



CITY OF TROUTDALE

"Gateway to the Columbia River Gorge"

AGENDA

CITY COUNCIL - REGULAR MEETING
TROUTDALE CITY HALL
COUNCIL CHAMBERS
104 SE KIBLING AVENUE
TROUTDALE, OR 97060-2099

7:00 P.M. -- February 8, 2000

Mayor

Paul Thalhofner

City Council

Pat Smith
David Ripma
Bruce Thompson
Jim Kight
Paul Rabe
Doug Daoust

- (A) 1. **PLEDGE OF ALLEGIANCE, ROLL CALL, AGENDA UPDATE**
- (A) 2. **CONSENT AGENDA:**
- 2.1 **Accept Minutes:** November 23, 1999 Regular Meeting and December 14, 1999 Regular Meeting.
- 2.2 **Business License:** Month of January 2000.
- 2.3 **Resolution:** A Resolution authorizing the City Administrator to execute a a Joint defense Cost Sharing agreement - P.E.R.S. litigation.
- (I) 3. **PUBLIC COMMENT:** Please restrict comments to non-agenda items at this time.
- (I) 4. **PROCLAMATIONS:**
- 4.1 **Scout Month - February 2000**
- 4.2 **Literacy Week - February 25th through March 3rd**
- (A) 5. **REQUEST:** Request for deviation from Public Works Construction Standards. (continued from January 25th City Council meeting) Galloway / Joe Haddad
- (A) 6. **REQUEST:** Request for deviation from Public Works Construction Standards. Galloway / Lynn Harnisch
- (A) 7. **ORDINANCE (Introduction):** An Ordinance repealing Chapter 13.10, Street Trees, of the Troutdale Municipal Code and adopting a new Chapter 13.10 entitled Trees. Faith
- (A) 8. **ORDINANCE (Introduction):** An Ordinance amending Title 5, Business Licenses and Regulations, Chapter 5.04, Business Licenses, and Chapter 5.08, Amusement and Vending Machines and Declaring an Emergency. City Attorney

- (I) 9. COUNCIL CONCERNS AND INITIATIVES
- (A) 10. ADJOURNMENT


Paul Thalhofer, Mayor

Dated: 2-3-00

MINUTES
Troutdale City Council - Regular Meeting
Troutdale City Hall
Council Chambers
104 SE Kibling Avenue
Troutdale, OR 97060-2099

February 8, 2000 7:00pm

Meeting was called to order at 7:01 p.m. by Mayor Thalhofer.

1. PLEDGE OF ALLEGIANCE, ROLL CALL, AGENDA UPDATE

Mayor Thalhofer called on the Boy Scout Troop 174 to lead us in the Pledge of Allegiance.

PRESENT: Smith, Ripma, Thompson, Kight, Rabe, Daoust, Thalhofer.

STAFF: Faith, Galloway, Chief, Allen, Kvarsten, Stickney

GUESTS: Joe ElKhal, Hajih Haddad, Aziz Haddad, Tim Steenbergen, Daniel Oldham, Lynn Harnisch

Mayor Thalhofer asked are there any agenda updates?

Kvarsten replied we have no changes this evening.

2. CONSENT AGENDA:

- 2.1 Accept Minutes:** November 23, 1999 Regular Meeting and December 14, 1999 Regular Meeting.
- 2.2 Business License:** Month of January 2000.
- 2.3 Resolution:** A Resolution authorizing the City Administrator to execute a a Joint defense Cost Sharing agreement - P.E.R.S. litigation.

Mayor Thalhofer called this item and read the consent agenda.

MOTION: Councilor Thompson moved adoption of the consent agenda. Councilor Kight seconded the motion.

YEAS: 7
NAYS: 0
ABSTAINED: 0

3. PUBLIC COMMENT: Please restrict comments to non-agenda items at this time.

Dan Oldham stated I am here tonight because I am running for County Commissioner District #4, Sharron Kelley's seat which is going to be vacated at the end of the year. I wanted to introduce myself so you could get to further know me although I have been here before. I will answer any questions that you may have as to where I fit in this group of candidates that are running for this

position. There are several issues I think are of importance to this particular Council and East County residents. I would like to give you a short history of who I am. I came here in 1966. I worked for the Portland Police Bureau through 1974. I then went to Oregon State University to finish my degree program and taught school at Centennial High School for 19 years. I then returned to the Sheriffs Office in 1995 when Sheriff Noelle was elected. Since that time I have been his liaison to the jails correction system in the County as well as to the Board of County Commissioners. I have a pretty good grounding as to how the County Board functions. Other than that I have asked myself why am I running in this race. I am not so sure the people know very much about what a County Commissioners does and that is one of the problems we have out here. Another part of the issue that we have in East County is that we need a very strong voice in the area of public safety, economic development, those kind of issues that relate specifically to what we out here have to suffer with. Sandy Boulevard is the same road that I turned off of I-84 in 1966 when I first came here. If I go south to Powell Boulevard, essentially we have the same problem there. Those two corridors, which are so important to us out here, really are not on anybodies agenda for improving. I think there are some disconnects, to what I will call the west end commissioners, the way they view specific items, that is transportation and economic development, they don't look at them the same way. If you talk to a west end commissioner about the nature of transportation, you are probably going to get an answer that has a lot to do with light-rail, Fareless Square, those are not the same issues we face in East County. We are still developing out here, roads, water, sewage, and sewage treatment. All of those things are much more important to East County residents. We need to have a voice that can bring those issues to our County Commissioners. I want to be your guy on the County Commission, I can do this job. I know how they operate down town, I have been doing it for the Sheriffs for several years.

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| <p>4. PROCLAMATIONS:
4.1 Scout Month - February 2000
4.2 Literacy Week - February 25th through March 3rd</p> |
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Mayor Thalhoffer read the proclamations.

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| <p>5. REQUEST: Request for deviation from Public Works Construction Standards. (continued from January 25th City Council meeting)</p> |
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Mayor Thalhoffer called this item and asked Mr. Galloway to come forward.

Galloway stated this is a continuation of an item that was briefly introduced at your last Council meeting. It involves a request for a change from our Construction Standards. The Public Works Construction Standards is a document that the Council adopts from time to time, the last changes were made in 1997. Typically requests for changes from the construction standards are of a nature different than what you have before you tonight. Typically the request is for consideration for a different type of material, perhaps using a plastic pipe instead of concrete, using a water meter that registers in cubic feet rather than gallons. Those are routinely handled by my staff and normally disapproved. Probably during the course of the year there are only a half dozen that rise to the level where we get a formal written request, most are just verbal. Those that come in as a written request we consider and respond to and again we normally turn down. In this particular case we felt that the change that was being requested went beyond the authority that you have given to me in the Resolution that adopted the Standards. To my knowledge, in the seven and one half years that I have been working here, I don't believe that we have had another request for a change in the standards come before the Council for your consideration. I think the reasons for having the

standards are probably evident, but just to reiterate especially when we are talking about the street cross section. We require a particular right-of-way width to do a number of things; first of all to ensure that there is adequate pavement to allow traffic, parking, underground utilities and access for emergency vehicles. Outside of the paved area, but within the right-of-way, there is usually an area for a landscaping strip, sidewalks and a ½ foot strip behind the sidewalk on either side of the street to allow for monumentation to mark the property corners of the lots involved. There are some reasons why the standards are there. I certainly don't want to tell you that there is only one standard and every jurisdiction adheres to it, there are variations. Our changes in the right-of-way width or pavement width have been fairly limited, at least during the years that I have been here, especially after we received feedback from a survey that the Police Department did a couple of years ago when they went out and asked our citizens a number of questions related to public safety and we put one question on there and asked what they felt about the width of pavement on City streets. When the results were tallied up, about 3/4 of the people who responded indicated they wanted the pavement width left at the 32', which is our standard street size. Since that time we have not allowed for any deviation. I realize that particular dimension is not applicable in this one occasion before you tonight in which the Troutdale Town Center Overlay District allows a street width of 28', that width was established prior to the survey being conducted. The request before you is regarding a proposed subdivision along the south side of Halsey Street and the specific request is to reduce the right-of-way width from the normal 50' to 38' and to have a pavement width of 28'.

Councilor Rabe asked the cul-de-sac radius is what?

Galloway replied that City standards would be a 50' right-of-way and a 40' radius to the face of the curb.

Councilor Kight asked the portion that runs east/west is 25.2', does that meet the standard for that particular part of the street?

Galloway replied no it does not but I believe the applicant intends for that to be a private drive as opposed to a public street.

Councilor Kight asked does that present a problem as far as emergency vehicles, I am thinking of fire trucks, if cars are parked on both sides?

Galloway replied no. The Fire Department would like a clear area of 20' in order to get the fire truck through.

Councilor Kight asked are these two or three story buildings?

ElKhal replied three story.

Councilor Kight stated that would require a ladder truck if there was a fire and someone was stuck in an upstairs bedroom. That is a narrow road, but you are saying it meets the requirement for a private drive?

Faith replied the Development Code permits up to a maximum of 6 dwelling units to be served by a private drive. The standards for the private driveway is it must be a minimum of 24' wide for two-way traffic. So it does meet that standard, but we would likely require as a condition of approval of this development that it would be posted as no parking on either side of the private drive to

guarantee that it would be open for access.

Councilor Rabe asked is this a cul-de-sac? The 45' diameter, is that considered to be a cul-de-sac or not?

Faith replied I believe its intended purpose is to allow for vehicles to turn around, I believe it would serve as a cul-de-sac, yes.

Councilor Rabe asked in this zoning district that is suppose to be 80'?

Faith replied the width of the cul-de-sac is not dictated by the zoning, that is a standard of Public Works for road construction regardless of what zone it is in.

Councilor Rabe asked and if you want to make variations, is a variance required or is that something that City staff handles.

Galloway replied as I think you are finding this evening, we do not have a precise well defined procedure for someone who asks for an exception to the construction standards. It is rarely done, normally they are denied at the staff level and this is the first one to my knowledge that someone has appealed our decision and asked to bring their matter before Council.

Councilor Daoust asked on the landscaping strip, does that have to be 5' or could that be as narrow as 3'.

Galloway replied in the Town Center Overlay District basically the difference between that and our standard street throughout other residential areas in the City is right-of-way width is the same, pavement width has been reduced by 4' from 32' to 28', and that 4' is allocated out to enlarge a 3' wide landing strip to 5' on either side of the road. So to answer your question it is 5' in this district.

Councilor Daoust asked so the Town Center Overlay District has sidewalk widths of 5' and a landscaping strip of 5' also?

Galloway replied that is correct.

Councilor Daoust asked if we were to pursue keeping the City Standards, would the land owner have the option of asking for a variance to the front yard setback?

Faith replied yes.

Councilor Ripma asked from time to time you get requests from developers who are putting in streets, asking do we have to give 50', and your normal answer, if I am understanding you, is to say no.

Galloway replied that is correct, although I don't recall ever receiving a request that has asked to reduce the right-of-way quite as much as this one.

Councilor Ripma asked and your recommendation to us is to stick with the standards?

Galloway replied yes.

Councilor Kight asked is there any reason that the applicant couldn't make his buildings smaller?

Faith replied I can't answer that on behalf of the applicant.

Councilor Kight asked in other words, I guess I am asking is there anything that is precluding them from meeting our standards and still designing a building that will fit these lots? Logic tells me that is the case.

Faith replied certainly if they were held to all of the standards of the Development Code and the street width standard, it could be built upon if the structures themselves did not exceed a size that encroached any of the setbacks.

Councilor Kight stated I guess what I am saying is, our code isn't so restrictive that it doesn't stop them from building or designing a building that will fit on this particular piece of real estate and still meet our standards.

Faith replied that is correct. It is just a question of how desirable that building would be.

EIKhal stated the City requires 28' for a street and we are meeting that. On the sidewalk, 5' is required by the City. I went all over the City of Gresham, Portland and other cities and most of these sidewalks are 4', so I don't know why Troutdale is asking for 5'. In this particular development it is irrelevant because as you see there is no where that you can put a strip of greenway. We don't have any space between the houses to put a greenway on the adjacent sidewalk, it is mostly a driveway. My recommendation to the City is to go with a 4' sidewalk then we could have a ½' for the curb and ½' for the monumentation as required. As for the radius, there is lots of ways for the fire trucks to get in, there is lots of driveways they could use. It should not be any problem building the units as they are shown here. To make them any smaller it is not beneficial and they will not be sellable. My recommendation to the City is instead of asking for a variance on the 18' if you agree to 16' greenway.

Mayor Thalhofer stated we have street construction standards for a purpose. Do you have a problem accepting the street standards and going for a variance on the setback before the Planning Commission.

EIKhal replied I am afraid we would end up back here again asking for your help.

Councilor Rabe asked if you went with the variance option, he would be asking for a setback variance to the front yard, correct?

EIKhal replied we would have to ask for a 6' variance, instead of 18' it would be 12'.

Councilor Rabe stated one of the concerns that I have, in your particular instance for example, your rationale and logic may be perfectly in line, but unfortunately it does have a tendency to set a precedent, and it is the precedent that particularly alarms me more than anything else. When you mention that in terms of residential, not in terms of a single dwelling but of an entire plat that may include 50-60 homes and those standard are derived to accommodate that kind of community. Personally I would advise you to go for the variance, because in that instance you would be dealing

with a single instance as opposed to asking the Council to make a complete change in the road.

ElKhal replied I agree with you. But on something like this, I do not see any benefit in having the green area in the front. What is the difference in asking for a variance in reducing the 18' to 12', what did we change, nothing. What did the City gain, nothing.

Faith stated I think it is important for the Council to understand if you hold them to the 50' right-of-way, which is staffs recommendation, and Mr. Haddad applies for a setback variance, even if that is granted what it is going to ultimately result in, is that there is going to have to be a modification in this design. By that I mean, that if they end up with a 12' front yard setback, they no longer have adequate driveways for parking vehicles. It would be my recommendation that if there is going to be a front yard setback variance, it would be a sufficient setback to move these structures forward so that we have access to these garages from the back. So, in essence there is no driveway, you would have some landscaping in the front yard but access and parking would be from the back. That would be a trade-off and they would have to design it accordingly.

Councilor Daoust asked what is the minimum driveway length?

Faith replied 18' is considered our dimensional standard for a driveway. One correction that I need to make here, they have been representing that these structures would be set at 18' back, which is the front yard setback, that is not correct. The front yard setback requirement is 20' and what we are saying is, in order to park a vehicle in front of the garage and be within your property boundary, you need a minimum of 18'.

Councilor Daoust asked, the sidewalk is a combination of the orange and the dark blue on your map and I can just envision a young mother pushing a baby stroller on the even level sometimes and then when she gets to the approaches the stroller is on an angle and then goes back to the even, she would probably just end up walking down the street. My point is, in reality you don't have a sidewalk either.

MOTION: Councilor Ripma moved to deny the request for the deviation and maintain our City Standards. Seconded by Councilor Thompson.

Councilor Ripma stated I have considered this for the last couple of weeks. These standards have been developed over many years and they are based on requirements for public safety to provide room for utilities and to provide a street scape of a certain size. I actually feel that in a case like this where the houses are right next to each other and the driveways take up almost all the space in front of the houses, one could argue that the landscaping strip is more important not less important and that we shouldn't use the fact that it ends up being all concrete out front as a reason to reduce the green strip. The streets in this neighborhood in this zone are already less than what 75% of the public who responded to the police survey indicated they wanted and I think they are narrow enough. While I understand and appreciate Mr. Haddad's request and obviously he will have to go to the Planning Commission.

Councilor Thompson stated I am mindful of setting a precedent by approving a variance for a change from the standards that we have set for the City. I think the streets are adequate for our emergency vehicles like fire trucks and the request to lesson those standards for this

street I don't think is meritorious. We have our own street standards and I think we should stick to them.

Mayor Thalhoffer stated I feel the same way. We have our street standards and the Fire Department would rather have 32' streets and probably wider if they could. Since I have been on the Council, we have not had this type of an appeal come before us so that is why we are having trouble coming to grips with it. This would establish a precedent that we don't want to establish. We need to keep our street construction standards in place. If they are to be changed it should be after a complete review by City staff and Council and not have to make judgement in a given case. I would be in favor of keeping the street construction standards that we have and denying the request for a deviation and supporting the motion.

Councilor Kight stated on the part of the applicant, what was lacking this evening was a compelling argument why there couldn't be a different design in order to meet our standards. Councilor Daoust gave examples of row houses that do not have a preponderance of cement in front of them and the landscaping strips actually create a street appeal to the purchase or rental of the properties. As Mr. Faith was pointing out, we almost saw a design fab going on where they would move the building up towards the front and we would have sidewalks. There are examples in Fairview Village where they have alleyways behind where the garages were hidden. A well known architect in New York said the garage is the garbage can of the house, it is not something you want to be proud of, it is something you want to get rid of or hide. If we were able to put those towards the rear of the building the property could potentially be much more sellable. I am going to support this motion.

Councilor Rabe stated I am a little concerned with the precedent and I would suggest that you take this issue to the Planning Commission. The suggestion that Councilor Daoust made about moving it forward, although I am not an architect, would seem like the most viable option and still keep them attractive enough to make them sellable.

Councilor Daoust stated I don't mind looking at a deviation if it makes common sense. For awhile I think the common sense was coming through, but where I got sidetracked was the fact that we were losing a sidewalk and we don't have a greenway. I think your hope is in a new design.

Councilor Smith stated I agree with the other Councilors. We are setting standards and then if we start deviating, why are we setting standards in the first place. You are building a lot of residents in a small area and I think you are asking for congestion. I am against trying to condense everything into small spaces, you need room for the emergency vehicles and you need greenways also.

YEAS: 7
NAYS: 0
ABSTAINED: 0

6. REQUEST: Request for deviation from Public Works Construction Standards.

Mayor Thalhoffer called this item and asked Mr. Galloway to come forward.

Galloway stated this is another request for a deviation from the Public Works Construction

Standards for both right-of-way width and pavement width on a proposed City street. This has to do with a proposed subdivision in the Sandy Dell Road area and in your packet there are drawings depicting that area. Originally a request came in from Mr. Harnisch to change the right-of-way and pavement width standards for virtually all of the streets in the subdivision. I did not approve that request and the request that he is coming before you today with has changed from that slightly in that he is asking for the change only for the stub street and the cul-de-sac street but not for the main east/west street called Sandy Dell Road. The request is that the right-of-way width be reduced from 50' to 46' by reducing pavement width from 32' to 28'. My logic for not agreeing to the request initially and recommending against it to you tonight is primarily as we discussed with the previous applicant concerned about establishing a precedent that might be considered somewhat binding on future decisions we might make.

Councilor Ripma asked how are people going to get back onto Sandy Dell Road after this development is done?

Harnisch replied the proposal for relocating the entrance onto Stark Street would move it more in the middle of the curve. Multnomah County has asked us to do that for safety purposes.

Councilor Ripma asked the north/south street, the portion to the east of that on Sandy Dell Road is what?

Harnisch replied our proposal is that this becomes a driveway to the eighteen homes down below along the river. It becomes a private drive.

Councilor Ripma asked how wide is that driveway?

Harnisch replied it is 40' wide.

Councilor Ripma asked so in addition to the traffic in your subdivision, at least the portion that is marked Sandy Dell Road will be carrying all of the traffic down to these other eighteen homes also?

Harnisch replied yes. To clarify, this is a 30' easement within here.

Councilor Ripma asked but you are leaving 40'?

Harnisch replied correct.

Councilor Ripma asked the street to the west of the north/south street, what do you want there?

Harnisch replied Stark Street has a 60' right-of-way, this to re-align Sandy Dell Road is 50' right-of-way.

Councilor Ripma stated it looks like 46'.

Harnisch replied this was our initial request to Mr. Galloway was to reduce it to 46' and Mr. Galloway denied that and so the final design will be at 50'.

Councilor Ripma asked so that is not part of this request tonight, it is only the cul-de-sac?

Harnisch replied yes.

Councilor Ripma asked what is off of the end of the stub?

Harnisch replied there is private property that could be developed into six additional lots and this street would terminate in a cul-de-sac because beyond that is a subdivision with homes so there can not be any connectivity beyond that.

Councilor Ripma asked that pretty old stretch of Stark Street where it curves and there is a double row of trees, that is all coming out?

Harnisch replied some of them will come out.

Councilor Kight asked just to clarify, we are not discussing the width of the street, we are talking about the size of the bulb and the radius of the cul-de-sac?

Galloway replied no. The issue is the width of the three streets, the two cul-de-sacs to the south and the stub street to the north. Our standards would require 50' wide right-of-way and a 32' pavement width for all three of those. The applicants request is that the right-of-way be reduced from 50' to 46', which would result in a reduction of pavement width from 32' to 28'.

Councilor Kight asked the radius of the bulb of the cul-de-sac is no longer in contention, is that correct?

Galloway replied our normal radius for a cul-de-sac bulb is 50', the applicant in his initial request to me asked to have that reduced to 49' by reducing the landscaping strip from 4' to 3'. Since our landscaping strip requirement is only 3' along the remainder of the straight street, I felt that was a reasonable request and I granted that.

Councilor Kight asked Sandy Dell Road that goes to the east, the short stub, is that going to be paved by you?

Harnisch replied it is our proposal to put in a driveway approach and surface it as per the conditions of approval, paving it is not a problem.

Councilor Daoust asked I would like you to give me a really good reason why you need narrower streets. I am looking at some of the lot sizes and they look like good size lots.

Harnisch replied if you would look at these lots they are at 7,000' now, if we take 2' from the lot to add to the street on all sides, these lots now fall below the 7,000' and that requires a variance. The option is move everything 4', keeping those at 7,000 and then it starts taking out of the corner lots which would then require a total redesign.

Councilor Daoust asked Mr. Faith, I take it this is zoned R-7?

Faith replied yes.

Councilor Daoust asked he is trying to maintain the lots above 7,000', does he need a variance to

go below 7,000' as long as he maintains a medium size lot of 7,000'?

Faith replied generally yes, we would require a lot size variance if you go below the minimum of 7,000'.

Councilor Daoust asked even if some of the lots are 10,000', and some are and some are 8,000' and 9,000' if one lot goes below 7,000' he needs a variance?

Faith replied yes. There would be very strong grounds for approving that variance when you do have other lots that are much bigger than that, but we would still require him to request a variance.

Councilor Ripma asked this is before the Planning Commission now?

Faith replied yes.

Councilor Ripma asked then why are you pursuing a parallel appeal to the City Council to reduce our standard street size when it is before the Planning Commission?

Harnisch replied that the Development Code does not address the street right-of-way width. That falls under the Director of Public Works Department and if he does not grant me a variance, then the next step is to bring it to the City Council.

Councilor Ripma stated I know you gave Councilor Daoust an answer, maybe he was satisfied, I guess I am not. It looks like you have plenty of room to move over 4' or 5'. I understand you have some lots that are bigger, but other than lot 14, which is the only one which is close to 7,000' in size, the rest of them are plenty big enough. Lot 14 has plenty of room if you move the line between it and lot 7 to make them both over 7,000' if you move the street 4' to 5'. Why did you go to the Planning Commission with a street that didn't meet our standards?

Harnisch replied 28' pavement width or 32' was an option up until May of 1997 for a street that terminated in a cul-de-sac. The Public Works Construction Standard allowed either 28' of pavement or 32'. The right-of-way was 50' no matter what the pavement width was and the difference was made up in the planter strip. Since that time in May when it was changed, it hasn't changed as far as public safety is concerned. City of Gresham, we have a project there with 46' right-of-way, 26' pavement curb to curb. The same Fire Department that serves Gresham, serves Troutdale and they have approved it and that street terminates in a cul-de-sac. Utilities, 28' of pavement is plenty adequate for underground utilities. 28' pavement width is in your Town Center Overlay District, which has much more traffic than those three cul-de-sacs will ever see. We are not asking for any change in the sidewalks, planter strips and monument strip. Some of the rationale for some considerations for a narrower street are savings in dollars of course, because there is less pavement. Savings in excavation on high side fill and material on the low side, ease of slope issues when you are dealing with cross slope, access into garages whether they are above the street or below the street. The wider your street is the more you are up or down on the cross slope with your buildings. Storm water runoff, a wider street has more impervious surface and therefore there is more storm water runoff and more treatment and detention required. Theoretically, narrower streets promotes slower vehicle speeds. We are only talking about just those three cul-de-sacs, we are talking about a minor amount of traffic on those three cul-de-sacs because they do terminate at cul-de-sacs.

Councilor Ripma stated most of the things you mentioned related to the cost, and you are trying to save a few bucks, which I understand. The argument that Gresham has narrower street standards doesn't work at all in Troutdale, we do not try to model our City on Gresham.

Mayor Thalhfer stated Mr. Harnisch you make a lot of good points. It is interesting and maybe something that we ought to take a look at some other time and go over all of our street standards and see if we need to adjust them. I don't know the last time that we did that, was it recent?

Galloway replied the last update to the standards was in May of 1997.

Mayor Thalhfer asked is there some way that we can change this process?

Galloway replied I am sure there is and I think we need to develop some type of a process that is easier for an applicant to understand.

Councilor Kight asked did you ever originally come forward with a plan that shows our street standards or did you just arbitrarily on your own decided to do it at smaller dimensions?

Harnisch replied no not arbitrarily. The indication was that a smaller standard may be granted and therefore the plat was drawn up as such.

Galloway stated to clarify, Mr. Harnisch has done other projects in the past in the City when the other standard for cul-de-sacs, the pre-1997 standard, was in effect, so he was aware that was allowed previously.

Councilor Kight stated you have ten reasons for your request for the street variance, I notice that number two through seven have a financial component attached to them, would that be accurate?

Harnisch replied number two has a financial component because it deals with the excavation, three doesn't really it allows for flexibility to design the homes, four is both a dollar amount and environmental because of the amount of runoff, five, six and seven you are going to have the same number of vehicle trips per day no matter what that street is.

Councilor Kight asked so essentially your excavation would be a financial component as well as a storm water runoff.

Harnisch replied correct.

Councilor Rabe stated I am scanning through the map and I am looking for a compelling piece of evidence that would convince me that these modifications of dimensions are not entirely motivated by finance. As I go through this and I look at the impact to the number of lots, that I can put on one hand, if you were to go ahead and abide by the 50' right-of-way. In some cases I don't think that they would devalue that land substantially so that someone would not choose it. In any given subdivision there are going to be homes that are inside my budget and outside my budget, I shop for what I can afford. Can you give me a compelling reason or evidence why I should grant you these variances that isn't a dollar related thing?

Harnisch replied I can not go so far to say that it is a dollar figure, that is not the compelling reason.

I don't think that there is a single compelling reason, I think there is a number of reasons. Number one, it use to be the standard and I would expect it will probably be your standard again someday. Storm water runoff and environmental impacts because of the runoffs, we are suppose to try to reduce runoff now. We are doing detention and retention now, the idea is to not increase impervious surface but to decrease it. The amount of excavation, it is not a compelling reason it is a dollar thing. Public safety is not being impacted, Gresham Fire Department is a good example because it serves both jurisdictions and they are doing it in Gresham on smaller streets then what we have proposed. I don't think it is one single compelling reason, I think it is a number of reasons taken together.

Councilor Rabe stated if we were talking about impervious surface as being a motivator or a contributor then why not propose that for Sandy Dell Road also.

Harnisch replied initially we did. When Mr. Galloway denied it, it was the decision of the developer and myself that there is probably a good reason not to push it further on Sandy Dell Road because of the amount of traffic involved and the fact that it serves the eighteen lots down below.

Councilor Daoust stated on the one hand you have your list of rationale and it is good, and on the other hand we sat here expounding on the virtues and the honor of maintaining City standards with the people that were up here last. So it is kind of awkward to have expounded on the virtues and honor of maintaining City standards and then reconsider it on the next agenda item. I did some calculations on moving Hall Court and Hall Place 4' to the west and there are not any of the lots that would fall below 7,000' except for possibly lot 14.

Harnisch stated granted, the lots are of sufficient size to be able to move the street and accommodate the right-of-way and not severely impact the ability to sell the lots. The corner lots are impacted the greatest. What you don't see on those drawings is the 2' that has not been taken out of those lots due to the widening of Sandy Dell Road.

Councilor Kight asked what lots are your talking about?

Harnisch replied any lot that fronts on Sandy Dell and Hall.

Councilor Daoust stated even taking 2' off Sandy Dell and 4' off Hall Court, lot 12 would still be above 7,000'.

Harnisch replied yes it conforms to the Development Code, but a corner lot has different setbacks and you try to make those lots larger.

MOTION: Councilor Ripma moved to deny the request for the deviation. Seconded by Councilor Daoust.

Councilor Ripma stated in this case it is clear that the applicant could meet our construction standard relatively easily. The fact that they might have to redraw the plats, even the applicant admitted, was not a big deal. I think we ought to stick with our standards.

Councilor Daoust stated I have weighed all the facts as to why we should deviate from the standards and I guess I am strongly siding on the fact that we not deviate in this case because there is really minimal impact on the applicant.

Mayor Thalhoffer stated Mr. Harnisch made some very good points and some of them were environmental, which I appreciate. I think we should stick to our construction standards.

Councilor Kight stated I think there is probably a very good reason that the City adopted the standards going from 28' to 32'. I think we have all seen what happens in cul-de-sacs, there is inadequate parking especially in the radius of the cul-de-sac. A smaller street gives the appearance that makes the street look very narrow and everything looks crowded and jammed in there. I support the motion.

Councilor Rabe stated I also support the motion. I live on a cul-de-sac that was built with the current standards, I really like the wideness of it. As Councilor Daoust mentioned I think you can make it accommodating to the standards and have minimal impact.

Councilor Smith stated I agree with everything that has been mentioned.

Councilor Thompson stated I also support the motion.

**YEAS: 7
NAYS: 0
ABSTAINED: 0**

7. ORDINANCE (Introduction):An Ordinance repealing Chapter 13.10, Street Trees, of the Troutdale Municipal Code and adopting a new Chapter 13.10 entitled Trees.

Mayor Thalhoffer read the Ordinance Title, closed the City Council meeting and opened the Public Hearing.

Faith stated in 1997 the City was honored with being designated as a "Tree City USA" an honor and designation which is bestowed by the National Arbor Day Foundation. Concurrently with us going for this designation, the Council designated the Troutdale Citizen Advisory Committee as the City's Tree Board, which is one of the conditions that go with being a Tree City USA. One of the first tasks that the Tree Board took up was to review the City's Street Tree Ordinance which was adopted in 1985. The Tree Board reviewed the ordinance and they made a number of revisions to that and over the last year the draft that was prepared has been further refined and revised by both City Attorney and City Staff. One of the more significant revisions that we have made to our Street Tree Ordinance is that we have expanded it to address the removal of trees on private property, not just addressing trees within the public right-of-way. It will be establishing regulations for removal of trees on undeveloped private property and in conjunction with the expanded scope of this ordinance we are also amending the title from street trees to simply trees. A summary of the various changes that this ordinance consists of, most of these are merely housekeeping amendments that we felt were in order to reflect how things really work and not necessarily how it was written.

It adds a title section and a purpose section. It removes certain definitions and adds some new definitions. It clarifies that developers of residential subdivisions must pay an assessment to the city for planting street trees and that the city would use that money to plant street trees within residential subdivisions. It amends provisions for designated historical or significant trees located on private property to require maintenance costs to be shared equally by the property owner and the city. It streamlines the ordinance by removing unnecessary or duplicate language and combines sections where possible. It deletes sections which overlap with the nuisance ordinance as it relates to removal of weeds, rubbish and other material. It makes violations of this ordinance subject to the abatement and penalty provisions of the nuisance ordinance. There is a new section that is being added to this ordinance that deals with removal of trees from private property. The ordinance would require a permit to be obtained from the City for removing any tree with a trunk of six inches or more in diameter from an undeveloped or underdeveloped property. Removal of a tree from private property that is already developed would not require a permit from the City. In most cases, tree removal would be considered in conjunction with a land use permit. However, if someone were proposing to remove a tree from a undeveloped or underdeveloped not in conjunction with a land use application, then it would be processed as a Type II Site and Design Review, which would entail notification to surrounding property owners. We do include criteria in this code for approving applications or requests to remove trees from private property. The scope and magnitude of these changes are such that we are recommending that the current Street Tree Ordinance, Chapter 13.10 of the Municipal Code, be repealed and we would be adopting an entirely new Chapter 13.10. Staff is recommending adoption of this ordinance.

Mayor Thalhfer asked in this ordinance I see where the City plants the street trees, are there any standards as to how high these trees can grow?

Faith replied there is a listing of acceptable trees that we would plant for street trees. Those trees on the list are generally those that are intended to not grow to a height of a, lets say a poplar or cotton wood tree, but I don't know that there is a specific standard for street tree height.

Mayor Thalhfer asked what about trees that grow up into the power lines?

Faith replied we have a requirement that trees not extend into the utility lines and that they can be topped if they grow to tall and become entangled in the utility lines.

Mayor Thalhfer asked is there a provision for who does that?

Faith replied the code recognizes that utility companies normally are the ones that come through and top or prune the trees.

Councilor Kight asked lets look at a hypothetical situation, the tree removal associated with the development of the fast food restaurant in Gresham on the SW corner of Stark and 257th, how would this ordinance apply in that scenario?

Faith replied if the request for removal of those trees was submitted in conjunction with a land use permit, then the developer would be required to show on their plans those trees on the property that are in excess of six inches in diameter and they would need to indicate which trees are going to remain and which trees are going to be removed. As part of that they would need to show us what is going to occur on the property in terms of structures that are going in, parking, driveways

and so on. If the development is laid out in such a way that they have demonstrated to us that those trees need to be taken out in order to accommodate the development and there is no way that it can be modified in order to salvage those trees, then according to the criteria that we have in the code, our responsibility would be to approve that development and the removal of those trees if there is no other way they could be accommodated.

Councilor Kight stated so from the staffs prospective, if at all possible we want to retain those trees, we would try to work with the developer to find a way to redesign the building or parking lot or whatever structures are involved in that development to try to retain the trees. What is your definition of underdeveloped?

Faith replied it means any vacant platted subdivision lot or partition parcel or any developed property able to be partitioned into two or more lots.

Councilor Kight asked so it doesn't have to be a separate tax lot or it doesn't have to be platted as a separate tax lot, it could be part of a single tax lot that for example is on three or four acres.

Faith replied that is correct. If you had a single family home that was on an acre that was zoned R-7, and there is the potential that it could be further partitioned into two or more lots then that constitutes an underdeveloped parcel.

Councilor Kight asked is there any way that developers or the person owning a piece of property that are looking at marketing the property and knowing that the tree ordinance is in effect and that may stop or impede the development to some degree, is there anything stopping that property owner from taking out the trees?

Faith replied once this ordinance is in effect then they would be required to obtain a permit from the City before removing the trees on the property that is underdeveloped by our definition.

Councilor Kight asked and if they ignore this ordinance or they are not aware of it, and they go ahead and remove the trees, what is the penalty involved?

Faith replied the penalty is under the violation section, which states "a violation of this chapter constitutes a nuisance and is enforced as set forth under the Nuisance Ordinance", we have also specified that the penalty for violating this ordinance is, upon conviction, a fine of a sum not exceeding \$1,000 or to be imprisoned in jail for a period not exceeding six months.

Councilor Rabe asked on number 4 of the staff report there is some mention of a shared cost in terms of the maintenance of a significant or historic trees, is that an amendment to a provision that provided for that previously?

Faith replied currently in the ordinance the City, upon a tree being designated as historic or significant, the City accepts full responsibility for maintenance of it. This is a change in that we are now saying it would need to be shared equally between the property owner and the City.

Councilor Rabe asked how do we determine that a tree is significant? Are we talking aesthetic or hazard, maybe the slope prohibited the removal of a tree because it has a significant purpose of holding the bank together, I was curious how one might interpret that?

Faith replied the guideline that we have in the code in terms of what constitutes a significant tree states; a tree which because of age, type or historic association are of special note.

Councilor Rabe asked if I bought a piece of property would I even know that there was a tree of historic or significant value on the property, is it a condition of the sale?

Faith replied outside of some kind of disclosure statement, I am not sure how to answer that. In most cases the request comes from the private property owner to designate a tree in their yard that they think has qualities to make it significant or historic. Those designations are made by the City Council and so once that is done I don't know that we have had a requirement that you need to record that somewhere in the chain of title.

Councilor Kight stated you could, it would be easy.

Faith replied I would think so, but we don't spell it out in the code that it needs to be done.

Councilor Daoust stated I am on the Gresham Tree Preservation Committee and we have designated numerous significant trees in the City of Gresham and they do not pay 50% of any maintenance on significant trees. I think it is rather generous of the City to offer that. I have a series of questions, on 13.10.03 it clearly says "the superintendent shall have jurisdiction over all street trees including maintenance, pruning and everything else". Then in 13.10.17 which says, "the care and maintenance of street trees is the continuing responsibility of the adjacent property owner". I can differentiate between those two, but follow me further to 13.10.15 where it says "the superintendent may prune and maintain or cause to be pruned and maintained all of the street trees". So we are talking about the City doing the work here not the property owner. Then we turn around and say that the superintendent can direct the property owner to take care of their trees. I was starting to get a little confused as to who is going to do what. It further goes on to say in that same paragraph, "if the nuisance results in abatement proceedings, the City will abate the nuisance". Isn't the property owner the one responsible for abating the nuisance. You can see where I was jumping back and forth as to who was actually going to do the work. There is another example in 13.10.19 which talks about the inspection of property shall be made by the City, if a nuisance is found to exist the City will proceed to abate the nuisance, and then it turns around and says the owner of any parcel of land may notify the City if they want the City to take care of it. So I was getting a little confused, it sounded like the City could step right in and take care of nuisance or the owner could tell the City to abate it. Who actually is supposed to do it?

Faith replied what it says is that the owner of any parcel may notify the City in writing that he or she desires the City to remove a nuisance and agrees to pay the reasonable and necessary expense thereof. So, if the tree has reached a point where it constitutes a nuisance, and if the property owner is not willing to correct the nuisance then the City can go through its abatement proceedings, which are outlined in the nuisance code. Normally that is, we will send them a written notice saying that a nuisance exists, you have 10 days to correct it. If they fail to do that then the City can come in and abate the nuisance and charge the property owner and if they refuse to pay then we can lien the property.

Councilor Daoust asked what about regular maintenance? Why can't I call the City and say I want you to regularly maintain my tree out front, because it says the City has jurisdiction over all street trees.

Faith replied we have jurisdiction from the standpoint of administering and enforcing this ordinance. I don't believe what we are saying is that the City has sole responsibility for maintenance and upkeep of those trees, that rests with the adjacent property owner.

Councilor Daoust stated I could deduct that, because I know a little about this. But I pointed out three or four examples where it says the City will go out and abate the problem or prune the tree. My next question is regarding the assessment we give developers. In section 13.10.100 under new subdivisions. Why does the developer have to pay an assessment fee if they are the one responsible for planting the trees and the property owners afterwards are responsible for maintaining the trees. Why are we assessing the developer a fee?

Faith replied residential subdivisions are unique in that the developer is not necessarily the one that is going to be building the homes. So the developer comes in and plats out a subdivision and then he puts in the roads and then he begins selling off the lots to various home builders. We don't want the trees put in the landscape strip until after the house is built, in fact the landscape strip doesn't even exist yet because the sidewalk is constructed in conjunction with the house being built. The homebuilder doesn't want to have to contend with trees that are going to be in his way when he is trying to build a house. What we prefer is for the developer to pay an assessment to the City and after the homes are built the City comes through and determines where the trees are going to go in the landscape strips. We give notice to the occupant that a tree assessment has been paid for this development and they are entitled to two trees in the landscape strip and do they have any objection to the location.

Councilor Daoust asked under liability of property owner, section 13.10.17 it says the property owners are liable for street trees if it causes any injury or damage. Why are the property owners liable if in the end the superintendent has jurisdiction over all street trees. Isn't it really the City?

Faith replied we may have to change the language to clarify that. The concept is that once the tree has been planted it becomes the responsibility of the home owner to maintain that tree such that it does not constitute a hazard to anyone, it does not constitute a nuisance and if they are neglectful in maintaining that tree to a point where it causes an injury or harm to someone, that they take that responsibility. Yes, the superintendent has the jurisdiction in terms of administration and enforcement of this code with respect to the street trees, but the City is not responsible for maintaining every street tree out there.

Councilor Daoust stated it says that the City shall maintain a standards manual, do we have a manual in place already?

Faith replied I am not sure, I know we have a wealth of resources but I am not sure if it has all been consolidated into a manual. I would need to follow up on that.

Councilor Daoust stated again I will go back to a couple of items that I pointed out where it says the City will take care of certain things and I was starting to get confused because it did say the land owner or resident is suppose to take care of the maintenance.

Faith replied I would propose that I work with the City Attorney to see if we can't change that language.

Councilor Ripma asked how many historic trees do we have designated?

Faith replied I don't know the answer to that. I am familiar with the one at the intersection of Stark and Troutdale Road. There was an oak tree that was designated further north on Troutdale Road that is in the back yard of a residence.

Councilor Ripma stated as far as historic trees those are the only two I remember. Following up on Councilor Rabe's question, a property owner with a tree on his property and a limb falls, he owns the tree it is his responsibility to take care of the tree. If it happens to be declared an historic tree the City might pay half of the maintenance. Maybe I wasn't understanding the question but I didn't see any harm to the property owner if a tree is being declared historic all I could see is that he got an advantage out of it. I don't see it necessary to have it flagged on his deed, the most it could do is help them.

Faith replied certainly from the point of the maintenance cost it would be to his benefit.

Councilor Kight asked on historical trees, would it not help the property owner if we had a form that our City Attorney would draw up that when they did a title report when a property is being transferred from buyer to seller that would show that there is a historical or significant tree and there is a responsibility that is incurred by the property owner when they take possession of the property? Don't you think the property owner would want to know that? Right now we are leaving it up to the property owner to transfer that information to the buyer.

Allen replied I am not sure that the obligation that you take on when you buy property that has a significant tree on it is any different then if you had a regular tree on it, it is designated as significant but if it wasn't significant you would still have to get a permit and maintain it and prune it.

Councilor Kight asked what about historical where the City is involved more then the property owner is.

Allen replied I don't think the City is other then designating it as historic and putting a plaque on it and helping to pay for maintenance.

Faith stated if you are on a developed piece of property that has a significant tree, under our ordinance if you are on a developed piece of property a permit is not required to remove a tree. If the property were to change hands and a new owner takes possession and has no idea that the tree has been designated significant, they might think they can cut it down, there is no permit required because they are on a developed piece of property.

Councilor Daoust stated there is a plaque put on the tree.

Councilor Kight asked if there is lack of communication and the new owner is not aware of the historical or significant tree and cuts it down. I would rather go to the extra level of communication with the new property owner on a title report.

Allen stated we could see if we could create a document that could be recorded that would show up during a title report. There are costs however associated with recording a document. Typically as part of due diligence, when a property owner buys property the obligation is on them to check

with the City and find out about the conditions on this property.

Councilor Kight stated that may be the case but often people don't go to that degree.

Councilor Daoust stated a homeowner with a significant tree in their yard would take pride in that tree and I would think they would make a point of passing on to the buyer that information.

Councilor Ripma stated if there is a workable way for us to require to have the trees recorded, I would favor that.

Mayor Thalhofer stated could you draft something and bring it back to the Council.

Mayor Thalhofer asked if there was anyone else who would like to speak to us on this issue?

No public comment received.

Mayor Thalhofer closed the Public Hearing and reconvened the City Council meeting at 10:04 and stated that this was the first reading and we will hold a second hearing on February 22nd.

8. ORDINANCE (Introduction): An Ordinance amending Title 5, Business Licenses and Regulations, Chapter 5.04, Business Licenses, and Chapter 5.08, Amusement and Vending Machines and Declaring an Emergency.

Mayor Thalhofer read the Ordinance title, closed the City Council meeting and opened the Public Hearing.

Allen stated this is proposed revisions to the current business license regulations. The changes are summarized in the memo that was included in your packet. The two significant changes are; 1) to replace the Chief of Police as the initial decision maker on business license decisions thereby allowing the Mayor to participate in the appeal process as a member of the Council; 2) to specify that the computerized criminal history information will be used in evaluating and making decisions on business licenses. Beyond that there are some changes to application and appeal fees, late fees and other housekeeping type amendments but those are the significant changes.

Mayor Thalhofer stated this was at my request due to the fact that we had a situation not to long ago where an appeal was made to the City Council because I had signed a letter denying a business license and I had to excuse myself from the appeal hearing. Now the Chief will sign those letters and the Mayor will not have to excuse themselves.

Mayor Thalhofer asked if there was anyone here who would like to speak to us on this issue?

No public testimony received.

Mayor Thalhofer closed the Public Hearing and reconvened the City Council meeting at 10.06pm and stated that a second hearing will be held on February 22nd.

9. COUNCIL CONCERNS AND INITIATIVES

Mayor Thalhoffer called this item and stated I am on the Standing Committee for the League of Oregon Cities and I attended a meeting on January 28th where we discussed judicial review and study of public right-of-way, funding for 911 and legislative issues for 2001 legislation. Franchise fee is one of the main issues that we will be pursuing. I also attended a meeting in Gresham last week for the Center for Advanced Learning which is the charter school proposal by three school districts, Gresham, Barlow and Centennial. We held a 4 Mayor's meeting last Friday at the new Fairview City Hall. The Reynolds Education Foundation on February 25th at 5:30pm at the Briarwood Inn is holding an art auction as a fund raiser.

Councilor Kight stated last Monday I attended the East Multnomah County Transportation meeting. One of the two issues had to do with the service issue from Tri-Met and the one that speaks specifically to people living in Troutdale is service increase for line 26 which runs on Stark. On Saturday and Sunday they are going to have buses that run every 30 minutes during the day instead of every 60 minutes and the night buses will now run until 10pm. On line 80 on Kane Road on Saturday and Sunday they are going to start new daytime service which will run every 60 minutes. The Association of Oregon Counties is asking for the cities in East County to support Resolution #99, Transportation Funding legislation for the \$600,000,000 bond issue that will be coming before the voters in May. In East County, of the \$189,000,000 for Region I, we will be receiving, unfortunately only 1.4% of the funds out of the bond measure.

Councilor Daoust stated this coming Friday I will be attending a training session on improving performance measures in your budget process. I am very please that when I pull out of the Safeway parking lot now, I don't have to stare at that huge electrical box to the right that was blocking my view on Cherry Park Road traffic. I don't know how that happened, do we have staff to thank for that?

Mayor Thalhoffer replied yes.

Councilor Daoust stated thank you for that. I will also be volunteering for the Reynolds Education Art Auction and I will also volunteer for the Mt. Hood Community College Foundation auction.


Councilor Ripma stated last Saturday there was a gathering of people interested in the Lewis and Clark Bicentennial coming up in 2005. It was sponsored by the Oregon Historical Society and held at Lewis and Clark College, the group is called Lewis and Clark 2005, Inc. The purpose is to come up with ideas for commemorating the bicentennial of Lewis and Clark in 2005. Of the various camping sites and stopping points along the Columbia River where Lewis and Clark stopped as they moved west and east, one of the places they spent a lot of time is right here at the mouth of the Sandy River. They would camp at Washougal across the river and came over and hunted. The exciting thing is that land was identified by many speakers as still being the way it used to look, there are not many places along the Columbia that have a feel of what the land might have looked like in those days. Troutdale promises to be a major feature of the bicentennial. The Troutdale Historical Society is planning on having a display of the days that they spent in the Troutdale area because it actually does appear in their journals. Probably the most interesting idea that came up was the draining behind The Dalles dam low enough to have Celilo Falls re-emerge for perhaps a week. Apparently it can be done and it would only take a week to drain the reservoir.

10. ADJOURNMENT

MOTION: Councilor Thompson moved to adjourn the meeting. Councilor Ripma seconded the motion.

**YEAS: 7
NAYS: 0
ABSTAINED: 0**

Meeting was adjourned at 10:23pm.


Paul Thalhofer, Mayor

Dated: 3-17-2000

ATTEST:


Debbie Stickney, City Recorder

CITY OF TROUTDALE PUBLIC ATTENDANCE RECORD

February 8, 2000
CITY COUNCIL REGULAR MEETING

PLEASE COMPLETE THE FOLLOWING

NAME <small>(please print)</small>	ADDRESS	PHONE #
Jim Galloway	City Hall	665-5175
Rick Faith	" "	" "
Mark Berrest	Police Dept	665-5175
Joe El Khal	4117 SW 5 th Dr Gresham	665-6540
WAJAH HADDAD	2145 SW 19 th ST GRESHAM	666 9062
AZIZ HADDAD	SAME	SAME
TIM STEENBERGEN	TROOP 174	492-0325

CITY OF TROUTDALE PUBLIC COMMENT SIGN-IN SHEET

February 8, 2000
CITY COUNCIL REGULAR MEETING

PLEASE COMPLETE THE FOLLOWING

PRINT NAME <small>Ⓜ Ⓜ (please print) Ⓜ Ⓜ</small>	ADDRESS	PHONE #
Daniel Oldham	PO Box 524 Gresham 97030	257-4196
Lynn J. Harris	PO Box 20791, Milwaukie 97269	513-9561