



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, JULY 17, 2014

6:00 PM

- I. CALL TO ORDER
- II. ROLL CALL
- III. APPROVAL OF AGENDA
- IV. APPROVAL OF MINUTES – June 19, 2014
- V. PUBLIC COMMENT (Items not on the Agenda)
- VI. RESOLUTIONS
 - A. P.C. Resolution #540-14; APL 28-14; Randolph G. Hager
 - B. P.C. Resolution #541-14; APL 27-14; Elk Horn Development LLC
- VII. WORK SESSION – Residential Infill Policies
- VIII. STAFF COMMENTS
- IX. COMMISSIONER COMMENTS/QUESTIONS
- X. FUTURE MEETING – August 7, 2014
- XI. ADJOURNMENT

CITY OF THE DALLES PLANNING COMMISSION MINUTES

Thursday, June 19, 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:

Dennis Whitehouse, Chris Zukin, Mark Poppoff, John Nelson

BOARD MEMBERS ABSENT:

Bruce Lavier, Jeff Stiles

STAFF MEMBERS PRESENT:

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

APPROVAL OF AGENDA:

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

APPROVAL OF MINUTES:

It was moved by Nelson and seconded by Poppoff to approve the June 5, 2014 minutes as submitted. The motion carried unanimously; Lavier and Stiles absent.

PUBLIC COMMENT:

None

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.

Director Gassman highlighted his staff report. He pointed out that the portion of the subject property is basically unused, and the intent of the request was to increase the size of the armory's portion of the property. Gassman said it made sense for the portion of property not in use to be changed to commercial property; the

City lacked commercial property, especially in that area, Gassman indicated. If approved, Gassman said, the County would go through a lot line adjustment process in the location of the grade change.

Commissioner Nelson asked if the City could find another parcel that could be added as a Parks and Open Space zone if the application was approved. Gassman said that was a good question, but the City had not tried to acquire others areas to make up for the subject property. He indicated that the parks were owned and operated by the Northern Wasco County Parks and Recreation District (NWCPRD), and the City's role in regulating parks was somewhat limited. Nelson said this request made sense for this particular parcel, and he asked if the County had other areas that could be turned over for Parks and Open Space because he did not like the idea of losing Parks space. Gassman said staff was not aware of any property owned by the County that would be suitable. Commissioner Poppoff suggested that another portion of County-owned property adjacent to Kramer Field off of Walnut Street could be considered. Gassman said staff could research that if that was the Commission's desire.

Testimony

Proponents

Darci Rudzinski, Angelo Planning Group, 921 SW Washington Street, Portland, Oregon, summarized the application request. Ms. Rudzinski stated it was the County's intent to have a more income-generating site that would meet economic development policies and conform with local Land Use Development and Ordinance requirements. She emphasized that the proposed change would not decrease active park land, and in the preliminary application meeting with staff and agencies it was made clear that there would be little to no impact to active park lands.

Tyler Stone, 511 Washington Street, The Dalles, Oregon, stated that this request was the end of a much larger project in relocating the armory to the college site, and he encouraged the Planning Commission to approve the request in order to complete the entire project.

Jim Wilcox, 416 West 7th Street, The Dalles, Oregon, stated he supported the application because of the physical and geological separation of the parcel of land. He said this request would assist in growing the tax base.

John Huffman, 2321 East 9th Street, The Dalles, Oregon, advised the Planning Commission that he had been working with Dan Durow and Scott Green on the Riverfront Trail expansion where seasonal use of the trail would be expanded a month or so on either end of the season for Parks and Open Space usage. He suggested that these efforts could be considered a different and viable resolution regarding the "no net loss" of parks land.

Opponents

None

Acting Chair Whitehouse closed the public hearing at 6:20 PM.

DELIBERATION:

Commissioner Whitehouse said he felt the request was an easy decision, Zukin agreed. Zukin said it was logical, and it would benefit the City. Regarding acquiring additional Parks and Open Space, Zukin said he felt it should not be considered as part of this decision. However, he said the Commission might want to encourage the County to look at other available property that could be used.

It was moved by Zukin and seconded by Nelson to recommend approval to City Council of ZOA 86-14 and CPA 41-14, Angelo Planning Group on behalf of Wasco County, based upon the findings of fact and criteria as set forth in staff's report. After further discussion the motion was approved unanimously; Lavier and Stiles absent.

QUASI-JUDICIAL HEARINGS:

A. Application Number: APL 28-14; Randolph Hager; Request: Appeal of a land use decision dated March 17, 2014, regarding 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.

Acting Chair Whitehouse read the public hearing rules and asked if the Commissioners had any ex-parte contact, bias, or conflict of interest that would hinder them from making an impartial decision. None were noted. There were no challenges of the qualifications of the Planning Commissioners from the audience.

Acting Chair Whitehouse opened the public hearing at 6:29 PM.

Director Gassman said there were no written comments submitted by notified parties, and he presented a history of the parcel and the subsequent minor partition of the subject parcel. In summary, Gassman said, the accessory dwelling unit (ADU) now met the requirements for a stand-alone single family dwelling unit and, therefore, system development charges (SDCs) were now required. He recommended approval of the appeal so that two conditions of approval in the original approval could be changed: 1) Condition of Approval #5, regarding a secondary access, Gassman proposed adding the words “at this time.” He said Mr. Hager was concerned he would never be allowed to have a second access point off of East 10th Street. Gassman indicated that Mr. Hager never previously asked for a second access point, but he could in the future with the proposed word change; and 2) Condition of Approval #7, regarding the 10 foot public utility easement, Gassman reported that he received confirmation from North Wasco County Public Utility District that they did not need the easement on Mr. Hager’s side of East 10th Street, and the City would be willing to delete this Condition of Approval.

Director Gassman explained that the appellant did not wish to pay the service development charges, and he did not want to be annexed into the City. Gassman said annexation was a standard City policy, and the City opposed changes to those two Conditions of Approval. He said Mr. Hager was only being charged for one lot, the new single family dwelling unit. Gassman said the parcel was adjacent to City limits.

Testimony:

Proponents

Randolph G. Hager, 2804 East 10th Street, The Dalles, Oregon, stated Conditions of Approval numbers 1, 2, 4 and 6 of the Notice of Decision for application #MIP 311-14 were fulfilled. Regarding Condition #3, Mr. Hager said there were no annexation requirements specific to partitions, nor would it benefit the City for tax lots located by cherry orchards. His property taxes would increase on the two lots, but would fail to provide any additional services. Mr. Hager pointed out that the LUDO language in Section 9.020.020 stated that the City “may” require annexation.” He felt the word “may” was significant. There were no immediate plans to develop services in his area on East 10th Street until the City had funds available for street maintenance and improvements, he stated. Regarding Conditions of Approval #4 and #5, Mr. Hager stated that he had previous conversations with the Planning Director prior to the development of the ADU and was told he could only have one access point off of East 10th Street. Regarding Condition of Approval #7, Mr. Hager stated that no easement was needed by Wasco County Public Utilities District. Mr. Hager indicated Condition of Approval #8 would be addressed by another audience participant. He said the minor partition did not change the usage of the ADU, and the assessment must have had to be a valid assessment at the time of its construction and could not be a delayed assessment in consideration of the fact that no initial assessment was ever made. In conclusion, Mr. Hager said his understanding of SDCs were that they were required upon the issuance of a building permit. The building permit for the ADU did not require SDCs, and they, therefore, could not be required retroactively.

Jim Wilcox, 416 West 7th Street, The Dalles, Oregon, stated that, as former Mayor, there were four separate decisions by City Council over the years where it was determined that a building permit would trigger SDCs, because drawing lines on a map does not change things. Mr. Wilcox said there was no logic in charging SDCs

retroactively. In regards to an additional access point, he encouraged the Commissioners to add it as a Condition of Approval now.

Commissioner Zukin asked Mr. Wilcox if there was intent to circumvent the process. Mr. Wilcox said he would not judge people's intent, and in Mr. Hager's case, circumstances changed. Zukin said this could be a loop hole in the code.

Mr. Hager concluded by presenting a history of the property development and subsequent minor partition. Commissioner Zukin said it was evident by Mr. Hager's testimony that there was probably no intent to circumvent the process. Mr. Hager explained it was more a matter of time issues and rising costs.

Taner Elliott, 397 Summit Ridge Drive, The Dalles, Oregon, reiterated that this was a standard line in the dirt. He said that if the Commission followed the standard House Bill procedure, there was not much to be said. Mr. Elliott stated that charging SDCs did not sound right.

Opponents

None

Zukin asked what the financial impact would be for annexation and additional system development charges. Director Gassman said it would not be possible to calculate, because he did not know the property's assessed value. But, he said, the cost would be significant. Gassman also advised that the LUDO allowed the City to require annexation, and it had been the standard policy to require annexation at the time of property development. Mr. Hager said there was no development at this time. It appeared the only desire for annexation was to increase his property taxes \$1,200-1,500 a year.

Acting Chair Whitehouse closed the public hearing at 7:16 PM.

Director Gassman pointed out that he disagreed with several statements he heard during testimony that the minor partition did not change the status or use of the property. He said two things would change. If the smaller structure was not considered an ADU, it could be expanded. Also, he said, the ADU, by its hybrid nature, had special requirements, one of which was that the owner must live in either the main structure or in the ADU. Currently, Mr. Hager lived in the ADU. But if the structure was not considered an ADU, the property owner could rent out both units. Therefore, Gassman stated, he considered those changes as significant changes in the status of the structure.

City Attorney Parker disagreed with Mr. Wilcox's statements regarding the City Council's decision on SDCs in regards to House Bill 3479. System development charges were not discussed as part of that house bill, as Mr. Wilcox indicated, and the City Council did not determine that SDC's would not be required to be paid. The Council's discussion on minor partitions focused on the street improvement requirements.

Commissioner Nelson commented that no matter which way Mr. Hager entered into this endeavor, the end result was that there were two parcels that could be sold, and structures that could be added onto and developed. He said if the Commission now relieved Mr. Hager of SDC charges, he would have an advantage in that he would have a structure without having to pay the normal fees and comply with the law. Commissioner Zukin agreed. He said it was not a matter of circumvention, but a matter of timing that the development still occurred. There were now two single family units, and it did not seem fair not to charge. Zukin said he had mixed feelings on annexation. Even though it was a City policy, code used the word "may." Mr. Hager said if his property was annexed, it would be an island annexation, the only parcel on the south side of East 10th in his area. Commissioner Poppoff said he felt the annexation requirement should be deleted.

It was moved by Zukin and seconded by Poppoff to approve APL 28-14 as follows: 1) include Conditions of Approval 1 & 2 as listed in staff's report; 2) eliminate Condition of Approval #3 requiring the Consent to

Annex; 3) include Condition of Approval #4 as listed in staff's report; 4) amend Condition of Approval #5 to read, "a new access point may be allowed on East 10th Street at this time with the approval of appropriate documents"; 5) include Condition of Approval #6 as listed in staff's report; 6) eliminate Condition of Approval #7; and 7) include Condition of Approval #8 as listed in staff's report. The motion carried unanimously; Lavier and Stiles absent.

B. 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.

Acting Chair Whitehouse asked if the Commissioners had any ex-parte contact, conflict of interest or bias that would hinder them from making an impartial decision. Nelson said he was involved in the pre-application meeting a long time ago, but he was not on the Planning Commission at the time. City Attorney Parker asked Nelson if he believed such contact would affect his ability to be unbiased. Nelson said it would not. Acting Chair Whitehouse asked if any audience members wished to challenge the qualifications of any of the Commissioners. None were noted.

Acting Chair Whitehouse opened the public hearing at 7:34 PM.

Director Gassman stated no written comments were received. Staff recommended approval since they would be recommending a different set of Conditions of Approval for the application decision. Gassman gave a history of the parcel development. He noted that there was a significant change to Condition of Approval #7 regarding a Delayed Development Agreement (DDA) requirement. Gassman said once the applicant changed application from a subdivision to a minor partition, the City agreed to drop the other DDAs for the other lots, but would require a DDA for the lot with the house on it. Zukin asked if the DDA was not required earlier because it was a subdivision at the time. Gassman said staff had been attempting to work with the applicant, but circumstances got complicated.

Testimony

Proponents

Tanner Elliott, 397 Summit Ridge Drive, and Alex Hattenhauer, 122 West 17th Street, The Dalles, Oregon, stated that the real options on Thompson Street and residential infill improvements are twofold: 1) forming a Local Improvement District (LID); or 2) the City would take the responsibility neglecting Thompson Street, of which neither options would probably not ever happen. He said he had a problem with the entire case scenario of signing a DDA, because it would "handcuff" them from selling the existing house. Zukin said one solution would be to create a DDA that included a cap. Mr. Elliott responded that the Planning Department needed a true understanding of the House Bill.

Opponents

None

John Huffman, 2321 East 9th Street, The Dalles, Oregon presented a brief history on the formulation of House Bill 3479. He stated it seemed the City was struggling on how to implement the House Bill by coming up with other mechanisms in substitution of the Waivers of Remonstrance. He urged the City and community to come together for the sake of development.

Nelson asked Mr. Huffman if he had compared The Dalles process for development with any other city in the state in regards to fees and requirements before the House Bill was written. Nelson said he did not think The Dalles was way out of line in its process. Mr. Huffman explained that Mr. Hunicutt and others testified that The Dalles process was different than any other community, but he admitted he was not a planning expert regarding

Waivers of Remonstrance and LIDs. Zukin said it was a “spot law” that made a spot decision on one city’s ordinance. He explained that the City was working through the minor partition law at the time the House Bill was created. He disagreed with the opinion that the Waiver of Remonstrance was the same as a DDA, because a DDA could define what a property owner could anticipate. He said that if developers and the City didn’t agree to do anything down the road, and no agreement was drawn up at the time of the building permit, then it wouldn’t get done.

Zukin suggested drafting a DDA with a cap for Mr. Elliott. Both Director Gassman and City Attorney Parker indicated the City could negotiate a cap now, but they would be hesitant to do so now because it was too soon to get a sense of direction of residential infill policy revisions.

Acting Chair Whitehouse closed the public hearing at 8:09 PM.

Deliberation

Poppoff commented that since there was a house on the property originally and the developers simply replaced a house, it would be inappropriate to require a DDA at this point in time. Nelson asked if the DDA could be re-written to allow the terms of the DDA to be changed dependent upon the results of the residential infill policy amendments. City Attorney Parker stated the nature of Condition of Approval #7, in his opinion, showed flexibility.

Director Gassman said the reason for Condition of Approval #7 was that code requires that the construction of a dwelling unit that replaces an existing unit requires street improvements. He suggested two options for moving forward: 1) create a DDA that could be re-negotiated after City Council adopts amended residential infill policies; or 2) create a DDA that would be subject to change based upon the City Council’s determination, or where the least restrictive infill policies would apply.

After further discussion, it was moved by Zukin and seconded by Poppoff to approve APL 27-14, to include all of the Conditions of Approval, with the modification that the Planning Commission recognizes that a DDA will be negotiated, and if the appellant is not willing to come to a resolution within 60 days, the appellant may come before the Planning Commission at such time. The motion carried unanimously; Lavier and Stiles absent.

RESOLUTION:

It was moved by Zukin and seconded by Nelson to adopt P.C. Resolution 539-14, regarding ZOA 86-14 and CPA 41-14, as submitted. The motion carried unanimously; Lavier and Stiles absent.

STAFF COMMENTS:

Director Gassman said that the resolutions for the two appeals would be presented at the next meeting.

Gassman advised that the City Council would be conducting a work session on June 30, and the Planning Commissioners were welcome to attend. A review of the City Council’s work session would be the agenda item for the Planning Commission’s July 17 meeting, he said.

COMMISSIONER COMMENTS:

Commissioner Nelson asked if staff would look at potential Parks and Open Space areas owned by the County. Director Gassman said staff would discuss Poppoff’s suggestion with the County.

NEXT MEETING:

July 3, 2014

ADJOURNMENT:

Acting Chair Whitehouse adjourned the meeting at 8:47 PM.

Respectfully submitted by Administrative Secretary Carole Trautman

Bruce Lavier, Chairman

RESOLUTION NO. P.C. 540-14

**A RESOLUTION OF THE PLANNING COMMISSION
GRANTING APPEAL #28-14 FOR MINOR PARTITION
#311-14 SUBMITTED BY RANDOLPH G. HAGER,
FOR THE PURPOSE OF MODIFYING CERTAIN
CONDITIONS OF APPROVAL**

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

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

WHEREAS, Mr. Hager filed a notice of appeal of the Notice of Administrative Decision dated May 16, 2014; and

WHEREAS, on June 19, 2014, the Planning Commission conducted a public hearing, and following the public hearing, the Planning Commission voted to grant the appeal for the purpose of modifying certain conditions of approval included in the Notice of Administrative Decision dated March 17, 2014, based upon findings of fact; and

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

NOW, THEREFORE, THE PLANNING COMMISSION RESOLVES AS FOLLOWS:

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

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

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

Chairman, Planning Commission

Attest:

Richard Gassman, Secretary

Ayes: _____
Noes: _____
Absent: _____
Abstaining: _____

EXHIBIT "A"

FINDINGS OF FACT AND CONCLUSIONS OF LAW FOR APPEAL #28-14

BACKGROUND INFORMATION

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

On March 17, 2014, the Planning Department issued a Notice of Administrative Decision for MIP #311-14 approving the requested minor partition with certain conditions of approval. The Applicant filed a notice of appeal of the Notice of Administrative Decision on May 16, 2014.

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

REVIEW OF APPLICABLE CRITERIA

LAND USE AND DEVELOPMENT ORDINANCE NO. 98-1222

Chapter 3. Application Review Procedures

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

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

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

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

1. Any party of record to the particular action.

FINDING #2: The appeal of the Notice of Administrative Decision of March 17, 2014 was filed on May 16, 2014, by the applicant, who is a party of record.

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

Section 3.020.080(C). Filing Appeals.

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

FINDING #3: The appeal with the information required under Section 3.020.080(C)(1) was filed on May 16, 2014, within the ten day period set forth in Section 3.020.080(2), along with the required filing fee.

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

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

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

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

Section 3.020.080(H). Decision of Appeal.

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

FINDING #5: A copy of Notice of Administrative Decision dated March 17, 2014, and a copy of the appeal notice submitted on May 16, 2014 was included with the Agenda Staff Reports for the initial Administrative Decision, and for the Appeal. On June 19, 2014, following

the close of the public hearing, the Planning Commission voted 4 to 0, to grant the appeal for the purpose of modifying certain conditions of approval. With the adoption of Resolution No. 540-14 which includes the proposed findings of fact and conclusions of law, the provisions of Section 3.020.080(H) will be addressed.

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

Section 9.020.020 Land Use Standards

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

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

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

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

FINDING #7: In his testimony before the Planning Commission, the Applicant focused upon the word “may” in Section 9.020.020(A), and asserted the language should be interpreted as allowing the Planning Commission to have discretion to determine whether an applicant seeking approval of a minor partition would be required to sign a consent to annexation and a waiver of the one year limitation on consent to annexation. City staff took the policy that the City Council has had a longstanding policy of requiring a consent to annexation when an application involves development of property located outside of the City limits within the Urban Growth Boundary. Staff recommended that the language in Section 9.020.020(A) be interpreted such that where an application for a minor partition involves property outside the City limits, the property will either have to be annexed to the City, or the applicant will be required to sign a consent to annexation and a waiver of the one year limitation on consent to annexation. The Planning Commission agrees with the Applicant’s interpretation of Section 9.020.020(A) and recommends deletion of the condition of approval requiring the Applicant to sign a consent to annexation and a waiver of the one year limitation on consent to annexation.

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

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

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

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

Subsection D. General Lot Requirements.

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

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

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

2. *Access. Each lot shall abut on a public street, alley or approved private access drive for a width of at least the minimum lot width specified by the development standards for the zone district where the lot is located, with the following exception:*
 - a) *Lot access requirements for residential rear lot development created through a land partition process may be exempted from the access requirement above when all the provisions of Section 9.020.030: Residential Rear Lot Development below have been met.*

FINDING #10: Parcel 1 of the proposed partition abuts on East 10th Street for its full width and has an existing access point. Parcel 2 is located behind the front lot, and has not direct access to East 10th. The Applicant did not initially request a new access point onto East 10th Street. The Applicant correctly noted in his testimony before the Planning Commission that lots with over 100 feet of frontage are allowed two access points. The Planning Commission finds that it is possible that in the future, if a second access point was requested, and the proper documentation was submitted in support of that request, the request could be approved.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8. *Redevelopment Plans. A redevelopment plan shall be required when dividing residential land into large lots that have the potential for further subdivision or partition at some future date. The redevelopment plan shall show street extensions, utility extensions, and lot patterns to:*
 - a) *Indicate how the property(ies) may be further developed to 70% of maximum Comprehensive Plan density for the particular zone district.*

- b) *Demonstrate that the proposal will not inhibit development of adjacent lands.*

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

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

Section 9.030.040 Partition Application Review, Subsection B Review Criteria:

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

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

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

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

FINDING #18: The Applicant asserted in testimony before the Planning Commission that he should not be obligated to pay the charges associated with transportation, stormwater, and parks and recreation system development charges. The Applicant asserted that the proposed minor partition did not change the use of the accessory dwelling unit which was approved and constructed. The Applicant maintained that the system development charges should have been imposed when the building permit for the accessory dwelling was approved, and the City did not have the authority to retroactively impose a charge for these system development fees.

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

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

(6) A right-of-way access permit.

The Planning Commission finds that 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 residential unit. Although the construction of the accessory dwelling unit upon the Applicant's property did require the issuance of a building permit, the Planning Commission finds that no systems development charges were imposed at the time of issuance of a building permit for the accessory dwelling unit, in accordance with the City's policy not to impose systems development charges upon a dwelling unit which was not considered a separate dwelling unit. The Planning Commission finds that the act of partitioning the property will create a separate residential dwelling unit. Since the Applicant had previously obtained a building permit for the accessory dwelling unit, he will not be required to obtain a second building permit for this structure. The Planning Commission finds and concludes that the act of partitioning the property has resulted in development which will not require the issuance of a building permit. Although it is true that an assessment of the SDC charges at this time would be retroactive in nature, the Planning Commission finds that imposition of the SDC charges is consistent with the provisions of Section 9(A) of General Ordinance No. 06-1266.

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

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

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

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

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

1. Final plat submission must meet all the requirements of LUDO Section 9.030 and the other applicable provisions of the LUDO.
2. Two copies of the surveyed and recorded plat must be received in the Planning Department office within one year of the date of the notice of decision for this partition to be effective.
3. Legal access to East 10th Street must be provided to Parcel #2.
4. A new access point may be allowed on East 10th Street at this time with approval of appropriate documents.
5. Building setback lines will be shown on the final plat.
6. Applicant will be responsible for paying to the City of The Dalles, transportation and stormwater system development charges, and to the Northern Wasco County Parks & Recreation District, its park and recreation system development charges.

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

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

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

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

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

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

NOW, THEREFORE, THE PLANNING COMMISSION RESOLVES AS FOLLOWS:

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

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

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

Chairman, Planning Commission

Attest:

Richard Gassman, Secretary

Ayes: _____

Noes: _____

Absent: _____

Abstaining: _____

EXHIBIT "A"

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

BACKGROUND INFORMATION

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

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

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

REVIEW OF APPLICABLE CRITERIA

LAND USE AND DEVELOPMENT ORDINANCE NO. 98-1222

Chapter 3. Application Review Procedures

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

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

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

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

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

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

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

Section 3.020.080(C). Filing Appeals.

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

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

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

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

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

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

Section 3.020.080(H). Decision of Appeal.

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

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

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

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

Section 9.020.020 Land Use Standards

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

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

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

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

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

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

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

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

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

Subsection D. General Lot Requirements

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

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

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

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

2. *Access. Each lot shall abut on a public street, alley or approved private access drive for a width of at least the minimum lot width specified by the development standards for the zone district where the lot is located, with the following exception:*
 - a) *Lot access requirements for residential rear lot development created through a land partition process may be exempted from the access requirement above when all the provisions of Section 9.020.030: Residential Rear Lot Development below have been met.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 9.030.040 Partition Application Review, Subsection B Review Criteria:

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

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

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

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

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

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

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

"For a partition of a vacant parcel which is zoned for residential development, or a partition of a parcel of property upon which an existing residential structure is located, the applicant's responsibility for installing required public street improvements shall occur in accordance with the provisions of Section 10.030(A)"

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

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

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

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

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

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

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

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

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

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

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

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



Memorandum

To: Planning Commission
From: Richard Gassman, Planning Director
Date: July 17, 2014
Re: Residential Infill Discussion Items

At the June 30, 2014 work session, the City Council offered suggestions on the concepts the Commission forwarded to them. In brief, the Council approved the idea of the network streets, suggested the Commission work further on options #2 and #3 in the section on improvements, and wanted to cancel all existing waivers of remonstrance.

At this point, the Commission will need to identify the streets that comprise the network streets, and then identify what improvements would generally be required for network streets. The other main area that needs further discussion is to put details into options #2 and #3. It is my understanding the Council wanted both of these options referred back to them for additional consideration.

On option #2, the Commission will want to figure out how required improvements are determined. On option #3, the Commission will need to identify the triggers, and what improvements go with each trigger. In this area, the Commission should also indicate how potential islands of development can be kept to as few as possible. For both of these two options, the Commission will want to review the appeal process.

Staff is in the process of preparing releases for the existing waivers of remonstrance on residential properties. The Commission will not need to further discuss this issue.

For your convenience, I have attached the part of the concept document referring to the network streets and options #2 and #3.

NOTE: These Preliminary Concepts are presented to the City Council at this stage to solicit feedback. These are among the many ideas the Commission has considered over the past months. The Commission is seeking feedback to help them narrow the options. The options are presented in order of preference and, as you can see, not all are compatible. Once the Council has indicated its preferences, the Planning Commission will add details to the ideas prior to presenting a final set of recommendations to the Council.

6-5-14 Preliminary Concepts

Outline for Residential Infill Public Street Improvements

Background

This is an outline of a program derived from the preliminary recommendations of the standards and finance work groups and the discussions of the full Planning Commission. This outline is intended to set public improvement requirements for single family and duplex dwellings on single lots. Commercial development, subdivisions, and multi-family housing would be subject to the existing standards in the LUDO.

Part A of this outline discusses street improvements only, and only for lots located on one of the “network” streets (mostly arterial and collector streets.) Street related improvements for other residential/local streets are discussed in Part B. Water and sanitary sewer are not included in this outline. The cost of installing those utilities would continue to be the responsibility of the property owner and usually would occur at a time prior to the street improvements discussed in this outline. This outline does not discuss public street improvements in non-residential areas.

For purposes of this outline, full improvement generally means sidewalks and curbs on both sides, and a fully paved street, without reference to the width of paving. It is understood that some streets, such as parts of Scenic Drive, are not suitable for full improvement. Modifications would be made where required.

The goals of this outline:

1. To provide for full improvement of selected streets to allow for auto, bicycle and pedestrian access to all areas of town.
2. To minimize the creation of isolated “island improvements”.
3. To reduce the overall cost to individual property owners.
4. To provide an identifiable maximum liability for property owners for public improvements.
5. To provide clarity to the development process

The Commission has tentatively approved the concept of a network of streets that would allow for bicycle, pedestrian and vehicular access, to all parts of town. The network streets would require a higher level of public improvements. A map of the significant

streets is included. The map shows arterial streets in red, collector streets in blue and local streets in green. City streets are indicated in solid lines while County roads are indicated in dashed lines.

A. Network Streets –Development Requirements.

Option #1 Use increase tax monies to pay for improvements

Determine what vacant property is paying for City taxes. After building, use increase in taxes from building to pay into separate account until payments reach cap. If no cap, then property owner would pay until estimated cost is reached.

NOTE: What about those properties outside City limits which pay no City property taxes?

Option #2 No DDA – no improvements

1. Full improvement is required at time of development. City will do engineering for street grade and improvements will be installed, whether or not storm water system is in place.
2. If improvements cannot be installed, for whatever reason, owner may proceed with building.

Option #3 (DDA with “triggers”)

1. Full improvement is required with development in the following situations:
 - a. Engineering is done, or street grade is otherwise determined, and stormwater installed or otherwise acceptable, or
 - b. City determines street is ready for full improvement; or
 - c. Lot is adjacent to fully improved sections.
2. If full improvement is not completed at the time of development, a DDA would be signed and recorded. The DDA would require full improvement when one of a set of triggers occurs. The triggers could include such things as a certain level of traffic volume, whether there was a need for additional improvements, a certain level of lots on the block being fully improved, or developed, or lots on the block reaching a certain level of recorded DDAs.
3. The improvements would be triggered by criteria in the DDA, but the owners should have some amount of time to install the improvements, once they are required.