



CITY of THE DALLES

313 COURT STREET
THE DALLES, OREGON 97058

(541) 296-5481 ext. 1125
Planning Department

AGENDA
CITY OF THE DALLES PLANNING COMMISSION

CITY HALL COUNCIL CHAMBERS
313 COURT SREET
THE DALLES, OREGON 97058
CONDUCTED IN A HANDICAP ACCESSIBLE MEETING ROOM

THURSDAY, JUNE 19, 2014

6:00 PM

- I. CALL TO ORDER
- II. ROLL CALL
- III. APPROVAL OF AGENDA
- IV. APPROVAL OF MINUTES – June 5, 2014
- V. PUBLIC COMMENT (Items not on the Agenda)
- VI. **LEGISLATIVE HEARING**
Application Numbers: ZOA 86-14, Zoning Ordinance Amendment; and CPA 41-14, Comprehensive Plan Amendment; Darci Rudzinski of Angelo Planning Group; Request:
This application is for a map amendment to the City’s Comprehensive Plan and Land Use and Development Ordinance (LUDO) to change the zoning on 1.75 acres of tax lot 1700 from Parks and Open space to General Commercial and to modify the Community Facility Overlay on Tax Lot 1700 to exclude the area subject to the rezone. Property is located at 807 Webber Street, The Dalles, Oregon and is further described as 2N 13E 33C tax lot 1700. Property is zoned “P/OS” – Parks and Open Space with a Community Facilities Overlay.
- VII. **QUASI-JUDICIAL HEARINGS**
 - A. **Application Number: APL 27-14; Elk Horn Development, LLC; Request:** Appeal of a land use decision dated March 25, 2014, regarding minor partition application #MIP 312-14. Property is located at 1611 Thompson Street, The Dalles, Oregon, and is further described as 1N 13E 11 AB tax lot 900. Property is zoned “RL”- Residential Low Density District.
 - B. **Application Number: APL 28-14; Randolph Hager; Request:** Appeal of a land use decision dated March 17, 2014, regarding a minor partition application #MIP 311-14. Property is located at 2804 E. 10th Street, The Dalles, Oregon, and further described as 1N 13E 1C tax lot 500. Property is zoned “RH” – Residential High Density District.

(over)

VIII. RESOLUTION

P.C. Resolution #539-I4; ZOA 86-14 and CPA 41-14; Darci Rudzinski of Angelo Planning Group

IX. STAFF COMMENTS

X. COMMISSIONER COMMENTS/QUESTIONS

XI. FUTURE MEETING – July 3, 2014

XII. ADJOURNMENT

CITY OF THE DALLES PLANNING COMMISSION MINUTES

Thursday, June 5, 2014

City Hall Council Chambers

313 Court Street

The Dalles, OR 97058

Conducted in a handicap accessible room

6:00 PM

CALL TO ORDER:

Chair Lavier called the meeting to order at 6:00 PM.

BOARD MEMBERS PRESENT:

Bruce Lavier, John Nelson, Jeff Stiles, Dennis Whitehouse, Mark Poppoff

BOARD MEMBERS ABSENT:

Chris Zukin

STAFF MEMBERS PRESENT:

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

APPROVAL OF AGENDA:

It was moved by Whitehouse and seconded by Nelson to approve the agenda as submitted. The motion carried unanimously; Zukin absent.

APPROVAL OF MINUTES:

It was moved by Whitehouse and seconded by Nelson to approve the May 15, 2014 minutes as submitted. The motion carried unanimously; Zukin absent.

PUBLIC COMMENT:

Randy Hager, 2804 East 10th Street, The Dalles, Oregon, stated he requested June 5, 2014 for an appeal hearing on the minor partition decision, and City staff continues to delay his ongoing process for his property. Mr. Hager said he had a potential buyer, and he requested the Planning Commission's assurance that his hearing would be scheduled. He distributed his handout of appeal documents.

Chair Lavier assured Mr. Hager that the Commissioners would hear the appeal on June 19 unless there was a lack of a quorum. Discussion followed that if there was not a quorum for June 19, June 25 would be another possible date.

WORK SESSION: Residential Infill Policies

Director Gassman pointed out that he added two new options, Options #4 and 5, page 3, of his June 5, 2014 draft. Gassman emphasized that, if approved, the draft would be presented to the City Council as a preliminary draft, not a final draft.

Stiles said he would like a history of the process that led to the formation of the proposal draft (i.e., House Bill 3479, the formation of the Planning Commission's work sessions, the formation of the sub-groups, etc.) to be included.

Steve Stroud, 3004 East 12th Street, The Dalles, Oregon, stated that he felt the draft memorandum had nothing to do with what the participating citizens wanted. He said he was not happy with the proposed options that substituted Waivers of Remonstrance with Delayed Development Agreements. He believed the options would "run buyers off." Chair Lavier asked Mr. Stroud if he had looked at Options # 4 and 5, because no agreements would be required in either option. Mr. Stroud said he had not looked at them in detail.

Director Gassman pointed out that there were two options listed on page 4 of the memorandum regarding existing Waivers of Remonstrance. It was the general consensus of the Planning Commission to eliminate all existing Waivers of Remonstrance, and to switch Options 1 and 2 in the "Existing Waivers of Remonstrance" section of the draft memorandum.

Taner Elliott, 397 Summit Ridge Drive, The Dalles, Oregon, said he thought Option #4, subpoint 2, should include more detail before it was presented to the City Council for feedback. Mr. Elliott also asked if Option #5, regarding increasing tax monies, would only pertain to increased tax funds that go to the City. He said he was aware that property taxes were dispersed to several entities, not just to the City. Chair Lavier said he assumed it would apply to the City's tax revenue disbursements only. Both Lavier and Gassman emphasized that details to the options would come later after input was received from City Council.

The Commissioners re-prioritized the major Options of the memorandum in order of preference, with Option #5 being the most preferred option.

Richard Havig, 3015 East 12th Street, The Dalles, Oregon, asked if the memorandum contained a clause where property owners that already had existing structures would not be required to install street improvements. Director Gassman stated it was indicated in Option #2.

Director Gassman closed by asking if some of the Commissioners would be willing to be present at the City Council meeting, tentatively scheduled for June 30, 2014, to answer questions. Some of the Commissioners indicated they would be present.

It was moved by Whitehouse and seconded by Poppoff to forward the preliminary draft memorandum, including all suggested revisions from the work session, to City Council with the intent of soliciting the City Council's opinions and feedback. The motion carried unanimously; Zukin absent.

STAFF COMMENTS:

Director Gassman advised that two public hearings were scheduled for the June 19 meeting, an appeal and a rezone application.

COMMISSIONER COMMENTS/QUESTIONS:

None

NEXT MEETING:

June 19, 2014

ADJOURNMENT:

Chair Lavier adjourned the meeting at 6:48 PM.

Respectfully submitted by Administrative Secretary Carole Trautman.

Bruce Lavier, Chairman

City of The Dalles

Staff Report to the Planning Commission

**Comprehensive Plan Amendment No. 41-14
Zone Change Amendment No. 86-14**

Wasco County

Prepared by: Richard Gassman, Planning Director 

Procedure Type: Legislative

Hearing Date: June 19, 2014

Assessor's Map: 2N 13E 33 C tax lot 1700 (part)

Address: 807 Webber Street

Comprehensive Plan
Designation: "P/OS" Parks and Open Space

Zoning District: "P/OS Parks and Open Space with a CFO, Community Facility Overlay

City Limits: Inside

Request: To change the Comprehensive Plan Map and Zoning Ordinance Map from P/OS – Parks and Open Space to CG – General Commercial District.

BACKGROUND INFORMATION

This request involves approximately 1.75 acres of one lot. The property is a portion of what is commonly referred to as Kramer Field. Along the northeast side of the field, there is a steep grade change from the playing area to an unimproved area adjacent to the old armory site. The applicant is seeking to change the zone on the portion of the lot that is northeast of the grade change from P/OS to CG, which is the zone for the adjacent parcel where the armory was until recently. This will create a larger commercial lot, all at the same approximate elevation. Due to the steep slope, the area proposed for the

rezone has not been used as part of the playing area. The existing commercial lot is approximately 1.5 acres. If approved, the new commercially zoned area would be approximately 3.25 acres. If approved, the applicant will also file an application for a lot line adjustment, moving the property line to correspond with the new zoning.

NOTIFICATION

Property owners within 100 feet, City Departments, franchise utilities, Mid-Columbia Fire & Rescue, Wasco County Health Department, and State Building Codes were mailed a notice on June 9, 2014, as required by Sections 3.100.020 B. 1. and 3.020.050 D. An additional notice was published in The Dalles Chronicle on June 8, 2014. The Department of Land Conservation and Development was also notified because this request involves a Post-Acknowledgement Plan Amendment.

COMMENTS

As of the date of this staff report, no comment has been received.

REVIEW

A. LAND USE AND DEVELOPMENT ORDINANCE 98-1222

Section 3.010.040 Applications

B. Completeness.

FINDING A-1: The applications were found to be complete on April 28, 2014. The 120-day State mandated decision deadline is August 26, 2014. The hearing is within the required time line. Criterion met.

Section 3.020.060 Legislative Actions

A. Decision types. 1. Zone Changes. 4. Comprehensive Plan Changes.

FINDING A-2: This application is for a Zone Change per section 3.100 of the Land Use and Development Ordinance (LUDO) and a Comprehensive Plan Map change per Goal #2, Land Use Planning, of the Comprehensive Plan. The hearings are combined because the issues are essentially the same for both requests. Criterion met.

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

FINDING A-3: A public hearing is scheduled for June 19, 2014. Criterion met.

C. Notice of Hearing. Notice of hearing is required to be sent at least 10 days prior to the hearing.

FINDING A-4. Appropriate mailings to property owners within 100 feet and notice to affected departments and agencies were made on June 9, 2014. A notice was published in the local paper on June 8, 2014. The required 35 day notice was sent to DLCDC on May 7, 2014. Criterion met.

Staff Report. While staff reports are not required for legislative type decisions, a staff report by policy is prepared to help the Commission identify the issues. The staff report may also include a recommendation for approval, approval with conditions, or denial.

FINDING A-5: The staff report will detail criteria and standards relevant to a decision, all facts will be stated, and explanations given. This will be detailed through a series of findings directly related to relevant sections and subsections of the ordinance as they relate to this request. Criterion met.

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 to the Comprehensive Plan and all other provisions of this Ordinance.

FINDING A-6: The request is to change the zoning map and the comprehensive plan map which will make the zone change conform to the comprehensive plan map. Criterion met.

B. Suitability. The site is adequate in size and shape for uses normally allowed by the proposed zone.

FINDING A-7: The property of the request is approximately 1.75 acres. This is adequate in size and shape for commercial purposes by itself, and it will be combined with the approximately 1.5 acre lot to the northeast. In addition, the land is located at the corner of Webber and West 6th Streets, two heavily traveled streets. Criterion met.

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.

FINDING A-8: As stated above, the property is served by Webber and West 6th Streets, two major streets. Criterion met.

D. Adverse Effect. The proposed Zone Change shall have minimal adverse effect on existing and future surrounding development.

FINDING A-9: The uses allowed in the CG zone should not have an adverse effect on any of the surrounding properties. The adjacent properties to the south and east are already zoned CG. The rest of the site is zoned P/OS. While it is not generally desirable to reduce P/OS properties, the portion of tax lot 1700 that is the subject of this rezone request has not been used for recreational purposes, and due to the grade change is more suited to be used with the adjacent commercial property. Criterion met.

B. COMPREHENSIVE PLAN

The Comprehensive Plan was adopted in 1994.

Goal 2 allows that a property owner may initiate changes to the Comprehensive Plan.

FINDING B-1: This application has been approved by the property owner. Criterion met.

Comprehensive Plan revisions can be processed either by legislative or quasi-judicial process.

FINDING B-2: The legislative process is being used for this request. Criterion met.

Goal 2, policy 5 includes the following review criteria for Comprehensive Plan amendments:

- a. Compliance with the statewide land use goals and related administrative rules.
- b. Conformance with the Comprehensive Plan goals, policies and implementation measures.
- c. The change will not adversely affect the health, safety and welfare of the community.
- d. Adequate public facilities, services and transportation networks are in place, or are planned to be provided with the proposed change.
- e. Plan changes will be consistent with the vision.

FINDING B-3: There is nothing in the requested change that violates any of these policies. Criterion met.

DISCUSSION

The reason for this rezone request is to allow for better utilization of a portion of County owned land, as indicated in the application. The change in grade between the playing area and the lower, unused, area makes this property more compatible with the commercial area to the east than to the playing area.

This application meets all the code requirements for a comprehensive map and zoning map change.

RECOMMENDATION

The Planning Commission's role is to forward a recommendation on the request to the City Council. The Commission may recommend approval, approval with conditions, or denial. The City Council will hold another public hearing and make a final decision.

Staff recommends the Commission recommend approval of this application requesting a Comprehensive Plan map and zoning map change from P/OS to CG for the area as shown in the application.

ZONE CHANGE APPLICATION

CITY OF THE DALLES
Community Development Department
313 Court Street
The Dalles, OR 97058
(541) 296-5481, ext. 1125
Fax (541) 298-5490
www.ci.the-dalles.or.us

Date Filed _____
File# _____
Date Deemed Complete _____
Hearing Date _____
Approval Date _____
Permit Log # _____
Other Cross Reference# _____

APPLICANT

Name Darci Rudzinski

Address 921 SW Washington Street
Portland, Oregon 97205

Telephone # (503) 227-3669

E-mail Address drudzinski@angeloplanning.com

*If applicant is not the legal owner, attach either [1] owner consent letter, or; [2] copy of earnest money agreement, or; [3] copy of lease agreement.

LEGAL OWNER (If Different than Applicant)

Name Wasco County

Address 511 Washington Street, Suite 101
The Dalles, Oregon 97058

Telephone # (541) 506-2552

PROPERTY INFORMATION

Address 807 Webber Street

Map and Tax Lot 2N 13E 33 C 1700

Size of Development Site 1.75 acres

Zone District/Overlay Parks and Open Space / Community Facility Overlay

Comprehensive Plan Designation Parks and Open Space

REQUEST

New Development Expansion/Alteration Change of Use Amend Approved Plan

Brief Explanation: Change the zoning on 1.75 acres of Tax Lot 1700 from Parks and Open Space to General Commercial.
Modify the Community Facility Overlay on Tax Lot 1700 to exclude the area subject to the rezone.

JUSTIFICATION OF REQUEST

1. What are the special circumstances (size, shape or topography of lot, location of surroundings) that do not apply to other properties in the same vicinity and zone?

Site-specific circumstances associated with the subject 1.75 acres include its physical separation from Kramer Field due to a 12 to 14-foot change in grade. The site lies in close proximity to the intersection of Webber Street and West 6th Street with commercially zoned parcels on three sides of the site. Granting a rezoning to General Commercial on the subject site will enlarge the commercial node to be consistent with the depth of commercial uses on properties to the north of the site. This site is an important piece of the "gateway" to the mid-commercial core of The Dalles.

2. What difficulties and unnecessary hardships will be created without a Zone Change to the property?

Retaining the existing zoning on the subject site will encumber the County with land that is not efficient or desirable for active park use. Granting the rezoning will provide the County with an income-producing area in immediate proximity to the current Armory Site, which is expected to revert to County ownership when the Oregon National Guard moves to the National Guard Readiness Center.

3. Explain why the Zone Change will not be detrimental to the public safety, health and welfare.

The addition of this area to the cluster of commercially-zoned parcels at the intersection of Webber Street and West 6th Street is consistent with existing land uses in the vicinity and will not reduce the amount of active parkland in the area; rezoning the subject site will not have a detrimental effect on public safety, health or welfare.

4. Explain why this Zone Change, if granted, would not be contrary to the intent of the Zoning Ordinance.

Granting this rezoning request would expand opportunities for a wide range of commercial activities in the vicinity of Webber and West 6th Street, consistent with the purpose statement for GC. In addition, zoning this area GC will permit future lot consolidation with an adjacent GC parcel, thereby creating the area needed, and opportunity for, a site plan and development that creates a signature impression when entering The City.

NOTE: This application must be accompanied by the information required in Section 3.100: Zone Changes, contained in Ordinance No. 98-1222, The City of The Dalles Land Use and Development Ordinance.

PLANS SUBMITTED: At least ⁵ copies of concept site plan.

Dave EA Rudywick
Signature of Applicant

4/25/14
Date

Signature of Planner

Date Deemed Complete



City of The Dalles

Zone Change and Comp Plan Map Change Application

Applicant: Tyler Stone
Wasco County
511 Washington Street, Suite 101
The Dalles, OR 97058
(541) 506-2552

Applicant's Representative and Land Use Planning: Angelo Planning Group
Darci Rudzinski, Project Manager
921 SW Washington Street, Suite 468
Portland, OR 97205
Phone: (503) 227-3669
Fax: (503) 227-3679
Email: drudzinski@angeloplanning.com

Map and Tax Lot: 2N 13E 33 C 1700 (part)

Site Address: 807 Webber Street

Current Comprehensive Plan Designation: Parks and Open Space

Current Zoning Designation: Parks/Open Space (P/OS), Community Facility Overlay

Application Submitted For: Wasco County
511 Washington Street, Suite 101
The Dalles, OR 97058
(541) 506-2552

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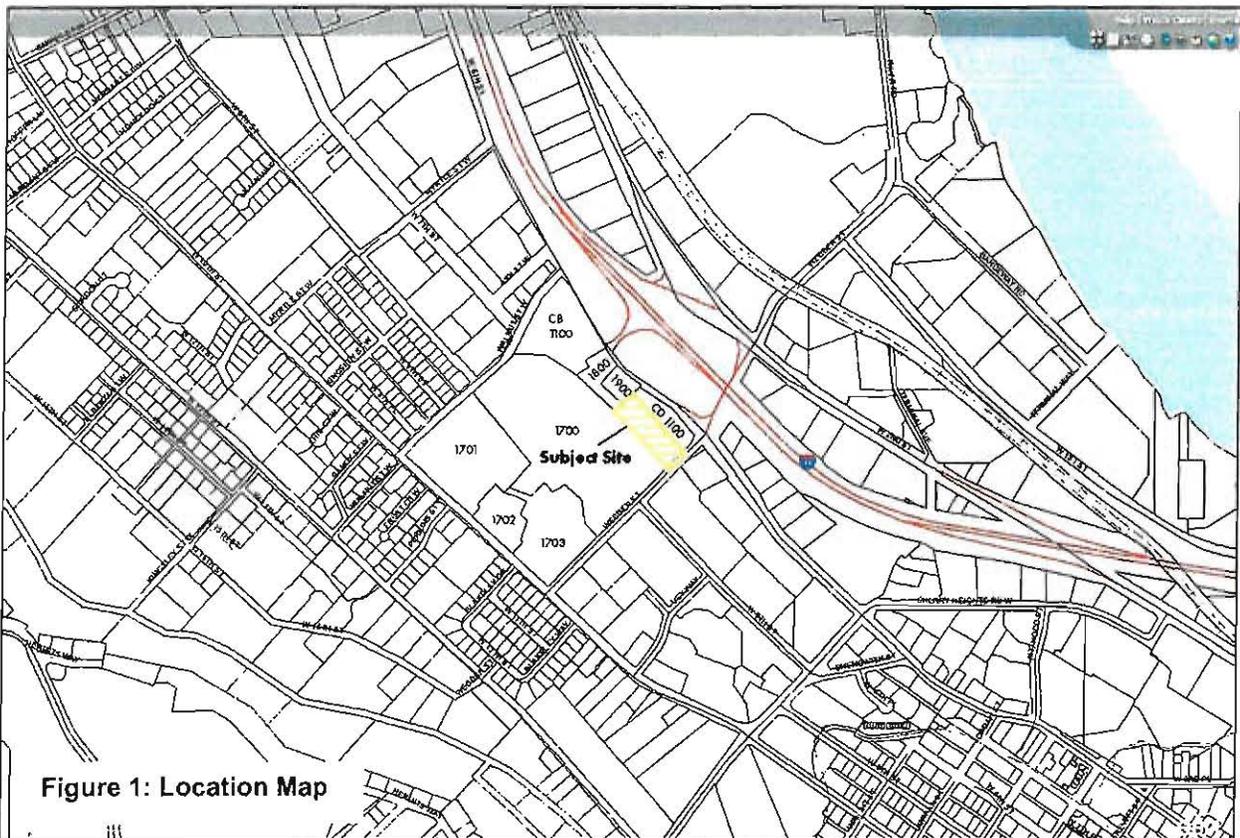
Section 1: General Information

Request

The applicant is requesting to amend the Comprehensive Plan designation on approximately 1.75 acres from Parks and Open Space (P/OS) to Commercial. The applicant is also requesting to rezone the site in question from P/OS to General Commercial (CG) and modify the Community Facility Overlay (CFO) to exclude the area subject to the rezone. The completed Comprehensive Plan Amendment Application and Zone Change Application forms have been submitted with this application narrative.

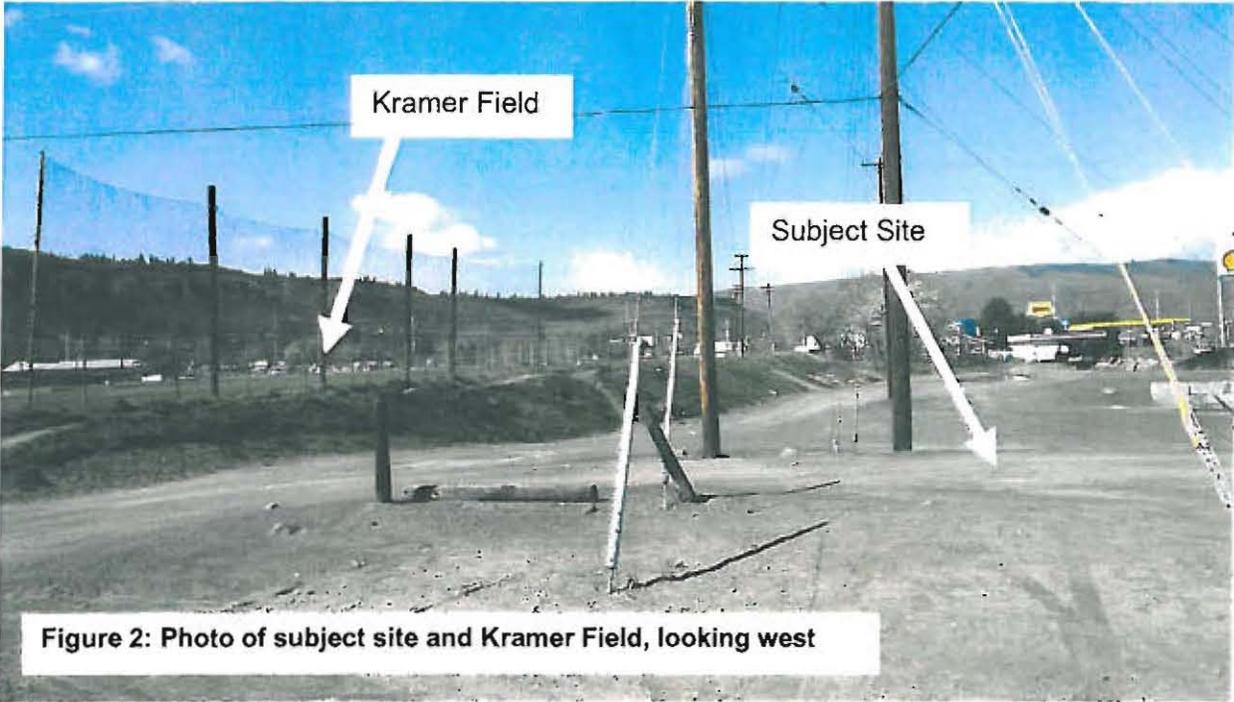
Site and Context

The subject site is the eastern portion of Tax Lot 2N 13E 33 C 1700, located at 807 Webber Street near the intersection of Webber and West 6th Street (see Figure 1). The portion of this property that is the subject of this request includes approximately 150 feet of frontage along Webber.



The subject site is 1.75 acres in area. It is part of the 16.5 acres owned by Wasco County that includes Kramer Field. Kramer Field is operated by the Northern Wasco County Park & Recreation District (NWCPRD) and contains softball and soccer fields. Consistent with this use, the tax lot of which the subject site is a part is currently zoned P/OS with a CFO overlay and is designated P/OS in the comprehensive plan. However, the site itself is currently a vacant, gravel-covered area that is physically separated from the active recreational uses by an earthen berm. Figure 2 shows this 12- to 14-foot grade change from the site to Kramer Field, as well as the utility lines that impact the area. Located between the athletic fields and the Oregon

National Guard Armory Building, the subject site is sometimes used as an informal parking lot and provides maneuvering area for National Guard vehicles.



Wasco County is requesting this change in land use designation and zoning in anticipation of the Oregon National Guard moving to the new National Guard Readiness Center located at 400 SE Scenic Drive. The National Guard Readiness Center replaces the 11,766 square-foot armory at 713 Webber Street (Tax Lot CD 1100), which is adjacent to the subject site on land previously owned by the County and currently owned by the State of Oregon. As specified in a revisionary clause in the agreement between the State and the County, the parcel the armory currently occupies will revert to County ownership when the Oregon National Guard vacates the property. The subject site, if approved for the requested rezone, will be available in the future for commercial uses and has the potential to increase the future viability of commercial uses on the Armory site, if the two areas were combined through a lot line adjustment.

The County's overarching interest in this 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 need for this change is timely, with additional revenues needed to off-set the loss of Federal roadway funding, as well as to meet the County's financial obligations to the Columbia Gorge Community College related to siting the National Guard Readiness Center on land owned by the college.

Overview of the Application

Section 2 of the application demonstrates how the proposed Comprehensive Plan amendment and zone change comply with the City's adopted Comprehensive Plan polices and the requirements of the City of The Dalles Land Use and Development Ordinance (LUDO).

Section 2: Findings of Conformance with Approval Criteria

This section of the application contains responses that demonstrate how the requested Comprehensive Plan Amendment and Zone Change comply with the City of The Dalles Comprehensive Plan and Land Use and Development Ordinance (LUDO).

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)

Response: 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 lies in the "Columbia Gateway" and is within the Urban Renewal Boundary. Investing in the economic development of the subject site is therefore consistent with EOA, Urban Renewal Plan, and Comprehensive Plan policy.

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

Response: Executive summary page v of the EOA states 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 2026. The re-designation of the subject site to Commercial will help meet this need.

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.

Response: Policies 2. and 3. are not applicable; the subject site is small and in a location that is not suitable for industrial development.

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 targeted employers during the 20-year planning period.

Response: The subject site is currently under-utilized under its existing zoning, principally due to its physical separation from active recreation areas. The adjacent Armory site, which was developed in the early 1950s under site development requirements valid at that time, will also be considered an under-utilized commercial site once vacated by the National Guard. Subsequent to approval of this 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. Nearby commercial lots along W. 6th Street range from roughly 150-300 feet in depth. Approving this plan amendment will increase the depth of commercially designated land on this corner to roughly 260 feet, consistent with nearby lots.

6. Protect large Northwest Aluminum redevelopment sites for their intended industrial uses as identified in the EOA as set forth in Table 9-4.

Response: This policy is not applicable, as the site is not a large Northwest Aluminum industrial site.

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 local area employees and customers.

Response: This policy is not applicable. The subject site is not in or near the City's industrial zones.

8. Plan for and make prudent public investments to meet the future demands of industrial, commercial, and residential growth in The Dalles.

Response: As addressed in the response to Policy 2 above, designating this site for commercial uses will help meet future need for small-parcel employment land identified in the City's EOA.

9. Encourage investment in The Dalles Central Business District, and support project activities in the Columbia Gateway/Downtown Urban Renewal Plan.

Response: The subject site is part of the Columbia Gateway, and is within the boundaries of the Urban Renewal Area. Redevelopment of the subject site as part of an existing commercial area would support the Central Business District by encouraging investment and, when developed pursuant to current site design requirements for landscaping, by providing a more attractive gateway to downtown.

10. Encourage tourism-related services as an element in the diversification of the community's economy.

Response: No specific use of the site has been identified, but the requested GC zoning permits a variety of uses that could encourage tourism and the site could potentially support a tourism-related service. Permitted uses in the GC Zoning District include hotels, motels and conference, visitor and convention centers.

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.

Response: This policy is not applicable. The site is not near the Mid-Columbia Medical Center.

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.*

Response: This policy is not applicable as the request is not directly related to encouraging agricultural-related businesses.

13. *Support the forest products industry as an element of the economy.*

Response: This policy is not applicable.

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.*

Response: The subject site is of a size and location that would be suitable for small to medium sized businesses, consistent with the intent of this policy.

15. *Encourage siting of new industries in The Dalles, and encourage existing industries to maintain high environmental standards.*

Response: This policy is directed to industrial land is not applicable to the requested action.

16. *Reserve industrial zones for industrial uses and uses compatible with industry.*

Response: This policy is not applicable. This comprehensive plan re-designation does not affect industrial zones or uses.

17. *Review and revise administrative policies and procedures to streamline the planning process, and reduce delays in obtaining development approvals.*

Response: This policy is not applicable.

18. *Coordinate economic planning and development with industrial development at Dallesport.*

Response: This policy is not applicable.

19. *Encourage educational, cultural, social and employment opportunities to enhance the quality of life in The Dalles for all age and income groups.*

Response: Currently, the subject site does not provide any educational, cultural, social, or employment opportunities. The subject site is expected to provide additional employment opportunities if put into commercial use.

20. *Plan appealing streetscapes that encourage personal interaction, accommodate public gatherings, and enhance the experience of shoppers and workers.*

Response: Future proposed development on this site will need to meet streetscape requirements prior to Site Plan Review approval.

21. *Encourage cooperation between public and private sectors to support economic growth.*

Response: The subject site is currently in public ownership. The plan redesignation and rezoning is 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 6th Street. Wasco County hopes to partner with a private sector developer and end user(s) to redevelop this area in the future.

22. *Make prudent investments in The Columbia Gorge Regional Airport as needed to accommodate airport development.*

Response: This policy is not applicable. The subject site is not near the Columbia Gorge Regional Airport.

Comprehensive Plan Goal 9: Economic Development – Implementation Measures

2. *West 6th Gateway (Designated General Commercial on the Land Use Plan Map).*

- *Provide for highway commercial developments in areas along the west 6th corridor where this is the predominant land use.*

Response: The proposed plan amendment and zone change is consistent with this policy.

- *Improve the visual appearance by encouraging amenities such as street trees and street furniture when public and private development and redevelopment is undertaken.*

Response: Development of the subject site (and redevelopment of the Armory site) would include enhancements consistent with existing City of The Dalles code requirements and would result in an improved visual appearance on the gateway corner at Webber Street and West 6th Street.

- *Construct or improve water, sewer, and storm drain systems as needed.*

Response: To date, the City has not identified potential infrastructure deficiencies that would preclude or limit commercial development on the subject site. If infrastructure improvements are needed to support future development, these needs will be identified as part of a subsequent development approval process and provided at the time of property development.

- *Ensure that future improvements and land use changes in the area provide adequate sound, light, and visual buffers to adjacent residential areas.*

Response: The subject site is not adjacent to any residential areas. The nearest residences are at Webber Street and West 10th Street, roughly 1,100 feet to the southwest of the site.

- *Reserve areas along East and West Second Street for commercial/industrial mixed zoning.*

Response: This implementation measure is not applicable, as the subject site is not along Second Street.

- *Reserve land in the northern portion of the Northwest Aluminum site for needed commercial development.*

Response: The subject site is not part of the Northwest Aluminum site.

Comprehensive Plan Appendix B: Guidelines for Land Use Plan Map Classifications

Employment Designations

"In addition to complying with the Goal 9 element of this plan, the following criteria shall be applied to applications for comprehensive plan amendments and zone changes.

Purpose: To provide for a wide range of retail, wholesale, and service businesses to serve the needs of the marketing region in locations compatible with the best interests of the community.

Response: The subject's site location at the "gateway" to the City's commercial core makes it ideal for commercial uses and future development at this location will serve to improve the vitality and appeal of the entire district. The site is of sufficient size to support a variety of types of retail, wholesale, and service business uses.

Standards:

- *Paved, off-street parking areas shall be required of all business commensurate with the use generated by the business.*
- *Landscaping shall be required for all new constructions or major remodeling of existing buildings subject to review by Planning Commission.*
- *Utilities shall be buried or screened.*
- *Advertising signs shall be regulated in accordance with City Ordinance.*

Response: The subject site is of sufficient size to conform to the General Commercial Development Standards, including the required off-street parking and landscaping, at which time the property is developed. Advertising signs, where proposed as part of site development plans, will conform to the LUDO requirements and regulated in accordance with City Ordinance. Development plans will be coordinated with NW Natural Gas and other utility providers to ensure continued service to the site and surrounding users and, where possible, to improve location and screening of existing lines.

LUDO 3.010 Application Procedures

3.010.030 Pre-Application Conference

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.

Response: This 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. Notes from the meeting are attached in Exhibit B.

3.100 Zone Changes

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.*

Response: This application includes a requested Comprehensive Plan amendment to CG for the subject site. Approval of the requested zone change from P/OS to CG will therefore conform with the amended Comprehensive Plan. The addition of this area to the cluster of commercially-zoned parcels at the intersection of Webber Street and West 6th Street is consistent with existing zoning and land uses in the vicinity. (See Exhibit H. Proposed Zoning and Figure 3. Photo of Nearby Commercial Uses). The subject site can be developed according to the LUDO Development Standards for General Commercial, given its size and location. Other development requirements, such as landscaping (Section 6.010), access management (Section 6.050), and parking (Sections 7.020, 7.030) can also be met on this site and will be addressed as part of a future Site Plan Review process.

- B. Suitability. *The site is adequate in size and shape for uses normally allowed by the proposed zone.*

Response: The site measures roughly 495 feet by 155 feet, and has a total area of 1.75 acres (see Exhibit I). Nearby tax lots zoned CG range from roughly .5 acres to 5.5 acres. The site is adequate in size and shape to support a commercial use on its own, but rezoning this site will permit future lot consolidation with an adjacent GC parcel. This will create the area needed, and 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. Approving this zone change will increase the depth of commercial zoning on this corner to be consistent with neighboring lots, from roughly 120 feet to roughly 260 feet in depth from West 6th Street.

- 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.*

Response: The subject site is well served by the existing street network. The site abuts Webber Street, a Major Arterial, and is in the vicinity of the intersection of West 6th Street, also a Major Arterial. The City has not identified any capacity, access or safety issues with proposed commercial uses on the site. The City has indicated that a traffic impact study will be required as part of Site Plan Review and the development approval process. 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 impact study may need to be coordinated with the Oregon Department of Transportation.

- D. Adverse Effect. *The proposed Zone Change shall have minimal adverse effect on existing and future surrounding development.*

Response: Currently, the subject site is a gravel area used for informal parking and Oregon National Guard vehicle maneuvering. The proposed action will not reduce the amount of active recreational land in the area. Particularly given its location near the corner of Webber Street and West 6th Street, the site is currently underutilized and visually unappealing. The ultimate effect of the proposed zone change will be to better utilize this vacant land and develop a stronger "gateway" to the mid-commercial core of the City of The Dalles. The addition of this area to the cluster of commercially-zoned parcels at the intersection is consistent with existing land uses in the vicinity; future commercial uses at the site will bring activity and increased vitality to existing uses in the immediate area.



Figure 3. Photo of nearby commercial uses at Webber Street and West 6th Street, looking southeast.

Exhibit A

Owner Consent Letter

Darci Rudzinski

From: Kathy White [kathyw@co.wasco.or.us]
Sent: Thursday, February 20, 2014 10:07 AM
To: Darci Rudzinski
Cc: Tyler Stone; Andrew Parish
Subject: Planning Application Authorization

Good Morning, Darci-

At the February 5, 2014, Wasco County Board of Commissioners Meeting, the Board voted to accept the Angelo Planning proposal to assist Wasco County prepare and submit the Plan Amendment/Zone Change application for property owned by the County at 713 Webber Street in The Dalles, OR - Taxlot 2N 13E 33 C 1700.

Thank you for your help and please let me know if you have any questions or concerns.

Thank you,

Kathy White
Executive Assistant
Wasco County
Board of County Commissioners
511 Washington Street
The Dalles, OR 97058
work 541.506.2520
fax 541.506.2551

Exhibit B

Site Team Meeting Notes

City of The Dalles

Site Team Notes

March 20, 2014

Site Team Members:	Dale McCabe	City Engineer
	Todd Stephens	City Engineer's Office
	Richard Gassman	Planning Director
	Dawn Hert	Senior Planner
	Jim Schwino	City Development Inspector
	Tonya Brumley	NW Natural Gas

For Applicant:	Tyler Stone	Wasco County
	Darci Rudzinski	Angelo Planning Group

Applicant: Angelo Planning Group for Wasco County

Application: Zone Change and Comp Plan Map Change – 807 Webber Street

Engineering/Planning Notes

- Application and procedures are contained in the Land Use and Development Ordinance (LUDO) of the City of The Dalles. The LUDO is on line at www.ci.the-dalles.or.us.
- Base zone for the property is P/OS – Parks and Open Space with a CFO Overlay.
- Applicant is requesting rezone to CG-General Commercial.
- Applicant will also need to change the Comprehensive Plan to CG.
- To initiate a change of the Comp Plan and the Zoning Ordinance, applicant will need to officially file the two applications. Filing fee of \$775.00 will be waived per County/City policy.
- Rezone regulations can be found in the LUDO at Section 3.100. Decision criteria are located in Section 3.100.030.
- Rationale for zone change is existence of significant grade change at proposed rezone line, and adjacent existing CG zone.
- Change to the zoning map requires 35 day advance notice to the State Department of Land Conservation and Development. Notice will be sent by the City once the official application is filed.
- First hearing is with Planning Commission. Due to 35 day notice first regularly scheduled meeting would be either May or June. Planning Commission meetings are held on the first and third Thursday of each month at 6 p.m. in The Dalles City Hall.
- Second hearing is with the City Council. Council meetings are held on the 2nd and 4th Monday of each month at 5:30 in The Dalles City Hall.
- Planning Commission hearing is legislative. City Council hearing is quasi-judicial.

- Property is near the corner of West 6th and Webber, and close to the Webber Street off ramp of I84. Issue of ODOT review was raised and discussed, however no representative from ODOT was present.
- Prior to final approval a survey or other clearly identifiable boundary description will be required.

NW Natural Gas

Concern is for a natural gas pipeline across that property that may or may not have an easement.

Exhibit C

Vicinity Map

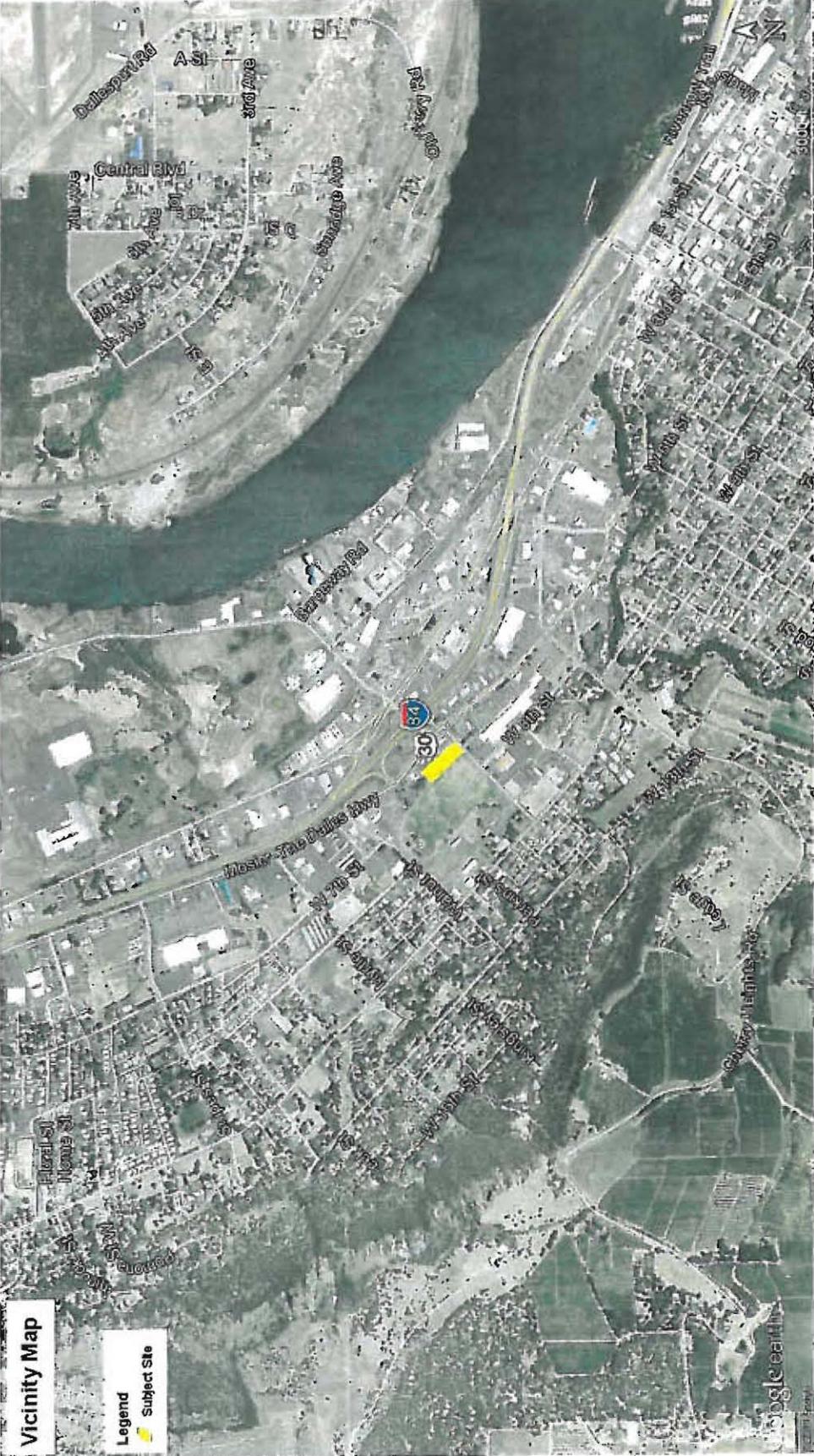


Exhibit D

Tax Lot Map

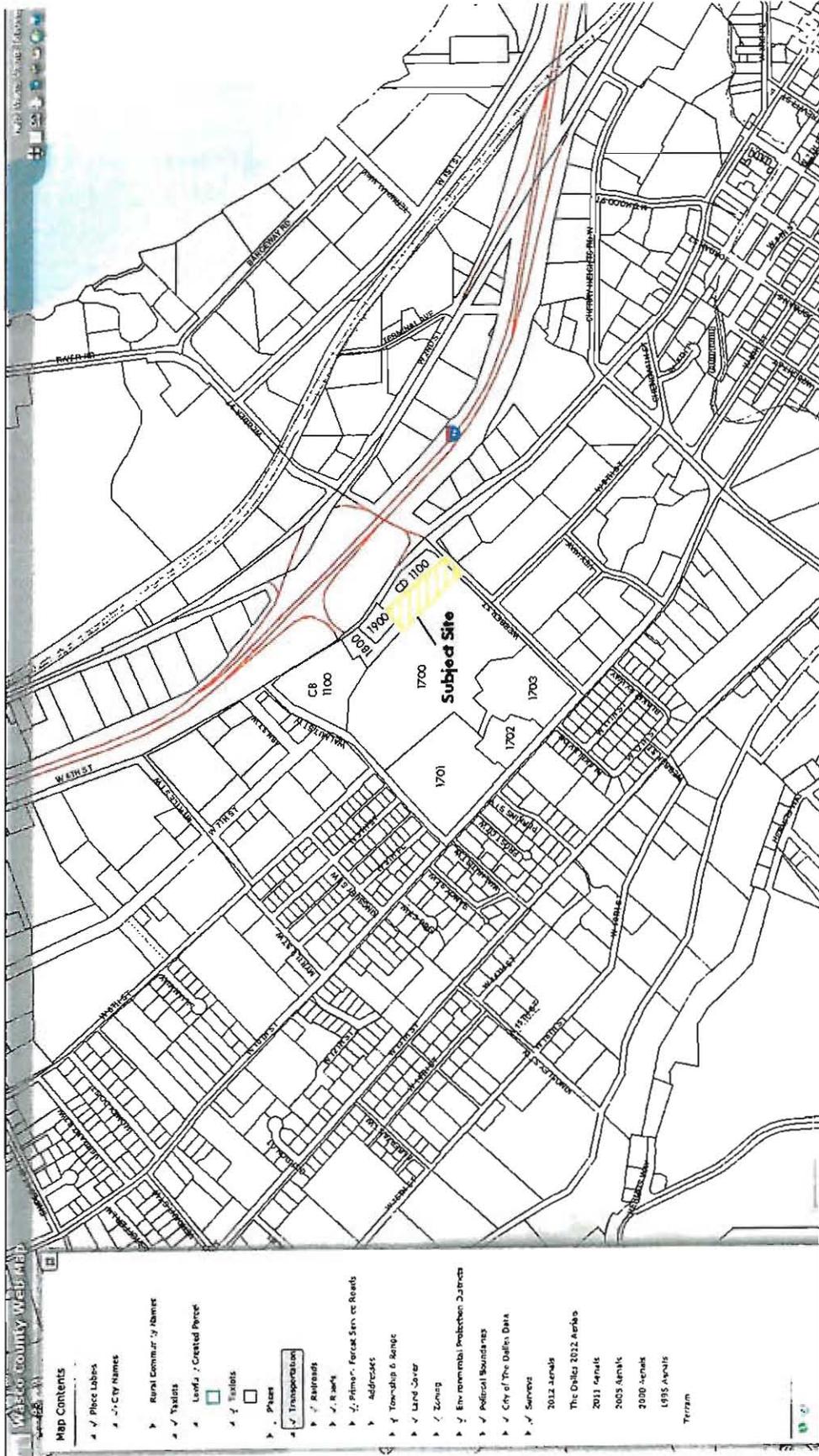


Exhibit E

Existing Comprehensive Plan Designation

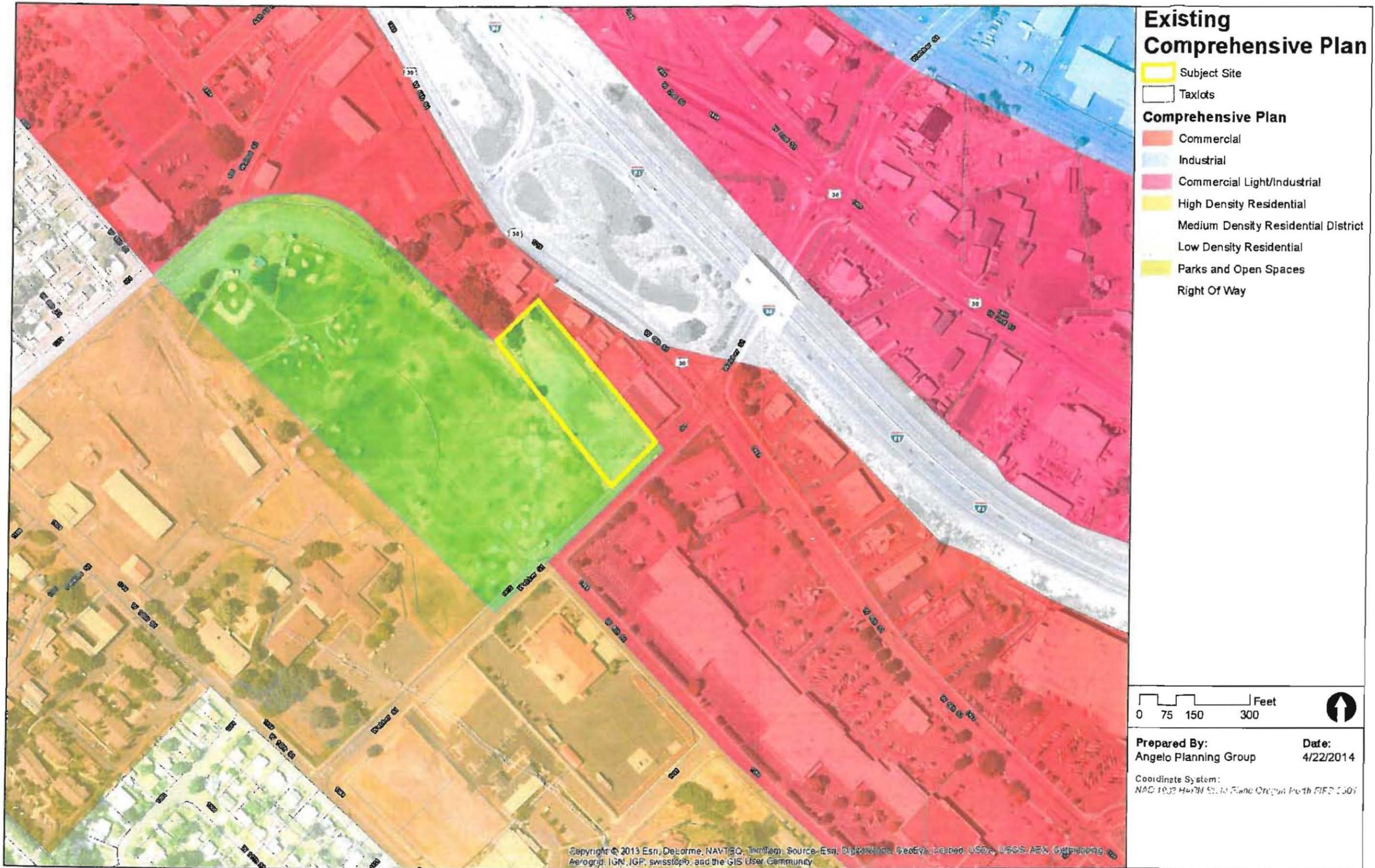


Exhibit F

Proposed Comprehensive Plan Designation



Exhibit G

Existing Zoning



Exhibit H

Proposed Zoning

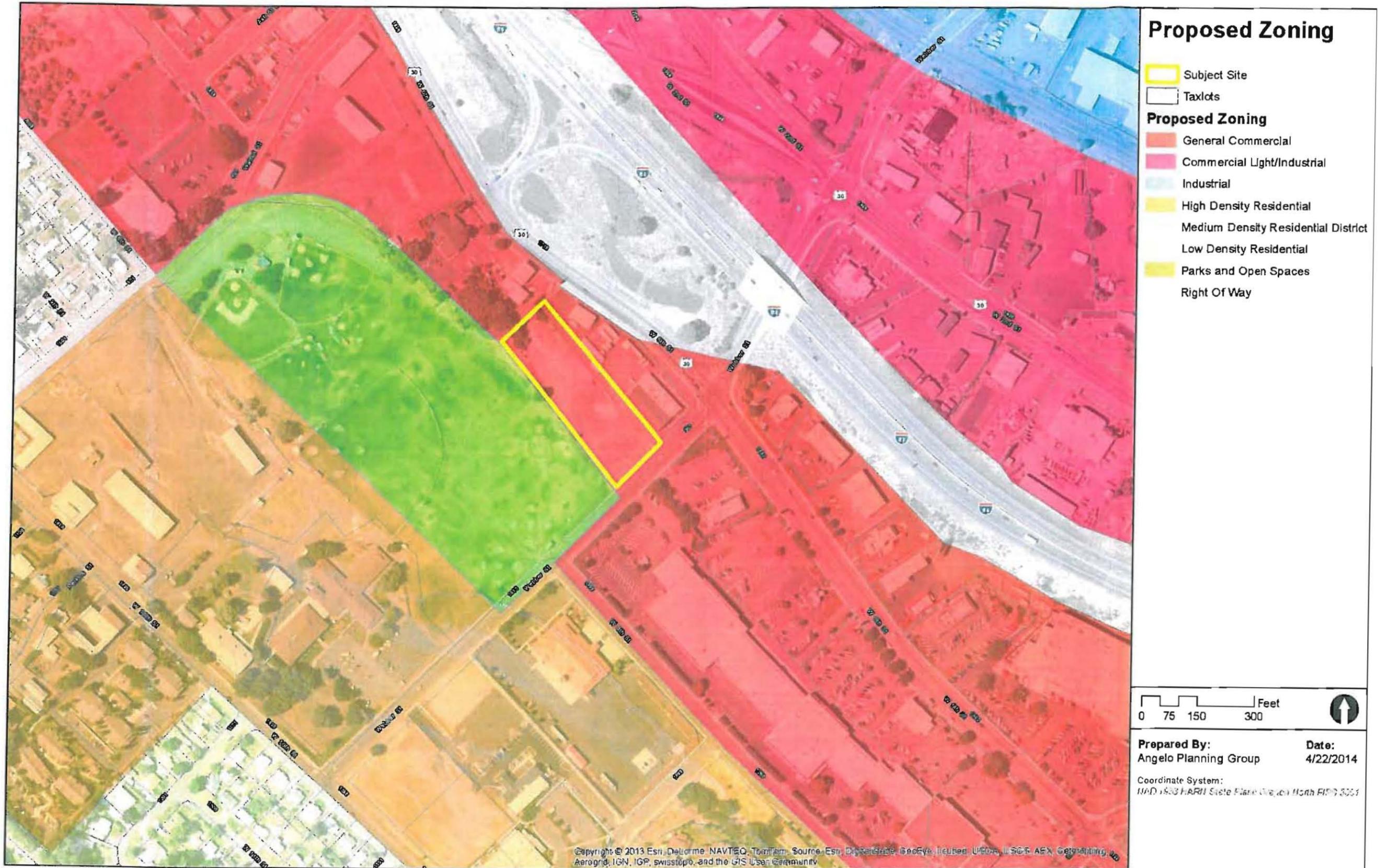


Exhibit I

Legal Description

LEGAL DESCRIPTION for ADJUSTMENT AREA
(KRAMER FIELD TO ARMORY TRACT)

A tract of land in the CATHOLIC MISSION CLAIM in the Southwest quarter of Section 33, Township 2 North, Range 13 East of the Willamette Meridian in City of The Dalles, Wasco County, State of Oregon, described as follows:

Commencing at a 5/8-inch iron rod at the Northeast corner of the WASCO COUNTY POOR FARM PROPERTY, said corner also being on the Northeast line of the CATHOLIC MISSION CLAIM; thence along said Claim line, North 39° 58' 13" West 60.27 feet to the Northeasterly projection of the Westerly right-of-way line of Webber Street; thence along said projection and said Westerly right-of-way line South 46° 15' 37" West 150.00 feet to a 5/8-inch iron rod at the Northeast corner of Parcel 1 of Partition Plat 2002-0016, Slide C-178A, recorded July 23, 2002, which point also marks the **Initial Point** of this description; thence continuing along said right-of-way line South 46° 15' 37" West 155.00 feet to a 5/8-inch iron rod; thence North 38° 51' 02" West 334.26 feet to a 5/8-inch iron rod; thence North 50° 03' 05" West 156.26 feet to a disc concreted into a large boulder; thence North 44° 24' 48" East 15.00 feet to a 5/8-inch iron rod at the Southeast corner of Partition Plat 1992-0039, Slide-097, recorded December 29, 1992; thence along the Easterly line of said Partition Plat North 44° 24' 48" East 161.72 feet to the Southwest corner of that land conveyed in Wasco County Deed Book 124 Page 411, filed October 9, 1952; thence along the South line of said land and the projection thereof South 39° 55' 30" East 495.15 feet to the Initial Point.

SUBJECT TO any existing utility easements upon the property.

Attached hereto and by this reference made a part hereof is a sketch marked "Exhibit A" showing the location of the above described Adjustment Area.

Contains 1.75 acres.

Note: A property line adjustment survey will follow, which will replace this sketch.

April 23, 2014

City of The Dalles

Staff Report

Appeal 27-14

Appeal of Minor Partition

Elk Horn Development LLC

1611 Thompson Street

Prepared by: Richard Gassman, Planning Director *RG*

Procedure Type: Quasi-judicial

Hearing Date: June 19, 2014

Assessor's Map: 1N 13E 11 AB tax lot 900

Address: 1611 Thompson Street

Comprehensive Plan "RL" Low Density Residential

Zoning District: "RL" Low Density Residential

City Limits: Inside

Applicant: Elk Horn Development LLC

Application: Minor Partition

Appeal: Applicant is appealing some of the conditions of approval.

BACKGROUND INFORMATION

The subject property is currently occupied with a single family dwelling. The applicant has applied for a minor partition, which has been given preliminary approval, with

conditions. The applicant has appealed. An appeal from an administrative decision goes to the Planning Commission and is heard as a quasi-judicial hearing.

NOTIFICATION

Notice of public hearing was mailed on June 9, 2014, 10 days prior to the hearing.

COMMENTS

No comments were received as of the preparation of this staff report. Any comments received prior to the hearing will be presented to the Commission at the hearing.

REVIEW

A. LAND USE AND DEVELOPMENT ORDINANCE 98-1222

Section 3.020.080 Appeal Procedures:

Subsection A. De Novo. Appeals shall be a de novo evidentiary hearing.

FINDING 1: The hearing set for June 19, 2014 will be a de novo evidentiary hearing. The Planning Commission will have the opportunity to review the entire application and make a new decision. Criterion met.

Subsection B. Right to Appeal Decision. Any party of record may file an appeal.

FINDING 2: The appeal was filed by the applicant. Criterion met.

Subsection C. Filing Appeals.

FINDING 3: The filing of the appeal with the information required in the appeal, and payment of the appeal fee, was completed within the time lines set out in the ordinance. Criterion met.

Subsection G. Notification of Appeal Hearing. Notice of the hearing shall be sent to all parties.

FINDING 4: The applicant is the only party of record and has been notified of the hearing set for June 19, 2014. Criterion met.

Subsection H. Decision of Appeal.

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

FINDING 5: To help the Commission in its deliberations, attached to this report is a copy of the appeal, a copy of the original staff report and decision, a copy of the application, a copy of House Bill 3479, and a copy of a Delayed Development Agreement

(DDA) signed in conjunction with SUB 65-12. Criterion will be met with the Commission's decision.

DISCUSSION

The applicant first filed an application for a subdivision on this property in 2012, SUB 65-12. That application was approved with a series of conditions, and is still an open land use application. One of the conditions of approval provided that, in lieu of installing certain public improvements for Thompson Street, a delayed improvement agreement could be executed which would allow the City to require half street improvements in the event a Local Improvement District (LID) for construction of improvements for Thompson Street was not formed and the improvements were not completed. While that application was pending, the applicant removed an older house on the property and built a new one. Normally, with construction of a new dwelling, the owner is required to meet a series of LUDO requirements for public improvements. These requirements include one or more methods for satisfaction of required street improvements. The City and the applicant negotiated the terms of a DDA which allowed the applicant to proceed with the construction of the residential dwelling on Lot 2 of the proposed five lot subdivision, with a provision that the applicant would not be allowed to proceed with development of any of the remaining four lots until all of the required public improvements had been installed, and the final plat for the subdivision had been recorded.

After the passage of House Bill 3479, the City Council approved a series of LUDO amendments to change the improvements that may 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 applicant subsequently filed a minor partition application for the same property. With approval of that land use application, the same public improvement requirements

were made conditions of approval to satisfy the obligation incurred due to the construction of the new dwelling.

The applicant has appealed the conditions of approval. After reviewing all the circumstances, staff and the applicant met and tried to work out a settlement of the issues. A complete settlement was not reached, but in that process staff determined that only the proposed new lot which includes the new dwelling should be subject to requirements for public improvements. This is the same set of conditions that would apply if the applicant had completed the minor partition and then built the house.

Here is a brief response to some issues raised in the appeal.

1. A DDA is not the same as a Waiver of Remonstrance. A Waiver of Remonstrance is a legal document that is tied to the formation of an LID and can only be implemented as part of an LID. A DDA is an agreement between the City and the property owner and stands on its own. A DDA would not include a provision requiring an applicant to enter into a nonremonstrance agreement with respect to the formation of an LID. House Bill 3479, which sets forth the conditions of approval which the City can impose upon an application for a minor partition, specifically refers to waivers of remonstrance and not to other types of agreements.
2. House Bill 3479 does not require the City to allow partitioning “with no strings attached”. 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, nor can it require an applicant for a minor partition to execute a Waiver of Remonstrance specifically for an LID. The requirements in the conditions of approval do not require any charges in lieu of forming an LID. One of the 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 an LID is established; but this is as a result of the construction of the new dwelling, not as result of the minor partition, consistent with the provisions of Sections 9.030.050(C)(2) and 10.030(A) of the LUDO.

RECOMMENDATION

Staff recommends that the Commission grant the appeal for purposes of making modifications to the conditions of approval as indicated below. Note, the modifications, while arguably acceptable to the applicant, do not resolve all the issues in the manner requested by the applicant.

Suggested Conditions of Approval

1. Final plat submission must meet all the requirements of LUDO Section 9.030 and the other 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. All other lots will take access from either 15th or 16th.
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.
7. Applicant will be required to sign a delayed development agreement that full half street improvements (sidewalk, curb, stormwater, water, sanitary sewer, and paving) for Thompson Street will be installed at a time to be determined by the City. This agreement is to include only the frontage of Thompson Street for the lot with the new dwelling. In addition, this agreement will require that in the event an LID is established for public improvements for Thompson Street, including the portion of Thompson Street which has frontage for the lot upon which the existing home has been built, the applicant will pay for the costs of assessment for the half street improvements for the lot with the existing dwelling with frontage on Thompson Street.
8. Dedication of 25 feet of right of way along the frontage on East 15th, to increase the total right of way to 50 feet.

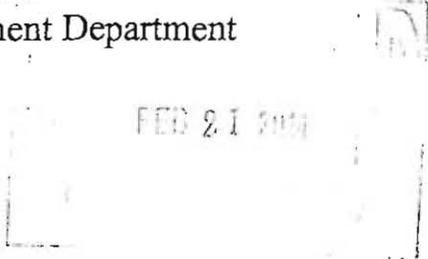
Attachments

1. Application for MIP312-14
2. Staff report for minor partition MIP312-14.
3. Notice of Decision dated March 24, 2014
4. Notice of Appeal dated April 7, 2014
5. Copy of House Bill 3479.
6. Copy of DDA signed in conjunction with SUB 65-12

MINOR PARTITION APPLICATION

CITY OF THE DALLES
Community Development Department
313 Court Street
The Dalles, OR 97058
(541) 296-5481, ext. 1125
Fax (541) 298-5490
www.ci.the-dalles.or.us

Date Filed 2/21/14
File# MIF 312-14
Date Deemed Complete 2-25-14
Hearing Date N/A
Approval Date _____
Permit Log # _____
Other Cross Reference# _____



APPLICANT

LEGAL OWNER (If Different than Applicant)

Name EIK HOCA Development LLC
Address 397 Summit Ridge Dr
The Dalles
Telephone # 541-993-9891

Name _____
Address _____
Telephone # _____

Email Address tanerelliott@gmail.com

PROPERTY INFORMATION

Address 1611 Thompson
Map and Tax Lot IN 13E 11AB 900
Size of Development Site 37,299.6 ± SF
Zone District/Overlay RL In City Limits: Yes No
Comprehensive Plan Designation RL Geohazard Zone: NO

PROJECT INFORMATION

Current Use of Property Res.
Proposed Use of Property Res.

Signature of Applicant [Signature]
Date 2/21/14

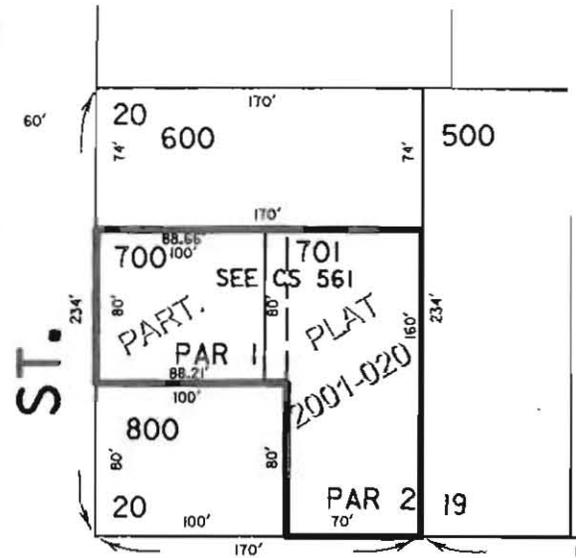
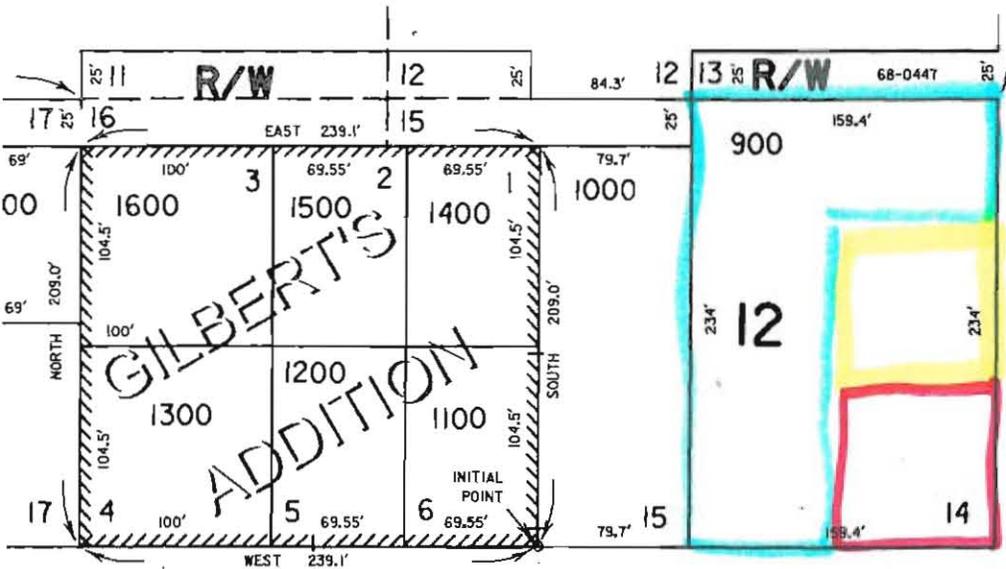
Signature of Property Owner* or Owners Agent _____
Date _____

* Notarized Owner Consent Letter may substitute for signature of property Owner

NW1/4 NE1/4 SEC. II T.1N. R.13E. W.1 WASCO COUNTY

1" = 100'

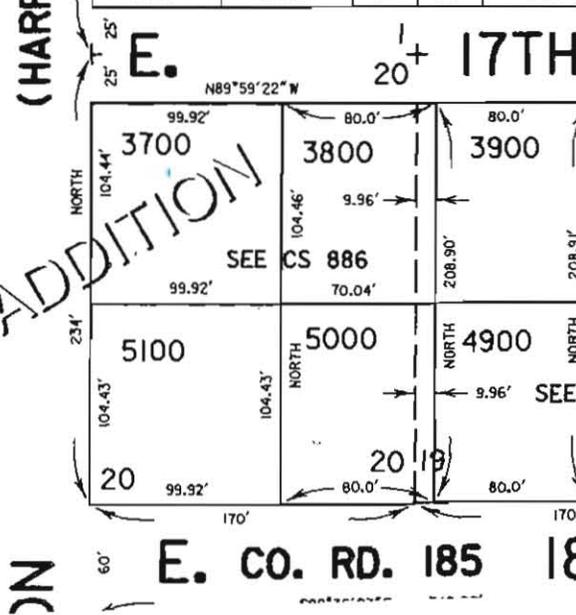
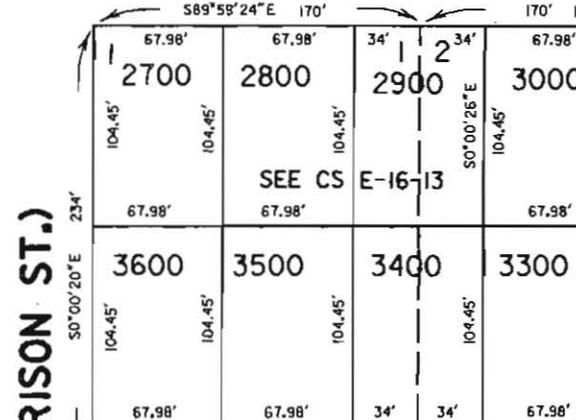
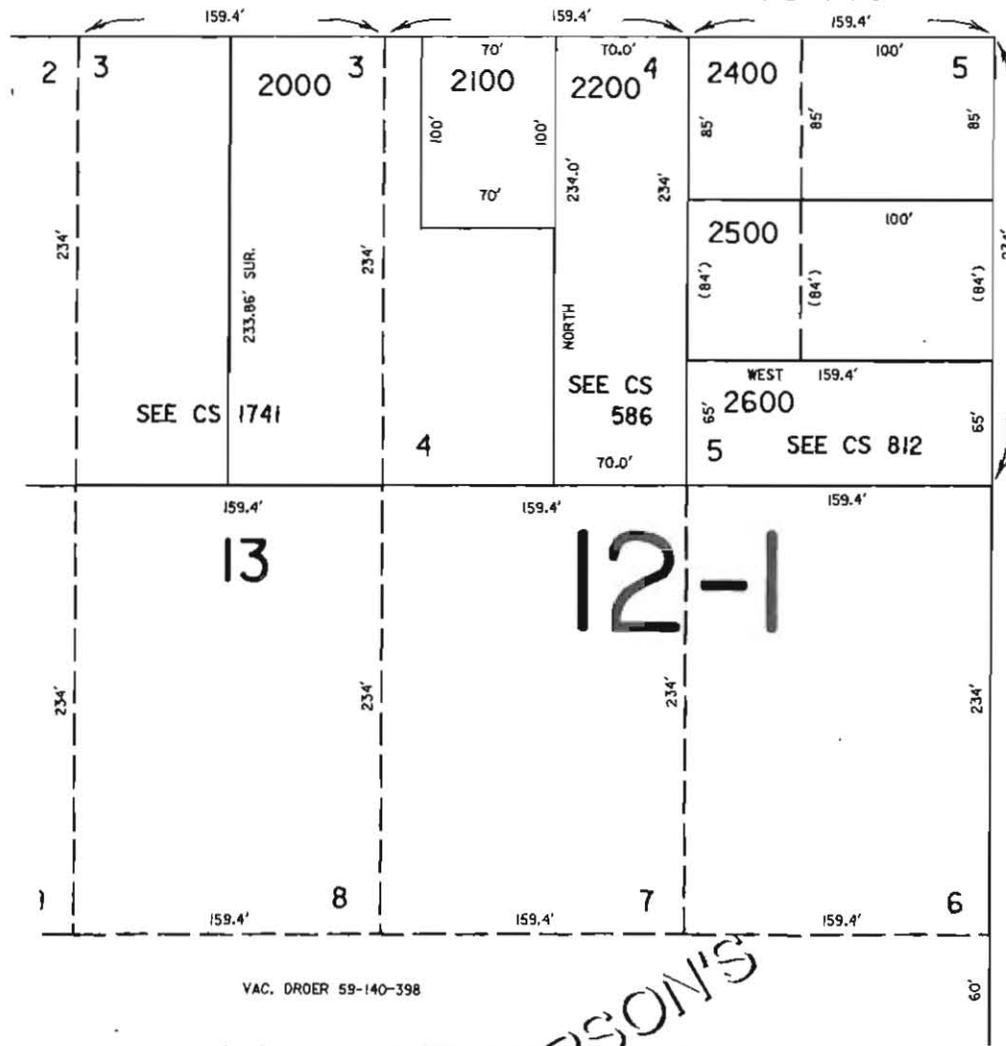
SEE MAP IN 13 2DC



(MAPLE ST.)

16TH

CO. RD. 108



City of The Dalles
STAFF REPORT
Minor Partition 312-14
Elkhorn Development, LLC

Prepared by: Richard Gassman, Director *RHG*
Procedure Type: Administrative
Decision Date: March 24, 2014
Assessor's Map and Tax Lot: 1N 13E 11 AB tax lot 900
Address: 1611 Thompson Street
Comprehensive Plan Designation: "RL" Low Density Residential District
Zoning District: "RL" Low Density Residential District

SUMMARY: This request is to partition one lot of approximately 37,300 square feet into three smaller lots. This property was previously approved for a subdivision under SUB 65-12. That subdivision application has not been completed. At the time of the original subdivision application there was an existing house. That house was demolished and the applicant has since constructed a new single family dwelling. That dwelling will be located on one of the proposed new lots.

NOTIFICATION: Property owners within 100 feet, City Departments and Franchise Utilities.

COMMENTS RECEIVED:

No comments have been received.

RECOMMENDATION

Approval with conditions based on the following findings of fact.

Review Criteria

A. LAND USE AND DEVELOPMENT ORDINANCE 98-1222:

Section 9.020.020 Land Division 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 #1: This partition application would divide a lot into three lots, each over 5,000 square feet. The minimum lot size in the RL zone is 5,000 square feet. Criterion met.

Subsection B. Annexation. Whenever any new lot is created inside the Urban Growth Boundary but outside 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 #2: This property is inside the City limits. Criterion met.

Subsection C. Blocks

There are a series of code provisions indicating the size of blocks.

FINDING #3: This property is located on Thompson Street extending between East 15th and East 16th. No additional public roads are needed adjacent to this property. Criterion met.

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 “RH” 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 #4: 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 remaining lot is suitable for further division. Criterion met.

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 #5: All lots abut on a public street. Criterion met.

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

FINDING #6: East 15th and East 16th Streets are classified as local. Thompson Street is classified in the City’s Street System Inventory as an arterial street. Only the middle lot will be allowed to access off Thompson. That access point has previously been established. No new access point is being created and none will be allowed. Criterion met conditionally.

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 #7: This partition does not create a through lot. Criterion met.

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

FINDING #8: The sidelines of the proposed lots intersect at a right angle. Criterion met.

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

FINDING #9: No development is proposed with this partition. This lot is in the East City Inactive Landslide Deposit area. This zone has no special requirements. Criterion met.

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 #10: 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. Criteria met conditionally.

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 #11: 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. Criterion met.

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

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

FINDING #12: 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. Criterion met conditionally.

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 #13: As demonstrated in findings above, this proposal meets or will meet with conditions, all applicable policies and standards. Criterion met.

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 Public Street.

FINDING #14: This proposal to partition does not impede future development. Criterion met.

CONCLUSIONS: In general, this proposal is consistent with the City of The Dalles Land Use and Development Ordinance, except for the complicated issue of the removal and later construction of a single family home on the property. Current City policy requires that when a dwelling is voluntarily removed, and then a new home is built, the property owner is required to bring all adjacent rights of way up to City standards. When the home was built, the owner was in the process of obtaining a subdivision approval which had as a condition of approval the full half street development of Thompson, 15th and 16th. Those improvements normally tied to a new house construction were deferred since they were to be conditions of the subdivision. Without the subdivision, the same requirements would have been required with the building permit for the house. To further complicate the situation, the City does not want the applicant to make improvements to Thompson at this time as the City intends to seek a full street reconstruction in the future; but without a storm system in place in Thompson, stormwater issues make full improvement of 15th or 16th problematic.

This complicated situation allows for no easy solution. One condition of approval will be the possibility of a future agreement between the applicant and the City that will satisfy the public improvement requirements that will be a substitute for the conditions of approval. Otherwise, the City will require that the full half street improvements on 15th or 16th be put in, for the whole length of the frontage on those streets, when the first building permit is issued for a lot that will take access from that street. In addition, the applicant will be required to sign a Delayed Development Agreement for half street improvements on Thompson Street. That agreement will also require the applicant to participate in any Local Improvement Agreement for the construction of Thompson Street.

Recommended Conditions of Approval:

1. Final plat submission must meet all the requirements of LUDO Section 9.030 and the other 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. All other lots will take access from either 15th or 16th.
4. No new access point will be allowed on Thompson Street.
5. Building setback lines will be shown on the final plat.
7. Dedication of a 10 foot Public Utility Easement along each right of way.
8. Applicant will be required to sign a Delayed Development Agreement that full half street improvements for the full frontage (approximately 160 feet) on East 15th and East 16th will be installed upon the issuance of a building permit for a dwelling that takes access from that street.
9. Applicant will be required to sign a Delayed Development Agreement that full half street improvements (sidewalk, curb, stormwater, water, sanitary sewer, and paving) for Thompson Street, at a time to be determined by the City. In addition, this agreement will require the applicant to participate in any Local Improvement District for improvements to Thompson.
10. In lieu of either condition 8 or condition 9, the applicant and the City may enter into a different agreement for the public improvements on 15th, 16th, and Thompson Streets that meets the intent of these conditions, and such agreement specifically states it is a substitute for one or more of the conditions in MIP 312-14.
11. If not already provided, dedication of 25 feet of right of way along the frontage on East 15th Street is required to increase the total right of way to 50 feet.



CITY of THE DALLES

313 COURT STREET
THE DALLES, OREGON 97058

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

NOTICE OF ADMINISTRATIVE DECISION

MIP 312-14

Elkhorn Development, LLC

DECISION DATE: March 24, 2014

APPLICANT: Elkhorn Development, LLC

REQUEST: To partition one lot of approximately 37,300 square feet into three smaller lots

LOCATION: 1611 Thompson Street

COMPREHENSIVE PLAN AND ZONING DESIGNATIONS: "RL" Residential Low Density

PROPERTY OWNER: Elkhorn Development, LLC

AUTHORITY: City of The Dalles Land Use and Development Ordinance 98-1222.

DECISION: Based on the findings of fact and conclusions in the staff report of **MIP 312-14**, the request by **Elkhorn Development, LLC** to replat one lot into three smaller lots is hereby **approved with the following conditions:**

1. Final plat submission must meet all the requirements of LUDO Section 9.030 and the other 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. All other lots will take access from either 15th or 16th.
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.
7. Applicant will be required to sign a Delayed Development Agreement that full half street improvements for the full frontage (approximately 160 feet) on East 15th and East 16th will be installed upon the issuance of a building permit for a dwelling that takes access from that street.
8. Applicant will be required to sign a Delayed Development Agreement that full half street improvements (sidewalk, curb, storm water, water, sanitary sewer, and paving) for

Thompson Street, at a time to be determined by the City. In addition, this agreement will require the applicant to participate in any Local Improvement District for improvements to Thompson.

9. In lieu of either condition 8 or condition 9, the applicant and the City may enter into a different agreement for the public improvements on 15th, 16th, and Thompson Streets that meets the intent of these conditions, and such agreement specifically states it is a substitute for one or more of the conditions in MIP 312-14.
10. If not already provided, dedication of 25 feet of right of way along the frontage on East 15th Street is required to increase the total right of way to 50 feet.

Signed this 25th day of March, 2014 by



Richard L. Gassman, Director
City of The Dalles Planning Department

TIME LIMITS: The period of approval is valid for the time period specified for the particular application type in Ordinance No. 98-1222. All conditions of approval shall be fulfilled within the time limit set forth in the approval thereof, or, if no specific time has been set forth, within a reasonable time. Failure to fulfill any of the conditions of approval within the time limits imposed can be considered grounds for revocation of approval by the Director.

Please Note! No guarantee of extension or subsequent approval either expressed or implied can be made by the City of The Dalles Planning Department. Please take care in implementing your approved proposal in a timely manner.

APPEAL PROCESS: The Director's approval, approval with conditions, or denial is the City's final decision, and may be appealed to the Planning Commission if a completed Notice of Appeal is received by the Director no later than 5:00 p.m. on the 10th day following the date of the mailing of the Notice of Administrative Decision. The following may file an appeal of administrative decisions:

1. Any party of record to the particular administrative action.
2. A person entitled to notice and to whom no notice was mailed. (A person to whom notice is mailed is deemed notified even if notice is not received.)
3. The Historic Landmarks Commission, the Planning Commission, or the City Council by majority vote.

A complete record of application for administrative action is available for review upon request during regular business hours, or copies can be ordered at a reasonable price, at the City of The Dalles Planning Department. Notice of Appeal forms are also available at The Dalles Planning Office. The fee to file a Notice of Appeal is \$380.00. **The appeal process is regulated by Section 3.020.080: Appeal Procedures of Ordinance No. 98-1222, The City of The Dalles Land Use and Development Ordinance.**

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:

Arnon Elliott / Alex Hattenhauer
Elkhorn development
RE: 1611 Thompson

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

As a delayed development is another name for a non-conformance.
Current streets have already developed and as per the
house bill - stating partitioning of property can happen w/o the need
for improvement as it is considered in 1991

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

Letter dated March 24th sitting not acknowledging the
state's house b. 11(3419) to allow partitioning without any
strings attached.

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.*

We want to develop the corner of 16th & Thompson providing
all land will slope towards our property and not the street
This fulfills our responsibility as citizens to not subject the streets
to storm water with the added expense above and beyond that
the city has to reorganize the house bill and abide by the
rules to allow development in areas that are already
developed.

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

CJT Appeal fee received

77th OREGON LEGISLATIVE ASSEMBLY—2013 Regular Session

**Enrolled
House Bill 3479**

Sponsored by Representative HUFFMAN

CHAPTER

AN ACT

Relating to city fees; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. When the owner of property that is located in a city in Wasco County with a population greater than 5,000 and that is zoned for residential use files an application for a partition, as defined in ORS 92.010, or a subsequent application for a permit in furtherance of the partition, for the property, the city may not, as a condition of approval of the application:

- (1) Assess:
 - (a) A charge in lieu of forming a local improvement district; or
 - (b) A prepayment against an assessment for a future local improvement district; or
- (2) Require the owner of the property to enter into a nonremonstrance agreement with respect to the future formation of a local improvement district.

SECTION 2. Section 1 of this 2013 Act is repealed on July 1, 2023.

SECTION 3. This 2013 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect on its passage.

COPY

Wasco County Official Records 2013-000986
DEED-AGMT 03/15/2013 1:59:52 PM
Crit=1 Stn=1 WASCO COUNTY
\$20.00 \$11.00 \$15.00 \$10.00 \$15.00 \$71.00



Linda Brown, County Clerk for Wasco County,
Oregon, certify that the instrument identified
herein was recorded in the Clerk records.



RECORDING COVER SHEET (Please Print or Type)

This cover sheet was prepared by the person presenting the instrument for recording. The information on this sheet is a reflection of the attached instrument and was added for the purpose of meeting first page recording requirements in the State of Oregon, ORS 205.234, and does NOT affect the instrument.

AFTER RECORDING RETURN TO:

City Clerk
City of The Dalles
313 Court Street
The Dalles, OR 97058

1) TITLE(S) OF THE TRANSACTION(S) ORS 205.234(a)

Delayed Improvement Agreement and Agreement for
Reimbursement for Cost of Storm Water Improvements

2) DIRECT PARTY / GRANTOR(S) ORS 205.125(1)(b) and 205.160

Elk Horn Development LLC

3) INDIRECT PARTY / GRANTEE(S) ORS 205.125(1)(a) and 205.160

City of The Dalles

**4) TRUE AND ACTUAL CONSIDERATION
ORS 93.030(5) – Amount in dollars or other**

\$ 0.00 Other

5) SEND TAX STATEMENTS TO:

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

**6) SATISFACTION of ORDER or WARRANT
ORS 205.125(1)(e)**

CHECK ONE: FULL
(If applicable) PARTIAL

**7) The amount of the monetary
obligation imposed by the order
or warrant. ORS 205.125(1)(c)**

\$ _____

**8) If this instrument is being Re-Recorded, complete the following statement, in
accordance with ORS 205.244: "RERECORDED AT THE REQUEST OF _____**

County Clerk's office TO CORRECT and add notary
signature and stamp
PREVIOUSLY RECORDED IN BOOK _____ AND PAGE _____, OR AS FEE
NUMBER 2013-000917."

After recording, return to:
City Clerk
313 Court Street
The Dalles, OR 97058

Until a change is requested, all
tax statements should be sent to
the following address:
Elk Horn Development LLC
397 Summit Ridge Drive
The Dalles, OR 97058

DEED-AGMT 2013-00091
03/11/2013 10:42:51 A
Crit=1 Str=1 WASCO COUNTY
\$15.00 \$11.00 \$15.00 \$10.00 \$15.00 \$66.00
06056948201300008170030031
Linda Brown, County Clerk for Wasco County,
Oregon, certifies that the instrument identified
herein was recorded in the Clerk records.



DELAYED IMPROVEMENT AGREEMENT AND AGREEMENT FOR REIMBURSEMENT FOR COSTS OF STORM WATER IMPROVEMENTS

WHEREAS, Elk Horn Development LLC, hereinafter referred to as "Owner", is the owner of a parcel of real property located at 1611 Thompson Street, The Dalles, Oregon, which property is further described as follows:

Lot 14, Block 12, THOMPSON'S ADDITION TO DALLES CITY, in the City of The Dalles, County of Wasco and State of Oregon;

and;

WHEREAS, Taner Elliot, a predecessor in interest to the above-described real property, submitted an application to create a five lot subdivision, which application was assigned the file number Subdivision No. 65-12 by the City Community Development Department; and

WHEREAS, the City of The Dalles, hereinafter referred to as "City" acting through the City Community Development Department, issued a Notice of Administrative Decision on October 9, 2012, approving the requested subdivision, subject to certain conditions; and

WHEREAS, Condition of approval #3 in the Notice of Administrative Decision provided that in lieu of installing certain public improvements for Thompson Street, a delayed development agreement could be executed which would allow the City to require half street improvements in the event a local improvement district for construction of improvements for Thompson Street was not formed and the improvements were not completed; and

WHEREAS, Condition of Approval #3 in the Notice of Administrative Decision also provided that the City Engineer's approval must be obtained for the construction plans for all public improvements, and that the design and details in such plans must be approved by the City Engineer, and that the public improvements to be installed would include a sidewalk, curb, gutter, and half street paving on East 15th and East 16th Streets; and

WHEREAS, preliminary plans have been submitted on behalf of the Owner for the construction of a sidewalk, curb, gutter, and half-street paving on East 15th and East 16th Streets to the City Engineer; and

WHEREAS, the City Engineer has advised the Owner that based upon a preliminary review of the construction plans submitted by the Owner, it will be necessary to develop plans for the installation of storm water lines on the frontage of East 15th and East 16th Street which is adjacent to the five lot subdivision, which would connect to a storm water line that would be constructed in Thompson Street between East 14th and East 16th Street; and

WHEREAS, the Owner and the City have agreed that the Owner shall be responsible for hiring a contractor to construct the required public improvements for the five lot subdivision, which include a sidewalk, curb, gutter and half street paving, and a storm water line on the frontage adjacent to the subdivision on East 15th and East 16th Streets, and the storm water line to be constructed in Thompson Street between East 14th and East 16th Street; and

WHEREAS, the Owner and the City have agreed that the costs of installing the storm water line to be constructed in Thompson Street between East 14th and East 16th shall be allocated between the Owner and the City in the manner set forth in Section 2 below; and

WHEREAS, the Owner and the City have agreed upon the terms of a delayed development agreement;

NOW, THEREFORE, in consideration of the mutual promises set forth herein, the parties mutually agree as follows:

1. In the event a local improvement district is established for public improvements for Thompson Street, including the portion of Thompson Street which has frontage along the above-described real property, half street improvements including street, curb, gutter, storm, and sewer for the Owner's property adjacent to Thompson Street shall be constructed as part of the local improvement district, and Owner shall pay for costs assessed for the half street improvements. Owner understands and agrees that for the purpose of determining whether sufficient remonstrances have been filed to prevent the formation of a local improvement district for public improvements for Thompson Street, Owner, and Owner's heirs, assigns or successors in interest shall have waived the right to remonstrate against the formation of a proposed local improvement district for the construction of the public improvements for Thompson Street. In the event that the City determines a local improvement district will not be formed to install improvements on Thompson Street, and that the Owner needs to install the half street improvements for the property adjacent to Thompson Street, the City will issue a written notice to the Owner which shall provide that the Owner commence installation of the listed improvements within 180 days of the date of the notice, and that installation of the improvements shall be completed within a time period to be specified in the notice. Prior to initiating construction of the public improvements, Owner shall submit plans for the improvements which shall be reviewed and approved by the City Engineer. The improvements shall be constructed in accordance with the City's standards for construction and installation of public improvements which are in effect at the time the written notice to proceed with installation is given to the Owner.

2. Owner shall provide an engineer's estimate to the City which details the costs of all equipment, labor and material for the construction of the storm water line in Thompson Street between East 14th and East 16th Street. The engineer's estimate shall be prepared in such a manner that it shows the portion of the costs which is attributable to having to install the storm water line to a sufficient depth in the portion of Thompson Street between East 14th and East 15th Street, to allow the storm water line in East 15th Street to be connected to the storm water line to be installed in Thompson Street. Owner shall be initially responsible for payment of the entire costs for the equipment, labor and material to install the storm water line in Thompson Street. Upon inspection of the installed storm water line, and verification that the line has been installed in accordance with the City's applicable standards and specifications, Owner shall submit an itemized statement to the City for the City's share of the costs of installing the storm water line in Thompson Street, and City shall pay said costs to Owner. The City's share of the costs shall be calculated by subtracting the portion of the costs necessary to install the storm water line to a sufficient depth in the portion of Thompson Street between East 14th and East 15th Street to allow the storm water line in East 15th Street to be connected to the storm water line installed in Thompson Street, from the total costs of the equipment, labor and materials to install the storm water line in Thompson Street.

3. Owner understands and agrees that City is allowing Owner to construct the residential dwelling on Lot 2 of the proposed five lot subdivision, and that Owner will not be allowed to proceed with development of any of the remaining four lots until all of the required public improvements have been installed, and the final plat for the subdivision has been recorded.

4. Owner understands and agrees the provisions of this agreement regarding public improvements shall be a covenant running with the land, and that the terms hereof shall be included in any deed or contract of sale purporting to convey any legal or equitable interest in the real property described above. This agreement shall be legally binding upon the Owner's heirs, assigns, or successors in interest.

5. The City and the Owner understand and agree that the provisions of this Agreement are specific to Subdivision #65-12.

6. The City and the Owner understand and agree that the City is currently in the process of exploring options for a new classification of certain streets, which may result in the adoption of a policy by the City that may not require the installation of sidewalks on certain streets. In the event a determination is made that the portion of Thompson Street adjacent to the Owner's property qualifies for such a classification, the Owner's responsibility for the costs of the public improvements shall be reduced by the proportional costs of any public improvements which would no longer be required as a result of the adoption of a new policy by the City.

7. In the event the Owner fails to complete installation of the public improvements within the time period specified in the written notice which is issued under the provisions of Section 1 of this Agreement, the City shall have the right to initiate an appropriate action at law seeking remedies for the Owner's breach of this Agreement.

8. This Agreement shall be recorded in the Deed Records of Wasco County at the Owner's expense.

NOTICE: THE PURPOSE OF THIS AGREEMENT IS TO MAKE THE OWNER AND ANY FUTURE PURCHASER OF A PORTION OF THE REAL PROPERTY DESCRIBED HEREIN, AWARE THAT IF CERTAIN EVENTS OCCUR AS EXPLAINED IN SECTION 1 OF THIS AGREEMENT OCCUR, THAT THE OWNER AND ANY FUTURE PURCHASER UNDERSTAND THEY WILL HAVE TO PAY FOR THE COSTS OF PUBLIC IMPROVEMENTS FOR A PORTION OF THOMPSON STREET.

Dated this 6th day of March, 2013

CITY OF THE DALLES

ELK HORN DEVELOPMENT, LLC

Nolan K. Young
Nolan K. Young, City Manager

Taner Elliot
Taner Elliot, Manager

Alex Hattenhauer
Alex Hattenhauer, Member

STATE OF OREGON)
) ss
County of Wasco)

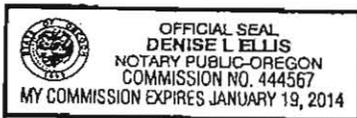
Personally appeared before me Nolan K. Young, acting as City Manager for the City of The Dalles, and acknowledged the foregoing instrument to be his voluntary act and deed.



Christine M. Brigner
Notary Public for Oregon
My commission expires: 12/26/15

STATE OF OREGON)
) ss
County of Wasco)

Personally appeared before me Taner Elliot, as Manager, and Alex Hattenhauer, as Member, on behalf of Elkhorn Development LLC, and acknowledged the foregoing instrument to be their voluntary act and deed.



Denise L. Ellis
Notary Public for Oregon
My commission expires: 1-19-14

City of The Dalles

Staff Report

Appeal 28-14

Appeal of Minor Partition

Hager

2804 East 10th Street

Prepared by: Richard Gassman, Planning Director 

Procedure Type: Quasi-judicial

Hearing Date: June 19, 2014

Assessor's Map: 1N 13E 1 C tax lot 500

Address: 2804 East 10th Street

Comprehensive Plan "RH" High Density Residential

Zoning District: "RH" High Density Residential

City Limits: Outside

Applicant: Randolph G Hager

Application: Minor Partition

Appeal: Applicant is appealing some of the conditions of approval.

BACKGROUND INFORMATION

The subject property is currently occupied with a single family dwelling and a separate accessory dwelling unit. The applicant has applied for a minor partition, which has been

given preliminary approval, with conditions. The applicant has appealed. An appeal from an administrative decision goes to the Planning Commission and is heard as a quasi-judicial hearing.

NOTIFICATION

Notice of public hearing was mailed on June 9, 2014, 10 days prior to the hearing.

COMMENTS

No comments were received as of the preparation of this staff report. Any comments received prior to the hearing will be presented to the Commission at the hearing.

REVIEW

A. LAND USE AND DEVELOPMENT ORDINANCE 98-1222

Section 3.020.080 Appeal Procedures:

Subsection A. De Novo. Appeals shall be a de novo evidentiary hearing.

FINDING 1: The hearing set for June 19 will be a de novo evidentiary hearing. The Planning Commission will have the opportunity to review the entire application and make a new decision. Criterion met.

Subsection B. Right to Appeal Decision. Any party of record may file an appeal.

FINDING 2: The appeal was filed by the applicant. Criterion met.

Subsection C. Filing Appeals.

FINDING 3: The filing of the appeal with the information required in the appeal, and payment of the appeal fee, was completed within the time lines as approved by the City Attorney. Criterion met.

Subsection G. Notification of Appeal Hearing. Notice of the hearing shall be sent to all parties.

FINDING 4: The applicant is the only party of record and has been notified of the hearing set for June 19, 2014. Criterion met.

Subsection H. Decision of Appeal.

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

FINDING 5: To help the Commission in its deliberations, attached to this report is a copy of the appeal, a copy of the original staff report and decision, a copy of the

application, and a copy of House Bill 3479. Criterion will be met with the Commission's decision.

DISCUSSION

The applicant has raised several issues in his appeal.

1. Condition of Approval #3. Annexation. The applicant objects to the requirement that he sign a consent to annex the property. This requirement is standard policy for all land division and development requests for properties outside the City limits and inside the Urban Growth Boundary. LUDO Section 9.020.020 B. States: "Annexation. Whenever any new lot is created inside the Urban Growth Boundary but outside 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".
2. Condition of Approval #5. Access. The application did not request a new access point onto East 10th Street, so no new access was approved. The applicant is correct in that lots with over 100 feet of frontage are allowed two access points, and it is possible that in the future, if requested, a second access point would be allowed. The condition of approval is modified to clarify that no new access point was approved at this time.
3. Condition of Approval #8. System Development Charges. Prior to the recent filings, this property contained one single family dwelling. The applicant then filed an application for an accessory dwelling unit, separate from the existing dwelling. The accessory dwelling unit was approved and constructed. One of the features of an accessory dwelling unit is that it is not considered a separate dwelling unit, whether or not it is physically attached to the primary unit. This means that no system development charges are paid. MIP 311-14 proposes to divide the lot in such a way that the accessory dwelling unit is now on its own lot. An accessory dwelling unit cannot retain its status as an accessory unit on its own lot. The partition in effect will create a new stand-alone single family dwelling. Whenever there is a new dwelling, the owner must pay system development charges. In this case the applicant has supplied private water and sanitary services, leaving transportation, stormwater, and park and recreation system development charges. The system development charges are usually triggered by a building permit, and a building permit was issued for the accessory dwelling unit. This can be considered a delayed assessment. In addition, Section 9 of General Ordinance No. 06-1266 states: "Collection of Charge. 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. The applicant has indicated that House Bill 3479 and City Council directive prohibit imposing system development charges on minor partitions. Staff is

unaware of any such language. In addition, it is not the minor partition in itself that is creating the charges; it is the prior construction of an accessory dwelling that now will lose its status as an accessory dwelling. If there were no accessory dwelling involved, no system development charges or other fees would be required.

RECOMMENDATION

Staff recommends that the Commission grant the appeal for purposes of making modifications to the conditions of approval as indicated below. Note, the modifications, while arguably acceptable to the applicant, do not resolve all the issues in the manner requested by the applicant.

Suggested Conditions of Approval

1. Final plat submission must meet all the requirements of LUDO Section 9.030 and the other 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. A consent to annex and a waiver of the one year limitation must be recorded and filed with the City prior to final plat approval.
4. Legal access to East 10th Street must be provided to parcel 2.
5. No new access point will be allowed on East 10th Street at this time.
6. Building setback lines will be shown on the final plat.
7. A 10 foot Public Utility Easement will be required along East 10th Street unless waived by Northern Wasco PUD.
8. Applicant will be responsible for paying to the City of The Dalles transportation and stormwater system development charges and to Northern Wasco County Parks and Recreation District for their system development charges.

Attachments

1. Application for MIP 311-14
2. Staff report for minor partition MIP 311-14.
3. Notice of Decision dated March 17, 2014
4. Notice of Appeal dated March 20, 2014
5. Copy of House Bill 3479.

MINOR PARTITION APPLICATION

CITY OF THE DALLES
Community Development Department
313 Court Street
The Dalles, OR 97058
(541) 296-5481, ext. 1125
Fax (541) 298-5490
www.ci.the-dalles.or.us

FEB 20 2014

Date Filed 2/20/2014
File# MIP 311-14
Date Deemed Complete 2/20/2014
Hearing Date _____
Approval Date _____
Permit Log # _____
Other Cross Reference# _____

APPLICANT

LEGAL OWNER (If Different than Applicant)

Name Ronald C. Hager
Address 2804 B E 10th ST.
The Dalles OR 97058
Telephone # 541 296 5528
Email Address

Name Same
Address _____
Telephone # _____

PROPERTY INFORMATION

Address 2804 E 10th ST
Map and Tax Lot 1N 13E 1C 500
Size of Development Site 170' x 234'
Zone District/Overlay HD Res. In City Limits: Yes _____ No X
Comprehensive Plan Designation HD Res. Geohazard Zone: B

PROJECT INFORMATION

Current Use of Property Residential 1 lot
Proposed Use of Property Residential 2 lots

Signature of Applicant
RG Hager 2/20/2014
Date

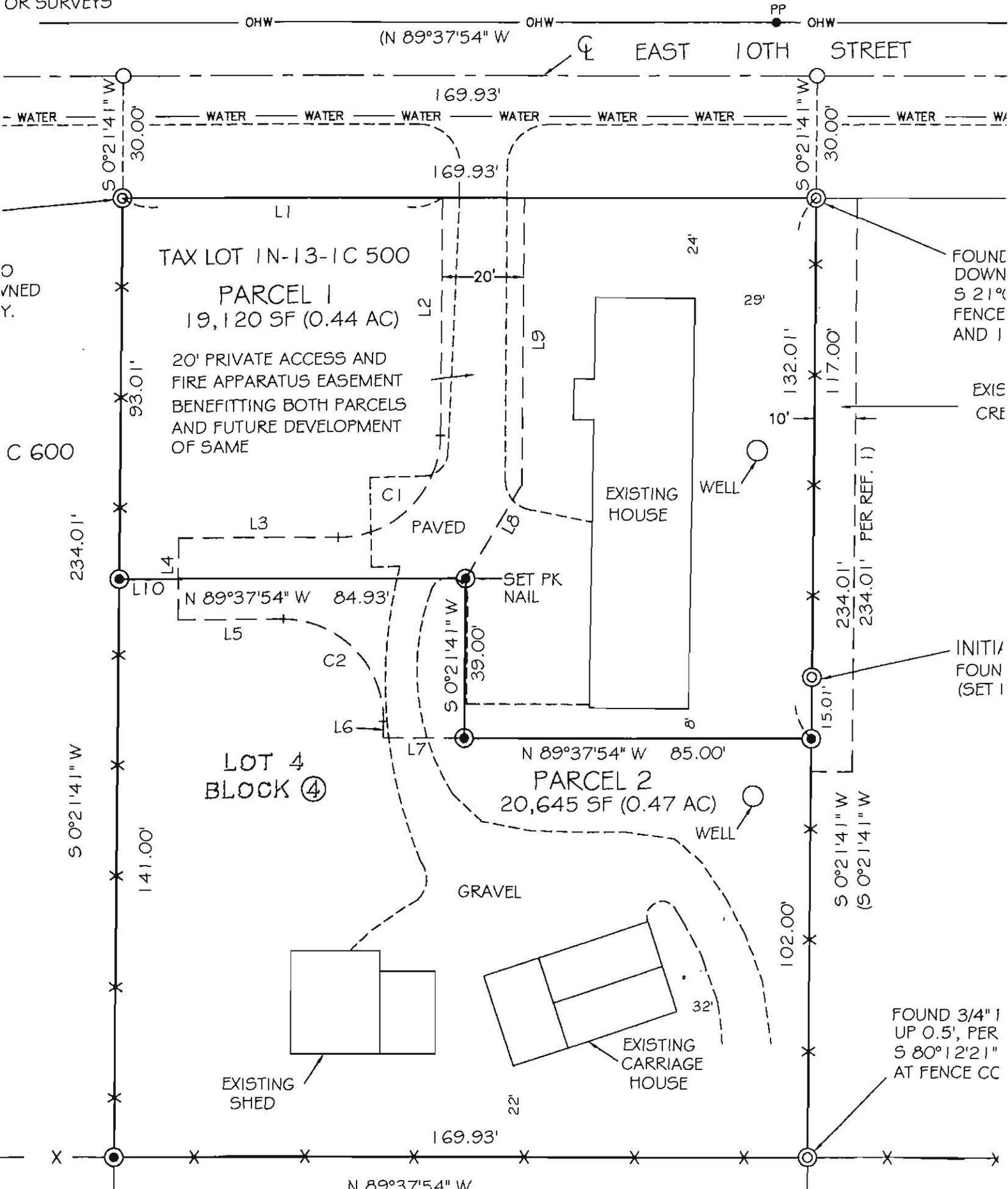
Signature of Property Owner* or Owners Agent
RG Hager 2/20/2014
Date

* Notarized Owner Consent Letter may substitute for signature of property Owner

CITY OF THE DALLES, WASCO COUNTY.

JULY 30, 2013

POSITION
:L INT.
STREET PER
) NUMEROUS
OR SURVEYS



City of The Dalles
STAFF REPORT
Minor Partition 311-14
Randolph G. Hager

Prepared by: Richard Gassman, Director

Procedure Type: Administrative

Decision Date: March 17, 2014

Assessor's Map and Tax Lot: 1N 13E 1C tax lot 500

Address: 2804 East 10th Street

Comprehensive Plan Designation: "RH" High Density Residential District

Zoning District: "RH" High Density Residential District

SUMMARY: This request is to partition one lot of approximately 39,780 square feet into two smaller lots. The property has been developed with a single family home and an accessory unit. The single family home will be on one of the proposed new lots, the accessory structure will be on the other. With this land division, the accessory structure will become a standalone single family home.

NOTIFICATION: Property owners within 100 feet, City Departments and Franchise Utilities.

COMMENTS RECEIVED:

One comment was received from Frank J. Pyles of 2436 Old Dufur Road. Mr. Pyles raised several issues related to his property and about system development charges. **RESPONSE:** The issues raised by Mr. Pyles are not relevant to this application. In so far as system development charges relate to this application, they will be a condition of approval. See Conditions of Approval.

RECOMMENDATION

Approval with conditions based on the following findings of fact.

Review Criteria

A. LAND USE AND DEVELOPMENT ORDINANCE 98-1222:

Section 9.020.020 Land Division 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 #1: This partition application would divide a lot into two lots, each over 10,000 square feet. The minimum lot size in the RH zone is 3,500 square feet. Criterion met.

Subsection B. Annexation. Whenever any new lot is created inside the Urban Growth Boundary but outside 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 #2: This property is inside the Urban Growth Boundary but outside the City limits. A consent to annexation will be required. Criterion met conditionally.

Subsection C. Blocks

There are a series of code provisions indicating the size of blocks.

FINDING #3: This property is located on East 10th Street. There are no public roads on either side of this property, and none are anticipated. Criterion met.

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 “RH” 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 #4: The two proposed 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. Criterion met.

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 #5: Parcel 1 abuts on East 10th Street for its full width and has an existing access point. Parcel 2 is behind the front lot and it has no direct access to East 10th. An easement or other legal document will be required to be recorded to give legal access to the rear lot. This will be a condition of approval. Criterion met conditionally.

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

FINDING #6: East 10th Street east of Thompson is classified in the City’s Street System Inventory as a local street. However, no new access point is being created and none will be allowed. Criterion met conditionally.

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 #7: This partition does not create a through lot. Criterion met.

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

FINDING #8: The sidelines of the proposed lots intersect at a right angle. Criterion met.

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

FINDING #9: No development is proposed with this partition. This lot is in the East City Inactive Landslide Deposit area. This zone has no special requirements. Criterion met.

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 #10: Setback lines are reflected on the submitted partition application and meet all setback requirements. These lines will also be required on the final plat or included in covenants recorded as part of the plat. Criteria met conditionally.

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 #11: Given the difficulties with access, no additional divisions are anticipated. Criterion met.

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

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

FINDING #12: 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. Criterion met conditionally.

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 #13: As demonstrated in findings above, this proposal meets or will meet with conditions, all applicable policies and standards. Criterion met.

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 Public Street.

FINDING #14: This proposal to partition does not impede future development. Criterion met.

CONCLUSIONS: In general this proposal is consistent with the City of The Dalles Land Use and Development Ordinance, except for the issue of system development charges. When the dwelling unit was built on the proposed parcel 2, it was exempt from system development charges as an accessory unit. This partition will change that status from an accessory unit to a regular single family unit. As part of that transition, system development charges are due. The property has its own water and septic system. The applicant will be responsible for City of The Dalles transportation system development charges and for storm water system development charges and for the Northern Wasco County Parks and Recreation District system development charges. Since the new proposed lot has no frontage on a public street, no public improvements will be required due to the new dwelling.

Recommended Conditions of Approval:

1. Final plat submission must meet all the requirements of LUDO Section 9.030 and the other 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. A consent to annex and a waiver of the one year limitation must be signed, recorded and filed with the City prior to final plat approval.
4. Legal access to East 10th Street must be provided to parcel 2.
5. No new access point will be allowed on East 10th Street.
6. Building setback lines will be shown on the final plat.
7. A 10 foot Public Utility Easement will be required along East 10th Street.
8. Applicant will be responsible for paying to the City of The Dalles transportation and storm water system development charges and to Northern Wasco County Parks and Recreation District their system development charge.

CITY of THE DALLES

313 COURT STREET
THE DALLES, OREGON 97058(541) 296-5481 ext. 1125
FAX: (541) 298-5490
PLANNING DEPARTMENT

NOTICE OF ADMINISTRATIVE DECISION

MIP 311-14

Randolph G. Hager

DECISION DATE: March 17, 2014

APPLICANT: Randolph G. Hager

REQUEST: To partition one lot of approximately 39,780 square feet into two smaller lots

LOCATION: 2804 East 10th Street

COMPREHENSIVE PLAN AND ZONING DESIGNATIONS: "RH" Residential High Density

PROPERTY OWNER: Randolph G. Hager

AUTHORITY: City of The Dalles Land Use and Development Ordinance 98-1222.

DECISION: Based on the findings of fact and conclusions in the staff report of **MIP 311-14**, the request by **Randolph G. Hager** to replat one lot into two smaller lots is hereby **approved with the following conditions:**

1. Final plat submission must meet all the requirements of LUDO Section 9.030 and the other 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. A consent to annex and a waiver of the one year limitation must be signed, recorded and filed with the City prior to final plat approval.
4. Legal access to East 10th Street must be provided to parcel 2.
5. No new access point will be allowed on East 10th Street.
6. Building setback lines will be shown on the final plat.
7. A 10 foot Public Utility Easement will be required along East 10th Street.
8. Applicant will be responsible for paying to the City of The Dalles transportation and storm water system development charges and to Northern Wasco County Parks and Recreation District their system development charge.

Signed this 17th day of March, 2014 by



Richard L. Gassman, Director
City of The Dalles Planning Department

TIME LIMITS: The period of approval is valid for the time period specified for the particular application type in Ordinance No. 98-1222. All conditions of approval shall be fulfilled within the time limit set forth in the approval thereof, or, if no specific time has been set forth, within a reasonable time. Failure to fulfill any of the conditions of approval within the time limits imposed can be considered grounds for revocation of approval by the Director.

Please Note! No guarantee of extension or subsequent approval either expressed or implied can be made by the City of The Dalles Planning Department. Please take care in implementing your approved proposal in a timely manner.

APPEAL PROCESS: The Director's approval, approval with conditions, or denial is the City's final decision, and may be appealed to the Planning Commission if a completed Notice of Appeal is received by the Director no later than 5:00 p.m. on the 10th day following the date of the mailing of the Notice of Administrative Decision. The following may file an appeal of administrative decisions:

1. Any party of record to the particular administrative action.
2. A person entitled to notice and to whom no notice was mailed. (A person to whom notice is mailed is deemed notified even if notice is not received.)
3. The Historic Landmarks Commission, the Planning Commission, or the City Council by majority vote.

A complete record of application for administrative action is available for review upon request during regular business hours, or copies can be ordered at a reasonable price, at the City of The Dalles Planning Department. Notice of Appeal forms are also available at The Dalles Planning Office. The fee to file a Notice of Appeal is \$380.00. **The appeal process is regulated by Section 3.020.080: Appeal Procedures of Ordinance No. 98-1222, The City of The Dalles Land Use and Development Ordinance.**

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: Randolph Hager
2804 E. 10th St
The Dalles, OR. 97058

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

Property owner

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

MAY 8, 2014 Minor partition application conditions.
Request for Planning Commission appeal hearing June 5, 2014.

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.*

- # 2. Annexation of this lot would simply develop an island lot in an area of East 10th that is unlikely to ever annex in the 2 neighboring commercial orchards. Annexation would increase this lot's prop. taxes \$12,500 per year and provide no enhanced services. Annexation would fail to serve highest & best use.
- # 4. The issuance of a building permit is the established criteria triggering the payment of fees. No Bldg permit is being requested or issued. Fails meeting state law
- # 5. Property sales and ownership may dictate the location of 2 access points onto 10th St. Future development would require 2 access points in the 170' width of street
- # 6 Fails to comply with state law. Fails to comply with directives of Frontage
City Council.

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

\$ 380.00, v.s. Appeal fee received
Check # 1818 5/16/14

RG Hager
May, 16 2014

77th OREGON LEGISLATIVE ASSEMBLY-2013 Regular Session

**Enrolled
House Bill 3479**

Sponsored by Representative HUFFMAN

CHAPTER

AN ACT

Relating to city fees; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. When the owner of property that is located in a city in Wasco County with a population greater than 5,000 and that is zoned for residential use files an application for a partition, as defined in ORS 92.010, or a subsequent application for a permit in furtherance of the partition, for the property, the city may not, as a condition of approval of the application:

(1) Assess:

(a) A charge in lieu of forming a local improvement district; or

(b) A prepayment against an assessment for a future local improvement district; or

(2) Require the owner of the property to enter into a nonremonstrance agreement with respect to the future formation of a local improvement district.

SECTION 2. Section 1 of this 2013 Act is repealed on July 1, 2023.

SECTION 3. This 2013 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect on its passage.

DRAFT

RESOLUTION NO. P.C. 539-14

Recommending approval of Comprehensive Plan Amendment #41-14 and Zone Change Ordinance #86-14, proposing a change to the Comprehensive Plan Map and Zoning Ordinance Map from “P/OS” – Parks and Open Space to General Commercial and to modify the Community Facility Overlay.

WHEREAS, on June 19, 2014, the Planning Commission of the City of The Dalles conducted a public hearing to consider a request for approval of Comprehensive Plan Amendment #41-14 and Zone Change Ordinance #86-14; and

WHEREAS, the Planning Commission has considered the public testimony, and reviewed the proposed legislative amendment, and has considered the information in the staff report, including proposed findings of fact and conclusions of law; and

WHEREAS, based upon the information in the staff report, including the proposed findings of fact and conclusions of law, which are hereby incorporated herein by this reference, and the public testimony presented during the public hearing, the Planning Commission voted to recommend that the City Council approve Comprehensive Plan Amendment #41-14 and Zone Change Amendment #86-14.

NOW, THEREFORE, THE PLANNING COMMISSION RESOLVES AS FOLLOWS:

Section 1. The Planning Commission recommends that the City Council of the City of The Dalles approve Comprehensive Plan Amendment #41-14 and Zone Change Amendment #86-14.

Section 2. The Secretary of the Commission shall (a) certify to the adoption of the Resolution; (b) transmit a copy of the Resolution to the applicant.

APPROVED AND ADOPTED THIS 19th DAY OF JUNE, 2014.

Bruce Lavier, Chairman
Planning Commission

DRAFT

I, Richard Gassman, Planning Director for the City of The Dalles, hereby certify that the foregoing Resolution was adopted at the regular meeting of the City Planning Commission, held on the 19th of JUNE, 2014.

AYES:

NAYS:

ABSENT:

ABSTAIN:

ATTEST: _____
Richard Gassman, Planning Director
City of The Dalles