of a dwelling unit on a lot, including one that replaces another dwelling or structure, shall initiate the requirement of full public improvements, including street, curb, sidewalk, and storm sewer, except when the existing dwelling is destroyed by an act of God and the replacement dwelling has no more than 110% of the total square footage of the original".*

The requirements in the conditions of approval set forth in this Resolution do not require any charges in lieu of forming a local improvement district, nor do they require a prepayment against an assessment for a local improvement district. One of the proposed conditions does provide for an assessment associated with the costs of half street improvements for the lot with the existing residential structure, in the event that a local improvement district is established. The Planning Commission finds and concludes that this assessment is the result of the construction of a new dwelling which replaced another dwelling, and not the result of the act of partitioning the property itself, consistent with the provisions of Sections 9.030.050(C)(2) and 10.030(A) of the LUDO.

The Planning Commission finds and concludes that the provisions of House Bill 3479 specifically refer to waivers of remonstrance, and not to other types of agreements. The

Planning Commission agrees with the recommendation of City staff that a delayed improvement agreement is a different document than a waiver of remonstrance, and that the Planning Commission has the authority to include a provision that the Applicant negotiate with the City for the terms of a delayed improvement agreement, for the lot which has frontage adjacent to Thompson Street, as a condition of approval for the minor partition.

**CONCLUSION:** The criteria in Section 9.030.040(B)(2) have been satisfied.

3. *Approval does not impede future development of property under the same ownership or on adjacent land planned for urban densities, including provision of City services and access from a public street.*

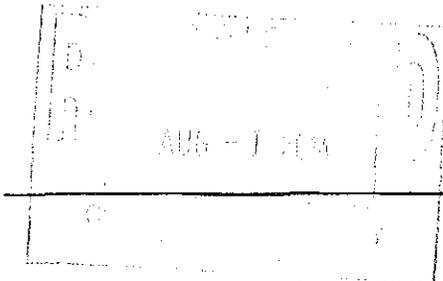
**FINDING #19:** The proposed partition does not impede future development of any property under the same ownership, or any property on adjacent land planned for urban densities.

**CONCLUSION:** The criteria in Section 9.030.040(B)(3) have been satisfied.

Based upon the findings and fact and conclusions of law set forth above, the Planning Commission hereby imposes the following conditions of approval:

1. Final plat submission must meet all the requirements of LUDO Section 9.030 and the other applicable provisions of the LUDO.
2. Two copies of the surveyed and recorded plat must be received in the Planning Department office within one year of the date of the notice of decision for this partition to be effective.
3. Legal access to Thompson Street is limited to the middle lot on Thompson Street. All other lots will take access from either 15<sup>th</sup> Street or 16<sup>th</sup> Street.
4. No new access point will be allowed on Thompson Street.
5. Building setback lines will be shown on the final plat.
6. Dedication of a 10 foot Public Utility Easement along each right-of-way will be required.
7. Applicant will be required to negotiate with City staff for a delayed development agreement (“DDA”) for full half street improvements (sidewalk, curb, stormwater, water, sanitary sewer, and paving) for Thompson Street for the frontage of the lot which has the new residential structure constructed by Applicant. The DDA will include a provision that in the event a local improvement district is established for construction of public improvements for Thompson Street, including the portion of Thompson Street which has the frontage for the lot upon which the new residential structure was built, the Applicant will pay for the costs of assessment for half street improvements for the lot with the new residential structure with frontage on Thompson Street. In the event the Applicant and City staff are unable to complete negotiations for the terms of the DDA within 60 days of the date of this Resolution, this matter will be scheduled for a hearing before the Planning Commission to allow the Planning Commission to make a determination as to what provisions will be included in the DDA.

8. Dedication of 25 feet of right-of-way along the frontage of East 15<sup>th</sup> Street, to increase the total right-of-way to 50 feet, will be required.



**CITY of THE DALLES**

313 COURT STREET

THE DALLES, OREGON 97058

(541) 296-5481

**CITY OF THE DALLES  
NOTICE OF APPEAL FOR LAND USE DECISIONS**

APPELLANT'S NAME & ADDRESS:

Elk Horn Development LLC  
397 Summit Ridge  
The Dalles, OR 97058

Please state the reasons why the appellant qualifies as a party entitled to file a notice of appeal:

As stated in agreement

Please provide the date and a brief description of the decision being appealed:

Not for Thompson property

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:\*

House was replaced not new construction on  
valued land

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

\$380 Appeal fee received



## CITY of THE DALLES

313 COURT STREET  
THE DALLES, OREGON 97058

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

# AGENDA STAFF REPORT

## CITY OF THE DALLES

MEETING DATE:	AGENDA LOCATION:	AGENDA REPORT #
September 8, 2014	Action Items 12, A	14-065

**TO:** Honorable Mayor and City Council

**FROM:** Gene E. Parker, City Attorney

**THRU:** Nolan K. Young, City Manager *nyj*

**DATE:** August 13, 2014

**ISSUE:** Resolution No. 14-024, amending the City's Fee Schedule to establish a fee for the use of the City's Commercial Dock.

**RELATED CITY COUNCIL GOAL:** None.

**PREVIOUS AGENDA REPORT NUMBERS:** #14-052.

**BACKGROUND:** On July 14, 2014, the City Council conducted a discussion concerning the establishment of a fee for the use of the City's Commercial Dock. City staff prepared a report analyzing the fee charged by other local ports, and recommended the Council consider establishing a fee of \$150, with \$15 of the fee to be credited to the Water Fund and the remainder of the fee to be credited to the General Fund to offset maintenance costs for the upkeep of the facility. The consensus of the City Council was to accept the staff's recommendation.

ORS 294.160(1) provides that whenever a City considers adoption of a resolution establishing a new fee, it must allow an opportunity for interested persons to comment upon the new fee. Following the opportunity allowing for public comment upon the proposed fee, staff is recommending the Council adopt Resolution No. 14-024 amending the City's Fee Schedule to establish the new fee for use of the Commercial Dock.

**BUDGET IMPLICATIONS:** The 2014 cruise ship season has 83 bookings as of the time of preparing this staff report. If the proposed \$150 fee had been in effect for the current season, the total revenue received by the City for the 83 dockings would be \$12,450. The Water Department would have received the sum of \$1,245, and the General Fund would have received \$11,205. After deducting maintenance costs of \$4,500, the net revenue would have been \$6,705.

**ALTERNATIVES:**

- A.            Staff Recommendation.    *Move to adopt Resolution No. 14-024.*
  
- B.            Decline to take any action concerning the proposed Resolution, which would mean that no fee for the use of the Commercial Dock would be established.

**RESOLUTION NO. 14-024**

**A RESOLUTION OF THE CITY COUNCIL AMENDING THE CITY FEE SCHEDULE TO ESTABLISH A FEE FOR THE USE OF THE CITY'S COMMERCIAL DOCK**

**WHEREAS**, on November 26, 2001, the City adopted Resolution No. 01-030 establish a City wide fee schedule; and

**WHEREAS**, on July 14, 2014, the City Council conducted a discussion concerning a proposal to establish a fee for the use of the City's commercial dock; and

**WHEREAS**, following the discussion on July 14, 2014, the City Council indicated its consensus was to accept the staff's recommendation to establish a fee of \$150; and

**WHEREAS**, ORS 294.160(1) provides that the City shall provide an opportunity for interested persons to comment upon any resolution which proposes to establish a new fee, and the City provided that opportunity during the Council meeting on September 8, 2014; and

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF THE DALLES RESOLVED AS FOLLOWS:**

Section 1. Fee Schedule Amended. The City Council hereby approves and adopts the amended Fee Schedule attached hereto as Exhibit "A", which includes a new fee of \$150 for the use of the City's commercial dock.

Section 2. Effective Date. This resolution shall be considered effective as of September 8, 2014.

**PASSED AND ADOPTED THIS 8<sup>TH</sup> DAY OF SEPTEMBER, 2014**

Voting Yes, Councilors: \_\_\_\_\_

Voting No, Councilors: \_\_\_\_\_

Absent, Councilors: \_\_\_\_\_

Abstaining, Councilors: \_\_\_\_\_

**AND APPROVED BY THE MAYOR THIS 8<sup>TH</sup> DAY OF SEPTEMBER, 2014**

\_\_\_\_\_  
Stephen E. Lawrence, Mayor

Attest:

\_\_\_\_\_  
Julie Krueger, MMC, City Clerk

# CITY OF THE DALLES - CITY FEE SCHEDULE

Effective September 8, 2014

<b><u>POLICE DEPARTMENT</u></b>	
Report Search & copy	\$ 5.00
Request for Fingerprints	\$ 10.00
Police Officer Written Exam	\$ 15.00
Administrative Fee for Towing Vehicles - Traffic Offenses	\$ 100.00
Burglary Alarm Permit (annual fee)	\$ 8.00
Robbery Alarm Permit (annual fee)	\$ 8.00
<b><u>LIBRARY</u></b>	
Overdue materials fee - juvenile, per day	\$ 0.05
Overdue materials fee - juvenile, maximum	\$ 0.50
Overdue materials fee - adult, per day	\$ 0.10
Overdue materials fee - adult, maximum	\$ 1.00
Interlibrary Loan	\$ 1.00
Non-resident borrowing privilege (annual fee)* *Residents of Fort Vancouver Library District	\$ 25.00
Non-resident borrowing privilege (annual fee)** **Non-residents of Special Library District (the Wasco County Library Service District) or the Sage Library System	\$ 75.00
<b><u>FINANCE DEPARTMENT</u></b>	
Transaction fee (when account is set up)	\$ 20.00
Delinquency Processing Fee (door hanger)	\$ 20.00
After hours call out fee (for overtime)	\$ 20.00
Non-sufficient funds check fee	\$ 25.00
Animal License Fee	\$ 25.00
Peddler's License Fees:	
Investigation Fee	\$ 10.00

<b><u>FINANCE DEPARTMENT</u>, Continued</b>	
Monthly license	\$ 25.00
Yearly license	\$ 50.00
Commercial Resale License (annual fee)	\$ 25.00
Investigation Fee	\$ 10.00
<b><u>UTILITIES</u></b>	
<b>Industrial Pretreatment Fees:</b>	
Initial permit application fee	\$ 1,000.00
Renewal of permit	\$ 500.00
Annual permit fee:	
SIU (Significant Industrial User)	\$ 500.00
Non-SIU	\$ 335.00
Annual monitoring fee	Actual Lab & Shipping Costs
<b>Monthly fees for Industrial User (IU) under Pretreatment Program:</b>	
Volume charge: one sewer unit per 10,000 gallons of discharge.	
Strength surcharges:	
BOD greater than 200 mg/L, per pound BOD	\$ 0.50
TSS greater than 200 mg/L, per pound TSS	\$ 0.25
<b>Discharge fees for batch discharges by permit under Pretreatment Program:</b>	
One time discharger (per gallon/minimum \$250.00)	\$ 0.05
Batch basis discharger (per gallon)	\$ 0.05
<b>Residential Water Rates (Monthly Fixed Charge):</b>	
Meter size 0.75" (volume \$1.60 per 1,000 gallons over 10,000 gallons per month)	\$ 52.67
Meter size 1" (volume \$1.60 per 1,000 gallons over 10,000 gallons per month)	\$ 52.67
Meter size 1.5" (volume \$1.60 per 1,000 gallons over 10,000 gallons per month)	\$ 63.20
Meter size 2" (volume \$1.60 per 1,000 gallons over 10,000 gallons per month)	\$ 80.06
Meter size 3" (volume \$1.60 per 1,000 gallons over 10,000 gallons per month)	\$ 115.89

<b><u>UTILITIES</u>, Continued</b>	
<b>Commercial Water Rates (Monthly Fixed Charge):</b>	
Meter size 0.75" (volume \$3.44 per 1,000 gallons over 5,000 gallons per month)	\$ 42.44
Meter size 1" (volume \$3.44 per 1,000 gallons over 5,000 gallons per month)	\$ 47.90
Meter size 1.5" (volume \$3.44 per 1,000 gallons over 5,000 gallons per month)	\$ 58.63
Meter size 2" (volume \$3.44 per 1,000 gallons over 5,000 gallons per month)	\$ 75.19
Meter size 2.5" (volume \$3.44 per 1,000 gallons over 5,000 gallons per month)	\$ 97.00
Meter size 3" (volume \$3.44 per 1,000 gallons over 5,000 gallons per month)	\$ 113.33
Meter size 4" (volume \$3.44 per 1,000 gallons over 5,000 gallons per month)	\$ 173.27
Meter size 6" (volume \$3.44 per 1,000 gallons over 5,000 gallons per month)	\$ 309.58
Meter size 8" (volume \$3.44 per 1,000 gallons over 5,000 gallons per month)	\$ 493.97
Meter size 10" (volume \$3.44 per 1,000 gallons over 5,000 gallons per month)	\$ 726.83
Meter size 12" (volume \$3.44 per 1,000 gallons over 5,000 gallons per month)	\$ 1,006.39
<b>Outside city limits WATER RATES ONLY</b> (residential and commercial) are charged 1.5 times the applicable rates, in lieu of debt service property taxes collected inside the City for bonded water system improvements	
<b>Sewer Fees:</b>	
Inside city limits (per unit, per month)	\$ 44.78
Outside city limits (per unit, per month)	\$ 76.13
<b>Systems Development Fees (water):</b>	
Application (per unit)	\$ 2,317.00
<b><u>Water Unit Calculations</u></b>	
.75" service or meter = 1 unit	
1" service or meter = 2 units	
1.5" service or meter = 4 units	
2" service or meter = 7 units	
3" service or meter = 14 units	
4" service or meter = 25 units	
6" service or meter = 50 units	

<b><u>UTILITIES</u>, Continued</b>	
8" service or meter = 80 units	
10" service or meter = 122 units	
12" service or meter = 172 units	
<b>Systems Development Fees (sewer):</b>	
Application fee (per unit)	\$ 1,789.00
<b><u>Sanitary Sewer Unit Calculations</u></b>	
Residential Dwelling = 1 unit	
Multiple Family Dwelling = 1 unit per residential dwelling	
Motor Courts, Motels, Hotels = 1 unit per 2 rental rooms	
Recreational Camping Parks = 1 unit per 2 spaces	
<b>Schools:</b>	
High & Middle Schools = 1 unit per 15 students	
Elementary Schools = 1 unit per 20 students	
Restaurants, Cafes, Coffee Shops = 1 unit per 10 seats	
Banquet rooms, Taverns, Lounges = 1 unit per 10 seat capacity	
<b>Hospitals:</b>	
With Laundry Facilities = 1 unit per bed	
Without Laundry Facilities = 1 unit per 2 beds	
Rest Homes = 1 unit per 2 beds	
Commercial = 1 unit per 9 or less employees	
Laundromats = 1 unit per machine	
Theaters = 1 unit per 100 seat capacity	
Churches = 1 unit per 100 seat capacity	
Auto Service Stations = 1 unit per 9 employees	
Commercial car washes = 1 unit per 10,000 gallons per month	
Medical, Veterinary = 1 unit per 10,000 gallons per month or 1 unit per 2 exam rooms	
Prison, Jails = 0.5 unit per bed	

<b><u>UTILITIES</u>, Continued</b>	
Industrial, Domestic Strength = 1 unit per 10,000 gallons per month	
<b>System Development Fees:</b> (storm water) (Rate multiplied by the number of Equivalent Residential Units)	\$ 342.00
<b>Storm Water Fee:</b> (Monthly rate per Equivalent Residential Unit)	\$ 2.00
<u>Storm Water Equivalent Residential Unit Calculations</u>	
Single family residential unit = 1 ERU	
Property other than a single family residential unit = 1 ERU per 3,000 feet of impervious surface	
Mobile Home Park = 1 ERU per space	
Multiple family building or facility = 1 ERU per multiple family unit on property	
<b>Contractor Water - From Hydrant Meter:</b>	
Hydrant meter placement/removal	\$ 60.00
Hydrant meter with backflow device - Placement/testing/removal	\$ 85.00
Hydrant meter with backflow device - Move and retest	\$ 85.00
Hydrant meter fee: (Not prorated; provide 24 hours' notice for removal)	
3" meter on 2½" hydrant port: Up to two days	\$ 35.00
Weekly rate	\$ 75.00
¾" meter on 2½" hydrant port: Up to two days	\$ 25.00
Weekly rate	\$ 55.00
Water Usage - At commercial volume rate per 1000 gallons (No gallonage included)	\$ 3.44
Loss or damage	Full Repair or Rplcmt cost
<b>Contractor Water - From Public Works Department fill station:</b>	
Fill Station Access Fee - At 2" commercial meter rate per calendar month	\$ 75.19
Water Usage - At commercial volume rate per 1000 gallons (No gallonage included)	\$ 3.44
Loss or damage	Full Repair or Rplcmt cost

<b><u>PUBLIC WORKS</u></b>	
Application Fee for Reimbursement District (actual fee calculated at 5% of project value with no minimum fee)	\$ 10,000.00 Maximum
Banner Permit	\$ 25.00
<b>Document Fees:</b>	
Aerial copies (11"x17", per page)	\$ 25.00
Blue line/large format copies (per square foot)	\$ 0.50
Development standards, hardcopy	\$ 25.00
Development standards, electronic copy	\$ 15.00
Large maps/drawings (per square foot)	\$ 0.50
<b>Wicks Treatment Plant Lab Fees:</b>	
Turbidity	\$ 16.00
pH (certified)	\$ 20.00
Alkalinity	\$ 20.00
Aluminum	\$ 24.00
Calcium	\$ 16.00
Copper	\$ 16.00
Fluoride	\$ 32.00
Hardness	\$ 24.00
Iron	\$ 16.00
Lead	\$ 16.00
Manganese	\$ 24.00
Phosphate - Ortho	\$ 24.00
Phosphate - Total	\$ 36.00
Silica	\$ 32.00
Sulfate	\$ 32.00
<b><u>Certified Bio-Lab Tests</u></b>	
Total Coliform/ <i>E. coli</i> by CF Method	\$ 30.00
Total Coliform/ <i>E. coli</i> by CF-Quanti-Tray Method	\$ 50.00

<b><u>PUBLIC WORKS</u>, Continued</b>	
Nitrate	\$ 30.00
Adjustment - Administrative	\$ 60.00
Adjustment - Quasi	\$ 235.00
<b><u>PLANNING DEPARTMENT</u></b>	
Annexation	\$ 65.00
Appeal	\$ 380.00
Ballot Measure 37 Claim Application Fee	\$ 300.00
Building Permit - Major	\$ 105.00
Building Permit - Minor	\$ 30.00
Comprehensive Plan Amendment	\$ 450.00
Comprehensive Plan/Zone Change	\$ 775.00
Conditional Use	\$ 420.00
Historical Review	\$ 25.00
Home Occupation	\$ 65.00
Major Partition	\$ 380.00
Minor Partition	\$ 250.00
Mobile Home Park	\$ 450.00
Non-conforming Use - Administrative	\$ 60.00
Non-conforming Use - Quasi	\$ 235.00
Physical Constraints	\$ 25.00
Planned Unit Development	\$ 480.00
<b>System Development Charges: (transportation)</b> Calculated using Discounted Transportation SDC per Unit of Development, as shown in Table 10 attached as Exhibit "A"	
Property Line Adjustment	\$ 65.00
Sidewalk/Approach Permit	\$ 15.00
Sign - Sidewalk Signboard Permit (one-time fee)	\$ 15.00
Sidewalk Signboard Impound Redemption fee (1 <sup>st</sup> violation)	\$ 10.00

<b><u>PLANNING DEPARTMENT</u>, Continued</b>	
Sidewalk Signboard Impound Redemption fee (2 <sup>nd</sup> violation)	\$ 50.00
Sidewalk Signboard Impound Redemption fee (3 <sup>rd</sup> & subsequent violations)	\$ 100.00
Sign - Flush Mount	\$ 30.00
Sign - Freestanding under 8'	\$ 65.00
Sign - Freestanding over 8'	\$ 90.00
Sign - over 250 square feet	\$ 155.00
Sign -- Tourist Oriented -- Annual Renewal	\$ 25.00
Site Plan Review	\$ 335.00
Subdivision	\$ 480.00
Utility Verification	\$ 10.00
Vacation (Street)	\$ 380.00
Variance	\$ 380.00
Zone Change	\$ 450.00
<b>Document Fees:</b>	
Comprehensive Plan	\$ 10.00
Comprehensive Plan Map	\$ 5.00
Geologic Hazard Study	\$ 20.00
Zoning Ordinance (LUDO)	\$ 10.00
Zoning Map	\$ 5.00
<b><u>ADMINISTRATIVE FEES</u></b>	
<b>Parking Permit Fees: (City lots)</b>	
Monthly	\$ 15.00
Annually	\$ 150.00
Reserved space/annual - first year	\$ 325.00
Reserved space/annual - subsequent years	\$ 300.00
<b>Photocopy Fees:</b>	
Per page (less than 50 pages)	\$ 0.25

<b><u>ADMINISTRATIVE FEES</u>, Continued</b>	
Document (between 50 and 100 pages)	\$ 15.00
Document (over 100 pages)	\$ 25.00
Ordinances, maps, odd size documents, filling public records requests that do not fit in another category, including research time, supervision, etc.	\$ 25.00 per hour
<b>Liquor Licenses: (OLCC)</b>	
New Outlet	\$ 100.00
Change in Ownership/Privilege	\$ 75.00
Annual Renewals	\$ 35.00
Tape recording of a proceeding or meeting	\$ 10.00
<b>Lewis &amp; Clark Festival Park:</b>	
User Fee	\$ 50.00
Security Deposit (refundable)	\$ 100.00
<b>Commercial Dock</b>	
User Fee	\$ 150.00



## CITY OF THE DALLES

313 COURT STREET  
THE DALLES, OREGON 97058

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

# AGENDA STAFF REPORT

## CITY OF THE DALLES

MEETING DATE:	AGENDA LOCATION:	AGENDA REPORT #
September 8, 2014	Action Items 12, B	14-062

**TO:** Honorable Mayor and City Council

**FROM:** Gene E. Parker, City Attorney

**THRU:** Nolan K. Young, City Manager *ny*

**DATE:** August 6, 2014

**ISSUE:** Resolution No. 14-025, granting Appeal #29-14 for Minor Partition #311-14 submitted by Randolph G. Hager, for the purpose of modifying certain conditions of approval.

**RELATED CITY COUNCIL GOAL:** None

**PREVIOUS AGENDA REPORT NUMBERS:** None

**BACKGROUND:** On July 14, 2014, the City Council conducted a public hearing upon a Notice of Appeal of the Planning Commission's decision concerning certain conditions of approval which were imposed upon a minor partition application submitted by Randolph Hager. Following the public hearing, the Council voted three to two to grant the appeal for the purpose of modifying certain conditions of approval, and directed staff to prepare a resolution setting forth the Council's decision and the appropriate findings of fact and conclusions of law.

Resolution No. 14-025, which details the Council's decision and the supporting findings of fact and conclusions of law, is enclosed with this staff report. Pursuant to the Council's decision, the condition concerning payment of the systems development charges has been deleted, and the condition concerning annexation has been included with the provision that Mr. Hager shall execute a consent to annexation and a waiver of the one year limitation period on consent to

annexation, and a final decision on annexation of the property will not be made by the City Council until a report has been received from the City Manager, following a meeting or meetings between Mr. Hager and City staff to review their respective positions concerning annexation of the property.

**BUDGET IMPLICATIONS:** None at this time.

**ALTERNATIVES:**

- A. Staff Recommendation. *Move to adopt Resolution No. 14-025.*
- B. Advise the staff of any necessary revisions in either the resolution or Exhibit "A" included with the resolution, and direct staff to prepare an amended version of the resolution to be adopted at a future Council meeting.

**RESOLUTION NO. 14-025**

**A RESOLUTION OF THE CITY COUNCIL  
GRANTING APPEAL #29-14 FOR MINOR  
PARTITION #311-14 SUBMITTED BY RANDOLPH  
G. HAGER, FOR THE PURPOSE OF MODIFYING  
CERTAIN CONDITIONS OF APPROVAL**

**WHEREAS**, Randolph G. Hager submitted an application to partition one lot located at 2804 East 10<sup>th</sup> Street, which measures approximately 39,780 square feet, into two smaller lots, which application was assigned the file number Minor Partition #311-14 by the Planning Department; and

**WHEREAS**, the Planning Department issued a Notice of Administrative Decision for MIP #311-14 on March 17, 2014, approving the requested partition with certain conditions of approval; and

**WHEREAS**, Mr. Hager filed a notice of appeal of the Notice of Administrative Decision dated May 16, 2014, which was assigned Appeal #28-14 by the Planning Department; and

**WHEREAS**, on June 19, 2014, the Planning Commission conducted a public hearing for Appeal #28-14, and following the public hearing, the Planning Commission voted to grant the appeal for the purpose of modifying certain conditions of approval included in the Notice of Administrative Decision dated March 17, 2014, based upon findings of fact, which decision was set forth in Resolution PC 540-14; and

**WHEREAS**, on June 30, 2014, Mr. Hager filed a Notice of Appeal of the Planning Commission's decision, which was assigned Appeal #29-14 by the Planning Department; and

**WHEREAS**, on July 28, 2014, the City Council conducted a public hearing for Appeal #29-14, and following the public hearing, the City Council voted three (3) to two (2) to grant the appeal for the purpose of modifying certain conditions of approval included in Resolution PC 540-14, based upon findings of fact and conclusions of law; and

**WHEREAS**, the City Council has reviewed the proposed findings of fact and conclusions of law set forth in Exhibit "A", and desires to adopt a resolution approving the proposed findings of fact and conclusions of law.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF THE DALLES  
RESOLVES AS FOLLOWS:**

Section 1. The City Council hereby approves and adopts the findings of fact and conclusions of law set forth in Exhibit "A", attached hereto and incorporated herein by this reference. The appeal designated Appeal #29-14 filed by Randolph G. Hager is granted, with modification to the conditions of approval as set forth in Exhibit "A".

Section 2. This resolution shall be considered effective as of September 8, 2014.

**PASSED AND ADOPTED THIS 8<sup>TH</sup> DAY OF SEPTEMBER, 2014**

Voting Yes, Councilors: \_\_\_\_\_

Voting No, Councilors: \_\_\_\_\_

Absent, Councilors: \_\_\_\_\_

Abstaining, Councilors: \_\_\_\_\_

**AND APPROVED BY THE MAYOR THIS 8<sup>TH</sup> DAY OF SEPTEMBER, 2014**

\_\_\_\_\_  
Stephen E. Lawrence, Mayor

ATTEST:

\_\_\_\_\_  
Julie Krueger, MMC, City Clerk

## EXHIBIT "A"

### FINDINGS OF FACT AND CONCLUSIONS OF LAW FOR RESOLUTION NO. 14-025

#### BACKGROUND INFORMATION

On February 22, 2014, Randolph G. Hager (hereinafter referred to as "Applicant") submitted an application to partition one lot which measures approximately 39,780 square feet, into two smaller lots. The subject property has been developed with a single family home and an accessory unit. The single family home will be located upon one of the proposed new lots, and the accessory unit will be located upon the other lot. With the proposed land division, the accessory structure will become a stand along single family dwelling.

On March 17, 2014, the Planning Department issued a Notice of Administrative Decision for MIP #311-14 approving the requested minor partition with certain conditions of approval. The Applicant filed a notice of appeal of the Notice of Administrative Decision on May 16, 2014. This Appeal was assigned Appeal #28-14 by the Planning Department. On June 19, 2014, the Planning Commission conducted a public hearing for Appeal #28-14 and voted to grant the appeal for the purpose of modifying certain conditions of approval included in the Notice of Administrative Decision dated March 17, 2014. The Planning Commission determined to delete the condition of approval requiring the Applicant to sign a consent to annexation and waiver of the one year period, and to retain the condition of approval requiring the Applicant to pay the applicable systems development charges. The Planning Commission's decision was set forth in Resolution No. PC 540-14. A Notice of Decision for the Planning Commission's decision in Appeal #28-14 was signed on June 20, 2014. On June 30, 2014, the Applicant filed a Notice of Appeal of the Planning Commission's decision, which was assigned Appeal #29-14 by the City Planning Department.

The property is located at 2804 East 10<sup>th</sup> Street and is further described as Township 1 North, Range 13 East, Assessor's Map No. 1 C Tax Lot 500. The City's Comprehensive Plan designates the property as "R-H" High Density Residential, and the property is located within the "R-H" High Density Residential zoning district. The property is located outside the City limits.

#### REVIEW OF APPLICABLE CRITERIA

##### LAND USE AND DEVELOPMENT ORDINANCE NO. 98-1222

##### Chapter 3. Application Review Procedures

*Section 3.020.080(A). De Novo. Appeals shall be a de novo evidentiary hearing. A De Novo hearing allows for the introduction of additional evidence on issues raised at a lower level and included in the notice of appeal, and for arguments or testimony based on those issues. It does not allow for new issues to be raised, nor does it allow for evidence, arguments or testimony to be presented on issues not raised in the appeal notice.*

**FINDING #1:** The hearing scheduled for July 28, 2014 was conducted as a de novo evidentiary hearing. The City Council had the opportunity to review the entire application and make a new decision.

**CONCLUSION:** The criteria in Section 3.020.080(A) have been satisfied.

*Section 3.020.080(B)(1). Right to Appeal Decisions. The following may file an appeal to decisions resulting from planning actions described in this Section:*

1. *Any party of record to the particular action.*

**FINDING #2:** The appeal of the Planning Commission's Decision of June 19, 2014, for which a Notice of Decision was signed on June 20, 2014, was filed on June 30, 2014, by the applicant, who is a party of record.

**CONCLUSION:** The criteria in Section 3.020.080(B)(1) have been satisfied.

*Section 3.020.080(C). Filing Appeals.*

1. *To file an appeal, an appellant must file a completed notice of appeal on a form prescribed by the Department. The standard appeal fee shall be required as part of the notice of appeal.*
2. *The notice of appeal and appeal fee must be received at the Community Development Department office no later than 5:00 PM on the tenth day following the date of mailing of the notice of decision. (See Section 1.110: Computation of Time for an explanation of how days are counted).*

**FINDING #3:** The appeal with the information required under Section 3.020.080(C)(1) was filed on June 30, 2014, within the ten day period set forth in Section 3.020.080(C)(2), along with the required filing fee.

**CONCLUSION:** The criteria in Section 3.020.080(C) have been satisfied.

*Section 3.020.080(G). Notification of Appeal Hearing. The notice of appeal, together with notice of the date, time and place of the appeal hearing shall be mailed to all parties at least 14 days prior to the hearing.*

**FINDING #4:** The applicant was the only party of record and was notified of the hearing scheduled for July 28, 2014.

**CONCLUSION:** The criteria in Section 3.020.080(G) have been satisfied.

*Section 3.020.080(H). Decision of Appeal.*

1. *The Commission or Council may affirm, reverse, or modify the planning action decision being appealed, including approving, approving with conditions, or denying a particular application.*
2. *The Commission or Council shall make findings and conclusions, and make a decision based on the hearing record.*
3. *A Notice of Appeal Decision shall be sent to the all parties participating in the appeal.*

**FINDING #5:** A copy of the Notice of Decision concerning the Planning Commission's decision, which was signed on June 20, 2014, and a copy of the appeal notice submitted on June 30, 2014 were included with the Agenda Staff Report for the Appeal. On July 28, 2014, following the close of the public hearing, the Planning Commission voted 3 to 2, to grant the appeal for the purpose of modifying certain conditions of approval. With the adoption of Resolution No. 14-025 which includes the proposed findings of fact and conclusions of law, the provisions of Section 3.020.080(H) will be addressed.

**CONCLUSION:** The criteria in Section 3.020.080(H) have been satisfied.

*Section 9.020.020 Land Use Standards*

*Subsection A. Applicability. All land divisions shall be in conformance with the requirements of the zone district where the division is proposed, and all other applicable provisions of this Ordinance. Modifications to these requirements may be accomplished through a Planned Development per the provisions of Section 9.050: Planned Developments.*

**FINDING #6:** The partition application will divide a lot into two lots, each over 10,000 square feet. The minimum lot size in the "R-H" zone is 3,500 square feet.

**CONCLUSION:** The criteria in Section 9.020.020(A) have been satisfied.

*Subsection B. Annexation. Whenever any new lot is created inside the Urban Growth Boundary but outside of the City limits, the City may require annexation or the signing of a consent to annexation and a waiver of the one year limitation on consent to annexation.*

**FINDING #7:** In his testimony before the City Council, the Applicant asserted that information in the City's Site Team Notes indicated that the subject property would not be annexed. City staff asserted that since the portion of East 10<sup>th</sup> Street adjacent to the subject property had been annexed to the City, the property was contiguous to the City limits, and under Council policy, it was appropriate to require the Applicant to execute a consent to annexation and a waiver of the one year limitation on consent to annexation. City staff also advised the Council the staff had been consistently following the practice of presenting properties for annexation to the City Council, when the property was contiguous to the City limits and the City had obtained a consent to annexation from the property owner and consent to waiver of the one year limitation period. City staff would typically present the issue to the Council prior to March 31<sup>st</sup> of the year

following the year during which the consent to annexation and consent to waive the one year limitation period was executed.

The City Council finds and concludes that it is reasonable to interpret the use of the word “may” in Section 9.020.020(B) as reflecting an intent to grant discretion to the City to determine when an applicant can be required to sign a consent to annexation and consent to waiver of the one year limitation period on consent annexations. The City Council finds this interpretation supports the City staff’s position that the Applicant should be required to sign a consent to annexation and a waiver of the one year limitation on consent to annexation, when the subject property is contiguous to the City limits. The City Council recommends that City Staff and the Applicant meet to discuss their respective positions concerning whether the annexation of the subject property should be finalized. The City Council finds and concludes that the actual decision as to whether the subject property will be annexed will not be made until the City Council has received a report from the City Manager following the meeting(s) between the City Staff and the Applicant. The City Council finds that the proposed condition of approval requiring the execution of a consent to annexation and waiver of the one year limitation on consent to annexation is consistent with the provisions of Section 9.020.020(B).

**CONCLUSION:** The criteria in Section 9.020.020(B) have been satisfied.

*Subsection C. Blocks. There are a series of provisions in the LUDO indicating the size of blocks.*

**FINDING #8:** The subject property is located on East 10<sup>th</sup> Street. There are no public roads on either side of the subject property, and none are anticipated to be needed in the future.

**CONCLUSION:** The criteria in Section 9.020.020(C) have been satisfied.

*Subsection D. General Lot Requirements.*

- 1. Size and Shape. Lot size, width, shape, and orientation shall be appropriate for location of the subdivision and for the type of use contemplated. No lot shall be dimensioned to contain part of an existing or proposed street. Lot sizes shall not be less than required by this Ordinance for the applicable zone district. Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for off-street parking and service facilities required by the type of use proposed. The “R-H” High/Medium Density Residential District requires a lot area of at least 3,500 square feet and lot dimensions of at least 35 feet wide by 65 feet deep for one dwelling lots.*

**FINDING #9:** The two proposed new lots are regular in shape, relatively the same size, are similar to other lots in the area, and are of appropriate size given the limited access and the topography.

**CONCLUSION:** The criteria in Section 9.020.020(D)(1) have been satisfied.

2. *Access. Each lot shall abut on a public street, alley or approved private access drive for a width of at least the minimum lot width specified by the development standards for the zone district where the lot is located, with the following exception:*

a) *Lot access requirements for residential rear lot development created through a land partition process may be exempted from the access requirement above when all the provisions of Section 9.020.030: Residential Rear Lot Development below have been met.*

**FINDING #10:** Parcel 1 of the proposed partition abuts on East 10<sup>th</sup> Street for its full width and has an existing access point. Parcel 2 is located behind the front lot, and has no direct access to East 10<sup>th</sup>. The Applicant did not initially request a new access point onto East 10<sup>th</sup> Street. The Applicant correctly noted in his testimony before the Planning Commission that lots with over 100 feet of frontage are allowed two access points. The City Council concurs with the Planning Commission's finding that it is possible that in the future, if a second access point was requested, and the proper documentation was submitted in support of that request, the request could be approved.

**CONCLUSION:** The criteria in Section 9.020.020(D)(2) have been satisfied.

3. *Access Points. Arterial and collector streets access points shall either be established in the final plat or included in covenants recorded as part of the final plat.*

**FINDING #11:** East 10<sup>th</sup> Street east of Thompson Street is classified in the City's Street System Inventory as a local street. The option of a second access point being approved in the future was addressed in Finding #10.

**CONCLUSION:** The criteria in Section 9.020.020(D)(3) have been satisfied.

4. *Through Lots. Through lots shall be avoided except where essential to provide separation of residential development from collector or arterial streets or to overcome specific disadvantages of topography and orientation. No rights of access shall be permitted across the rear lot line of a through lot.*

**FINDING #12:** The partition does not create a through lot.

**CONCLUSION:** The criteria in Section 9.020.020(D)(4) have been satisfied.

5. *Lot Side Lines. Sidelines of lots, as far as practicable, shall be at right angles to the street the lot faces.*

**FINDING #13:** The sidelines of the proposed lots intersect at a right angle.

**CONCLUSION:** The criteria in Section 9.020.020(D)(5) have been satisfied.

6. *Lot Grading. Lot Grading shall conform to the provisions of Section 8.050: Erosion, Slope Failure, and Cuts and Fill.*

**FINDING #14:** No development is proposed with the partition. This lot is in the East City Inactive Landslide Deposit Area. This zone has no special requirements.

**CONCLUSION:** The criteria in Section 9.020.020(D)(6) have been satisfied.

7. *Building Lines. Building setback lines may be established in a final plat or included in covenants recorded as a part of a plat.*

**FINDING #15:** Setback lines are not reflected on the submitted partition application and need to meet all setback requirements. These lines will be required on the final plat or included in covenants recorded as part of the plat.

**CONCLUSION:** The criteria in Section 9.020.020(D)(7) have been conditionally satisfied.

8. *Redevelopment Plans. A redevelopment plan shall be required when dividing residential land into large lots that have the potential for further subdivision or partition at some future date. The redevelopment plan shall show street extensions, utility extensions, and lot patterns to:
  - a) *Indicate how the property(ies) may be further developed to 70% of maximum Comprehensive Plan density for the particular zone district.*
  - b) *Demonstrate that the proposal will not inhibit development of adjacent lands.**

**FINDING #16:** Given the difficulties with access to the subject property, no additional divisions of the property are anticipated.

**CONCLUSION:** The criteria in Section 9.020.020(D)(8) have been satisfied.

*Section 9.030.040 Partition Application Review, Subsection B Review Criteria:*

1. *The tentative plat meets the Wasco County recording requirements.*

**FINDING #17:** The requirements can be met with the required survey. This will be confirmed by receipt of two copies of the recorded plat from Wasco County.

**CONCLUSION:** The criteria in Section 9.030.040(B)(1) have been conditionally satisfied.

2. *The proposal is consistent with the purposes of this Chapter, relevant development standards of this Ordinance, policies and density requirements of the Comprehensive Plan, Public Works Standards and policies, and any other applicable policies and standards adopted by the City Council.*

**FINDING #18:** The Applicant asserted in testimony before the Planning Commission and City Council that he should not be obligated to pay the charges associated with transportation, stormwater, and parks and recreation system development charges. The Applicant asserted that the proposed minor partition did not change the use of the accessory dwelling unit which was approved and constructed. The Applicant maintained that the system development charges should have been imposed when the building permit for the accessory dwelling was approved, and the City did not have the authority to retroactively impose a charge for these system development fees. Jim Wilcox, a local realtor testifying in support of the application, asserted the City Council had indicated their intent during previous discussions of issues related to improvements with minor partition applications, that the issuance of a building permit should be the trigger which requires an applicant to pay systems development charges.

Section 12 of General Ordinance No. 07-1286 concerning transportation system development charges, and Section 8 of General Ordinance No. 07-1287 concerning stormwater system development charges, provides that payment of these SDC charges shall be in accordance with Section 9 of General Ordinance No. 06-1266. Section 9(A) of General Ordinance No. 06-1266 provides as follows:

- “A. The system development charge is payable upon issuance of:*
- (1) A building permit;*
  - (2) A development permit;*
  - (3) A development permit for development not requiring the issuance of a building permit;*
  - (4) A permit to connect to the water system;*
  - (5) A permit to connect to the sewer system; or*
  - (6) A right-of-way access permit.*

The City Council disagrees with the Planning Commission finding and conclusion that the act of partitioning the property has resulted in development which will not require the issuance of a building permit under Section 9(A)(3) of General Ordinance No. 06-1266. The Council finds and concludes that the applicable provisions are set forth in Section 9(A)(1) of General Ordinance No. 06-1266. The City Council finds and concludes that the minor partition application submitted by the Applicant did not require the issuance of a building permit. Since no building permit would be required in connection with the minor partition application, the Council finds there is no basis to require the Applicant to pay the applicable systems development charges. Consistent with the intent reflected in previous Council discussions concerning when improvements should be required for minor partition applications, the Council finds and concludes it is reasonable to require the payment of system development charges when a building permit is actually required in connection with the minor partition application.

**CONCLUSION:** The criteria in Section 9.030.040(B)(2) have been satisfied.

3. *Approval does not impede future development of property under the same ownership or on adjacent land planned for urban densities, including provision of City services and access from a public street.*

**FINDING #19:** The proposed partition does not impede future development of any property under the same ownership, or any property on adjacent land planned for urban densities.

**CONCLUSION:** The criteria in Section 9.030.040(B)(3) have been satisfied.

Based upon the findings and fact and conclusions of law set forth above, the City Council hereby imposes the following conditions of approval:

1. Final plat submission must meet all the requirements of LUDO Section 9.030 and the other applicable provisions of the LUDO.
2. Two copies of the surveyed and recorded plat must be received in the Planning Department office within one year of the date of the notice of decision for this partition to be effective.
3. Legal access to East 10<sup>th</sup> Street must be provided to Parcel #2.
4. A new access point may be allowed on East 10<sup>th</sup> Street at this time with approval of appropriate documents.
5. Building setback lines will be shown on the final plat.
6. The Applicant shall be required to sign a consent to annexation and a waiver of the one year limitation on consent to annexation. The City Council recommends that City Staff and the Applicant meet to discuss their respective positions concerning whether the annexation of the subject property should be finalized. The actual decision as to whether the subject property will be annexed will not be made until the City Council has received a report from the City Manager following the meeting(s) between the City Staff and the Applicant.



## CITY OF THE DALLES

313 COURT STREET  
THE DALLES, OREGON 97058

(541) 296-5481 ext. 1122  
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# AGENDA STAFF REPORT

## CITY OF THE DALLES

MEETING DATE:	AGENDA LOCATION:	AGENDA REPORT #
September 8, 2014	Action Items 12, C	14-061

**TO:** Honorable Mayor and City Council

**FROM:** Gene E. Parker, City Attorney

**THRU:** Nolan K. Young, City Manager *nej*

**DATE:** August 5, 2014

**ISSUE:** General Ordinance No. 14-1336, approving Zoning Ordinance Amendment No. 86-14 and Comprehensive Plan Amendment No. 41-14, for a parcel measuring approximately 1.75 acres on one lot, adjacent to the site of the former National Guard Armory.

**RELATED CITY COUNCIL GOAL:** None.

**PREVIOUS AGENDA REPORT NUMBERS:** #14-054.

**BACKGROUND:** On July 14, 2014, the City Council conducted a public hearing upon applications submitted by Wasco County for a Zoning Ordinance Amendment and Comprehensive Plan Amendment, for a parcel of property measuring approximately 1.75 acres which is located to the site of the former National Guard Armory. The request sought to change the Comprehensive Plan Map and Zoning Ordinance Map from "P/OS" Parks and Open Space with a "CFO" Community Facility Overlay to "CG" – General Commercial. Following the public hearing, the Council voted unanimously to approve the requested Comprehensive Plan Amendment and Zoning Ordinance Amendment, and directed staff to prepare an ordinance setting forth the Council's decision and the appropriate findings of fact and conclusions of law.

General Ordinance No. 14-1336, which details the Council's decision and the supporting findings of fact and conclusions of law, is enclosed with this staff report. Notice of adoption of the ordinance has been posted in accordance with the provisions of the City Charter and the ordinance can be adopted by title only.

**BUDGET IMPLICATIONS:** None.

**ALTERNATIVES:**

- A. Staff Recommendation. *Move to adopt General Ordinance No. 14-1336 by title only.*
- B. Advise the staff of any necessary revisions in either the ordinance or Exhibit "A" included with the ordinance, and direct staff to prepare an amended version of the ordinance to be adopted at a future Council meeting.

**GENERAL ORDINANCE NO. 14-1336**

**AN ORDINANCE APPROVING ZONING ORDINANCE AMENDMENT NO. 86-14 AND COMPREHENSIVE PLAN AMENDMENT NO. 41-14, FOR A PARCEL MEASURING APPROXIMATELY 1.75 ACRES OF ONE LOT, ADJACENT TO THE SITE OF THE FORMER NATIONAL GUARD ARMORY**

**WHEREAS**, on April 25, 2014, Wasco County, an Oregon municipal corporation, submitted an application requesting a zone change and a Comprehensive Plan amendment for a parcel measuring approximately 1.75 acres located on the property at 807 Webber Street, to change the Comprehensive Plan Map and Zoning Ordinance Map from “P/OS” Parks and Open Space with a “CFO” Community Facility Overlay to “CG” – General Commercial; and

**WHEREAS**, the City Planning Commission conducted a public hearing on the application on June 19, 2014, and voted to adopt Resolution No. P.C. 539-14, recommending the City Council approve the requested zone change and Comprehensive Plan amendment; and

**WHEREAS**, on July 14, 2014, the City Council conducted a public hearing on the application; and

**WHEREAS**, a staff report was presented to the City Council and public testimony was received at the public hearing; and

**WHEREAS**, following the close of the public hearing, the City Council deliberated, and voted 5 to 0, to approve the requested zone change amendment and Comprehensive Plan amendment, based upon findings of fact and conclusions of law; and

**WHEREAS**, City Council directed staff to prepare an ordinance setting forth proposed findings of fact and conclusions of law; and

**WHEREAS**, the City Council has reviewed the proposed findings of fact and conclusions of law, attached to this ordinance as Exhibit “A”, and incorporated herein by this reference; **NOW, THEREFORE**,

**THE COUNCIL OF THE CITY OF THE DALLES ORDAINS AS FOLLOWS:**

Section 1. The City Council hereby adopts and approves the findings of fact and conclusions of law set forth in Exhibit “A”. Based upon these findings of fact and conclusions of law, the application of Wasco County, for Zoning Ordinance Amendment No. 86-14 and Comprehensive Plan Amendment No. 41-14, concerning a request to change the zone designation for a parcel measuring approximately 1.75 acres located on the property at 807 Webber Street, to change the Comprehensive Plan Map and Zoning Ordinance Map from “P/OS” Parks and Open Space with a “CFO” Community Facility Overlay to “CG” – General Commercial, is hereby approved.

**PASSED AND ADOPTED THIS 8<sup>TH</sup> DAY OF SEPTEMBER, 2014**

Voting Yes, Councilors: \_\_\_\_\_  
Voting No, Councilors: \_\_\_\_\_  
Absent, Councilors: \_\_\_\_\_  
Abstaining, Councilors: \_\_\_\_\_

**AND APPROVED BY THE MAYOR THIS 8<sup>TH</sup> DAY OF SEPTEMBER, 2014**

\_\_\_\_\_  
Stephen E. Lawrence, Mayor

ATTEST:

\_\_\_\_\_  
Julie Krueger, MMC, City Clerk

## EXHIBIT "A"

### FINDINGS OF FACT AND CONCLUSIONS OF LAW GENERAL ORDINANCE NO. 14-1336

**BACKGROUND:** Wasco County submitted the application for a zoning ordinance amendment and a comprehensive plan amendment following the relocation of the National Guard Armory on the property located at 807 Webber Street, to the site of the new National Guard Readiness Center located at 400 SE Scenic Drive. As specified in a reversionary clause between the State of Oregon and Wasco County, the parcel upon which the former armory was located will revert to the County's ownership when the Oregon National Guard has vacated the property. If approved for the requested rezoning, the site would become available in the future for commercial uses, and has the potential to increase the future viability of commercial uses upon the former Armory site, if the two areas were combined through a lot line adjustment. Wasco County's overarching interest in the proposed change in use is to allow the subject site, in conjunction with opportunities presented on the commercially zoned Armory site, to become a revenue-producing parcel.

The area which is the subject of the requests is a portion of property described as Assessor's Map No. 2N 13E 33C, Tax Lot 1700. This lot includes the playing fields at Kramer Park. The portion of property measuring approximately 1.75 acres which is sought to be rezoned is at a lower grade than the playing fields, and is separated from the playing fields by a fence. The request is to change the zone from Parks and Open Space to General Commercial, which is the same zoning classification as the site of the former Armory building. Both of the properties are owned by Wasco County.

#### REVIEW OF APPLICABLE CRITERIA

#### LAND USE AND DEVELOPMENT ORDINANCE NO. 98-1222

#### Chapter 3. Application Review Procedures

*Section 3.010.030. Applicants for administrative, quasi-judicial, or legislative actions shall be required to participate in a pre-application conference with the Director prior to submitting an application.*

**FINDING #1:** The application is subject to a legislative hearing before the Planning Commission and a quasi-judicial action by the City Council. As required, the Applicant and planning consultant attended a Site Team Meeting on March 20, 2014.

**CONCLUSION:** The criteria in Section 3.010.030 have been satisfied.

*Section 3.010.040. Applications for ministerial, planning, and legislative actions shall be on forms provided by the Director, comply with all applicable sections of this Ordinance, and where applicable, meet the following criteria:*

- 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 #2:** The applications for the zone change and comprehensive plan map change were found to be complete on April 28, 2014. The 120 day State mandated decision deadline is August 26, 2014. The hearings held before the Planning Commission and the City Council were within the required time line.

**CONCLUSION:** The criteria in Section 3.010.040(B) have been satisfied.

*Section 3.020.050 Quasi-Judicial Actions:*

*A. Decision Types. Quasi-judicial actions include, but are not limited to, the following:*

*8. Zone Changes (Section 3.100).*

*D. Notice of Hearing. At least 10 days before the scheduled quasi-judicial public hearing, notice of the hearing shall be mailed to:*

- 1. The applicant and owners of property within 300 feet of the subject property. The list shall be compiled from the most recent property tax assessment roll.*
- 2. Any affected governmental agency, department, or public district whose boundaries include the subject property.*
- 3. Any neighborhood or community organization recognized by the Department and whose boundaries include the subject property.*
- 4. The notice provided by the Department shall:*
  - a) Explain the nature of the application and the proposed use or uses which could be authorized.*
  - b) Set forth the street address or other easily understood geographical reference to the subject property.*
  - c) State that failure to raise an issue in writing within the comment period, or failure to provide statements or evidence sufficient to afford the decision maker an opportunity to respond to the issue, precludes an appeal to LUBA on that issue.*

- d) *List by commonly used citation the applicable criteria for the decision.*
- e) *State the place, date, and time of the hearing.*
- f) *State that a copy of the application, all documents and evidence submitted by the applicant, and all applicable criteria are available for inspection at no cost and will be provided at a reasonable cost.*
- g) *State that a copy of the staff report will be available for inspection at no cost and will be provided at a reasonable cost at least seven days prior to the hearing.*
- h) *Include the name and telephone number of the Director to contact for additional information.*
- i) *Include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings.*

**FINDING #3:** The application is for a Zone Change pursuant to Section 3.100 of the Land Use and Development Ordinance (LUDO) and a Comprehensive Plan Map change pursuant to Goal #2, Land Use Planning, of the Comprehensive Plan. The hearings have been combined because the issues are essentially the same for both requests. The City Council hearing was conducted on July 14, 2014. A letter concerning the Council hearing was sent to each of the affected property owners on July 2, 2014, notifying them of the hearing as required by LUDO Section 3.020.050.

**CONCLUSION:** The criteria in Section 3.020.050 have been satisfied.

*Section 3.100.030 Review Criteria. A Zone Change shall be granted if the following criteria are met:*

- A. *Conformance. The proposed Zone Change conforms with the Comprehensive Plan and all other provisions of this Ordinance.*
- B. *Suitability. The site is adequate in size and shape for uses normally allowed by the proposed zone.*
- C. *Streets and Traffic. The site is, or will be, adequately served by streets for the type and volume of traffic generated by uses that may be permitted in the new zone.*
- D. *Adverse Effect. The proposed Zone Change shall have minimal adverse effect on existing and future surrounding development.*

**FINDING #4:** Concerning the criteria in Section 3.100.030(A), the application includes a requested Comprehensive Plan Amendment to the CG designation for the subject property.

Approval of the requested zone change from Parks and Open Space to Commercial General will ensure the property conforms with the amended Comprehensive Plan. The Applicant submitted Exhibits (Exhibit H, Proposed Zoning, and Figure 3, Photo of Nearby Commercial Uses) which showed the addition of the area to the cluster of commercially-zoned parcels at the intersection of Webber Street and West 6<sup>th</sup> was consistent with existing zoning and land uses in the vicinity. The Applicant presented testimony that the subject site can be developed according to the LUDO Development standards for General Commercial, given its size and location. Additional testimony was submitted that other development requirements, such as landscaping (Section 6.010 of the LUDO), access management (Section 6.050 of the LUDO), and parking (Sections 7.020 and 7.030 of the LUDO) can also be met on the site and would be addressed as part of any future Site Plan Review process.

**CONCLUSION:** The criteria in Section 3.100.030(A) have been satisfied.

**FINDING #5:** Concerning the criteria in Section 3.100.030(B), the Applicant presented testimony indicating the site measures approximately 495 feet by 155 feet, and has a total area of 1.75 acres (See Exhibit 1). Nearby tax lots which are zoned CG range from roughly .5 acres to 5.5 acres. The Applicant presented testimony that the site is adequate in size and shape to support a commercial use on its own, but that rezoning the site will permit future lot consolidation with an adjacent parcel which is zoned CG. The Applicant asserted that this will create the area needed, and an opportunity for a greater variety of commercial end users, and a site plan and development that creates a “signature, positive impression when entering the City”. The Applicant presented testimony that approving the requested zone change would increase the depth of commercial zoning on the corner to be consistent with the neighboring lots, from roughly 120 feet to roughly 260 feet in depth from West 6<sup>th</sup> Street.

**CONCLUSION:** The criteria in Section 3.100.030(B) have been satisfied.

**FINDING #6:** Concerning the criteria in Section 3.100.030(C), the Applicant asserted in testimony that the subject site was well served by the existing street network. The Applicant noted that the site abuts Webber Street, which is classified as a Major Arterial, and was in the vicinity of West 6<sup>th</sup> Street, which is also a Major Arterial. The Applicant also noted the City had not identified any capacity, access, or traffic safety issues with the proposed commercial uses on the site. According to the Applicant, the City has indicated that a traffic impact study will be required as part of a Site Plan Review and development approval process. The Applicant asserted that given that access to the subject site is within a quarter mile from the Webber Street I-84 off-ramp, the scope of a future traffic impact study may need to be coordinated with the Oregon Department of Transportation.

**CONCLUSION:** The criteria in Section 3.100.030(C) have been satisfied.

**FINDING #7:** Concerning the criteria in Section 3.100.030(D), the Applicant noted that the subject site included a gravel area which had been used for informal parking and for Oregon National Guard vehicle maneuvering. The Applicant asserted the proposed action would not reduce the amount of active recreational land in the area. The Applicant maintained the site was currently underutilized and was visually unappealing. The Applicant asserted the ultimate effect

of the proposed zone change would be to better utilize the vacant land and develop a stronger “gateway” to the mid-commercial core of the City of The Dalles. The Applicant also asserted the addition of this area to the cluster of commercially-zoned parcels at the intersection is consistent with existing land uses in the vicinity, and that future commercial uses at the site will bring activity and increased vitality to existing uses in the immediate area.

**CONCLUSION:** The criteria in Section 3.100.030(D) have been satisfied.

## **CITY OF THE DALLES COMPREHENSIVE PLAN**

### ***Comprehensive Plan Goal 9: Economic Development – Policies***

- 1. Encourage the siting and growth of employers which pay family wages as identified in The Dalles Economic Opportunities Analysis (EOA).*
- 2. To the extent possible, designate within the existing UGB suitable land with the size and locational characteristics required by targeted employment as set forth in the 2010 EOA.*
- 3. Identify Industrial Sites that are immediately available and serviceable for industrial development consistent with the Goal 9 Rule. Request Oregon Economic and Community Development Department (OECDD) certification for “shovel ready” industrial sites pursuant to Executive Order 03-02.*
- 4. Coordinate with property owners to retain large commercial and industrial sites identified in the EOA for their intended commercial and industrial uses through zoning and master planning.*
- 5. Actively support redevelopment efforts for under-utilized commercial and industrial sites within The Dalles UGB, recognizing that the Northwest Aluminum site provides the large industrial sites required by target employers during the 20 year planning period.*
- 6. Protect large Northwest Aluminum redevelopment sites for their intended industrial uses as identified in the EOA as set forth in Table 9-4.*
- 7. Commercial and service users in the City’s industrial zones should be limited to small-scale retail and service uses that cater primarily to the local area employees and customers.*
- 8. Plan for and make prudent public investments to meet the future demands of industrial, commercial, and residential growth in The Dalles.*
- 9. Encourage investment in The Dalles Central Business District, and support project activities in the Columbia Gateway/Downtown Urban Renewal Plan.*
- 10. Encourage tourism-related services as an element in the diversification of the community’s economy.*

11. *Encourage the development of the Mid-Columbia Medical Center and other health services as an important resource to the economic base of The Dalles, and as an important element in extending the perimeter of The Dalles' trade area.*
12. *Maintain The Dalles' position as a primary agribusiness trade center by encouraging the growth of those businesses providing agricultural supplies and services, and those processing and marketing agricultural products.*
13. *Support the forest products industry as an element of the economy.*
14. *Encourage the start-up and growth of small to medium sized businesses providing family wage jobs. Develop reasonable standards to allow home business start-ups.*
15. *Encourage siting of new industries in The Dalles, and encourage existing industries to maintain high environmental standards.*
16. *Reserve industrial zones for industrial uses and uses compatible with industry.*
17. *Review and revise administrative policies and procedures to streamline the planning process, and reduce delays in obtaining development approvals.*
18. *Coordinate economic planning and development with industrial development at Dallesport.*
19. *Encourage educational, cultural, social and employment opportunities to enhance the quality of life in The Dalles for all age and income groups.*
20. *Plan appealing streetscapes that encourage personal interaction, accommodate public gatherings, and enhance the experience of shoppers and workers.*
21. *Encourage cooperation between public and private sectors to support economic growth.*
22. *Make prudent investments in The Columbia Gorge Regional Airport as needed to accommodate airport development.*

**FINDING #8:** Concerning the criteria in Policy #1, Page 38 of the EOA lists “(e)ncourage investment in The Dalles Central Business District and support activities in the Columbia Gateway/Downtown Urban Renewal Plan” as a supporting public policy under the heading “Provide family wage employment opportunities”. The subject site is within the boundary of the Urban Renewal District. The Applicant presented testimony that investing in the economic development of the subject site is consistent with the EOA, Urban Renewal Plan, and the Comprehensive Plan Policy.

**CONCLUSION:** The criteria in Goal 9, Policy 1, have been satisfied.

**FINDING #9:** Concerning the criteria in Policy #2, the Applicant noted that on page v of the EOA, the executive summary stated that “for the 2006-2026 period, the City will need a considerable number of smaller sites”. Table S-4 of the EOA identifies a need for 135 sites for employment uses averaging 1 acre in size by the year 2026. The Applicant asserted that re-designation of the subject site to Commercial would help fill this need.

**CONCLUSION:** The criteria in Goal 9, Policy 2, have been satisfied.

**FINDING #10:** Concerning the criteria in Policies 3 and 4, the Applicant asserted the policies were not applicable, as the subject site was small and in a location not suitable for industrial development.

**CONCLUSION:** The criteria in Goal 9, Policy 3 and 4, are not applicable to the approval of the application.

**FINDING #11:** Concerning the criteria in Policy 5, the Applicant presented testimony that the subject site was currently under-utilized under its existing zoning, primarily due to the site’s physical separation from active recreation areas. The Applicant asserted that the adjacent Armory site would be considered to be an under-utilized commercial site once the National Guard had vacated the site. The Applicant noted that subsequent to the approval of the rezoning request, the subject site could be combined with the adjacent Armory site through a lot line adjustment, resulting in an area of adequate size and configuration to allow for redevelopment of a prime commercial gateway location. The Applicant presented testimony that approving the proposed Comprehensive Plan amendment would increase the depth of the commercially designated land on the corner to a size of roughly 260 feet, consistent with the depth of nearby lots.

**CONCLUSION:** The criteria in Goal 9, Policy 5, have been satisfied.

**FINDING #12:** Concerning the criteria in Policy 6, the Applicant asserted the policy was not applicable, as the subject site was not a large Northwest Aluminum industrial site.

**CONCLUSION:** The criteria in Goal 9, Policy 6, are not applicable to the approval of the application.

**FINDING #13:** Concerning the criteria in Policy 7, the Applicant asserted the policy was not applicable, as the site was not in or near the City’s industrial zones.

**CONCLUSION:** The criteria in Goal 9, Policy 7, are not applicable to the approval of the application.

**FINDING #14:** Concerning the criteria in Policy 8, as noted in Finding #9, designating this site for commercial uses will help meet future need for small-parcel employment land identified in the City’s EOA.

**CONCLUSION:** The criteria in Goal 9, Policy 8, have been satisfied.

**FINDING #15:** Concerning the criteria in Policy 9, as noted in Finding #8, the subject site is located with the Columbia Gateway Urban Renewal Agency District. The Applicant presented testimony that redevelopment of the subject site as part of an existing commercial area will support the Central Business District by encouraging investment and, when developed pursuant to the site plan design requirements for landscaping, provide a more attractive gateway to the downtown area.

**CONCLUSION:** The criteria in Goal 9, Policy 9, have been satisfied.

**FINDING #16:** Concerning the criteria in Policy 10, the Applicant noted that although no specific use of the site had been identified, the requested CG zoning would permit a variety of uses that could encourage tourism and the site could potentially support a tourism-related service. The Applicant also noted the CG Zoning District included hotels, motels and conference, and visitor and convention centers.

**CONCLUSION:** The criteria in Goal 9, Policy 10, have been satisfied.

**FINDING #17:** Concerning the criteria in Policy 11, the Applicant asserted the policy was not applicable, as the site was not near the Mid-Columbia Medical Center.

**CONCLUSION:** The criteria in Goal 9, Policy 11, are not applicable to the approval of the application.

**FINDING #18:** Concerning the criteria in Policy 12, the Applicant asserted the policy was not applicable, as the request to amend the Comprehensive Plan designation was not directly related to encouraging agricultural-related businesses.

**CONCLUSION:** The criteria in Goal 9, Policy 12, are not applicable to the approval of the application.

**FINDING #19:** Concerning the criteria in Policy 13, the Applicant asserted the policy was not applicable, as the request to amend the Comprehensive Plan designation was not directly related to encouraging businesses related to forest products.

**CONCLUSION:** The criteria in Goal 9, Policy 13, are not applicable to the approval of the application.

**FINDING #20:** Concerning the criteria in Policy 14, the Applicant presented testimony that the subject site was of a size and location that would be suitable for small to medium sized businesses, consistent with the intent of this Policy.

**CONCLUSION:** The criteria in Goal 9, Policy 14, have been satisfied.

**FINDING #21:** Concerning the criteria in Policy 15, the Applicant asserted the policy was not applicable, as it applied to industrial land which was not the type of land involved in the current application.

**CONCLUSION:** The criteria in Goal 9, Policy 15, are not applicable to the approval of the application.

**FINDING #22:** Concerning the criteria in Policy 16, the Applicant asserted the policy was not applicable, as the proposed Comprehensive Plan re-designation did not affect industrial zones or uses.

**CONCLUSION:** The criteria in Goal 9, Policy 16, are not applicable to the approval of the application.

**FINDING #23:** Concerning the criteria in Policy 17, the Applicant asserted the policy was not applicable, as the proposed Comprehensive Plan re-designation did not address issue related to the need to streamline the planning process.

**CONCLUSION:** The criteria in Goal 9, Policy 17, are not applicable to the approval of the application.

**FINDING #24:** Concerning the criteria in Policy 18, the Applicant asserted the policy was not applicable, as the proposed Comprehensive Plan re-designation did not address issues related to industrial development at Dallesport.

**CONCLUSION:** The criteria in Goal 9, Policy 18, are not applicable to the approval of the application.

**FINDING #25:** Concerning the criteria in Policy 19, the Applicant noted that although the site does not currently provide any educational, cultural, social, or employment opportunities, the subject site is expected to provide additional employment opportunities if it is placed into commercial use.

**CONCLUSION:** The criteria in Goal 9, Policy 19, have been satisfied.

**FINDING #26:** Concerning the criteria in Policy 20, the Applicant noted that future proposed development on the site would need to comply with streetscape requirements prior to Site Plan Review approval.

**CONCLUSION:** The criteria in Goal 9, Policy 20, have been satisfied.

**FINDING #27:** Concerning the criteria in Policy 21, the Applicant noted that the subject site was currently in public ownership. The Applicant asserted that the Comprehensive Plan re-designation and re-zoning were intended to support economic growth by allowing the subject area to be zoned consistent with the Armory site and increasing economic viability on the prime retail corner of Webber Street and West 6<sup>th</sup> Street. The Applicant also noted that the Applicant

hopes to partner with a private sector developer and end user(s) to redevelop the subject site in the future.

**CONCLUSION:** The criteria in Goal 9, Policy 21, have been satisfied.

**FINDING #28:** Concerning the criteria in Policy 22, the Applicant asserted the policy was not applicable, as the proposed Comprehensive Plan re-designation did not address issues related to the property at the Columbia Regional Gorge Airport in Dallesport.

**CONCLUSION:** The criteria in Goal 9, Policy 22, are not applicable to the approval of the application.

***Comprehensive Plan Goal 9: Economic Development – Implementation Measures***

**#2. *West 6<sup>th</sup> Gateway (Designated General Commercial on the Land Use Map).***

- *Provide for highway commercial developments in areas along the West 6<sup>th</sup> corridor where this is the predominant land use.*
- *Improve the visual appearance by encouraging amenities such as street trees and street furniture when public and private development and redevelopment is undertaken.*
- *Construct or improve water, sewer, and storm drain systems as needed.*
- *Ensure that future improvements and land use changes in the area provide adequate sound, light, and visual buffers to adjacent residential areas.*
- *Reserve areas along East and West Second Street for commercial/industrial mixed zoning.*
- *Reserve land in the northern portion of the Northwest Aluminum site for needed commercial development.*

**FINDING #29:** Concerning the criteria in the first bullet item, the Applicant presented testimony that the proposed plan amendment and zone change was consistent with this implementation measure.

**CONCLUSION:** The criteria in Goal 9, Implementation Measure 2, the first bullet item, have been satisfied.

**FINDING #30:** Concerning the criteria in the second bullet item, the Applicant presented testimony that development of the subject site (and redevelopment of the Armory site) would include enhancements consistent with the City's LUDO requirements, and would result in an improved visual appearance on the gateway corner at West 6<sup>th</sup> and Webber Streets.

**CONCLUSION:** The criteria in Goal 9, Implementation Measure 2, the second bullet item, have been satisfied.

**FINDING #31:** Concerning the criteria in the third bullet item, the Applicant presented testimony that to date, the City had not identified potential infrastructure deficiencies that would preclude or limit commercial development on the subject site. The Applicant noted that if infrastructure improvements were needed to support future development, these needs would be identified as part of a subsequent development approval process and be provided at the time of development

**CONCLUSION:** The criteria in Goal 9, Implementation Measure 2, the third bullet item, have been satisfied.

**FINDING #32:** Concerning the criteria in fourth bullet item, the Applicant asserted the provision was not applicable, as the proposed Comprehensive Plan re-designation did not involve property adjacent to any residential areas, as the nearest residences were located at Webber and West 10<sup>th</sup> Streets, approximately 1,100 feet to the southwest of the site.

**CONCLUSION:** The criteria in Goal 9, Implementation Measure 2, the fourth bullet item, is not applicable to the approval of the application.

**FINDING #33:** Concerning the criteria in fifth bullet item, the Applicant asserted the provision was not applicable, as the proposed Comprehensive Plan re-designation did not involve property along Second Street.

**CONCLUSION:** The criteria in Goal 9, Implementation Measure 2, the fifth bullet item, is not applicable to the approval of the application.

**FINDING #34:** Concerning the criteria in sixth bullet item, the Applicant asserted the provision was not applicable, as the proposed Comprehensive Plan re-designation did not involve property on the Northwest Aluminum Site.

**CONCLUSION:** The criteria in Goal 9, Implementation Measure 2, the sixth bullet item, is not applicable to the approval of the application.



## CITY of THE DALLES

313 COURT STREET  
THE DALLES, OREGON 97058

(541) 296-5481 ext. 1122  
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# AGENDA STAFF REPORT

## CITY OF THE DALLES

MEETING DATE:	AGENDA LOCATION:	AGENDA REPORT #
September 8, 2014	Action Items 12, D	14-064

**TO:** Honorable Mayor and City Council

**FROM:** Gene E. Parker, City Attorney

**THRU:** Nolan K. Young, City Manager *nyj*

**DATE:** August 13, 2014

**ISSUE:** Adoption of General Ordinance No. 14-1335, amending Sections 2, 9, and 11 through 19, and repealing Section 10 of General Ordinance No. 06-1266 concerning System Development Charges.

**RELATED CITY COUNCIL GOAL:** None.

**PREVIOUS AGENDA REPORT NUMBERS:** #14-040 & #14-056.

**BACKGROUND:** On June 9, 2014, the City Council deferred a discussion of General Ordinance No. 14-1335, which proposed several revisions to the City's ordinance regulating systems development charges. The primary reason for deferring the discussion was to allow time for the Council to consider issues being discussed before the Planning Commission related to residential in-fill development standards. The City Council conducted a discussion of these issues on June 30, 2014.

On July 28, 2014, the Council continued the discussion of proposed General Ordinance No. 14-1335. The revisions proposed in the ordinance can be summarized as follows:

1. Amend the language in Section 2 of the ordinance concerning "Scope" to clarify that SDC's are considered to be fees for services available now or in the future, consistent with state law, rather than some other form of a charge, such as a tax.
2. Elimination of language that established a one-year deferral program for residential SDC's in 2009 due to the economic recession, as the program was never used and the Council did not renew the program.
3. Amending language so that the SDC's would be collected under the direction of the Planning Director rather than the Finance Director, consistent with current practice.
4. Adding language requiring that SDC charges would need to be paid in full when they are incurred and that installment payment plans, with an interest rate of 10% per annum from date of execution and a duration up to 12 months in length, would only be allowed when events occurred that were not attributable to the actions of the property owner or developer. The proposed additional language would also require that a lien be placed upon the property when an installment payment plan was executed.
5. Revising the process related to delinquent SDC charges such that the City would rely upon the lien foreclosure process, as it does for LID assessment liens and liens for abatement of public nuisances, rather than upon a process involving a public hearing before the City Council. The proposed new language provides for options, other than a public hearing, for an owner to contest any errors the property owner believes the City may have committed related to foreclosure upon a lien.
6. Revising the language in Section 12(F) which allows for non-residential development to receive a credit based upon creation of new jobs. The revised language provides that to qualify for the credit, the jobs created must be permanent full time jobs which pay compensation as a rate which is equivalent to the average wage rate paid in Wasco County. Section 12(F) also includes new language detailing the process which will be applied in determining the credit to which a developer is entitled, to avoid the credit being applied in a cumulative manner.

Following the discussion of the proposed ordinance, the City Council indicated their approval of the proposed revisions, and requested the staff prepare an ordinance including the proposed revisions. General Ordinance No. 14-1335 has been revised to include the revisions previously discussed by the Council. Notice of adoption of the ordinance has been posted in accordance with the provisions of the City Charter, and the ordinance can be adopted by title only.

**BUDGET IMPLICATIONS:** The City's Capital Improvement Plan adopted in connection with its SDC's ordinance contemplates the collection of SDC charges from developers who construct projects which will have a significant impact upon the City's utility and transportation systems. Adoption of General Ordinance No. 14-1335 will ensure that the City collects the applicable SDC charges from development which will impose a significant impact upon the City's utility and transportation systems, and ensure the City has the necessary financial resources to allow for construction of improvements required to address those impacts.

**ALTERNATIVES:**

- A. Staff Recommendation. *Move to adopt General Ordinance No. 14-1335 by title only.*
- B. If the Council desires to make some minor amendments to the proposed ordinance, the Council can read those amendments in public, and then move to adopt General Ordinance as amended by title only.
- C. If the Council desires to make more substantial amendments to General Ordinance No. 14-1335, provide direction to staff as to which sections of the ordinance the Council would like to amend, and direct staff to bring an amended ordinance to the Council at a future meeting for its review.
- D. Determine not to adopt proposed General Ordinance No. 14-1335, which would leave the current provisions in General Ordinance No. 06-1266 in place.

**GENERAL ORDINANCE NO. 14-1335**

**AN ORDINANCE AMENDING SECTIONS 2, 9, AND 11  
THROUGH 19, AND REPEALING SECTION 10 OF  
GENERAL ORDINANCE NO. 06-1266 CONCERNING  
SYSTEM DEVELOPMENT CHARGES**

**WHEREAS**, on May 22, 2006, the City Council adopted General Ordinance No. 06-1266 authorizing the establishment of provisions for governing the development and use of system development charges for water, wastewater drainage, streets, flood control, and parks; and

**WHEREAS**, Section 2 of General Ordinance No. 06-1266 sets forth provisions regarding the scope of the ordinance; and

**WHEREAS**, City staff has recommended the Council consider certain amendments to Section 2 of General Ordinance No. 06-1266, to clarify that the scope of the ordinance is consistent with the types of system development charges authorized by the ordinance; and

**WHEREAS**, Section 9 of General Ordinance No. 06-1266 sets forth provisions governing the collection of system development charges; and

**WHEREAS**, pursuant to Section 9(A) of General Ordinance No. 06-1266, the City Council adopted Resolution No. 09-020 relating to the establishment of a program for a deferral of systems development charges in connection with construction of single family and duplex residential dwelling units; and

**WHEREAS**, Section 5 of Resolution No. 09-020 provided that the deferral period established by the resolution would be in force and effect from June 15, 2009 through December 15, 2009, and unless the City Council adopted a resolution extending the deferral period, the deferral period would expire on December 16, 2009; and

**WHEREAS**, the City Council did not pass a resolution extending the deferral period for payment of system development charges in connection with construction of single family and duplex residential dwelling units, and City staff is recommending the provisions of General Ordinance No. 06-1266 be amended to repeal the provisions establishing the deferral program for payment of system development charges in connection with construction of single family and duplex residential dwelling units; and

**WHEREAS**, Section 9(E) of General Ordinance No. 06-1266 sets forth provisions authorizing the payment of system development charges pursuant to an installment payment plan, and City staff is recommending amendments to these

provisions to clarify the process for authorizing installment payment plans, and providing for imposition of a lien to secure the payment of the installments, and ensuring that General Ordinance No. 06-1266 complies with provisions of state law concerning the payment of systems development charges pursuant to an installment payment plan; and

**WHEREAS**, Section 10 of General Ordinance No. 06-1266 sets forth the provisions to be implemented when systems development charges become delinquent, and City staff is recommending that with the adoption of the proposed amendments to Section 9 of General Ordinance No. 06-1266, Section 10 would become obsolete and should be repealed; and

**WHEREAS**, Section 12(F) of General Ordinance No. 06-1266 provides for a credit towards the payment of systems development charges for any non-residential development which results in the creation of new and permanent full-time equivalent jobs, calculated at the rate of one percent (1%) for each new, permanent full-time equivalent position created by the development; and

**WHEREAS**, City staff has recommended the Council consider either repealing or revising Section 12(F) of General Ordinance No. 06-1266, due to the potential for any development which creates 100 or more full time positions, including permanent part-time positions which pay compensation at a rate less than the rate paid for a family wage job, receiving a credit of 100% toward the obligation to pay system development charges, which could result in a development which causes a significant burden upon the City's utility and transportation systems, being relieved of the obligation to pay any costs towards addressing the impacts created by that development; and

**WHEREAS**, City Council has reviewed the proposed amendments to General Ordinance No. 06-1266 recommended by City staff, and concurs that adoption of the proposed amendments is in the best interest and welfare of the citizens of The Dalles;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF THE DALLES ORDAINS AS FOLLOWS:**

**Section 1.** Section 2, Scope, of General Ordinance No. 06-1266 shall be amended to read as follows:

Section 2. Scope. The system development charges imposed by this ordinance are separate from and in addition to any applicable tax, assessment, charge, or fee otherwise provided by law or imposed as a condition of development. A systems development charge is to be considered in the nature of a charge for services and/or facilities made available, or a charge for services and/or facilities to be made available in the future.

**Section 2.** Section 3, Definitions, shall be amended by adding a new subsection (M) which shall read as follows:

- M. Planning Director. The duly appointed Director of the Planning Department, or his/her designee.

**Section 3.** Section 9(A) of General Ordinance No. 06-1266 shall be amended by deleting the following language:

“The City Council may, by adoption of a resolution, establish a program for deferral of water and sanitary sewer system development charges in connection with the construction of a new single family or duplex residential dwelling unit. Such a program may be authorized on a periodic basis. The terms of the deferral program, which include defining the due date of the deferred payment and the length of time which the deferred payment program shall be in effect, shall be set forth in a Council resolution”.

**Section 4.** Section 9(D) of General Ordinance No. 06-1266 shall be amended by deleting subsection (3), and amending subsections (1) and (2) to read as follows:

- D. Collection of the applicable system development charge by the Planning Director shall be initiated by one of the following events:
1. Upon issuance of a permit which allows expansion of an existing building or development of an existing parcel.
  2. When a request is made for water or sewer service, or when a connection to the water or sewer system of the City is made, whichever event occurs first.

**Section 5.** Sections 9(E), (F), and (G) of General Ordinance No. 06-1266 shall be deleted and replaced with the following language:

- E. For all new development, the applicable system development charge shall be paid in full at the time of occurrence of one of the events outlined in subsection (D). In the event of an emergency or other event or cause which is not directly attributable to an action taken by the owner or the developer, which results in undue financial hardship to the owner or the developer, the owner or developer may apply to the Planning Director to pay the system development charge pursuant to a monthly installment payment plan (“payment plan”). In the event the owner or developer are separate individuals or entities, both the owner and developer will be required to execute a payment plan agreement in order for the payment plan to be effective. The maximum period for any payment plan shall not

exceed twelve (12) months. The payment plan shall provide that interest on the unpaid balance of the system development charge shall accrue from the date of execution of the payment plan at the rate of ten percent (10%) per annum. The payment plan shall also include a waiver of all rights to contest the validity of a lien which shall be placed upon the property, except for the correction of computational errors. The Planning Director shall provide a copy of the executed payment plan to the Finance Director and Public Works Director.

- F. No permit shall be issued for water or sewer service, nor shall any water or sewer connection be allowed, until the applicable system development charge has been paid in full, or the Public Works Director has received a copy of a monthly installment payment plan agreement signed by the Planning Director and the owner or developer, or unless an exemption has been granted pursuant to Section 10 of this Ordinance.
- G. An applicant for installment payments shall have the burden of demonstrating the applicant's authority to assent to the imposition of a lien on the parcel.
- H. The City Finance Director shall report to the City Clerk the amount of the system development charge, the dates on which payments are due, the name of the owner(s), and the description of the parcel.
- I. The City Clerk shall docket the lien in the City Lien Docket. From that time the City shall have a lien upon the described parcel for the amount of the system development charge, together with interest on the unpaid balance at the rate of ten percent (10%) per annum from the date of execution of the installment payment plan. The lien shall be enforceable in the manner provided in ORS Chapter 223.
- J. For any installment payment agreement entered into prior to the effective date of this Ordinance, in the event there is a default in any payment of an installment due and owing under the agreement, the Finance Director shall report to the City Clerk the amount of the unpaid balance owing under the installment payment agreement. The City Clerk shall then enter the amount of the unpaid balance as a lien in the City Lien Docket, together with interest at the rate of ten percent (10%) per annum on the unpaid balance, and the lien shall be enforceable in the manner provided in ORS Chapter 223.

**Section 5.** Section 10 of General Ordinance, Delinquent Charges, shall be deleted, and Sections 11 through 19, shall be renumbered 10 through 18 respectively.

**Section 6.** Subsection (F) of Section 12 Credits, which shall be renumbered Section 11, shall be revised to read as follows:

- F. Any non-residential development which results in the creation of new and permanent full-time jobs, shall be entitled to receive a credit toward the applicable system development charge, which credit shall be calculated at the rate of one percent (1%) for each new, permanent full-time position created by the development. To qualify for the credit, the new, permanent full time jobs must pay compensation at a rate which is equivalent to or greater than the average wage paid in Wasco County. The total credit which a developer may receive is limited to twenty five percent (25%) of the total amount of the applicable system development charge which would be due and owing without the credit. Eligibility for this credit shall be subject to verification by the City within twelve (12) months of occupancy or start-up of the development. Only non-residential development occurring upon property located within the City limits shall be eligible for this credit.

**Section 7.** Two new subsections, (I) and (J) shall be added to the renumbered Section 11 which shall read as follows:

- I. Upon written request of the City Manager, the City Clerk is authorized to cancel assessments of systems development charges, without further City Council action, where the new development approved by the building permit is not constructed and the building permit is cancelled.
- J. Application of the credits described in this Section shall be done in the following manner. First, the credits described in Section 11(A) through (E) relating to prior use and qualified public improvements shall be applied. Second, if any amount remains owing for the systems development charges, the developer shall select a single credit which is the most advantageous for the development from the following credits:
  - 1. The job creation credit described in Section 11(F).
  - 2. The credits resulting from participation in an approved Enterprise Zone.
  - 3. The credit for non-profit organizations or governmental entities described in Section 11(G).

**Section 8.** Section 18, Penalty, which shall be renumbered Section 17, shall be revised to read as follows:

Section 17. Penalty. Violation of Section 16 of this ordinance is punishable by a fine not to exceed \$500.00.

**PASSED AND ADOPTED THIS 8<sup>TH</sup> DAY OF SEPTEMBER, 2014**

Voting Yes, Councilors: \_\_\_\_\_

Voting No, Councilors: \_\_\_\_\_

Absent, Councilors: \_\_\_\_\_

Abstaining, Councilors: \_\_\_\_\_

**APPROVED BY THE MAYOR THIS 8<sup>TH</sup> DAY OF SEPTEMBER, 2014**

\_\_\_\_\_  
Stephen E. Lawrence, Mayor

Attest:

\_\_\_\_\_  
Julie Krueger, MMC, City Clerk



**CITY of THE DALLES**

313 COURT STREET  
THE DALLES, OR 97058  
PH. (541) 296-5481  
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**AGENDA STAFF REPORT**  
**CITY OF THE DALLES**

<b>MEETING DATE</b>	<b>AGENDA LOCATION</b>	<b>AGENDA REPORT #</b>
September 8, 2014	Action Items 12, E	14-063

**TO:** Honorable Mayor and City Council  
**FROM:** Julie Krueger, MMC, City Clerk   
**THROUGH:** Nolan Young, City Manager   
**DATE:** August 12, 2014

**ISSUE:** Resolution No. 14-026 Declaring the Intention of the City Council to Construct Improvements; Directing the City Clerk to Provide Notice and Publication for West Seventh Street Extension Improvements.

**BACKGROUND:** The Preliminary Engineer's Study and Report for the West Seventh Street Extension Local Improvement District improvements is attached. This project was initiated by the City, on behalf of Mid-Columbia Council of Governments as part of their Transit Center project.

If approved by City Council, the City Clerk will provide notices to the affected property owners and place a publication in the newspaper, as set forth in Resolution No. 14-026.

**BUDGET IMPLICATIONS:** The City proposes to pay for the assessment for property located at 2N 13E 29DC #200 in exchange for a five foot wide right of way dedication which is needed for completion of the project. That assessment is estimated to be \$29,285.93. There is funding in the Special Assessment Fund to pay for the construction of the project.

**ALTERNATIVES:**

- A. **Staff Recommendation:** *Move to adopt Resolution No. 14-026 Declaring the Intention of the City Council to Construct Improvements, Establishing a Local Improvement District and Directing Notice and Publication for West Seventh Street Extension Improvements.*
  
- B. Decline to adopt the Resolution. This option would result in the to discontinue the local improvement district process.

# Preliminary Engineer's Study and Report

## WEST SEVENTH STREET EXTENSION

July 28, 2014

Honorable Mayor and Council Members;

The following is a study and report to provide for the Assessment District, Basis for the Assessments, and Estimated costs for the West Seventh Street Extension. The project encompasses Seventh Street from the north right of way line of Hostetler Road north to the south right of way line of Chenowith Loop Road, for a total assessable frontage of 1413 feet.

**This study and report addresses matters relating to the proposed construction of the project, including the following seven (7) items:**

1. *A map showing the general nature, location, and extent of the proposed project and the lands to be assessed to pay any part of the costs thereof;*

The map of the proposed district is attached as "Exhibit A".

2. *A description of the type of proposed improvement and an estimate as to the length of its useful life;*

West Seventh Street is currently classified as a Local Street. After the completion of this project, West Seventh Street will be a Minor Collector Street between Hostetler and Chenowith Loop Roads. The existing pavement is an approximately 19' wide half street that terminates about 580' north of Hostetler Road. There are no sidewalks on West Seventh Street. With the completion of the proposed The Dalles Transit Center at West Seventh Street and Chenowith Loop Road, West Seventh Street will become a primary route for buses serving The Dalles and the surrounding area.

The proposed project will greatly enhance the appearance and functionality of the project area. The community as a whole will benefit from the increased pedestrian safety and accessibility in the area and to and from the proposed Transit Center. Project elements include:

\*Construction of the street will include grading and compaction of the sub-base, nine inches of base rock, and four inches of asphalt. The project would create a street that is 41' wide that could accommodate parking and bicycles lanes.

\*Construction of a 5' wide concrete sidewalk on west side of West Seventh Street from the north boundary of the project to the south property line of 2N 13E 29DB tax lot 7500.

\*Construction of city standard curb and gutter with concrete drive approaches.

\*Construction of ADA ramps at the intersection of West Seventh Street and Chenowith Loop Road and ADA bypasses at all drive approaches along the sidewalk.

\*Construction of a storm drain collection system to carry storm water from the new street and adjacent Transit Center to the existing collection systems in Hostetler Road and Chenowith Loop Road.

The design life of the street construction is 40 years. The other project elements, such as sidewalks and storm drain system improvements, have a longer useful life.

3. *A description of the location and use of each lot or parcel of land or portion thereof that will be specifically benefited by the improvement, together with the name of the owner thereof;*

See "Table 1" attached to this report.

4. *A description of the boundaries of the district benefited by and to be assessed for the improvements;*

See "Table 1" attached to this report for a listing of the assessable properties, and the attached map that highlights the area to be assessed.

The boundaries of the proposed assessment district include all of the properties that front the east right of way line of West Seventh Street from Hostetler Road north to the south right of way line of Chenowith Loop Road and all properties that front the west right of way line of West Seventh Street from the south property line of 2N 13E 29DB Tax Lot 7500 north to the south right of way line of Chenowith Loop Road.

5. *The percentage of the land within the district that is vacant and unused for urban purposes;*

The percentage of vacant land, by area, unused for urban purposes is zero (0).

6. *The assessed valuation of each lot or parcel of land within the district according to the last assessment roll, the amount of the delinquent taxes and assessments, and the amount of taxes and assessments levied but not delinquent for each lot or parcel of land within the district;*

See "Table 1" attached to this report.

The total amount of delinquent taxes within the proposed improvement district is \$0.00.

The total amount of outstanding assessments (not necessarily delinquent) within the proposed district is \$0.00.

The purpose for these numbers is to give the City Council some indication of the amount of risk of non-payment in assessing the involved properties. The City's Special Improvement Fund will up-front the property owners' contributions.

7. *An estimate of the probable costs of the project, including legal, administrative, engineering, and construction costs attributable thereto, and a recommendation as to a fair apportionment of the whole or any portion of the cost of the project to the property specially benefited.*

See the Engineer's Estimate (Exhibit B) attached to this report for cost estimate details. See "Table 2" attached to this report for an estimated breakdown of costs per assessed property.

### Cost

Attached is the current engineer's report of the estimated costs (Exhibit B). The estimates break out the cost of street improvements, water improvements, and storm drain improvements.

The construction cost is now estimated to be \$311,042.05. This would include the construction of the streets and the utility. The estimated non-construction cost for right of way acquisition is \$540.00. The total estimated cost is **\$311,582.05**. The breakdown of estimated total costs including a 10% contingency on construction costs is in the following table:

Type Of Work	Estimated Cost
Street System Improvements	\$221,975.05
Water System Improvements	\$2,200.00
Storm Water System Improvements	\$86,867.00
Right of Way Acquisition	\$540.00
<b>Total</b>	<b>\$311,582.05</b>

The existing water system in West Seventh Street is owned by Chenowith Water PUD. The improvements to that system will be paid for by Chenowith Water PUD. The following table shows the estimated contribution by Chenowith Water PUD:

Project Element	Funding Source	Amount
Water System Improvements	Chenowith Water PUD	\$2,200.00
<b>Total</b>		<b>\$2,200.00</b>

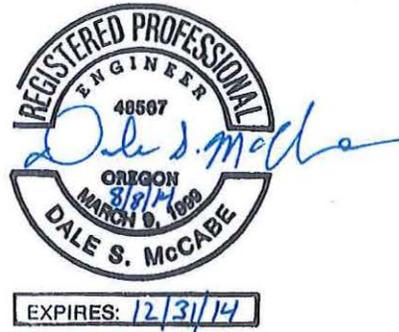
Proposed property owner assessments will fund approximately **\$309,382.05** of the total estimated project cost. This amount is equal to the total estimated project cost minus the contribution listed above.

The assessment would be based upon frontage length. The estimated cost for improvements to be funded by the property owner assessments is \$309,382.05. The estimated proposed assessment would then be **\$218.96** per front foot based on an assessable frontage of 1413 feet.

The assessment for property 2N 13E 29DC tax lot 200 will be paid by the City in exchange for a 5' wide right of way dedication from the property required for the completion of the project. The proposed assessment for this property is estimated at \$29,285.93.

The money to up-front the cost of the property owners' share will come from the City's Special Improvement Fund.

Payment of the assessment is flexible and property owners can take up to ten years to make full payment with an interest rate of 10%. The assessment will not be made until the project is totally completed, early to mid-2015.

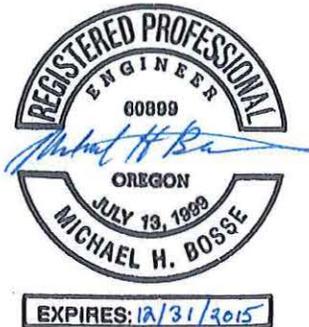


Prepared By,

  
Michael H. Bosse, P.E.  
Project Engineer

Respectfully submitted,

Dale S. McCabe, P.E.  
City Engineer

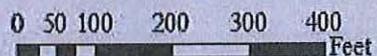




**Legend**

-  Taxlots
-  W 7th Street LID Properties
- 1** Table Reference Number

West 7th Street Local Improvement District  
City Council July 28, 2014  
Preliminary Engineer's Report



## EXHIBIT B

### Street Work

<u>Item</u>	<u>Description</u>	<u>Units</u>	<u>Unit Price</u>	<u>Quantity</u>	<u>Engr. Est.</u>
1	Mobilization	LS	\$ 10,000.00	1	\$ 10,000.00
2	Traffic Control	LS	\$ 7,500.00	1	\$ 7,500.00
3	Erosion Control	LS	\$ 5,000.00	1	\$ 5,000.00
4	Base Excavation/Grading	CY	\$ 20.00	1325	\$ 26,500.00
5	Import Fill	CY	\$ 30.00	0	\$ -
6	Construction Surveying	LS	\$ 5,000.00	1	\$ 5,000.00
7	Asphalt/Concrete Excavation	CY	\$ 30.00	36	\$ 1,080.00
8	Rock Excavation	CY	\$ 110.00	0	\$ -
9	Remove Fence	LF	\$ 5.00	181	\$ 905.00
10	Remove Trees	EA	\$ 500.00	21	\$ 10,500.00
11	Const. 24" Curb and Gutter Section	LF	\$ 11.00	1660	\$ 18,260.00
12	Const. ADA Ramps	EA	\$ 1,250.00	6	\$ 7,500.00
13	Remove Curb	LF	\$ 5.00	77	\$ 385.00
14	Remove Catch Basin	EA	\$ 250.00	1	\$ 250.00
15	Construct Catch Basin (G-1)	EA	\$ 1,500.00	5	\$ 7,500.00
16	Construct Catch Basin (CG-3)	EA	\$ 2,000.00	0	\$ -
17	Const. Concrete Sidewalk	SY	\$ 36.00	198	\$ 7,056.00
18	3/4" Minus Base Aggregate (Sidewalk)	CY	\$ 42.00	45	\$ 1,890.00
19	Const. Drive Approaches	SY	\$ 50.00	109	\$ 5,450.00
20	8" Thick Concrete (Street)	SY	\$ 40.00	115	\$ 4,600.00
21	Class C Asphalt (Street)	TON	\$ 75.00	667	\$ 50,025.00
22	1 1/2" Minus Base Aggregate (Street)	CY	\$ 28.00	576	\$ 16,128.00
23	3/4" Minus Base Aggregate (Street)	CY	\$ 38.00	177	\$ 6,726.00
24	Valve Adjustment	EA	\$ 430.00	2	\$ 860.00
25	Manhole Adjustment	EA	\$ 540.00	0	\$ -
26	Paint Curb Yellow	LF	\$ 3.00	255	\$ 765.00
27	Pavement Striping (4")	LF	\$ 0.50	988	\$ 494.00
28	Pavement Striping (12")	LF	\$ 7.50	149	\$ 1,117.50
29	Install Signs	EA	\$ 250.00	9	\$ 2,250.00
30	Landscaping	SY	\$ 17.00	62	\$ 1,054.00
31	Re-Set Property Corners	EA	\$ 1,500.00	2	\$ 3,000.00
<b>Street Work Item Total</b>					<b>\$ 201,795.50</b>

### Storm Drain Work

<u>Item</u>	<u>Description</u>	<u>Units</u>	<u>Unit Price</u>	<u>Quantity</u>	<u>Engr. Est.</u>
1	Connect To Exist. Storm Drain	EA	\$ 1,250.00	3	\$ 3,750.00
2	Construct Storm Drain Cleanout	EA	\$ 1,200.00	2	\$ 2,400.00
3	Install 8"X12" Wye	EA	\$ 200.00	1	\$ 200.00
4	Rock Excavation	CY	\$ 110.00	0	\$ -
5	8" Storm Drain Pipe	LF	\$ 38.00	70	\$ 2,660.00
6	12" Storm Drain Pipe	LF	\$ 40.00	1059	\$ 42,360.00
7	Construct Storm Drain Manhole	EA	\$ 3,000.00	7	\$ 21,000.00
8	Class 'E' Backfill (CLSM)	CY	\$ 75.00	88	\$ 6,600.00
<b>Storm Drain Work Item Total</b>					<b>\$ 78,970.00</b>

### Water Work

<u>Item</u>	<u>Description</u>	<u>Units</u>	<u>Unit Price</u>	<u>Quantity</u>	<u>Engr. Est.</u>
1	Relocate Water Service	EA	\$ 1,000.00	2	\$ 2,000.00
<b>Water Work Item Total</b>					<b>\$ 2,000.00</b>

Estimated Project Item Total	\$ 282,765.50
Project Contingency (10%)	\$ 28,276.55
<b>Estimated Project Construction Total</b>	<b>\$ 311,042.05</b>

This estimate was prepared using the following assumptions:

- 1 Because of the changing nature of construction cost, this estimate represents the engineer's opinion of probable construction costs and quantities and in no way implies a guarantee of actual construction costs or quantities.
- 2 Estimate does not include the cost to address and/or mitigate for hazardous material issues.
- 3 Estimate is subject to change based on final construction plan approval.
- 4 Estimate reflects costs which are current as of the date of this estimate. No inflation factors are included in these costs.
- 5 All quantities have in-place measurements.

**TABLE 1**  
PROPERTY OWNERSHIP - WEST 7TH STREET LID

Map #	Map & Tax Lot	County Acct.#	Site Address	Owner	Mailing Address	Improved/ Non-Improved	Assessed Frontage	Legal Acres	2013 Land Market Value	2013 Improvement Market Value	Real Market Value	Assessed Value	PAID 2013 Taxes	Unpaid 2013 Taxes w/interest	Total Outstanding
1	2N 13E 29 DB 7500	2065	802 Chenoweth Loop Rd.	MID COL COUNCIL OF GOVERNMENTS	4040 FAIRVIEW INDUSTRIAL DR SE MS#2 Salem, OR 97302-1142	Improved	408.0	1.70	\$ 151,660.00	\$ -	\$ 151,660.00	\$ 118,568	\$ 2,168.01	\$ -	\$ -
2	2N 13E 29 DA 1400	2018	3600 West 6th Street	HOME DEPOT USA,INC	PO BOX 105842, Atlanta, GA 30348-5842	Improved	737.3	9.31	3,127,370.00	5,534,950.00	8,662,320.00	8,662,320.00	164,040.08	-	\$ -
3	2N 13E 29 DD 2000	2159	Not Addressed	HOME DEPOT USA,INC	PO BOX 105842, Atlanta, GA 30348-5842	Improved	133.9	1.98	664,170.00	865,550.00	1,529,720.00	1,221,403.00	164,040.08	-	\$ -
4	2N 13E 29 DC 200	2160	777 Hosteler	MATHIE MONTY L	PO BOX 1585, Lake Oswego, OR 97035	Improved	133.8	0.29	59,060.00	22,250.00	81,850.00	60,706.00	1,100.23	-	\$ -

Totals: 1413.0 13.28 \$ 4,602,260.00 \$ 6,422,750.00 \$ 10,425,550.00 \$ 10,062,997.00 \$ 331,348.40 \$ - \$ -

Improved acres: 13.28                      % Cal'd Acreage Improved: 100.0%  
 Non-improved acres: 0.00                      % Cal'd Acreage Non-Improved: 0.0%  
 Improved property's frontage: 1,413.0                      % Frontage of Improved property: 100.0%  
 Non-improved property's frontage: 0.0                      % Frontage Non-Improved property: 0.0%

**TABLE 2**  
PROPERTY OWNERSHIP - WEST 7TH STREET LID

Map #	Map & Tax Lot	County Acct#	Site Address	Owner	Mailing Address	Improved/ Non-Improved	Assessed Frontage	Legal Acres	2013 Land Market Value	2013 Improvement Market Value	Real Market Value	Assessed Value	Assessment at \$ 218.96 per l. ft.
1	2N 13E 29 DB 7500	2065	802 Chenoweth Loop Rd.	MID COL COUNCIL OF GOVERNMENTS	4040 FAIRVIEW INDUSTRIAL DR SE MS#2 Salem, OR 97302-1142	Improved	408.0	1.70	\$ 151,660.00	\$ -	\$ 151,660.00	\$ 118,568	\$ 89,342.34
2	2N 13E 29 DA 1400	2018	3600 West 6th Street	HOME DEPOT USA INC	PO BOX 105842, Atlanta, GA 30348-5842	Improved	737.3	9.31	3,127,370.00	5,534,950.00	8,662,320.00	8,662,320.00	\$ 161,441.57
3	2N 13E 29 DD 2000	2159	Not Addressed	HOME DEPOT USA INC	PO BOX 105842, Atlanta, GA 30348-5842	Improved	133.9	1.98	664,170.00	865,550.00	1,529,720.00	1,221,403.00	\$ 29,312.21
4	2N 13E 29 DC 200	2160	777 Hosteler	MATHIE MONTY L	PO BOX 1585, Lake Oswego, OR 97035	Improved	133.8	0.29	59,060.00	22,250.00	81,850.00	60,706.00	\$ 29,285.93

Totals:    1413.0    13.28    \$ 4,002,260.00    \$ 6,422,750.00    \$ 10,425,550.00    \$ 10,062,997.00    \$ 309,382.05

**RESOLUTION NO. 14-026**

**DECLARING THE INTENTION OF THE CITY COUNCIL  
TO CONSTRUCT IMPROVEMENTS, ESTABLISHING A  
LOCAL IMPROVEMENT DISTRICT AND DIRECTING  
NOTICE AND PUBLICATION FOR WEST SEVENTH  
STREET EXTENSION IMPROVEMENTS**

**WHEREAS**, the City Council has considered the preliminary Study and Report of the City Engineer concerning West Seventh Street Extension; and

**WHEREAS**, after consideration, the City Council has determine that formation of a local improvement district and construction of the proposed improvements is in the best interest of the City;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL AS  
FOLLOWS:**

Section 1. Intention to Improve. The City Council declares its intent to proceed with the proposed West Seventh Street Extension including street, sidewalk, curb and gutter, ADA ramps, and storm drain collection system.

Section 2. Clerk to Give Notice. The City Clerk is authorized and directed to:

- A. Cause notice to be published once each week for two successive weeks in the newspaper of general circulation in The Dalles, Oregon. Notice shall state:
  - 1. That the City Council has announced its intention to form a local improvement district and that the report of the City Engineer is on file with the City Clerk and open to public inspection.
  - 2. The estimated total cost of the improvement (less any amount borne by the City).

3. A description, graphic or written, of the district to be specially benefitted by the improvement.
  4. The date by which the remonstrances shall be filed and the place for the filing.
  5. The project will be discontinued if a remonstrance is filed by the owners of two-thirds of the dollar amount to be assessed against the property which is to be specifically benefitted.
  6. The date, time and place at which the Council will hold a public hearing to consider the Engineer's Report and any remonstrances or objections to the report.
  7. The Council's intention to characterize the cost of the improvements as an assessment for a local improvement.
- B. Cause a notice to be mailed to the last known address for each owner of the various lots, tracts or parcels of property to be benefitted within the district. The notice shall state:
1. The estimated total cost of the improvement (less the amount to be borne by the City, if any).
  2. A brief description of the property owned by the person to whom the notice is sent.
  3. The time when which remonstrances may be filed.
  4. The date when the report of the Engineer and any objections will be heard by the City Council and all interested persons.
  5. An estimate of the proposed assessment.
  6. A brief description of the methods by which the owner may pay for the assessment if the assessment is actually imposed on the property.
  7. The Council's intention to characterize the cost as an assessment for a local improvement.

Section 3. Effective Date. This Resolution shall be effective upon adoption, September 8, 2014.

**PASSED AND ADOPTED THIS 8<sup>TH</sup> DAY OF SEPTEMBER, 2014**

Voting Yes, Councilors: \_\_\_\_\_  
Voting No, Councilors: \_\_\_\_\_  
Absent, Councilors: \_\_\_\_\_  
Abstaining, Councilors: \_\_\_\_\_

**AND APPROVED BY THE MAYOR THIS 8<sup>TH</sup> DAY OF SEPTEMBER, 2014**

SIGNED: \_\_\_\_\_  
Stephen E. Lawrence, Mayor

ATTEST: \_\_\_\_\_  
Julie Krueger, MMC, City Clerk