

OFFICE OF THE CITY MANAGER

COUNCIL AGENDA

AGENDA

REGULAR CITY COUNCIL MEETING

January 11, 2010

5:30 p.m.

CITY HALL COUNCIL CHAMBER
313 COURT STREET
THE DALLES, OREGON

1. CALL TO ORDER
2. ROLL CALL OF COUNCIL
3. PLEDGE OF ALLEGIANCE
4. APPROVAL OF AGENDA
5. PRESENTATIONS/PROCLAMATIONS
 - A. Update from Jerry Tanquist Regarding Local Efforts to Provide Emergency Housing to the Homeless During Extreme Low Temperatures

6. AUDIENCE PARTICIPATION

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

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

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

- A. Approval of December 14, 2009 Regular City Council Meeting Minutes

OFFICE OF THE CITY MANAGER

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- B Approval of December 2, 2009 Special City Council Meeting Minutes
- C Approval of December 18, 2009 Special City Council Meeting Minutes

11 PUBLIC HEARINGS

- A. Public Hearing to Receive Testimony Regarding Proposed Annexation of Properties Located in the Urban Growth Boundary [**Agenda Staff Report #10-002**]

12. CONTRACT REVIEW BOARD ACTIONS

- A. Approval of Amendment to Contract with HDJ for Construction Management of the East Gateway Project [**Agenda Staff Report #10-003**]

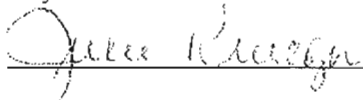
13. ACTION ITEMS

- A. Deliberation for Decision Concerning Remand of Decision Approving Site Plan #379-08 for the Construction of a Wal-Mart Store [**Agenda Staff Report #10-004**]
 - 1 Consideration of Resolution No. 10-001 Affirming the City Council's Approval of Site Plan #379-08 for Pacland, to Develop Lot #2 of Subdivision #62-08, With a 150,000 Square Foot Building, Parking, Landscaping and Utilities for a Wal-Mart Retail Store
- B. Resolution No. 10-002 Amending Certain Provisions of the Revised Exempt Employee Handbook Concerning Personnel Policies, Records, and Compliance With the 2008 Federal Genetic Information Nondiscrimination Act and Senate Bill 928 [**Agenda Staff Report #10-001**]
- C. Request by Mid Columbia Medical Center for a Waiver of Systems Development Charges for Expansion of the Celilo Cancer Center [**Agenda Staff Report #10-005**]

14 ADJOURNMENT

This meeting conducted in a handicap accessible room.

Prepared by/
Julie Krueger, MMC
City Clerk



**CITY of THE DALLES**

313 COURT STREET
THE DALLES, OREGON 97058

(541) 296-5481

AGENDA STAFF REPORT

CITY OF THE DALLES

MEETING DATE	AGENDA LOCATION	AGENDA REPORT #
January 11, 2010	Consent Agenda 10, A- C	N/A

TO: Honorable Mayor and City Council

FROM: Julie Krueger, MMC, City Clerk

THRU: Nolan K. Young, City Manager

DATE: December 29, 2009

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

A. ITEM: Approval of December 14, 2009 Regular City Council Meeting Minutes.

BUDGET IMPLICATIONS: None.

SYNOPSIS: The minutes of the December 14, 2009 regular City Council meeting have been prepared and are submitted for review and approval.

RECOMMENDATION: That City Council review and approve the minutes of the December 14, 2009 regular City Council meeting.

B. ITEM: Approval of December 2, 2009 Special City Council Meeting Minutes.

BUDGET IMPLICATIONS: None.

SYNOPSIS: The minutes of the December 2, 2009 special City Council meeting have been prepared and are submitted for review and approval.

RECOMMENDATION: That the City Council review and approve the minutes of the December 2, 2009 special City Council meeting.

- C. **ITEM:** Approval of the December 18, 2009 Special City Council Meeting Minutes.

BUDGET IMPLICATIONS: None.

SYNOPSIS: The minutes of the December 18, 2009 special City Council meeting have been prepared and are submitted for review and approval.

RECOMMENDATION: That City Council review and approve the minutes of the December 18, 2009 special City Council meeting.

MINUTES

REGULAR COUNCIL MEETING
OF
DECEMBER 14, 2009
5:30 P.M.
WASCO COUNTY COURTHOUSE
THE DALLES, OREGON

PRESIDING: Mayor Nikki Lesich

COUNCIL PRESENT: Bill Dick, Carolyn Wood, Jim Wilcox, Dan Spatz, Brian Abier

COUNCIL ABSENT: None

STAFF PRESENT: City Manager Nolan Young, City Attorney Gene Parker, City Clerk Julie Krueger, Senior Planner Dick Gassman, Police Chief Jay Waterbury, Administrative Intern Jared Cobb, Engineer Dale McCabe, Community Development Director Dan Durow, Police Captain Ed Goodman

CALL TO ORDER

Mayor Lesich called the meeting to order at 5:32 p.m.

ROLL CALL

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

PLEDGE OF ALLEGIANCE

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

APPROVAL OF AGENDA

Mayor Lesich asked the City Council to add an item to the Consent Agenda to authorize the City Clerk to endorse an OLCC New Outlet application for Walgreen's. It was moved by Wood and seconded by Wilcox to approve the agenda as amended. The motion carried unanimously.

AUDIENCE PARTICIPATION

Corrine Stewart, Mid Columbia Community Action Council, read a proposed proclamation into the record to declare December 21, 2009 as Homeless Persons' Memorial Day. Mayor Lesich asked the City Clerk to prepare an official proclamation for her signature.

John Nelson, 524 West Third Place, The Dalles, said he had listened to the audio recording of the November 23rd Council meeting and said if the Council wanted to foster an open government and persuade citizens to be more involved, the City Council should make amendments to the Comprehensive Plan to help guide processes. He said more directive language was needed and language should be included to promote small businesses as opposed to large chain stores. He asked the Council not to make judgmental statements about comments received from citizens.

Mr. Nelson asked the City Council to ensure they have full information before making decisions and encouraged the Council to establish a citizen committee to work on Comprehensive Plan amendments.

Councilor Wilcox said he believed the Comprehensive Plan update was in the beginning phases and expected there would be many opportunities for public input.

City Manager Young said the current proposed amendments to the Comprehensive Plan were specific in nature, and said there would be opportunities for public input during the periodic review process.

Steve Kelsey, 3850 Knob Hill Road, The Dalles, said the City should tell the citizens about any specific incentives offered to bring businesses to the community.

CITY MANAGER REPORT

City Manager Young reported on various grants which were in the process of being submitted for projects and said the Administrative Intern position was ending on December 18th

Young said with some adjustments to access for the upper elevation reservoir project, an amendment to the contract with Kennedy Jenks needed to be approved in the amount of \$147,283 to pay for additional engineering costs.

It was moved by Dick and seconded by Spatz to authorize an amendment to the contract with Kennedy Jenks in the amount of \$147,283 to pay for additional engineering services. The motion carried unanimously.

CITY ATTORNEY REPORT

None.

CITY COUNCIL REPORTS

Councilor Wilcox said the Airport Board would not be meeting in December.

Councilor Spatz thanked Chris Zukin of Meadow Outdoor Advertising for his donation of billboard advertising for the Discovery Center.

CONSENT AGENDA

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

Items approved by Consent Agenda were: 1) approval of November 23, 2009 regular City Council meeting minutes; 2) approval of November 16, 2009 special City Council meeting minutes; 3) approval of November 16, 2009 Town Hall meeting minutes; 4) Resolution No. 09-036 adopting a policy for use of electronic messages and retention of such messages for the City Council; 5) Resolution No. 09-039 concurring with the Mayor's appointment of Dennis Davis to the Historic Landmarks Commission; and 6) authorization for City Clerk to endorse an OLCC New Outlet application for Walgreen's.

PUBLIC HEARINGS

Public Hearing to Receive Testimony Regarding Remand of Approval for Site Plan #379-08 of Pacland for the Construction of a Wal-Mart Store

Mayor Lesich reviewed the procedures to be followed for the public hearing. She asked if any Councilor wished to declare bias, ex parte contact or conflict of interest. Hearing none, she asked if there was anyone in the audience who wished to challenge the qualifications of any of the Councilors. Hearing no challenges, the public hearing was opened.

City Attorney Parker reviewed the staff report. He said the Council had determined that the applicant would be allowed to present new evidence as set forth in their request to proceed with the remand and had determined that interested parties would be allowed to testify regarding any new evidence related to the 30th highest hour volume. Parker said the Council had also

determined it would allow interested parties an opportunity to present testimony and evidence related to the 30th highest hour volume using Saturday as the weekend day for purposes of calculation.

Parker reviewed the scope of issues to be considered, including whether the City's findings were sufficient to explain why traffic counts taken on a weekday satisfied the requirement to measure volumes for traffic and whether additional traffic counts taken on a weekend day would be necessary in order to reach an accurate conclusion regarding the proposed development.

Parker mentioned the memorandum from DKS Associates, saying it contained detailed analysis of additional facts to support the evidence in the record regarding traffic volume and included the process used to be in compliance with Oregon Department of Transportation (ODOT) requirements.

Senior Planner Dick Gassman provided copies of one written testimony received by email (attached as Exhibit "A"), in support of the applicant. Gassman also provided a letter with attachments from Kenneth Helm, 16289 NW Mission Oaks Drive, Beaverton, Oregon, representing the Citizens for Responsible Development in The Dalles (attached as Exhibit "B"). Senior Planner provided a letter from ODOT regarding the additional traffic analysis in response to the LUBA remand (attached as Exhibit "C").

Gassman said staff consulted with experts on issues such as traffic and the applicant had also relied on experts to develop their proposal. He said the information had also been reviewed by ODOT and had been prepared properly. Mr. Gassman provided a memorandum from the City Engineer (attached as Exhibit "D") regarding the City's policy for traffic impact studies.

City Engineer Dale McCabe said the City's policy regarding traffic impact studies included guidelines and that Wasco County and ODOT had also included their requirements before the study was completed. He said the study was developed correctly and appropriately to meet the standards of the City, County, and State.

Applicant Testimony

Greg Hathaway, Davis Wright Tremaine, 1300 SW Fifth Avenue, Suite 200, Portland, Oregon, representing Wal-Mart, testified that the opponents of this application had asserted that the City did not follow the law, but through the Land Use Board of Appeals (LUBA) the City's decision had been upheld with only one issue being remanded for additional findings. He said the issue of the 30th highest hour traffic volume would be addressed by Project Engineer Scott Mansur of DKS Associates.

Mr. Hathaway said the applicant was confident that the measurement was correct, using the Tuesday afternoon data, but to ensure there were no further questions or appeals regarding the information, the applicant had also prepared calculations using Sunday afternoon data as mentioned in the remand. Hathaway said the opponent had argued that Tuesday data was not correct and that Sunday data should be used, so the applicant had prepared additional information based on Sunday counts.

Hathaway reminded the Council that LUBA had not said the City's decision had been unlawful, only that they did not provide adequate findings to support the Tuesday data being used. He said the remand by LUBA had suggested the Sunday data be addressed as requested in the opponent's testimony, but that it was not mandated.

Hathaway testified that the data had been carefully reviewed and it had been concluded that the 30th highest hour of volume was a Tuesday afternoon in July. He said the prior conditions of approval imposed on the application did mitigate any development impact on the Chenoweth Interchanges and that Wal-Mart would make financial assurances so when signalization was warranted, it would be paid for. Hathaway said Sunday traffic counts were taken in October and were seasonally adjusted according to ODOT regulations to develop the new data and it was determined that Tuesday did have a higher traffic impact. Hathaway said at the November 23rd Council meeting, the opponents raised the issue of using Saturday as the 30th highest hour volume. He said the request would be addressed, but that Saturday was not the 30th highest hour.

Scott Mansur, DKS Associates, 1400 SW Fifth Avenue, Portland, Oregon, provided a Power Point presentation (attached as Exhibit "E"), which described analysis and mitigations for the proposed Wal-Mart and additional shopping center area for the transportation impact study. He described ODOT procedures to determine 30th highest hour and a detailed outline of the process used, according to ODOT Procedures Manual, to determine the appropriate 30th highest hour volumes.

Mr. Mansur summarized the presentation by saying the 30th highest hour of Chenoweth Interchange was a weekday p.m. peak hour, that ODOT and the City staff concurred, that no mitigation was required in 2010, and that mitigation measures imposed through the conditions of approval in Resolution No. 09-013 were adequate to mitigate traffic impact through the year 2027.

Mansur testified that the 30th highest hour at Rowena automatic traffic counter (ATR) was not considered the same as the 30th highest hour of Chenoweth Interchange ramp terminals, but that they had conducted additional traffic counts and analyzed traffic impacts based on Sunday data. He said a seasonal adjustment had been included for the Sunday date because the counts had been taken in October; new trip generation estimates corresponded to Sunday peak hour and the

same assumption used for the traffic impact study, such as trip distribution and routing, yearly growth rate and analysis years, had been used for the Sunday analysis. Mansur said these assumptions had been approved by ODOT and the City.

Mansur said the weekday afternoon peak hour traffic volume was 3.5% higher than Sunday peak hour volumes, that operating conditions were worse during the weekday peak hour and that identified mitigations would allow the Chenoweth Interchange to meet operating standards for both Sunday and weekday peak hours.

Regarding Saturday traffic, Mr. Mansur noted the Saturday peak hours in July were 25% lower than the 30th highest hour to measure project impacts. He said because there was no correlation between Saturday and the 30th highest hour, it should not be used in an analysis.

Greg Hathaway said the applicant had been very careful to be responsive and ensure the City Council was comfortable with their decisions. He said the conditions currently imposed on the Site Plan application did mitigate traffic impacts and asked the City Council to adopt the staff recommendation.

Councilor Wilcox asked if the primary difference between the applicant's and opponent's traffic studies was that the opponent's traffic engineer did not follow the ODOT procedures when it came to the determination that the ATR trend was within 10% of the Chenoweth Interchange average daily traffic. He said if that was the major difference, he questioned whether the opponent's analysis performed by Greenlight could be defended.

Proponent's Testimony

Anthony Rizzi, 922 Verdant Street, The Dalles, Oregon, said he was not a traffic expert but had project engineering experience. He urged the City Council to trust their staff to provide them with accurate information and to not allow a minority of citizens stop the project.

Clint Johnson, 1611 Lambert Street, The Dalles, said he believed the intersection could handle the expected traffic, urged the City Council to trust the information provided by staff and the applicant and to support the application.

Mark McCavic, 5277 Cherry Heights Road, The Dalles, speaking on behalf of WM3, urged the City Council to follow the staff recommendation and approve the information submitted by the applicant.

Opponent Testimony

City Attorney Parker reminded the Council that a letter with attachments had been provided at the beginning of the hearing from Mr. Kenneth Helm, representing the Citizens for Responsible Development in The Dalles.

John Nelson, 524 West Third Place, The Dalles, reiterated that a letter in opposition had been submitted from Mr. Helm. He said a petition with at least 49 signatures had also been submitted. He asked that the record be held open for an additional seven days to allow for additional written testimony to be presented.

Senior Planner Gassman said staff had received a petition, but it was unrelated to the issues for this hearing and was not forwarded to the City Council.

Mr. Nelson asked the City Council to read the traffic report from Greenlight, which had been submitted with Mr. Helm's letter and asked them not to accept the DKS analysis without also considering the information provided by Greenlight.

Councilor Ahier asked if Mr. Nelson believed there was more traffic in the area of the interchange on a Sunday, compared to a weekday. Mr. Nelson said he was unable to answer that question because he didn't use the interchange on a regular basis.

Ahier said it was his understanding that the opponent's traffic engineer believed the traffic counts to be higher on a Sunday compared to a weekday. He said the applicant's traffic engineer had provided an analysis for Sunday traffic and had found it was lower than a weekday count. Ahier said he had read the summary provided by Greenlight and the points were not convincing.

Councilor Wilcox said the memorandum from ODOT indicated that DKS had followed correct methods and procedures to make their analysis. He said Greenlight had not appeared to use the correct methodology in their report.

Glenn Hantelman, 405 West 14th Street, The Dalles, expressed concern for public safety, saying incorrect traffic information would lead to increased accidents. He said there would be heavy congestion because of large trucks mixing with public use of the area. Mr. Hantelman said drive times for the area would be increased and asked that the Council not use the 30th highest hour as a standard.

Susan Harris, 1407 East 21st Street, The Dalles, said she was concerned about traffic safety and asked that everyone be treated with dignity.

Terri Coppedge, 307 West Sixth Street, The Dalles, expressed concern regarding pedestrian and bike access.

City Attorney Parker said that issue was not related to the criteria for this hearing. City Manager Young said pedestrian and bike issues had been addressed at a previous hearing.

Steve Kelsey, 3850 Knob Hill Road, The Dalles, said he agreed with the data collected from the Rowena ATR but assumed none of that traffic was currently exiting at the Chenoweth Interchange. He said it was important to consider the future traffic problems. He asked the City Council to take their time in making a decision and urged them to abstain from voting until they had more information.

Eric Gleason, 714 Case Street, The Dalles, said the DKS report appeared to discount use of the Rowena ATR, then use that data in calculations for the Sunday traffic counts. He said it seemed to be inconsistent.

Applicant Rebuttal

Greg Hathaway said City staff, ODOT, the Planning Commission and City Council had all carefully evaluated the information, followed by review by LUBA. He said all other traffic issues had been deemed to be complied with and this remand was only to ask the City to provide additional findings regarding the 30th highest hour calculations. He said to help justify the traffic information, the traffic engineer had performed an additional study based on the opponent's statement that a Sunday afternoon was the 30th highest hour. He said it had been found to have less traffic impact than a Tuesday afternoon hour.

Hathaway said the letter and report submitted by the opponent had been submitted late, but he had been able to read portions of it. Hathaway said the report submitted by the opponent was not credible and that he was disturbed by one sentence in particular which stated that Greenlight had never contended that Sunday or Saturday was the 30th highest hour, but that the Tuesday hour chosen for analysis was not the 30th highest hour. Mr. Hathaway said the report submitted by Greenlight, dated February 6, 2009, page 4, did say that Sunday, July 29, 2007 was the 30th highest hour. He said this was restated in the LUBA opinion on page 10, saying that Greenlight had suggested Sunday should be used as the 30th highest hour.

Mr. Hathaway said the applicant supported keeping the record open to ensure a complete record was established. He asked for an additional seven days and a closing time for rebuttal of written presentations.

Hathaway said the last paragraph of Mr. Helm's letter again asked for consideration of wetlands issues which were not part of the scope of the remand hearing.

Hearing no further testimony, the public hearing was closed.

Council Deliberation

It was moved by Wood and seconded by Dick to keep the record open for seven days to allow for additional written evidence or testimony, as requested by both the opponent and applicant.

City Attorney Parker said the City Council could continue deliberations at the January 11, 2010 meeting, reviewing any written information that was submitted, but no additional testimony would be allowed.

The motion to keep the record open for seven days to allow for additional written evidence or testimony, as requested by both the opponent and applicant carried; Ahier and Wilcox voting no.

Recess

Mayor Lesich called a recess at 7:52 p.m.

Reconvene

The meeting reconvened at 7:58 p.m.

ACTION ITEMS

Resolution No. 09-037 Adopting a Supplemental Budget for Fiscal Year 2009-10, Making Appropriations and Authorizing Expenditures From and Within the General Fund, Sewer Special Reserve Fund, Capital Projects Fund and Special Grants Fund

City Manager Young reviewed the staff report.

It was moved by Wilcox and seconded by Wood to adopt Resolution No. 09-037 adopting a supplemental budget for fiscal year 2009-10, making appropriations and authorizing expenditures from and within the General Fund, Sewer Special Reserve Fund, Capital Projects Fund and Special Grants Fund. The motion carried unanimously.

MINUTES (Continued)
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December 14, 2009
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Resolution No. 09-038 Authorizing Transfers of Budget Funds Between Departments and Categories of the Sewer Reserve Fund for the Fiscal Year Ending June 30, 2010

City Manager Young reviewed the staff report. It was noted that the word sewer should be changed to water.

It was moved by Wood and seconded by Spatz to adopt Resolution No. 09-038 authorizing transfers of budget funds between departments and categories of the Water Reserve Fund for the fiscal year ending June 30, 2010, with the word sewer being changed to water. The motion carried unanimously.

ADJOURNMENT

Being no further business, the meeting adjourned at 8:03 p.m.

Submitted by/
Julie Krueger, MMC
City Clerk

SIGNED:

Nikki L. Lesich, Mayor

ATTEST:

Julie Krueger, MMC, City Clerk

Richard Gassman

From: Izetta F. Grossman
Sent: Monday, December 14, 2009 8:15 AM
To: Nolan Young; Gene Parker; Richard Gassman
Subject: FW: walmart

Izetta Grossman
Executive Secretary
City Manager's Office
City of The Dalles
313 Court St
The Dalles, OR 97058
541-296-5481 Ext 1119
541-296-6906 Fax

From: pezzeti@netzero.net [mailto:pezzeti@netzero.net]
Sent: Friday, December 11, 2009 10:09 PM
To: Izetta F. Grossman
Subject: walmart

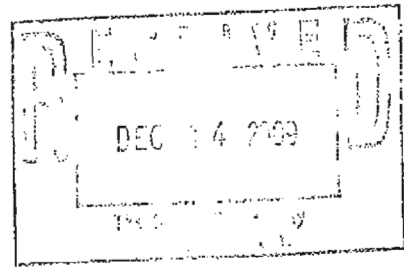
we want walmart in the dalles--we need the store and the job's--if i understand it right --the traffic study for walmart has been done, and it satisfies--the city of the dalles and--odot's requirements--If this is true--STOP THE FIGHT AND GET STARTED ON THE STORE!--no one seemed to care when safeway and fredmeyer got larger and put the local drug store's out--who cared when home depo came in ? we all thought it would kill Sawyer's down town--but they added on to the store and are doing just fine--the reason sawyer's are still there is--they treat customers great--lets get on with it--john

Investing

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KENNETH D. HELM
ATTORNEY AT LAW

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VIA E-MAIL AND MAIL DELIVERY

Mr. Gene Parker
City Attorney
313 Court Street
The Dalles, OR 97058

December 14, 2009

Re: LUBA Remand of SPR 379-08 – December 2, 2009, DKS “Wal-Mart: Additional Traffic Analysis for LUBA Remand.”

Mr. Parker:

As you know, I represent Citizens for Responsible Development in The Dalles. We have reviewed Wal-Mart’s traffic analysis submitted in response to the city council’s direction on LUBA’s remand of application SPR 379-08. Attached is a review of the DKS analysis by Greenlight Engineering. Please enter both the Greenlight Engineering document and this letter into the record in this proceeding.

The reason the city’s approval was remanded by LUBA is that the board found the city’s findings did not adequately respond to CRD’s evidence that showed Wal-Mart had not used the correct traffic counts for the 30th highest hour in calculating the impacts of the Wal-Mart store on the volume to capacity ratio of the Chenoweth Interchange. The additional information submitted by DKS in its December 2, 2009 document does nothing to change that.

The analysis by Greenlight Engineering shows that Wal-Mart’s application continues to fail to demonstrate that the .75 volume to capacity ratio at the Chenoweth Interchange will be met. The DKS analysis lacks substantial evidence to support their choice for the 30th highest hour. The Sunday counts used by DKS essentially prove that the 30th highest hour times that they have chosen are far too low. Greenlight’s analysis shows that even using the conservative 37th highest would increase the trip volume by approximately 1000 vehicle trips over what Wal-Mart has used. Thus, the DKS document cannot be the basis for amended findings complying with LUBA’s order.

Remember that based on the 2007 DKS study and using DKS’s preferred 30th highest hour estimates, the Chenoweth Interchange is only expected to function at a .72 V/C ratio.

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Exhibit “B”
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Even the slightest increase in the 30th highest hour trip estimates is likely to push that V/C ratio past .75 which will result in a violation of the settlement agreement between ODOT and the city. Based on the current DKS analysis, the city cannot logically adopt findings which can comply with LUBA's remand. This is true at least in part because the Greenlight analysis so significantly calls into question, if not completely undercuts, the reasoning and evidence relied upon in DKS's December 2, 2009 submission.

CRD's suggestion and request is that the city council require Wal-Mart to conduct its own traffic counts at the appropriate time of year, in this case July, to determine with certainty, the correct 30th highest hour, and based on those counts recalculate the V/C ratio for the Chenoweth Interchange so that the city council can adequately determine whether the V/C ratio of .75 can be complied with. As the Greenlight analysis points out, Wal-Mart had the opportunity to do such counts in 2007 and 2008 and opted not to do so.

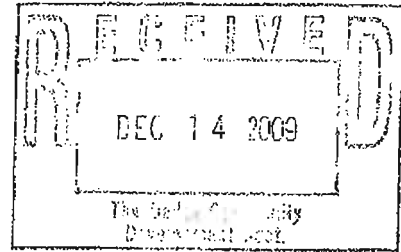
As a final matter, CRD continues to object to the city council's refusal to examine new information related to the wetlands on the Wal-Mart site. Wal-Mart's own information shows that dozens of additional wetlands have been discovered on the subject property and the area Wal-Mart intends to build upon. This fact has the potential to affect both the city council's former subdivision approval 62-08, and site plan approval in 379-09, in that roads, parking lots, utilities and other aspects of the development may need to be moved in order to accommodate the wetlands. The question of how the wetlands will be mitigated is also unresolved. It is CRD's position that these changes will require new public hearings and review of any changes to the subdivision or site plan approvals.

Thank you for the opportunity to comment.



Ken Helm

GREENLIGHT ENGINEERING
TRAFFIC ENGINEERING/TRANSPORTATION PLANNING



December 11, 2009

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

RE: Wal-Mart - Response to DKS December 2, 2009 Memorandum

This memorandum responds to the December 2, 2009 memorandum submitted by DKS Associates.

Executive Summary

- The TIS has failed to collect traffic counts or provide analysis of the 30th highest hour as required by ODOT's *Analysis Procedures Manual (APM)*.
- The TIS has failed to provide substantial evidence that the chosen hour of analysis on Tuesday, July 10, 2007 is the 30th highest hour.
- Substantial evidence exists that the hour of analysis on Tuesday, July 10, 2007 is not the 30th highest hour.
- Substantial evidence exists that there were 134 weekday hours, 209 weekend or weekday PM hours in July 2007, and 1170 total hours in 2007 with a greater volume at the Rowena ATR than was chosen for analysis, which strongly suggests that the chosen hour of analysis is not the 30th highest hour.
- DKS has provided evidence that traffic on Sunday exceeds that of their chosen 30th highest hour baseline count, suggesting that their chosen count hour is not the 30th highest hour.
- The TIS has failed to provide an analysis of the 30th highest hour, as required by ODOT through the *APM*. Because the analysis is not based upon the 30th highest hour, there is no evidence to support that the study area intersections will operate with adequate v/c ratios during the 30th highest hour.
- The TIS Sunday analysis is flawed because it does not take into account the highly variable nature of the nearby recreational uses.
- The TIS fails to address weekend impacts at other ODOT intersections required for study.

Tuesday, July 10, 2007 PM Hour Chosen is not the 30th Highest Hour

The DKS memorandum contends and provides further argument that the appropriate hour for analysis, or the 30th highest hour as required by ODOT's *Analysis Procedures Manual (APM)*, occurs on Tuesday, July 10, 2007 between 4 and 6 PM.

We agree with DKS that the peak month is July and that the 30th highest hour also occurs in July at the Chenoweth interchange and also likely at the other intersections in the study area. We continue to strongly disagree with DKS that the Tuesday PM hour in July chosen for their analysis is the 30th highest hour, or even remotely approximates the 30th highest hour. There is absolutely no data in the record that provides substantial evidence that their hours of analysis are or approximate the 30th highest hour of the Chenoweth interchange or any other intersection. There is substantial

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evidence in the record that indicates that this particular Tuesday in July does not approximate the 30th highest hour. DKS provides only their opinion that their Tuesday hour of analysis is the 30th highest hour as required by ODOT's *APM*, but provides no evidence to support their finding.

DKS's conclusions are not based upon substantial evidence, do not accurately depict traffic conditions, and violate the parameters of the ODOT *APM* in that the analysis continues to not document the 30th highest hour conditions. Because the analysis does not approximate the 30th highest hour, it violates the *APM*. Because it violates the *APM* and is not based upon the 30th highest hour, there is no evidence to support that the Chenoweth Interchange or 6th Street Interchange will operate with acceptable v/c ratios and that the appropriate mitigation and the timing of that mitigation has been identified. There is no evidence to support that the study intersections can operate adequately during the 30th highest hour because this hour has never been analyzed.

The DKS memorandum provides two key arguments that the weekday PM peak hour in July is the 30th highest hour. DKS argues that because "[t]he primary land uses surrounding the Chenoweth Interchange are industrial and residential...and...are primarily influenced by local traffic trends consisting of city residents and local employees who work, live and/or shop in The Dalles..." and because "[t]he Chenoweth Interchange entrance and exit ramps are not part of a key route to a prime recreational or tourist area, and while there are some nearby recreational amenities...(e.g., Columbia Gorge Discovery Center, the Dalles Riverfront Trail, and the Dalles Country Club), these are minor traffic generators", that the 30th highest hour occurs on Tuesday, July 10, 2007 or at least closely relates to the 30th highest hour. Both of these arguments are not supported by substantial evidence and lack any supporting data.

While it is true that some of the land uses surrounding the Chenoweth interchange are industrial and residential, commercial uses exist just as near to the interchange as do industrial or residential uses. Significant commercial uses exist between the Chenoweth interchange and the 6th Street interchange to the south such that certainly many drivers destined for businesses on 6th Street may find the Chenoweth interchange more attractive due to decreased travel time and distance.

Additionally, traffic volumes at the Chenoweth interchange indicate, as DKS puts it, that "Sunday and weekday p.m. peak hour traffic volumes are very similar..." In fact, the Sunday traffic volumes are actually higher than the Tuesday, July 10th traffic volumes at two of the three intersections that were studied. The I-84 WB Ramp/River Road logically carries a higher volume of traffic on during a weekday period than a weekend due to the industrial uses to the north of the interchange. A comparison of these traffic volumes are provided in Table 1 and the figures below.

Table 1. Entering Volume at Intersections Reported by DKS Associates

Intersection	Dates		Sunday Higher Volume?
	Tuesday, July 10, 2007	Sunday, October 25, 2009	
River Rd/6th Street	574	621	Yes
I-84 EB Ramp/River Rd	521	543	Yes
I-84 WB Ramp/River Rd	322	271	No

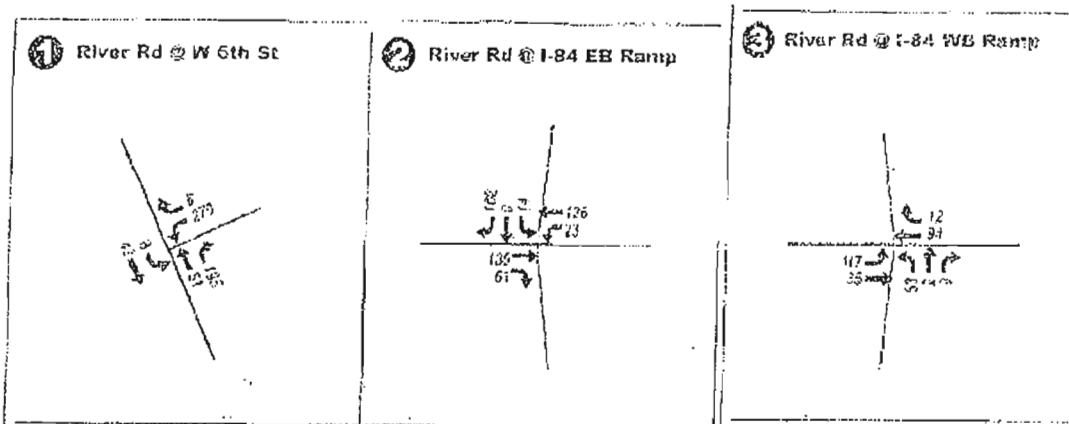


Figure 1: 2007 Existing weekday PM Traffic Volumes (Tuesday, July 10, 2007) from DKS September 2007 TIS

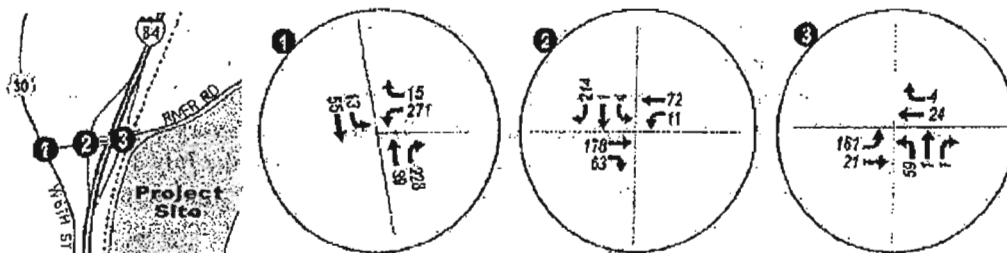


Figure 2: 2009 Existing Seasonally Factored Sunday Peak Traffic Volumes (October 25, 2009) from DKS December 2, 2009 memorandum

This result, while not surprising to us, provides evidence of higher traffic volumes on a Sunday than during DKS's purported 30th highest hour. Certainly this would not be expected if solely industrial and residential uses were dominant at this interchange, as residential and industrial uses both generate far fewer traffic on Sundays than weekday PM peak hours¹.

What is interesting here is that DKS conducted counts on Sunday, October 25, 2009 and Tuesday, July 10, 2007 and found that, seasonally adjusted, traffic is higher at two of the three study intersections on Sunday than on their purported 30th highest hour. While Wal-Mart generates less traffic on a Sunday than it does during a weekday PM peak hour, what does this say about their contention that they have correctly chosen the 30th highest hour. Their baseline traffic condition, supposedly based upon the 30th highest hour, is refuted with just one Sunday traffic count? What if other analysis hours were evaluated, such as a Saturday in July (when Wal-Mart would generate the most traffic) or during the various other weekday hours in July that have a much higher volume at the Rowena ATR than do the hours analyzed on Tuesday, July 10, 2007. What if Saturday traffic mirrors that of Sunday traffic? There is no evidence to suggest that it doesn't. It seems blatantly clear that there could be many hours that would better approximate the 30th highest hour

¹ ITE Trip Generation, 8th edition, Single-Family Detached housing generates an average of 9.57 trips per dwelling unit on weekdays and 8.78 trips per dwelling unit on Sundays while Light Industrial uses generate an average of 6.97 trips per 1000 square feet on a weekday and 0.68

based on this new information as well as the mountain of ATR data that suggests that during their analysis hour, there is far less traffic in the area than other hours.

Additionally, what about at other intersections within the City, such as at the 6th Street Interchange? Are volumes also higher there on Sunday than the chosen hour? Would the same be true on a Saturday or during various other weekday PM hours?

These are all questions that DKS and the City cannot answer because they do not have the necessary data to answer them.

Based upon this information, it would seem that the Chenoweth interchange experiences a different mix than primarily residential and industrial traffic than claimed, although not supported by data, by DKS. These facts refute one of the two key arguments raised by DKS that "local trends" of residential and industrial traffic result in the conclusion that the appropriate 30th highest hour is the Tuesday PM hour in July as chosen for their analysis.

There is simply no evidence to support that traffic volumes of the chosen Tuesday PM hour in July is the 30th highest hour or even remotely approximates this hour. It is an undisputed fact that Wal-Mart's peak hour will occur on Saturday. There is a very high possibility, if not likelihood, that if a seasonally adjusted Sunday traffic volumes as reported in the DKS memo yield very similar traffic volumes (with several movements actually higher in traffic volume) than the July Tuesday PM hour, then a Saturday analysis in July, a Sunday analysis in July, or any of the hundreds of other hours that exceed the Tuesday analysis hour ATR volume could produce interchange volumes in excess of that of the Tuesday July PM hour chosen for analysis.

The DKS memorandum says this about step 3 of Figure 4-1 Process for Development of 30th Highest Hour Volumes of the APM:

"The purpose of this step is to determine both the peak month of the year and peak hour of the week, where are the two separate trends that must be considered when determining the appropriate time period to use for the 30th HV."

The DKS memorandum says this about note 2 of Figure 4-1 Process for Development of 30th Highest Hour Volumes of the APM:

"[t]he purpose of Note 2 in Figure 1 is to help determine whether the peak hour of the week occurs on a weekday or weekend. On one end of the spectrum are large urban areas (e.g., Portland, Salem, Eugene, Redmond, Bend) where local traffic (especially commuters) and the associated weekday p.m. peak hour volumes are the most significant. On the other side of the spectrum are recreational areas (e.g., Mt. Hood, Black Butte, Sunriver, the Oregon coast) where tourists and recreational users are the most significant. The Chenoweth Interchange ramp terminals fall somewhere in the middle of this spectrum. Two main findings support the conclusion that the Chenoweth Interchange has trends that are more closely associated with a large urban area, thereby resulting in use of the weekday p.m. peak hour as the appropriate peak hour of the week..."

DKS's states that this interchange "fall somewhere in the middle of this spectrum" between a "large urban area" and a "recreational area". We concur with this conclusion that The Dalles traffic patterns do not fit neatly into "large urban area" that would likely lead one to conclude that

the weekday PM peak hour approximates the 30th highest hour. We also concur that The Dalles traffic patterns do not fit neatly into a "recreational area" pattern which would likely result in the analysis of just a weekend period. While we and DKS agree that The Dalles does not fit neatly into either category, DKS contends that the Tuesday in July chosen for analysis is the 30th highest hour, or is at least a close enough fit.

DKS's conclusion does not instill much confidence, due to the absence of supporting data, that the Tuesday in July chosen for analysis is better in approximating the 30th highest hour conditions than a weekend in July or any of the numerous other weekday PM hours in July. DKS's conclusion is not based upon data, but upon the speculation of their two faulty conclusions. DKS fails to supply any data or substantial evidence to support their conclusion that the Tuesday hour chosen for analysis represents the 30th highest hour or approximate 30th highest hour than July weekend hours (with Wal-Mart generating the most traffic on Saturday) with higher area volume or any other weekday PM hour in July.

DKS argues that the weekday PM peak hour is the equivalent of the 30th highest hour and how traffic volumes on a Sunday at the Chenoweth interchange would not yield results equivalent to the 30th highest hour, DKS states that "the Sunday and weekday p.m. peak hour volumes are very similar. . . ." The DKS traffic count data proves that seasonally adjusted Sunday traffic, well off-peak from peak I-84 traffic volumes and likely off-peak for tourism in The Dalles, traffic volumes are actually higher on a Sunday peak hour. It is important to note that **Greenlight Engineering has never contended that Sunday or Saturday is the 30th highest peak hour, but that the Tuesday PM hour chosen for analysis is not the 30th highest hour.**

It has been well established that July is the peak month and that the hours chosen for analysis occurred on Tuesday, July 10, 2007. It has also been well established that the hours chosen for analysis are based upon the 1171st and 1223rd highest hours of the nearest ATR. DKS contends that because of the "local trends", the appropriate 30th highest hour is a weekday PM hour in July. What they have failed to prove is that the chosen date, the Tuesday in July chosen for analysis is the 30th highest hour as required by ODOT's *APM*. Indeed, if DKS contentions are true, that the 30th highest hour at the interchange are governed by "local trends", then substantial evidence in the record should support this finding. However, exactly the opposite is true. Substantial evidence exists that the chosen hour of analysis is not the 30th highest hour. DKS seems to conclude that since neither "large urban area" or "recreational area" fit nicely, "large urban area" should control for the two reasons they describe.

DKS provides on page 7 of their December 2, 2009 memorandum:

"Can counts be taken during the 30th HV?"

"Answer: Yes."

"Discussion: Now that the 30th HV has been determined, counts should be taken during the 30th HV (i.e. peak month and peak hour of the week)..."

We agree that counts should and could have been taken during the 30th HV. However, we do not agree that they were. It should be noted that DKS has had the opportunity to collect traffic counts during this period in July on two occasions (July 2007 and July 2008), yet has opted not to do so.

DKS concludes that "[t]herefore, the Chenoweth Interchange ramp terminals have characteristics that are more similar to a large urban area than a recreational area..." and that "[t]herefore, ODOT guidelines indicate that the 30th HV should be assumed to occur on a typical weekday during the peak month." Unfortunately, ODOT's guidelines indicate nothing of the sort. The guidelines describe how to appropriately develop 30th highest hour volumes. ODOT's *APM* states that "Experience has shown that the 30 HV in large urban areas usually occurs on a weekday during the peak month of the year," and "[t]he 30th Highest Hour Volume will likely occur during the peak month on a weekday in large urban areas and on weekends in recreational areas." There is no such statement in the *APM* that an applicant should make assumptions that an area most nearly fits a "large urban area" and should use a blanket Tuesday PM hour if an area that we and DKS agree does not fit neatly into a "large urban area" or a "recreational area", but is somewhere in the "middle of the spectrum". ODOT's *APM* does not absolve the applicant of the need to determine the 30th highest hour or direct the applicant to make assumptions regarding what the 30th highest hour might be. This would seem especially true when there is compelling evidence that suggests that the chosen analysis hour does not approximate the 30th highest hour.

As shown in Appendix A of this memorandum, in July of 2007, considering only weekday periods, there were 134 hours during weekday periods with a higher ATR traffic volume than the hours chosen for analysis. It should logically be concluded, with all other factors being equal including the residential and industrial factors ("local trends") purported by DKS, that any number of these other 134 hours could conceivably result in a higher volume at the Chenoweth interchange than the Tuesday chosen for analysis, simply because there is additional traffic in the area.

As shown in Appendix B of this memorandum, in July of 2007, there were 208 hours during weekday and weekend periods with a higher ATR traffic volume than the hours chosen for analysis. As previously established by DKS, traffic volumes at the Chenoweth Interchange can exceed that of weekday periods.

As previously shown in our February 6, 2009 memo, there are 1170 hours during 2007 with a higher ATR traffic volume than the hours chosen for analysis. As previously established by DKS, traffic volumes at the Chenoweth Interchange can exceed that of weekday periods.

Likely, during these hours, volumes are higher for precisely the reason DKS states that the Chenoweth interchange falls "somewhere in the middle of this spectrum" of a "large urban area" and a "recreational area". The fact is that volumes vary widely due to these recreational users. DKS has failed to establish that volumes don't vary widely because they have relied solely upon their Tuesday in July data (the 1171st and 1223rd ATR peak hour). Certainly, the presence of I-84 and the numerous commercial establishments and other recreational opportunities in and around The Dalles have some impact on the traffic volume at the Chenoweth interchange.

The July weekday peak hour with the highest ATR volume (Friday, July 20th, although still just the 37th highest hour of the year) had a combined hourly volume of 2471 vehicles, while the hours chosen for analysis had just 1573 and 1559 vehicles, respectively. The difference in the analysis hour versus the highest weekday PM hour is roughly 40%, or nearly 1000 vehicles traveling on I-84, possibly some using the Chenoweth interchange. This hour would seem to fall within DKS's apparent count parameters of a weekday PM hour in July. What remains unclear from DKS's

analysis is why Tuesday, July 10, 2007 was chosen (and continues to be defended) when so many other weekday PM hours as well as weekend hours (and it has been established that weekend traffic at the Chenoweth interchange can be greater on Sunday) carry such a higher volume and would logically and conceivably result in higher volumes at the Chenoweth interchange. Certainly, it would seem possible, if not likely, that the net result would be a higher reported volume at the Chenoweth interchange, greater than that reported in the DKS analysis and far closer to the actual 30th highest hour as required by ODOT's APM.

It should logically be concluded that if there significantly more traffic in the area of analysis (as is true during the various weekday PM hours depicted in Appendix A and the various weekday PM and weekend hour as depicted in Appendix B) during various other weekday PM hours or weekend hours, that traffic at the Chenoweth interchange compared to that of the hour of the analysis, that the extra area traffic would have at least a marginal, yet currently unmeasured, impact.

Flawed Sunday October 25, 2009 DKS Analysis at Chenoweth Interchange

The DKS memorandum reports that on a Sunday in October, the analysis of the Chenoweth interchange is adequate to serve the proposed development. However, because the traffic counts were taken on a Sunday at the end of October, the DKS analysis has very likely understated the impact of the various recreational traffic generators in or near the Dalles. Some of these generators are described by DKS as "minor traffic generators", a term that DKS neither defines nor quantifies.

ODOT's APM states that "[u]sing a winter count...to represent the peak summer period will likely not represent turning movements accurately, as driving patterns change in the winter compared to the summer...suppose a count was taken at a rural intersection in the winter months with one of the minor legs of the intersection serving a campground...Simply factoring for the season would still leave the turning movements too low." It should be noted that the applicant has had the opportunity to collect traffic counts during this period in July on two occasions (July 2007 and July 2008), yet has opted not to do so.

ODOT's APM also states "[v]olumes for the non-standard peak hour should be developed along with the PM peak hour volumes so that all of the volumes may be analyzed at a later date. Multiple sets of volumes may be necessary in these circumstances, which may include areas of heavy industrial, retail, or recreational uses; coastal routes; or on routes with highly directional commuter flows."

Weekend Analysis not Provided at 6th Street Interchange

The December 2, 2009 DKS memorandum has analyzed traffic flow of just three of the study area intersections, while the previous traffic impact study work analyzed several more intersections. DKS has argued that a Tuesday PM peak hour in July approximates the 30th highest hour since at the Chenoweth Interchange "[t]he primary land uses surrounding the Chenoweth Interchange are industrial and residential...". Although we have provided argument against this assessment, several of the study intersections required for analysis fit this characteristic even less than at Chenoweth. Certainly, the 6th Street exit serves primarily commercial and residential traffic, and likely carries a heavy recreational commercial traffic load (stop and go I-84 traffic). However, the

6th Street interchange did not benefit from a weekend analysis in the DKS memorandum although DKS's analysis provides evidence that Sunday traffic can be higher than weekday PM traffic. Our February 6, 2009 memorandum raised significant concerns not just regarding the Chenoweth interchange, but also of other intersections, namely the 6th Street interchange.

Conclusion

- The TIS has failed to collect traffic counts or provide analysis of the 30th highest hour as required by ODOT's *Analysis Procedures Manual (APM)*.
- The TIS has failed to provide substantial evidence that the chosen hour of analysis on Tuesday, July 10, 2007 is the 30th highest hour.
- Substantial evidence exists that the hour of analysis on Tuesday, July 10, 2007 is not the 30th highest hour.
- Substantial evidence exists that there were 134 weekday hours, 209 weekend or weekday PM hours in July 2007, and 1170 total hours in 2007 with a greater volume at the Rowena ATR than was chosen for analysis, which strongly suggests that the chosen hour of analysis is not the 30th highest hour.
- DKS has provided evidence that traffic on Sunday exceeds that of their chosen 30th highest hour baseline count, suggesting that their chosen count hour is not the 30th highest hour.
- The TIS has failed to provide an analysis of the 30th highest hour, as required by ODOT through the *APM*. Because the analysis is not based upon the 30th highest hour, there is no evidence to support that the study area intersections will operate with adequate v/c ratios during the 30th highest hour.
- The TIS Sunday analysis is flawed because it does not take into account the highly variable nature of the nearby recreational uses.
- The TIS fails to address weekend impacts at other ODOT intersections required for study.

Based upon the submitted traffic impact study and associated memorandums, our February 6, 2009 memorandum and our comments here, it is clear that the proposed development is not in compliance with City of the Dalles and ODOT requirements. The traffic impact study and application fail to provide substantial evidence that the standards are met or can be met with appropriate conditions of approval.

Thus far, the applicant's traffic engineer's analysis is inaccurate, flawed, and has understated the effects of the proposed development on the transportation system. Should you have any questions, feel free to contact me at 503-317-4559.

Sincerely,



Rick Nys, PE, PTOE
Principal Traffic Engineer

December 14, 2009
City Council Meeting Minutes

Experience and Expertise

I am a Professional Engineer (PE) registered in the State of Oregon and Washington. I am a certified Professional Traffic Operations Engineer (PTOE). I hold a Bachelor of Science degree in Civil Engineering with emphasis in Transportation Engineering. I have over 10 years of experience in traffic engineering and transportation planning working both as a consultant and as a municipal Traffic Engineer.

Appendix A

***2007 Automatic Traffic Recorder (ATR) Data
at Rowena***

Sorted by July 2007 Weekday Hours

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2007 Automatic Traffic Recorder (ATR) Data, Station 33-001 Rowena
Sorted by Weekday Hours in July

Yearly Highest Hour (Rank)	Month	Date	Day	East bound Volume	West bound Volume	Combined Volume	Hour	Highest Weekday Peak Hour (Rank)	Notes
37	7	20	FRI	1211	1260	2471	16	1	
64	7	13	FRI	1215	1171	2386	16	2	
70	7	27	FRI	1149	1209	2358	15	3	
73	7	27	FRI	1140	1210	2350	16	4	
75	7	27	FRI	1137	1207	2344	17	5	
96	7	20	FRI	1141	1123	2264	15	6	
107	7	20	FRI	1116	1124	2240	17	7	
120	7	27	FRI	1068	1152	2220	14	8	
131	7	6	FRI	1110	1097	2207	16	9	
142	7	6	FRI	1054	1125	2179	15	10	
147	7	13	FRI	1057	1119	2176	15	11	
163	7	6	FRI	1045	1101	2146	14	12	
169	7	13	FRI	1080	1059	2139	18	13	
170	7	27	FRI	1067	1071	2138	13	14	
179	7	13	FRI	1053	1071	2124	17	15	
200	7	20	FRI	1021	1075	2096	18	16	
213	7	6	FRI	930	1153	2083	17	17	
221	7	20	FRI	1027	1037	2064	14	18	
224	7	13	FRI	985	1073	2058	14	19	
237	7	6	FRI	1037	1001	2038	18	20	
243	7	27	FRI	881	1152	2033	18	21	
248	7	27	FRI	1049	976	2025	12	22	
260	7	5	THU	988	1018	2006	15	23	
263	7	6	FRI	1033	968	2001	13	24	
284	7	13	FRI	958	1043	2001	13	25	
270	7	26	THU	956	1033	1989	16	26	
291	7	20	FRI	1016	951	1967	13	27	
298	7	3	TUE	906	1057	1963	14	28	
300	7	5	THU	968	994	1962	14	29	
310	7	20	FRI	1095	855	1950	12	30	
322	7	19	THU	942	999	1941	16	31	
328	7	6	FRI	1054	884	1938	12	32	
336	7	3	TUE	922	1012	1934	16	33	
337	7	2	MON	905	1028	1933	16	34	
342	7	5	THU	939	993	1932	16	35	
348	7	23	MON	969	961	1930	15	36	
353	7	30	MON	911	1017	1928	16	37	
368	7	19	THU	949	971	1920	15	38	
367	7	26	THU	911	1008	1919	15	39	
371	7	30	MON	940	976	1916	15	40	
390	7	3	TUE	881	1021	1902	15	41	
404	7	30	MON	982	913	1895	14	42	
407	7	3	TUE	874	1018	1892	17	43	
425	7	5	THU	918	965	1883	17	44	
436	7	23	MON	922	954	1876	14	45	
459	7	23	MON	899	965	1864	18	46	
468	7	26	THU	885	977	1862	14	47	
471	7	16	MON	957	903	1860	15	48	
474	7	5	THU	933	926	1859	13	49	
478	7	19	THU	916	940	1856	18	50	
483	7	30	MON	1000	854	1854	12	51	
485	7	2	MON	894	959	1853	17	52	
491	7	13	FRI	892	958	1850	12	53	

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497	7	26	THU	848	998	1846	18	55
513	7	27	FRI	941	895	1836	11	56
524	7	19	THU	872	960	1832	17	57
526	7	13	FRI	928	902	1830	19	58
544	7	3	TUE	843	980	1823	18	59
550	7	26	THU	844	976	1820	17	60
566	7	9	MON	881	931	1812	15	61
569	7	12	THU	837	974	1811	16	62
573	7	19	THU	858	951	1809	14	63
584	7	2	MON	866	936	1802	15	64
586	7	20	FRI	963	838	1801	19	65
607	7	27	FRI	810	982	1792	19	66
626	7	5	THU	963	822	1785	12	67
627	7	19	THU	909	876	1785	13	68
632	7	12	THU	855	928	1783	17	69
634	7	2	MON	759	1023	1782	18	70
635	7	9	MON	827	955	1782	16	71
643	7	20	FRI	940	836	1776	11	71
648	7	23	MON	951	824	1775	12	73
662	7	26	THU	910	856	1766	12	74
663	7	30	MON	864	902	1766	17	75
676	7	19	THU	908	851	1759	12	76
681	7	30	MON	917	840	1757	13	77
685	7	23	MON	888	868	1756	17	78
687	7	25	WED	815	940	1755	16	79
690	7	23	MON	925	828	1753	13	80
698	7	3	TUE	856	891	1747	13	81
699	7	16	MON	898	849	1747	14	82
708	7	5	THU	821	923	1744	18	83
711	7	16	MON	852	889	1741	16	84
712	7	17	TUE	852	889	1741	16	85
724	7	26	THU	879	855	1734	13	86
736	7	24	TUE	867	864	1731	15	87
739	7	23	MON	814	916	1730	18	88
742	7	6	FRI	960	769	1729	11	89
749	7	17	TUE	821	905	1726	15	90
751	7	6	FRI	859	865	1724	19	91
752	7	18	WED	826	888	1724	15	92
760	7	12	THU	817	903	1720	15	93
769	7	9	MON	867	850	1717	12	94
773	7	24	TUE	815	901	1716	16	95
777	7	13	FRI	920	794	1714	11	96
785	7	9	MON	854	858	1712	14	97
791	7	2	MON	853	856	1709	13	98
792	7	31	TUE	795	914	1709	16	99
796	7	18	WED	826	881	1707	16	100
820	7	18	WED	809	888	1697	17	101
824	7	12	THU	763	931	1694	18	102
827	7	16	MON	862	831	1693	13	103
832	7	16	MON	882	809	1691	12	104
840	7	12	THU	781	928	1689	14	105
841	7	3	TUE	872	816	1688	12	106
850	7	18	WED	857	827	1684	14	107
858	7	9	MON	806	875	1681	13	108
868	7	25	WED	837	841	1678	14	109
875	7	25	WED	809	866	1675	13	110
901	7	24	TUE	811	853	1664	17	111
908	7	5	THU	907	754	1661	11	112
912	7	30	MON	752	908	1660	18	113
945	7	14	MON	824	825	1650	17	114

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940	7	17	TUE	788	861	1649	17	116	
967	7	9	MON	776	865	1641	17	117	
973	7	9	MON	722	917	1639	18	118	
984	7	31	TUE	777	857	1634	15	119	
1022	7	24	TUE	757	865	1622	14	120	
1027	7	2	MON	859	760	1619	12	121	
1032	7	18	WED	869	748	1617	12	122	
1035	7	18	WED	767	848	1615	18	123	
1040	7	31	TUE	783	830	1613	14	124	
1060	7	30	MON	915	689	1604	11	125	
1072	7	12	THU	775	826	1601	13	126	
1076	7	18	WED	822	778	1600	13	127	
1082	7	23	MON	886	713	1599	11	128	
1083	7	25	WED	744	855	1599	15	129	
1085	7	26	THU	841	757	1598	11	130	
1105	7	10	TUE	802	790	1592	15	131	
1117	7	12	THU	789	801	1590	12	132	
1140	7	16	MON	849	734	1583	11	133	
1167	7	11	WED	727	847	1574	17	134	
1171	7	10	TUE	771	802	1573	17	135	Count Hour of TIS 4-5 PM
1172	7	25	WED	716	857	1573	18	136	
1186	7	11	WED	739	831	1570	16	137	
1196	7	16	MON	742	825	1567	18	138	
1197	7	17	TUE	785	782	1567	14	139	
1208	7	24	TUE	722	841	1563	18	140	
1217	7	31	TUE	704	857	1561	18	141	
1223	7	10	TUE	706	853	1559	18	142	Count Hour of TIS 5-6 PM

Appendix B

***2007 Automatic Traffic Recorder (ATR) Data
at Rowena***

Sorted by July 2007 Weekday and Weekend Hours

2007 Automatic Traffic Recorder (ATR) Data, Station 33-001 Rowena
Sorted by Highest Hours in July

Yearly Highest Hour (Rank)	Month	Date	Day	East- bound Volume	West- bound Volume	Combined Volume	Hour	July Highest Hour (Rank)	Notes
19	7	29	SUN	1185	1392	2577	15	1	
28	7	29	SUN	1241	1276	2517	14	2	
29	7	22	SUN	1098	1415	2513	16	3	
30	7	29	SUN	1106	1407	2513	16	4	30th Highest Hour 3:4 PM
31	7	8	SUN	1082	1428	2510	15	5	
33	7	8	SUN	1067	1419	2486	16	6	
37	7	20	FRI	1211	1260	2471	16	7	
41	7	22	SUN	1112	1338	2450	15	8	
45	7	8	SUN	1110	1329	2439	14	9	
55	7	15	SUN	1090	1323	2413	16	10	
56	7	29	SUN	1071	1339	2410	17	11	
57	7	8	SUN	996	1412	2408	17	12	
64	7	13	FRI	1215	1171	2386	16	13	
65	7	29	SUN	1053	1328	2381	18	14	
70	7	27	FRI	1149	1209	2358	15	15	
73	7	27	FRI	1140	1210	2350	16	16	
75	7	27	FRI	1137	1207	2344	17	17	
79	7	29	SUN	1117	1221	2338	13	18	
81	7	15	SUN	1012	1321	2333	15	19	
87	7	22	SUN	1086	1222	2308	14	20	
88	7	1	SUN	1085	1215	2300	16	21	
96	7	20	FRI	1141	1123	2264	15	22	
101	7	22	SUN	990	1258	2248	17	23	
107	7	20	FRI	1116	1124	2240	17	24	
110	7	1	SUN	1003	1232	2235	16	25	
120	7	27	FRI	1068	1152	2220	14	26	
123	7	1	SUN	1056	1158	2214	14	27	
124	7	15	SUN	970	1243	2213	17	28	
131	7	6	FRI	1110	1097	2207	16	29	
132	7	1	SUN	963	1242	2205	17	30	
142	7	6	FRI	1054	1125	2179	15	31	
143	7	8	SUN	1107	1072	2179	13	32	
147	7	13	FRI	1057	1119	2176	15	33	
150	7	8	SUN	885	1285	2170	18	34	
155	7	15	SUN	873	1189	2162	14	35	
163	7	6	FRI	1045	1101	2146	14	36	
169	7	13	FRI	1080	1059	2139	18	37	
170	7	27	FRI	1067	1071	2138	13	38	
179	7	13	FRI	1053	1071	2124	17	39	
195	7	15	SUN	1018	1085	2103	13	40	
200	7	20	FRI	1021	1075	2096	18	41	
205	7	29	SUN	1055	1037	2092	12	42	
210	7	22	SUN	876	1213	2089	18	43	
213	7	6	FRI	930	1153	2083	17	44	
214	7	22	SUN	988	1095	2083	13	45	
221	7	20	FRI	1027	1037	2064	14	46	
224	7	13	FRI	985	1073	2058	14	47	
234	7	15	SUN	936	1107	2043	18	48	
237	7	6	FRI	1037	1001	2038	18	49	
241	7	29	SUN	981	1053	2034	19	50	
243	7	27	FRI	881	1152	2033	18	51	
248	7	27	FRI	1049	976	2025	12	52	

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263	7	6	FRI	1033	968	2001	13	54
264	7	13	FRI	958	1043	2001	13	55
270	7	26	THU	956	1033	1989	16	56
286	7	1	SUN	1000	970	1970	13	57
291	7	20	FRI	1016	951	1967	13	58
298	7	3	TUE	906	1057	1963	14	59
300	7	5	THU	968	994	1962	14	60
301	7	21	SAT	943	1019	1962	14	61
304	7	22	SUN	1015	945	1960	12	62
310	7	20	FRI	1095	855	1950	12	63
322	7	19	THU	942	899	1941	16	64
328	7	6	FRI	1054	884	1938	12	65
336	7	3	TUE	922	1012	1934	16	66
337	7	2	MON	905	1028	1933	16	67
342	7	5	THU	939	993	1932	16	68
348	7	23	MON	969	961	1930	15	69
353	7	30	MON	911	1017	1928	16	70
355	7	21	SAT	1015	912	1927	12	71
360	7	15	SUN	978	948	1926	12	72
366	7	19	THU	949	971	1920	15	73
367	7	26	THU	911	1008	1919	15	74
369	7	14	SAT	1020	896	1916	12	75
370	7	21	SAT	920	986	1916	15	76
371	7	30	MON	940	976	1916	15	77
380	7	1	SUN	795	1112	1907	18	78
390	7	3	TUE	881	1021	1902	15	79
399	7	8	SUN	1000	896	1896	12	80
404	7	30	MON	982	913	1895	14	81
407	7	3	TUE	874	1018	1892	17	82
419	7	1	SUN	1048	837	1885	12	83
420	7	7	SAT	963	922	1885	14	84
421	7	7	SAT	937	947	1884	13	85
422	7	7	SAT	923	961	1884	15	86
423	7	8	SUN	711	1173	1884	19	87
425	7	5	THU	918	965	1883	17	88
433	7	28	SAT	905	973	1878	12	89
435	7	22	SUN	809	1068	1877	19	90
436	7	23	MON	922	954	1876	14	91
447	7	7	SAT	861	1011	1872	16	92
459	7	23	MON	899	965	1864	16	93
468	7	26	THU	885	977	1862	14	94
470	7	21	SAT	944	917	1861	13	95
471	7	16	MON	957	903	1860	15	96
474	7	5	THU	933	926	1859	13	97
475	7	28	SAT	947	912	1859	13	98
478	7	19	THU	916	940	1856	18	99
483	7	30	MON	1000	854	1854	12	100
485	7	2	MON	894	959	1853	17	101
491	7	13	FRI	892	958	1850	12	102
496	7	2	MON	877	969	1846	14	103
497	7	26	THU	848	998	1846	18	104
500	7	14	SAT	939	905	1844	13	105
509	7	14	SAT	896	943	1839	15	106
513	7	27	FRI	941	895	1836	11	107
521	7	28	SAT	830	1004	1834	15	108
524	7	19	THU	872	960	1832	17	109
526	7	13	FRI	928	902	1830	19	110
544	7	3	TUE	843	980	1823	18	111
550	7	28	THU	844	976	1820	17	112
556	7	5	MON	894	921	1812	18	113

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570	7	14	SAT	838	972	1810	16	115
573	7	19	THU	858	951	1809	14	116
582	7	28	SAT	836	967	1803	16	117
584	7	2	MON	866	936	1802	15	118
586	7	20	FRI	963	838	1801	19	119
590	7	28	SAT	908	891	1799	14	120
595	7	14	SAT	864	933	1797	14	121
607	7	27	FRI	810	982	1792	19	122
621	7	15	SUN	861	925	1786	19	123
626	7	5	THU	963	822	1785	12	124
627	7	19	THU	909	876	1785	13	125
632	7	12	THU	855	928	1783	17	126
634	7	2	MON	759	1023	1782	18	127
635	7	9	MON	827	955	1782	16	128
640	7	7	SAT	907	870	1777	12	129
643	7	20	FRI	940	836	1776	11	130
648	7	23	MON	951	824	1775	12	131
662	7	26	THU	910	856	1766	12	132
663	7	30	MON	864	902	1766	17	133
672	7	21	SAT	950	811	1761	11	134
676	7	19	THU	908	851	1759	12	135
681	7	30	MON	917	840	1757	13	136
684	7	14	SAT	968	788	1756	11	137
685	7	23	MON	888	868	1756	17	138
687	7	25	WED	815	940	1755	16	139
690	7	23	MON	925	828	1753	13	140
698	7	3	TUE	856	891	1747	13	141
699	7	16	MON	898	849	1747	14	142
703	7	21	SAT	833	913	1746	16	143
708	7	5	THU	821	923	1744	18	144
711	7	16	MON	852	889	1741	16	145
712	7	17	TUE	852	889	1741	16	146
724	7	26	THU	879	855	1734	13	147
736	7	24	TUE	867	864	1731	15	148
739	7	23	MON	814	916	1730	18	149
742	7	6	FRI	960	769	1729	11	150
749	7	17	TUE	821	905	1726	15	151
751	7	6	FRI	859	865	1724	19	152
752	7	18	WED	826	898	1724	15	153
759	7	7	SAT	845	875	1720	17	154
760	7	12	THU	817	903	1720	15	155
769	7	9	MON	867	850	1717	12	156
773	7	24	TUE	815	901	1716	16	157
777	7	13	FRI	920	794	1714	11	158
782	7	29	SUN	840	873	1713	20	159
785	7	9	MON	854	858	1712	14	160
789	7	28	SAT	909	801	1710	11	161
791	7	2	MON	853	866	1709	13	162
792	7	31	TUE	795	914	1709	16	163
796	7	18	WED	826	881	1707	16	164
820	7	18	WED	809	888	1697	17	165
824	7	12	THU	763	931	1694	18	166
827	7	16	MON	862	831	1693	13	167
832	7	16	MON	882	809	1691	12	168
840	7	12	THU	761	928	1689	14	169
841	7	3	TUE	872	816	1688	12	170
850	7	18	WED	857	827	1684	14	171
853	7	29	SUN	843	840	1683	11	172
858	7	9	MON	806	875	1681	13	173
869	7	25	WED	837	841	1679	14	174

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889	7	21	SAT	824	845	1669	17	176	
901	7	24	TUE	811	853	1664	17	177	
908	7	5	THU	907	754	1661	11	178	
909	7	14	SAT	831	830	1661	17	179	
912	7	30	MON	752	908	1660	18	180	
915	7	16	MON	824	835	1659	17	181	
916	7	25	WED	824	835	1659	17	182	
940	7	17	TUE	788	861	1649	17	183	
960	7	7	SAT	863	780	1643	11	184	
967	7	9	MON	776	865	1641	17	185	
973	7	9	MON	722	917	1639	18	186	
984	7	31	TUE	777	857	1634	15	187	
988	7	28	SAT	749	884	1633	17	188	
1020	7	1	SUN	707	916	1623	19	189	
1022	7	24	TUE	757	865	1622	14	190	
1027	7	2	MON	859	760	1619	12	191	
1032	7	18	WED	869	748	1617	12	192	
1035	7	18	WED	767	848	1615	18	193	
1040	7	31	TUE	783	830	1613	14	194	
1046	7	22	SUN	836	775	1611	11	195	
1060	7	30	MON	915	889	1604	11	196	
1072	7	12	THU	775	826	1601	13	197	
1076	7	18	WED	822	778	1600	13	198	
1082	7	23	MON	886	718	1599	11	199	
1083	7	25	WED	744	855	1599	15	200	
1085	7	26	THU	841	757	1598	11	201	
1105	7	10	TUE	802	790	1592	15	202	
1117	7	12	THU	789	801	1590	12	203	
1126	7	21	SAT	751	837	1588	18	204	
1128	7	1	SUN	878	709	1587	11	205	
1140	7	16	MON	849	734	1583	11	206	
1149	7	7	SAT	733	847	1580	18	207	
1167	7	11	WED	727	847	1574	17	208	
1171	7	10	TUE	771	802	1573	17	209	Count Hour of TIS 4-5 PM
1172	7	25	WED	718	857	1573	18	210	
1186	7	11	WED	739	831	1570	16	211	
1196	7	16	MON	742	825	1567	18	212	
1197	7	17	TUE	785	782	1567	14	213	
1208	7	24	TUE	722	841	1563	18	214	
1217	7	31	TUE	704	857	1561	18	215	
1223	7	10	TUE	706	853	1559	18	216	Count Hour of TIS 5-6 PM



Theodore R. Kulongoski, Governor

Department of Transportation
Region 4 Planning
63085 N. Highway 97, Ste. 107
Bend, OR 97701
Telephone (541) 388-6046
FAX (541) 388-6361
ana.jovanovic@odot.state.or.us

December 11, 2009

TO: Community Development Department, City of The Dalles

Subject: Wal-Mart Additional Traffic Analysis for LUBA Remand

Dear Dan Durow:

The Oregon Department of Transportation (ODOT) appreciates the opportunity to review and comment on Additional Traffic Analysis completed for Wal-Mart in response to the LUBA Remand.

ODOT staff reviewed the following documents:

1. DKS memorandum from December 2, 2009 titled: Wal-Mart: Additional Traffic Analysis for LUBA Remand.
2. LUBA No. 2009-048 Final Opinion and Order dated October 8, 2009;
3. Greenlight Engineering's memo from February 6, 2009 titled: Site Plan Review 379-08 Pacland – Wal-Mart Subdivision 62-08 Chenoweth Station Subdivision.

After reviewing the information provided, ODOT concurs with both methodology and results of the DKS analysis. ODOT is satisfied that the traffic impact analysis for the Wal-Mart site plan proposal has correctly analyzed the transportation impacts and identified sufficient mitigation. In particular, the procedures used and analysis performed by DKS in the December 2nd memo is consistent with the methodology identified in ODOT's Analysis Procedures Manual (APM) for determining design hour volumes (DHV).

The APM describes three methods for selection of the DHV, which ODOT defines to be the 30th highest traffic volume hour of the year. As is extensively detailed in the December 2nd memo, DKS followed the steps outlined in the APM to determine the appropriate method for arriving at the DHV for the I-84 Chenoweth Interchange ramps.

Our concurrence with the analysis also extends to the additional Sunday peak hour traffic analysis, which, as shown in the December 2nd memo, has less impact on the system than identified in the Weekday PM peak hour analysis.

Please feel free to contact our office if you have any questions or concerns.

Sincerely,

Ana Jovanovic, ODOT Region 4 Planning
ana.jovanovic@odot.state.or.us

CC via email: Scott Mansur and Brad Coy, DKS
Scott Franklin, PacLand
Greg Hathaway, Davis Wright Tremaine
Rick Nys, Greenlight Engineering

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Exhibit "C"
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City of The Dalles
Department of Public Works
1215 West 1st Street
The Dalles, OR 97058

MEMORANDUM

TO: Honorable Mayor & City Council

FROM: Dale S. McCabe, City Engineer

DATE: December 14, 2009

ISSUE: Wal-Mart Traffic Analysis and Additional Analysis for LUBA Remand

In the early summer of 2007, I was contacted by Scott Mansur of DKS Associates asking what would be the City's requirements for performing a Traffic Impact Analysis (TIA) for the proposed WM3 development. I discussed with Scott what intersections the City would require to be studied, and then I sent him a copy of the City's **POLICY FOR TRAFFIC IMPACT STUDIES**. This policy was developed to provide a developer and their engineer with the City's guidelines for what will be required for performing a TIA within the City's jurisdiction and what specific information should be included in the TIA. Within that discussion, I also informed Scott that he would need to contact ODOT and Wasco County to inform them of the proposed development and study and find out from them what their agency requirements would be for preparing a TIA because of the facilities that are under their jurisdiction in the study area, such as the Chenoweth Interchange (ODOT) and River Road (Wasco County).

The City's **POLICY FOR TRAFFIC IMPACT STUDIES** specifically states that "Typically, the peak hour of traffic operations is between 4:00 p.m. and 6:00 p.m. on a weekday, but each site and use should be evaluated to determine if there are circumstances which make the peak hour occur at other times." Because of the ODOT and Wasco County facilities within the study area, those agencies' guidelines (such as determining and using the 30th highest hour volume) were utilized for evaluating and determining when the peak hour of traffic operations would occur.

After review of the original TIA and all additional analysis information that has been submitted by DKS Associates for the proposed WM3 development/Wal-Mart development, and documentation that was prepared for the Chenoweth IAMP by Kiteison and Associates, the City feels that the original TIA and all additional analysis information as submitted by DKS Associates is still adequate. As the City Engineer, I feel that all guidelines as outlined in the City's **POLICY FOR TRAFFIC IMPACT STUDIES** have been followed, and I concur with the findings of the original TIA and the supplemental analysis submitted by DKS Associates. I agree with the methodologies used in the original TIA and the supplemental report to perform the analysis of the impact upon the Chenoweth Interchange by determining the peak hour and day of traffic operations for the Interchange and all surrounding intersections.

As discussed in detail in the DKS WAL-MART: ADDITIONAL TRAFFIC ANALYSIS FOR LUBA REMAND memorandum and supported by ODOT's letter dated December 11, 2009, I agree that DKS followed ODOT's guidelines and methodologies and that the weekday PM peak hour is the correct analysis period for the Chenoweth Interchange ramps and the WM3 project. As stated earlier, it is my opinion that the original TIA and the ADDITIONAL TRAFFIC ANALYSIS FOR LUBA REMAND as prepared and submitted by DKS, meets all City requirements as outlined in the City's **POLICY FOR TRAFFIC IMPACT STUDIES**. In my opinion, no additional traffic analysis, including information concerning Saturday traffic counts is necessary and based upon the results of the studies performed, I support the conditions of approval as was set forth in the City of The Dalles Resolution No. 09-013

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Exhibit "D"
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Chenoweth Interchange Area



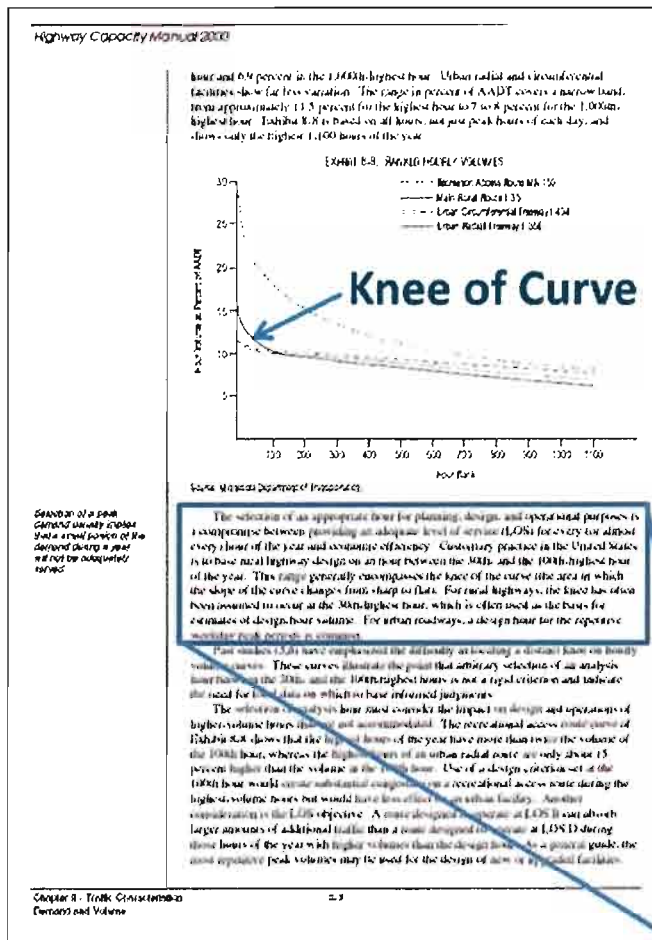
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WM3 Development with Proposed Walmart Store

- Analysis and mitigations included in *The Dalles WM3 Development Transportation Impact Study* (“WM3 TIS”) assumed a 240,000 ft² shopping center
- Proposed Walmart is only 150,000 ft²
- WM3 and Walmart intend to fully fund mitigation measures identified in *WM3 TIS*

30th Highest Hour



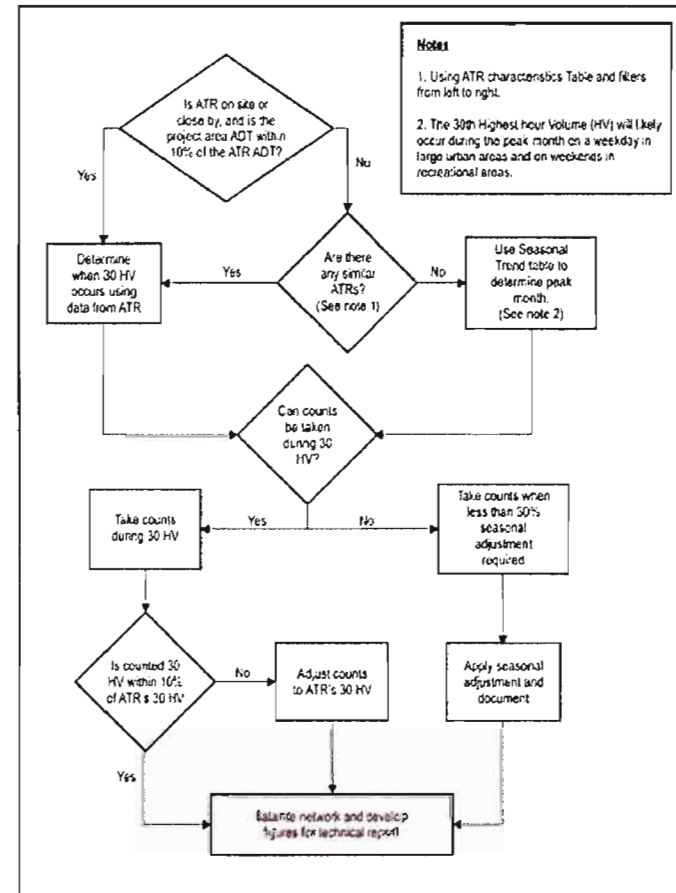
- ODOT procedures use the 30th Highest Hour (30th HV) as the appropriate hour for planning, design, and operational analysis purposes to measure traffic impacts of a proposed development
- Discussion of 30th HV is provided in the Highway Capacity Manual, the national industry standard for traffic analysis
- 30th HV is best indicator of daily transportation needs while also being economically efficient

The selection of an appropriate hour for planning, design, and operational purposes is a compromise between providing an adequate level of service (LOS) for every (or almost every) hour of the year and economic efficiency. Customary practice in the United States is to base rural highway design on an hour between the 30th- and the 100th-highest hour of the year. This range generally encompasses the knee of the curve (the area in which the slope of the curve changes from sharp to flat). For rural highways, the knee has often been assumed to occur at the 30th-highest hour, which is often used as the basis for estimates of design-hour volume. For urban roadways, a design hour for the repetitive weekday peak periods is common.

Source: Highway Capacity Manual 2000

Determination of Appropriate 30th Highest Hourly Volumes

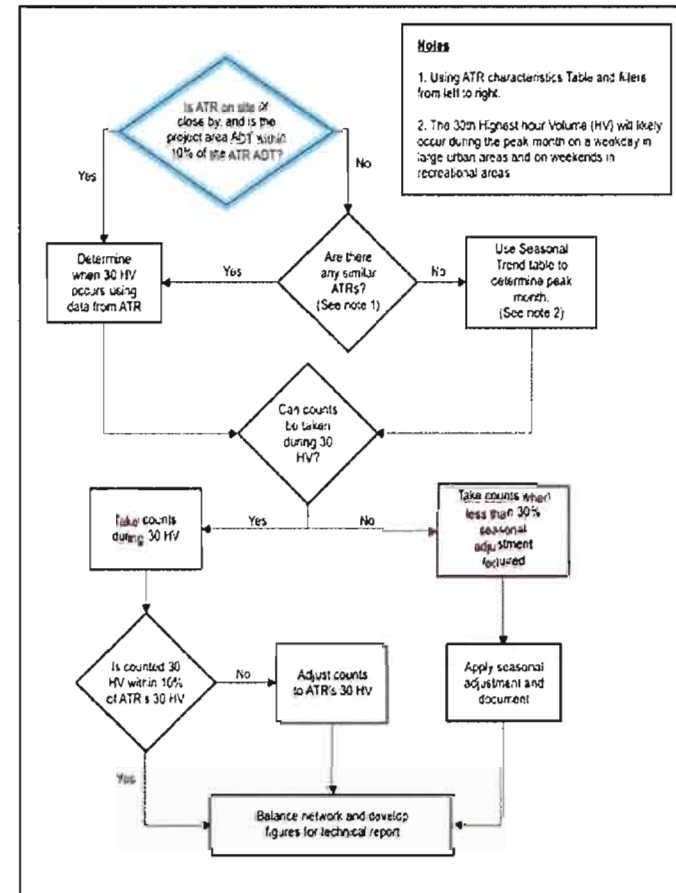
- Process outlined in the ODOT TPAU *Analysis Procedures Manual* (Figure 4-1: Process for Development of 30th Highest Hour Volumes)



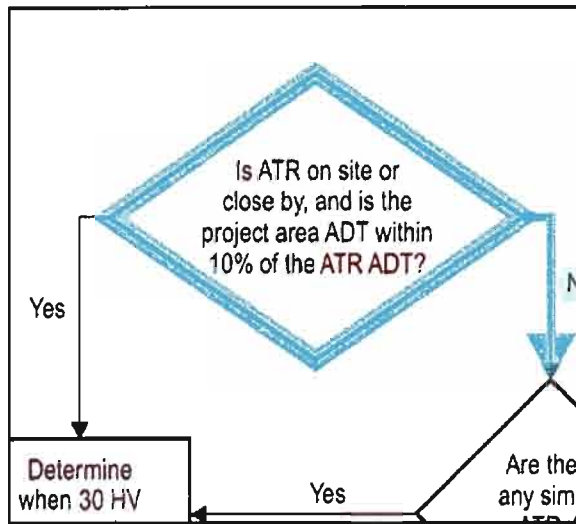
Step 1: On Site ATR?

Purpose of Step:

- Determine whether an existing ATR has trend patterns and volumes that are representative (within 10%) of the Chenoweth Interchange ramp terminals and can be used directly to determine appropriate 30th HV



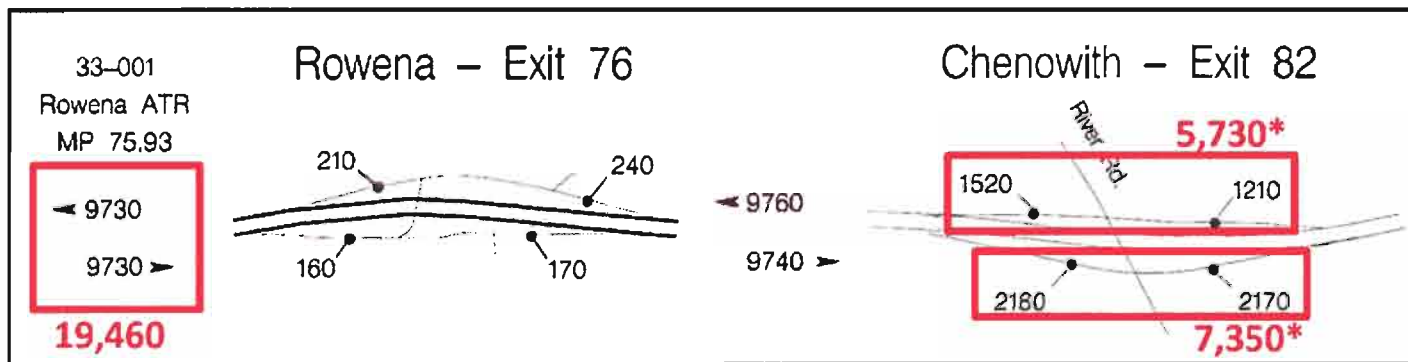
Step 1: On Site ATR?



Finding: No

Discussion:

- Rowena ATR is nearby, but majority of I-84 traffic does not use Chenoweth Interchange ramps. Therefore, it does not meet ODOT 10% rule.
- Average Annual Daily Traffic (AADT)
 - 19,460 on I-84 at Rowena ATR
 - 7,350 at highest Chenoweth Interchange Ramp Terminal (> 60% difference)



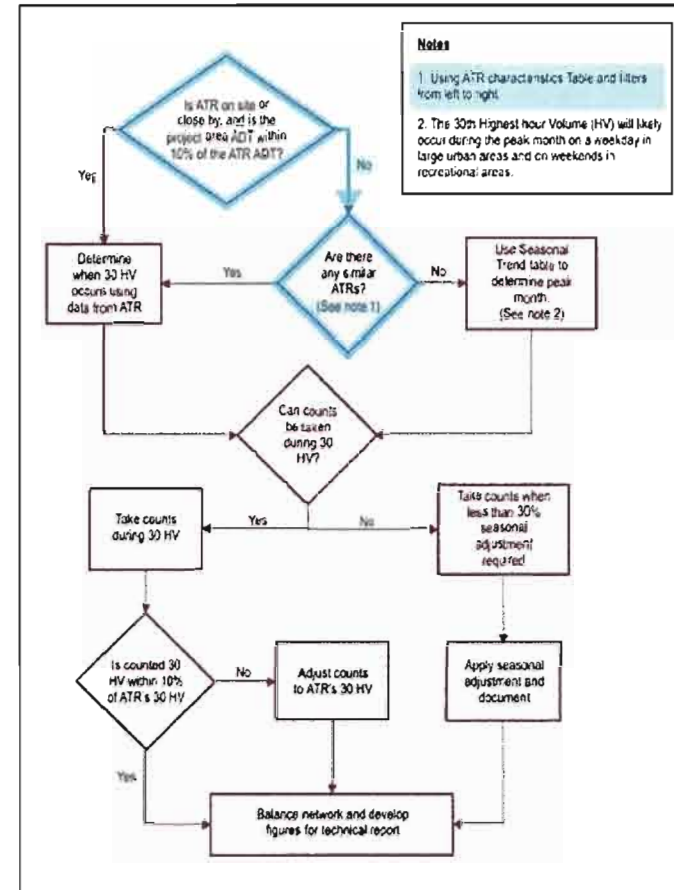
Source: 2008 ODOT Interchange Ramp Volume diagrams

*Includes the approximately 3,000 daily vehicles on River Road

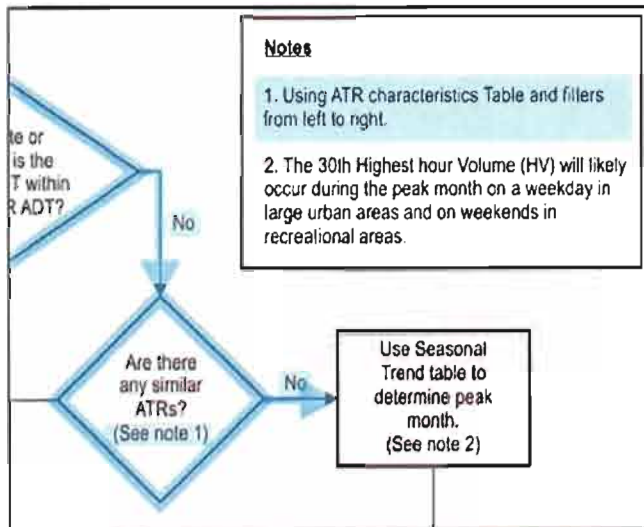
Step 2: Similar ATRs?

Purpose of Step:

- Determine if another ATR in Oregon experiences similar seasonal variation trends as Chenoweth Interchange ramp terminals



Step 2: Similar ATRs?



Finding: No

Discussion:

- ATR Characteristics Table filtered from left to right (sample shown below)
- No ATRs matched all appropriate filters
 - list of filters provided in DKS's December 2, 2009 memorandum

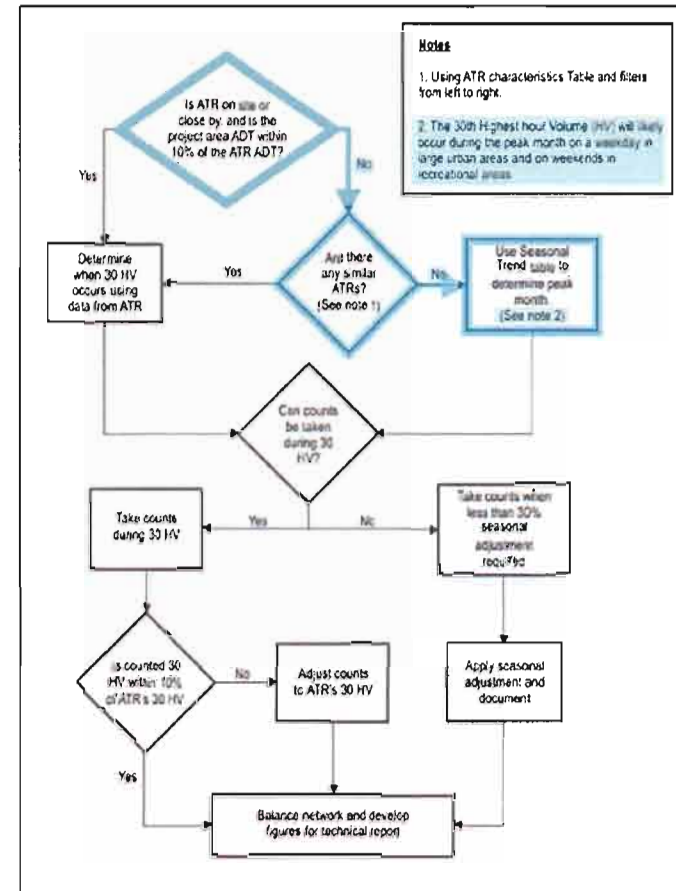
2009 ATR CHARACTERISTIC TABLE (Printed: 06/05/09)										
SEASONAL TRAFFIC TREND	AREA TYPE	# OF LANES	WEEKLY TRAFFIC TREND	AADT	OHP CLASSIFICATION	ATR	COUNTY	HIGHWAY ROUTE, NAME, & LOCATION	MP	STATE HIGHWAY NUMBER
37	Soil A to Z Soil Z to A Soil by Color Clear Filter from "AREA TYPE"	5	WEEKDAY	20000	STATEWIDE HIGHWAY (EXPRESSWAY)	09-020	DECH/TEG	US 97, THE DALLES-CA HWY, SOUTH OF REDMOND	124.90	4
41	Text Filters Select All POPULATED RURAL RURAL SMALL URBAN SMALL URBAN ADVISOR URBAN URBAN ADVISOR	4	STEADY	29000	INTERSTATE HIGHWAY	10-005	DOUGLAS	I-5, PACIFIC HWY, NORTH OF ROSEBURG	120.75	5
64		5	WEEKEND	12300	STATEWIDE HIGHWAY	16-002	JEFFERSON	US 97 / US 26, THE DALLES-CA HWY, SOUTH OF MADRAS	95.92	4
66		4	WEEKEND	10800	INTERSTATE HIGHWAY	17-001	JOSEPHINE	I-5, PACIFIC HWY, NORTH OF GRAITS PASS	64.20	1

Source: 2009 ATR Characteristics Table available online in spreadsheet format from ODOT website.

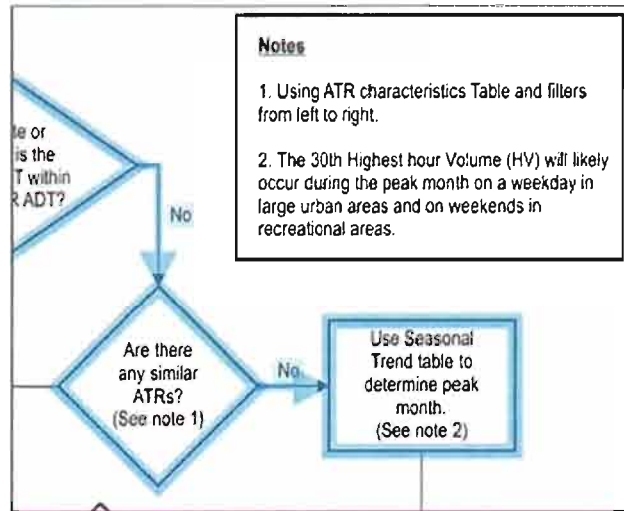
Step 3: Peak Month and Hour of Week

Purpose of Step:

- Determine peak month of year
- Determine peak hour of week
- These are two separate trends that must be considered when determining the appropriate 30th HV



Step 3: Peak Month of Year



Recorder: ROWENA, 33-001
 Installed: January, 1978
 Location: I-84 MP 75.89, COLUMBIA RIVER HIGHWAY, NO. 2
 6.3 miles west of The Dalles

2005 TRAFFIC DATA

	Average Weekday Traffic	Percent of ADT	Average Daily Traffic	Percent of ADT
January	14800	74	15000	75
February	16800	79	16200	81
March	17600	89	18800	95
April	18112	91	18872	95
May	19611	99	20542	103
June	21654	108	22863	116
July	23202	117	24731	124
August	22880	115	24536	123
September	20131	101	21150	107
October	18678	94	19647	99
November	19120	96	19922	100
December	16638	84	16259	82

Source: 2005 ODOT ATR Trend Table

Finding: July

Discussion:

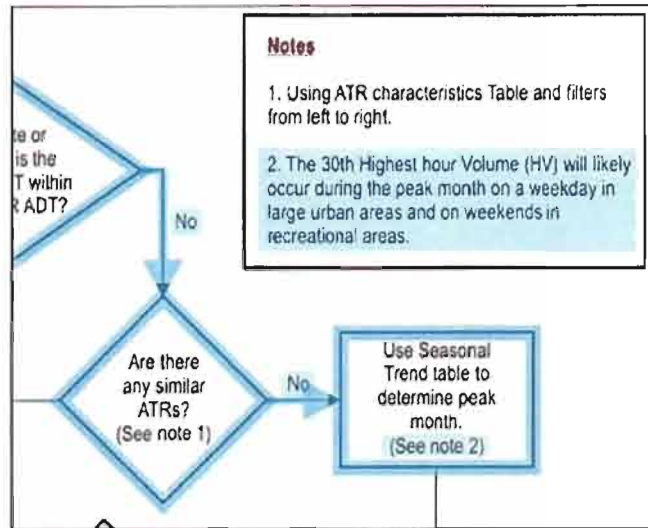
- Influenced by regional traffic trends (main source of seasonal variation)
- Rowena ATR provides reasonable indication of seasonal variation in regional traffic at the Chenoweth Interchange
- ODOT Seasonal Trend Table also indicates July is peak month (peak factors of all applicable categories occur on July 15th)
- The peak month has never been disputed by any parties

2009 SEASONAL TREND TABLE

Applicable Category	15-Jul	Peak Period Seasonal Factor
INTERSTATE NONURBANIZED	0.8661	0.8661
COMMUTER	0.8988	0.8988
SUMMER	0.8345	0.8345

Source: 2009 ODOT Seasonal Trend Table available online in spreadsheet format from ODOT website. (Table Printed 06/05/09)

Step 3: Peak Hour of Week



Finding: Weekday P.M. Peak Hour

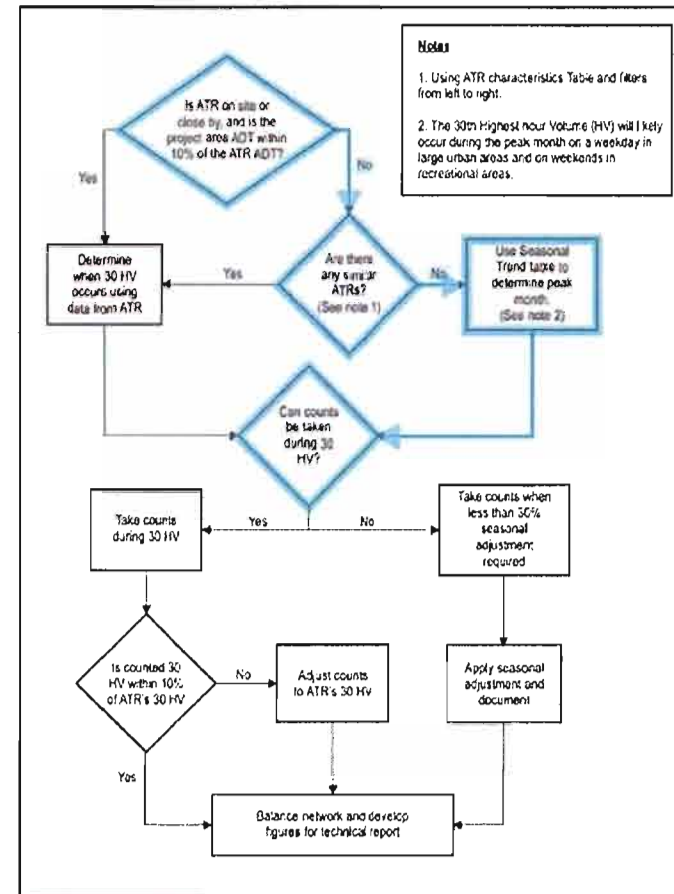
Discussion:

- Large Urban Area or Recreational Area?
 - Large Urban Areas include Portland, Salem, Eugene, Redmond, Bend
 - Recreational Areas include Mt. Hood, Black Butte, Sunriver, the Oregon coast
- Chenoweth Interchange trends are more closely associated with a large urban area
 - Primarily industrial and residential area (commuters)
 - Not part of key route to beach or other prime recreational area
- Finding consistent with *The City of The Dalles Traffic Impact Study Guidelines*
- For additional confirmation, weekend analysis also performed for Chenoweth Interchange
- Weekday p.m. peak hour is identified in Highway Capacity Manual as most common design hour for urban areas

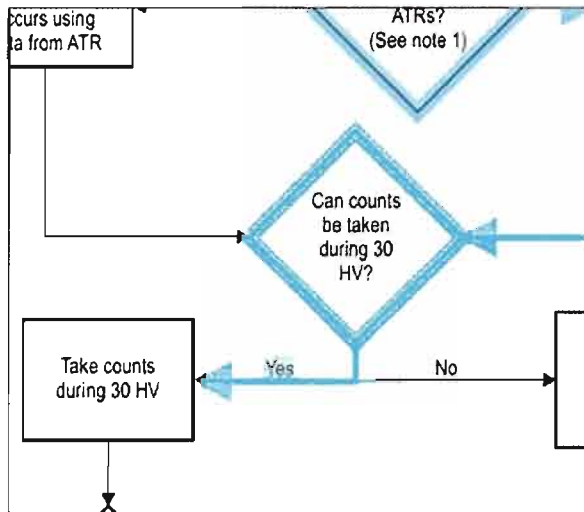
Step 4: Take Counts During 30th HV?

Purpose of Step:

- Counts should be taken during 30th HV (i.e., peak month and peak hour of week) if possible
- Counts may also be taken during peak hour of week during a non-peak month
 - Seasonal adjustment factor must be applied but must be less than 1.30 (i.e., 30 percent)



Step 4: Take Counts During 30th HV?



Finding: Yes

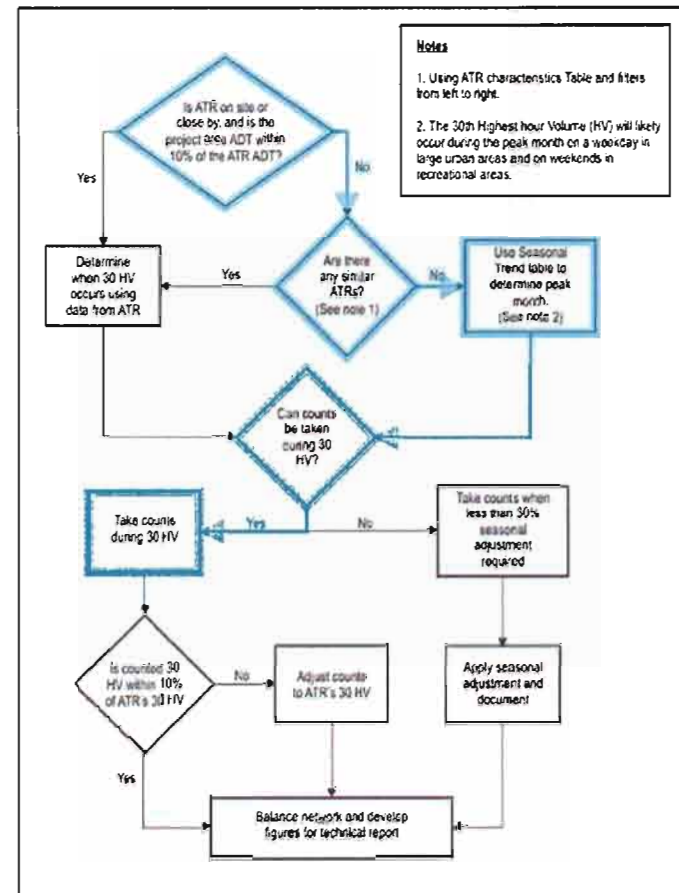
Discussion:

- Counts taken during peak month (July) on a weekday (Tuesday) p.m. peak hour from 4:00 to 6:00 p.m.

Step 5: Take Counts During 30th HV

Purpose of Step:

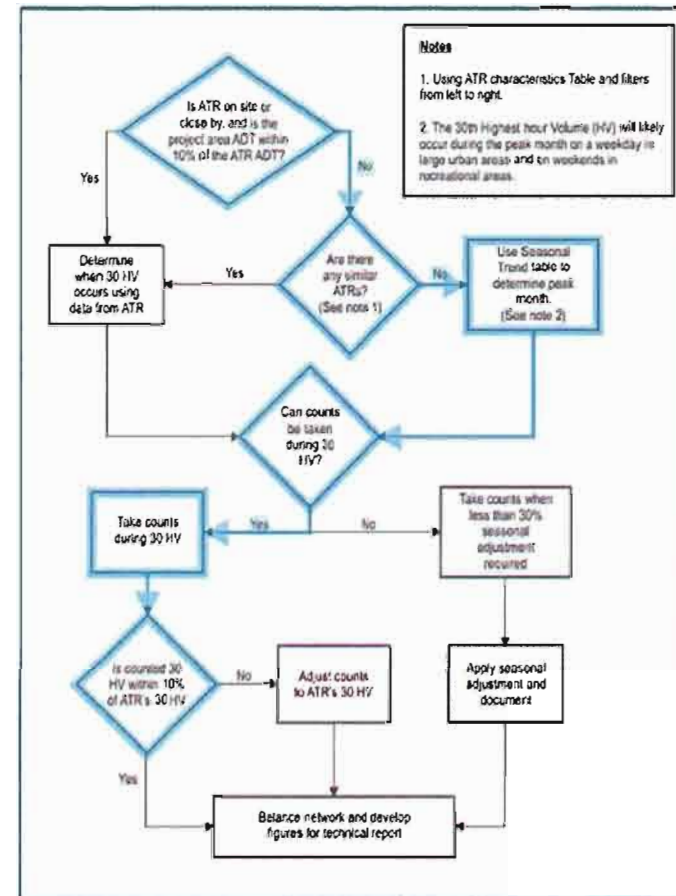
- Take Counts



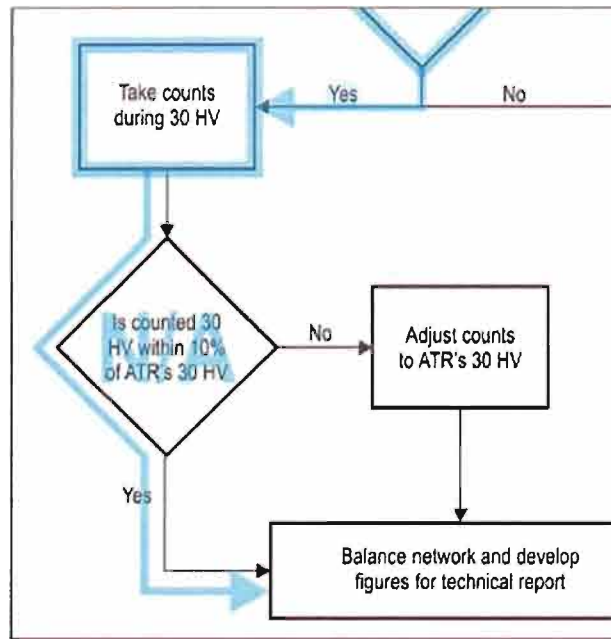
Step 6: Counted 30th HV within 10% of ATR's 30th HV?

Purpose of Step:

- When appropriate 30th HV is determined directly from on-site ATR (i.e., answer to Step 1 is “Yes”), then this provides a back check for consistency



Step 6: Counted 30th HV within 10% of ATR's 30th HV?



Finding: Not Applicable

Discussion:

- Step 1 Finding was "No"
- Therefore, the counts were not compared with an ATR and this step was bypassed, consistent with ODOT procedures.

Step 7: Balance Network and Develop Figures for Technical Report

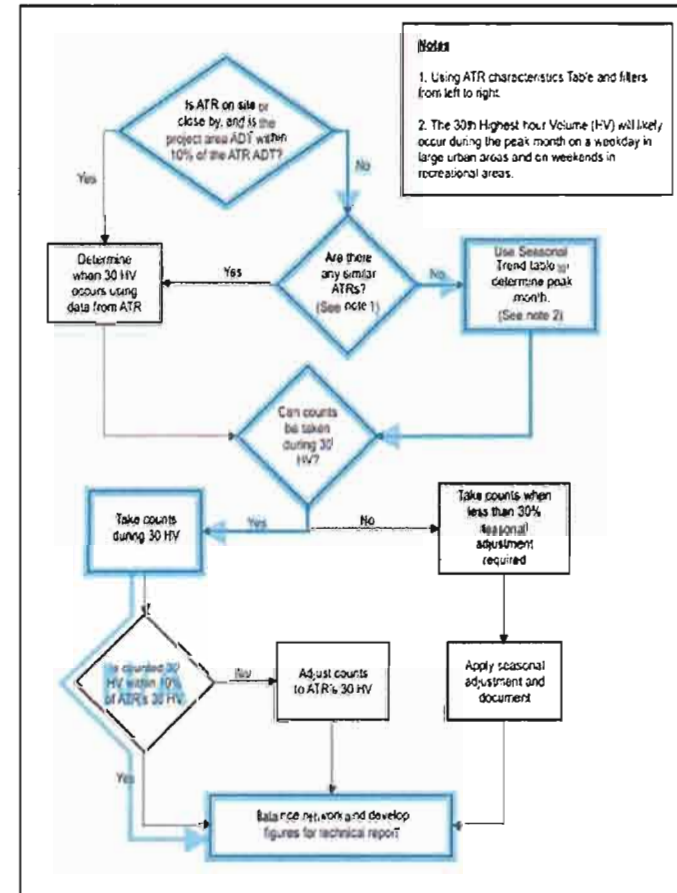
Purpose of Step:

- Fine-tune and document analysis volumes

Finding: Network balanced and figures developed for *WM3 TIS*

Discussion:

- 30th HV volumes submitted to ODOT Region 4, City of The Dalles, and Wasco County Staff who approved them prior to DKS preparation of *WM3 TIS*



Summary of 30th HV Determination

- 30th Highest Hour of Chenoweth Interchange is weekday p.m. peak hour per ODOT procedures
- ODOT and City staff concur
- No mitigation required at 2010
- Mitigation measures imposed by the City in Resolution No. 09-013 are adequate to mitigate impacts through 2027, and will be provided as warranted

Table 7: Chenoweth Interchange Operating Conditions (2010 Background and Total)

Chenoweth Interchange Intersection	Operating Standard	2010 Sunday Peak Hour (Unmitigated)		
		Delay	LOS	V/C
Background Operating Conditions				
US 30 (W 6 th St)/River Rd	0.85 V/C	13.8	A/B	0.44
I-84 EB Ramps/River Rd	0.75 V/C	10.0	A/A	0.25
I-84 WB Ramps/River Rd	0.75 V/C	13.4	A/B	0.15
Total Operating Conditions				
US 30 (W 6 th St)/River Rd	0.85 V/C	16.7	A/C	0.56
I-84 EB Ramps/River Rd	0.75 V/C	14.0	A/B	0.34
I-84 WB Ramps/River Rd	0.75 V/C	17.9	A/C	0.44
Delay = Average Stopped Delay per Vehicle (sec) at Worst Movement (typically a minor movement)		V/C = Volume-to-Capacity Ratio of Worst Movement (typically a minor movement)		
LOS = Level of Service of Major Street/Minor Street		Bold values do not meet standards.		

Chenoweth Interchange Area



December 14, 2009
City Council Meeting Minutes

Exhibit "E"
Page 20 of 29

Opposition's Argument Regarding Appropriate Analysis Period

- Argument made that 30th HV at Chenoweth Interchange occurs during Sunday Peak Hour
 - Based on when 30th HV occurs on I-84 at Rowena ATR

2007 Automatic Traffic Recorder (ATR) Data, Station 33-001 Rowena

Highest Hour	Month	Date	Day	EB Volume	WB Volume	Combined Volume	Hour	Notes
26	8	5	SUN	1105	1419	2524	15	
27	8	26	SUN	1166	1353	2519	16	
28	7	29	SUN	1241	1276	2517	14	
29	7	22	SUN	1098	1415	2513	16	
30	7	29	SUN	1106	1407	2513	16	30th Highest Hour 3-4 PM
31	7	8	SUN	1082	1428	2510	15	
32	8	31	FRI	1406	1096	2502	14	
33	7	8	SUN	1067	1419	2486	16	
34	11	21	WED	1181	1305	2486	18	
35	8	19	SUN	1121	1361	2482	15	
36	8	5	SUN	1157	1323	2480	14	

Source: Appendix A of Greenlight Engineering letter to the City of The Dalles, dated February 6, 2009.

Project Team and Agency Opinion

- 30th HV on I-84 at Rowena ATR is NOT considered same as 30th HV of Chenoweth Interchange ramp terminals (based on previous discussion regarding 10% Rule – Step 1)
- However, to leave no doubt that improvements identified in *WM3 TIS* will mitigate WM3 project impacts (for entire 240,000 ft² shopping center) even during Sunday I-84 30th Highest Hour, additional Sunday weekend traffic impact analysis was performed for I-84 Chenoweth Interchange.

Sunday Weekend Peak Hour Analysis

Analysis Considerations

- Seasonal adjustment factor needed because Sunday peak hour counts taken during off-peak month (October)
- New trip generation estimates that correspond to Sunday peak hour (for entire 240,000 ft² shopping center)
- Same assumptions used as *WM3 TIS* (i.e., trip distribution and routing, yearly growth rate, and analysis years)
- Sunday assumptions approved by ODOT and City

Seasonal Adjustment Factor

- Calculated following ODOT methodology using data from the Rowena ATR
- Peak Month is compared with Count Month

Table 2: Seasonal Factor for October Traffic Counts (Using Rowena ATR)

Month	Percent of ADT						Seasonal Factor
	2008	2007	2006	2005	2004	Average ^a	
Peak							
July	120	120	120 ^a	124 ^a	123	121.0	
August	122	123	120 ^a	123 ^a	122	122.3	
<i>Higher of the two Months</i>						122.3	
Count							
October	102	102	101	99 ^a	103 ^a	101.7	
November	99	96	96 ^a	100 ^a	98	97.7	
<i>Oct. 25th (Interpolated)</i>						100.4	

$$\frac{122.3}{100.4} = 1.22$$

^a Shaded cells represent the highest and lowest data points for the associated month that were not included in the average calculation.

Sunday vs. Weekday Volume Comparison

- Weekday p.m. peak hour traffic volumes are 3.5% higher than Sunday peak hour volumes (based on streamline around Chenoweth Interchange)
- Similar volumes between analysis periods, but most significant difference is higher weekday p.m. peak hour volumes on River Road east of ramps (due to trips to and from land uses adjacent to project site)

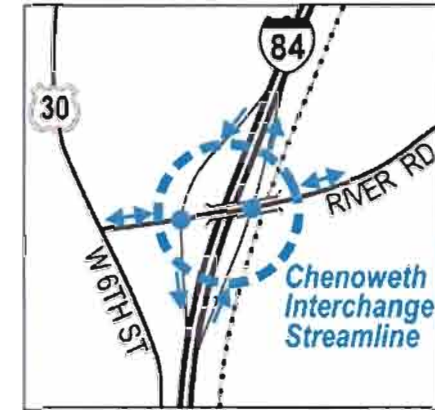


Table 3: Link Volume Comparison of the Sunday and Weekday P.M. Peak Hours (Adjusted to 2009)

Count Date	Factor	Volume Comparison						Streamline around Interchange
		River Rd (west of ramps) ^a	River Rd (east of ramps) ^a	I-84 EB Exit Ramp	I-84 EB Entrance Ramp	I-84 WB Exit Ramp	I-84 WB Entrance Ramp	
Tuesday July 10, 2007	1.046 (Growth Factor)	503	157	184	88	67	135	1134
Sunday Oct. 25, 2009	1.22 (Seasonal Factor)	527	50	219	74	61	165	1096

^a River Road volumes consists of bi-directional traffic (i.e., entering and exiting the Chenoweth Interchange area).

Sunday vs. Weekday Operations Comparison

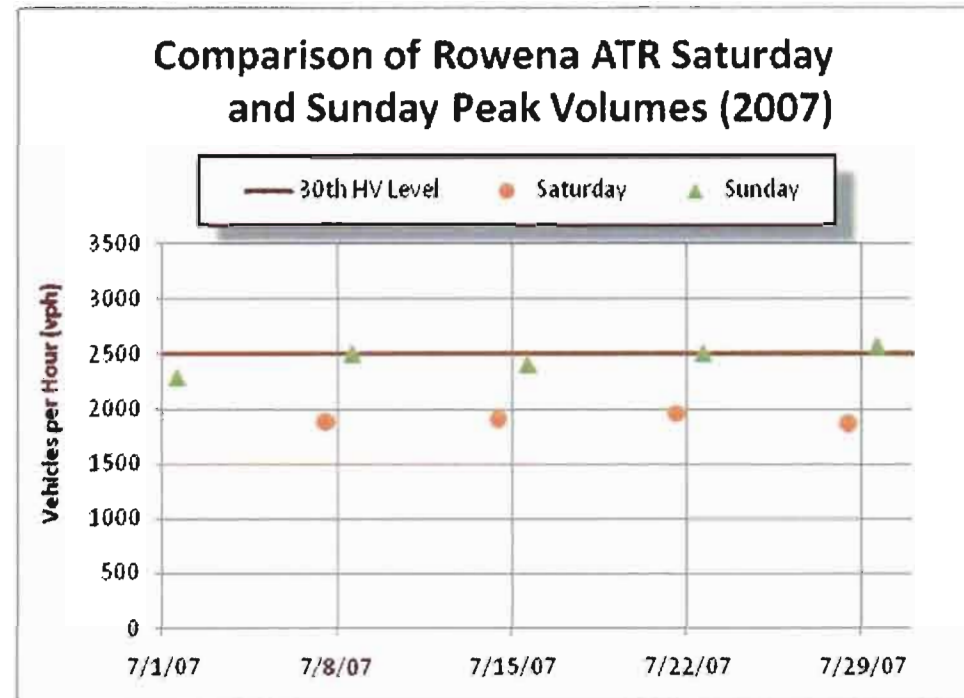
- Operating conditions are worse during weekday p.m. peak hour
- Identified mitigations allow Chenoweth Interchange to meet operating standards for both Sunday and weekday peak hours

Table 9: Chenoweth Interchange Intersection Operating Conditions Summary (2027 Total)

Mitigation by Chenoweth Interchange Intersection	2027 Total Intersection Operating Conditions					
	Weekday P.M. Peak Hour			Sunday Peak Hour		
	Delay	LOS	V/C	Delay	LOS	V/C
US 30 (W 6th St)/River Rd (0.85 V/C Operating Standard)						
Unmitigated (Unsignalized)	36.5	A/E	0.86	36.1	A/E	0.86
Restripe NB approach to include 100-foot right turn lane (Unsignalized)	17.0	A/C	0.64	16.0	A/C	0.60
I-84 EB Ramps/River Rd (0.75 V/C Operating Standard)						
Unmitigated (Unsignalized)	>50	A/F	0.94	15.9	A/C	0.42
Install Traffic Signal	13.2	B	0.44	14.9	B	0.41
I-84 WB Ramps/River Rd (0.75 V/C Operating Standard)						
Unmitigated (Unsignalized)	42.2	B/E	0.78	33.7	A/D	0.68
Install Traffic Signal	13.3	B	0.55	10.2	B	0.42
Signalized Intersections:			Unsignalized intersections:			
Delay = Average Stopped Delay per Vehicle (sec)			Delay = Average Stopped Delay per Vehicle (sec) at Worst Movement (typically a minor movement)			
LOS = Level of Service of Intersection			LOS = Level of Service of Major Street/Minor Street			
V/C = Volume-to-Capacity Ratio of Intersection			V/C = Volume-to-Capacity Ratio of Worst Movement (typically a minor movement)			
Bold values do not meet standards.						

I-84 Saturday Comparison with 30th Highest Hour (Rowena ATR)

- Sunday peak hours in July are equal to the 30th Highest Hour
- Saturday peak hours in July are 25% lower than the 30th Highest Hour to measure project impacts



I-84 Saturday Comparison with 30th Highest Hour (Rowena ATR)

- No correlation between Saturday and 30th Highest Hour
- Therefore,
Saturday should
not be used for
30th HV analysis

Sunday's Top Eight Hours in July

July 2007 Automatic Traffic Recorder (ATR) Data, Station 33-001 Rowena

Hour's Rank	Month	Date	Day	Hour	EB Volume	WB Volumes	Combined Volume
19	7	29	SUN	15	1185	1392	2577
28	7	29	SUN	14	1241	1276	2517
29	7	22	SUN	16	1098	1415	2513
30	7	29	SUN	16	1106	1407	2513
31	7	8	SUN	15	1082	1428	2510
33	7	8	SUN	16	1067	1419	2486
41	7	22	SUN	15	1112	1338	2450
45	7	8	SUN	14	1110	1329	2439

Saturday's Top Eight Hours in July

July 2007 Automatic Traffic Recorder (ATR) Data, Station 33-001 Rowena

Hour's Rank	Month	Date	Day	Hour	EB Volume	WB Volumes	Combined Volume
301	7	21	SAT	14	943	1019	1962
355	7	21	SAT	12	1015	912	1927
369	7	14	SAT	12	1020	896	1916
370	7	21	SAT	15	920	996	1916
420	7	7	SAT	14	963	922	1885
421	7	7	SAT	13	937	947	1884
422	7	7	SAT	15	923	961	1884
433	7	28	SAT	12	905	973	1878

Summary

- Weekday P.M. Peak Hour is correct 30th Highest Hour for Chenoweth Interchange Ramp Terminals
- Less project impacts occur during Sunday Peak Hour
- Saturday not appropriate 30th Highest Hour evaluation
- Mitigation measures imposed by the City in Resolution No. 09-013 are adequate to mitigate impacts through 2027, and will be provided as warranted
- ODOT and City support these conclusions

MINUTES

SPECIAL COUNCIL MEETING
OF
DECEMBER 2, 2009
NOON
CITY HALL COUNCIL CHAMBER
THE DALLES, OREGON

PRESIDING: Mayor Nikki Lesich

COUNCIL PRESENT: Bill Dick, Carolyn Wood, Jim Wilcox, Dan Spatz

COUNCIL ABSENT: Brian Ahier

STAFF PRESENT: City Manager Nolan Young, City Attorney Gene Parker, City Clerk Julie Krueger, Public Works Director Dave Anderson

CALL TO ORDER

The meeting was called to order by Mayor Lesich at 12:07 p.m.

ROLL CALL

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

APPROVAL OF AGENDA

It was moved by Wilcox and seconded by Wood to approve the agenda as presented. The motion carried unanimously, Ahier absent.

EXECUTIVE SESSION

Mayor Lesich recessed the meeting to Executive Session at 12:08 p.m. in accordance with ORS 192.660 (2) (e) to conduct deliberations with persons designated by the governing body to negotiate real property transactions.

MINUTES (Continued)
Special Council Meeting
December 2, 2009
Page 2

Reconvene to Open Session

The meeting reconvened to open session at 1:02 p.m.

ADJOURNMENT

Being no further business, the meeting adjourned at 1:02 p.m.

Submitted by/
Julie Krueger, MMC
City Clerk

SIGNED:

Nikki L. Lesich, Mayor

ATTEST

Julie Krueger, MMC, City Clerk

MINUTES

**SPECIAL COUNCIL MEETING
OF
DECEMBER 18, 2009
NOON
CITY HALL COUNCIL CHAMBER
THE DALLES, OREGON**

PRESIDING: Mayor Nikki Lesich

COUNCIL PRESENT: Bill Dick, Carolyn Wood, Jim Wilcox

COUNCIL ABSENT: Dan Spatz, Brian Ahier

STAFF PRESENT: City Manager Nolan Young, City Attorney Gene Parker, City Clerk Julie Krueger, Public Works Director Dave Anderson

CALL TO ORDER

The meeting was called to order by Mayor Lesich at 12:07 p.m.

ROLL CALL

Roll call was conducted by City Clerk Krueger; Councilors Spatz and Ahier absent.

APPROVAL OF AGENDA

It was moved by Wilcox and seconded by Wood to approve the agenda as presented. The motion carried unanimously, Spatz and Ahier absent.

EXECUTIVE SESSION

Mayor Lesich recessed the meeting to Executive Session at 12:08 p.m. in accordance with ORS 192.660 (2) (e) to conduct deliberations with persons designated by the governing body to negotiate real property transactions.

MINUTES (Continued)
Special Council Meeting
December 18, 2009
Page 2

Reconvene to Open Session

The meeting reconvened to open session at 12:25 p.m.

DECISIONS FOLLOWING EXECUTIVE SESSION

It was moved by Wilcox and seconded by Dick to authorize the City Manager to sign the revised slope and access easement agreement with Mid Columbia Medical Center and to pay amount not to exceed \$75,000 for purchase of the easement. The motion carried unanimously, Spatz and Ahier absent.

ADJOURNMENT

Being no further business, the meeting adjourned at 12:26 p.m.

Submitted by/
Julie Krueger, MMC
City Clerk

SIGNED:

Nikki L. Lesich, Mayor

ATTEST:

Julie Krueger, MMC, City Clerk



CITY of THE DALLES

313 COURT STREET
THE DALLES, OREGON 97058

(541) 295-5481 ext. 1122
FAX: (541) 295-6906

AGENDA STAFF REPORT

CITY OF THE DALLES

MEETING DATE:	AGENDA LOCATION:	AGENDA REPORT #
January 11, 2010	Public Hearings 11, A	10-002

TO: Honorable Mayor and City Council

FROM: Gene F. Parker, City Attorney
Dick Gassman, Senior Planner

THRU: Nolan K. Young, City Manager

DATE January 11, 2010

ISSUE: Public Hearing to allow for testimony concerning annexation of properties located in the Urban Growth Boundary pursuant to ORS 222.125, and Land Use and Development Ordinance (LUDO) Chapter 14.

RELATED CITY COUNCIL GOAL: None.

PREVIOUS AGENDA REPORT NUMBERS: #06-99, December 2006 for annexation phase 1; #07-012, February 2007, for annexation phase 2; #07-048, May 2007 for annexation phase 3; #07-107, November 13, 2007, for annexation phase 4; #08-003, January 14, 2008 for annexation phase 5; #08-022, March 10, 2008, for annexation phase 6, #09-002, January 12, 2009 for phase 7.

BACKGROUND: This public hearing is to allow for testimony concerning the latest annexations. The Council previously held hearings in December, 2006, March 2007, May 2007, November 2007, January 2008, and March 2008, and January 2009.

There are 6 properties on the list of consent annexations. For consent annexations, ORS 222.125 requires that all of the owners of land in the territory proposed to be annexed, and not less than 50 percent of the electors who reside on those properties, must provide written consent to the annexation.

NOTICE: A letter was sent to each of the affected property owners notifying them of this hearing. Notice of the hearing was published in The Dalles Chronicle as required by Oregon law and LUDO Sections 14.010.030 and 3.020.060.

PROCESS: This annexation application is being processed under the provisions of LUDO Chapter 14, adopted by the City on June 11, 2007. Per LUDO Section 14.010.030, all applications for annexation shall be processed as legislative actions. Under the provisions for legislative actions in LUDO Section 3.020.060, annexation requests shall be heard by the City Council.

CRITERIA: Per LUDO Section 14.010.040, annexations shall be subject to the following criteria:

- A. The territory is contiguous to the City limits and qualifies as a consent annexation pursuant to ORS 222.125 or as an island annexation pursuant to ORS 222.750, or is a public right-of-way.

FINDING #1: All properties listed are contiguous to the City limits and qualify as consent annexations. Copies of consents for the properties on the consent list are included with this staff report.

- B. The territory is within the Urban Growth Boundary (UGB).

FINDING #2: All of the properties are within the UGB.

- C. The development of the property is compatible and consistent with the rational and logical extension of utilities and roads to the surrounding area.

FINDING #3: Most of these properties are already developed. Utilities are either already present or can be extended. The City has previously annexed portions of right-of-way which make the affected properties contiguous to the City limits. Annexation of these portions of public right-of-way allows the City to provide a full range of urban services to the adjacent parcels. The City has been planning for the additional resources to extend utilities and maintain the roads that will be required to provide urban services for the additional properties that will ultimately be annexed to the City.

- D. The City is capable of providing and maintaining its full range of urban services to the territory without negatively impacting the City's ability to adequately serve all areas within the existing city limits.

FINDING #4: These areas can be served without negatively impacting other areas within the City as most of the properties are already served by urban services.

- E. The annexation conforms to the Comprehensive Plan.

FINDING #5: Goal #14, Urbanization, of the City's Comprehensive Plan, is "To provide for an orderly and efficient transition from rural to urban land use" Sub-goal #2 of Goal #14 is "To coordinate with Wasco County in order to manage the urban growth boundary and the conversion of land within the boundary for urban uses" The City has complied with Sub-goal #2 of Goal #14 by entering into an intergovernmental agreement with Wasco County for the joint management of the Urban Growth Area, which includes the land area within the Urban Growth Boundary and outside the city limits of the City of The Dalles. The proposed annexations are consistent with the provisions of Section 8 of the intergovernmental agreement with Wasco County for annexation of properties within the Urban Growth Area. The proposed annexations have been conducted in accordance with the relevant provisions to annexation set forth in the Oregon Revised Statutes, including ORS 222.125 for consent annexations, and the annexation is occurring for properties where development has been completed.

Policy #5 listed in Goal #14 of the City's Comprehensive Plan provides as follows:

5. Encourage the orderly annexation of land within the Urban Growth Boundary to the City of The Dalles.
 - A. Adequate public utilities shall be planned or provided for, per local and State statutes, to service an area where annexation is considered. This includes, but is not limited to, storm sewers, sanitary sewer and water service.
 - B. Public facilities such as roads, street lights, parks and fire hydrants may be required for development of the area in question and shall be subject to review prior to annexation.
 - C. Upon annexation an official plat of the parcel(s) in question shall be filed if such document does not exist. Any plat shall be subject to review by the Planning Director, City Planning Commission and the City Council as set forth in the Subdivision Ordinance.

FINDING #6: Sub-goal #3 of Goal #14 of the Comprehensive Plan is "To provide for the orderly and efficient provision of public facilities and services". The proposed annexations comply with the urbanization goal set forth in Goal #14, in that they encourage the orderly annexation of land within the Urban Growth Boundary of the City of The Dalles. The properties to be included in the annexations have been developed, or have been planned for the extension of public facilities and utilities, to ensure the properties will have sufficient services, including but not limited to water and sanitary sewer service, storm sewers, streets, parks, and fire hydrants. Extension of the city limit boundaries to include the properties will allow the City to maintain the facilities and utilities in proper working order to provide services to the residents of these properties, and also provide a basis for the City to continue an orderly process to continue to annex other properties within the Urban Growth Boundary, as the City continues to experience economic growth and development. Inclusion of the properties within the city limits will provide an opportunity for the City to plan and design its public utilities and facilities, including streets, storm system, and water and sanitary sewer system, to ensure the City can provide

necessary public services to its citizens in an orderly and efficient manner. The proposed annexations are reasonable, because they are consistent with the provisions of the City's Comprehensive Plan and the intergovernmental agreement with Wasco County for the joint management of property within the Urban Growth Area, for the reasons set forth above. Annexation of the subject properties will allow the City to maintain the public utilities and facilities serving these properties, and to make any necessary improvements to allow the City to continue providing necessary services for the residents of the properties. Inclusion of these properties within the city limits will transfer responsibility for law enforcement activities related to these properties to the City. This will create a more uniform and efficient system of law enforcement, eliminating confusion over which law enforcement agency is responsible for providing services to the properties.

PROPERTIES TO BE ANNEXED:

A list of the properties subject to the consent statute is attached as Exhibit 1. Maps showing the locations of these properties are attached as Exhibit 2, pages 1 through 3. Copies of the consent forms for the affected properties are attached as Exhibit 3, pages 1 through 5.

EFFECTIVE DATE OF ANNEXATION: The properties on the consent list will be annexed upon the effective date of the proposed annexations.

BUDGET IMPLICATIONS: Completion of the annexations will result in additional property taxes being paid to the City on private property. If the annexation is completed by March 31, 2010, the City will begin receiving its share of property taxes from the designated parcels in November, 2010. The City will begin receiving additional revenue from the utilities that have franchises that will apply to the newly annexed properties and who will begin collecting franchise fees from these properties once they are annexed.

There will be some reduction in the amount of revenue collected from customers of the City water and sanitary sewer systems who will see their rates reduced once they are charged the rate for in-city customers. There will be an increased workload for City staff from additional utility accounts and additional areas to provide law enforcement services.

ALTERNATIVES:

- A. Staff Recommendation. Move to approve the annexations and direct staff to prepare ordinance for adoption at the February 8, 2010 Council meeting.
- B. Move to deny approval of the annexation applications.

LIST OF CONSENT PROPERTIES

Here are those properties eligible for annexation at the January 11, 2010 annexation hearing. These are properties where we have a signed consent to annex, the properties are now contiguous to the existing City limits and no registered voters reside on the property other than those who have signed consents.

<u>Map and Tax Lot</u>	<u>Address</u>	<u>Date of Consent</u>	<u>Current Owner</u>
1 2N 13E 32 AC 500	2811 W 9 th Pl	March 2, 1999	Lynndall Bruce 533 Wilson Rd Mosier, OR 97040
2. 2N 13E 32 AC 1300	2816 W 9 th Pl	September 19, 2002	Ed & Linda Pounders 2816 W 9 th Street The Dalles, OR 97058
3. 2N 13E 32 AC 6101	1004 Snipes	February 12, 2009	Ernesto & Lucilia Aguilar PO Box 231, Parkdale, OR 97041
4. 2N 13E 32 BA 1701	1229 Pomona	September 17, 2007	Ron Hageman & Patricia Cavens 1320 Sterling Dr. The Dalles, OR 97058
5. 2N 13E 32 DD 5000	2204 W 10 th	May 3, 2007	John Roberts 2212 W 10 th St The Dalles, OR 97058
6. 2N 13E 32 DD 5100	2212 W 10 th	May 3, 2007	John Roberts 2212 W 10 th St The Dalles, OR 97058

EXHIBIT 1

THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSE ONLY

0 50 100 200 Feet

S.W.1/4 N.E.1/4 SEC.32 T.2N. R.13E. W.M.
WASCO COUNTY
1" = 100'

02N13E32AC
THE DALLES

CANCELLED

*Will be
revised*

*Should not
be annexed
till 2010*

MIN COR
CATHOLIC
MISSION
CLAM

Revised: DBJ
6/16/2009

THE DALLES
02N13E32AC

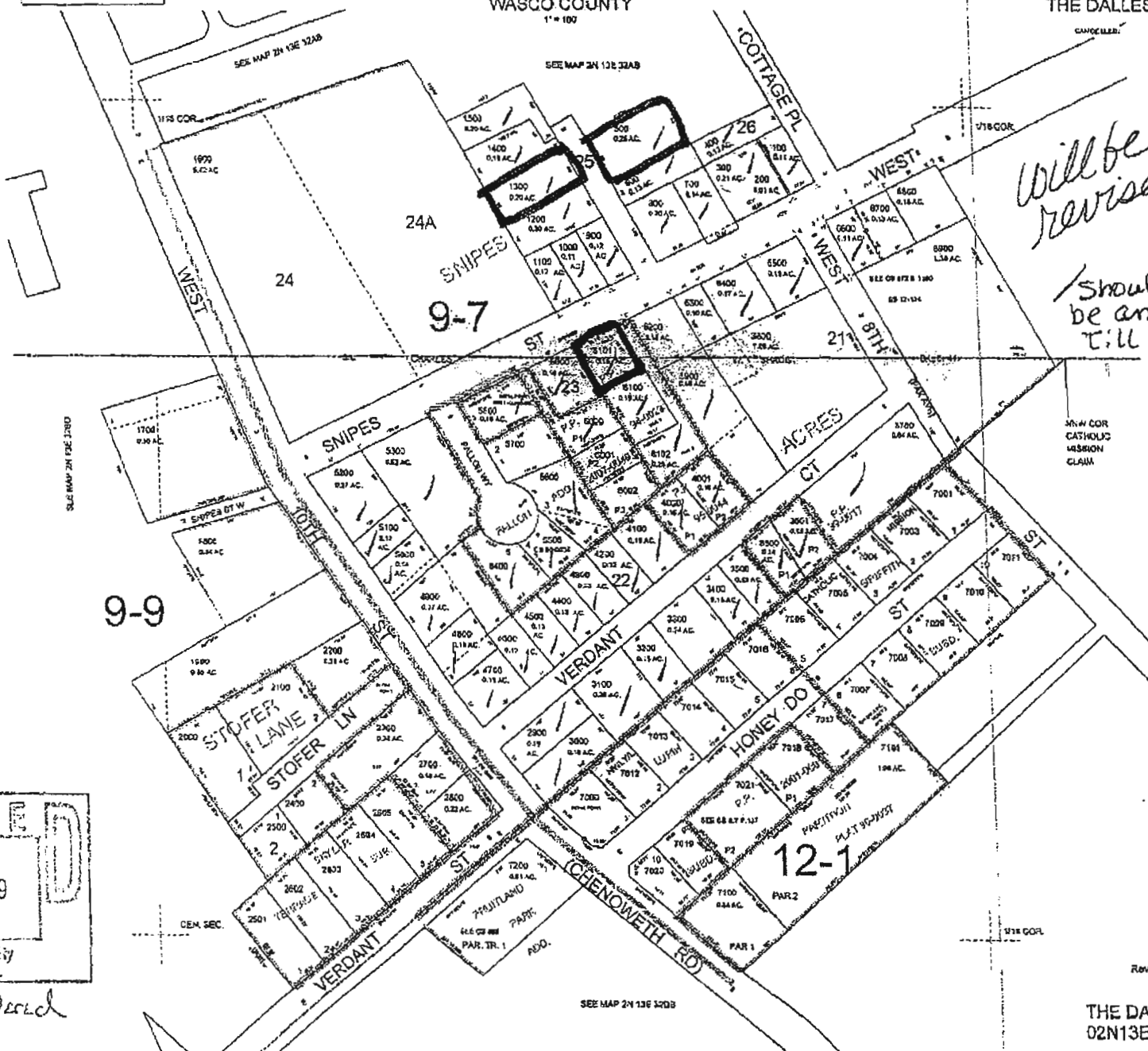
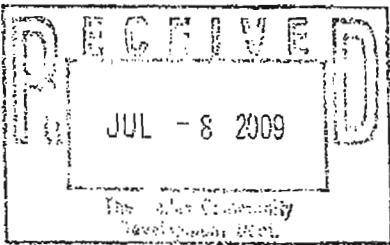


EXHIBIT 2 - Page 1



big copy not ordered

CHIEF

SEE MAP IN USE 2010

 $1'' = 100'$

REF ID: A62114

BY CHARLES N. SHAW, D.L.C. 41

SEE MAP 2N 13E 128

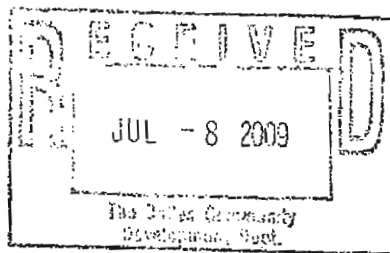
119 GCR

SEE MAP 2N 13E 17BD

Revised D8/
6/22/2009

02N13E32BA

EXHIBIT 2 - Page 2



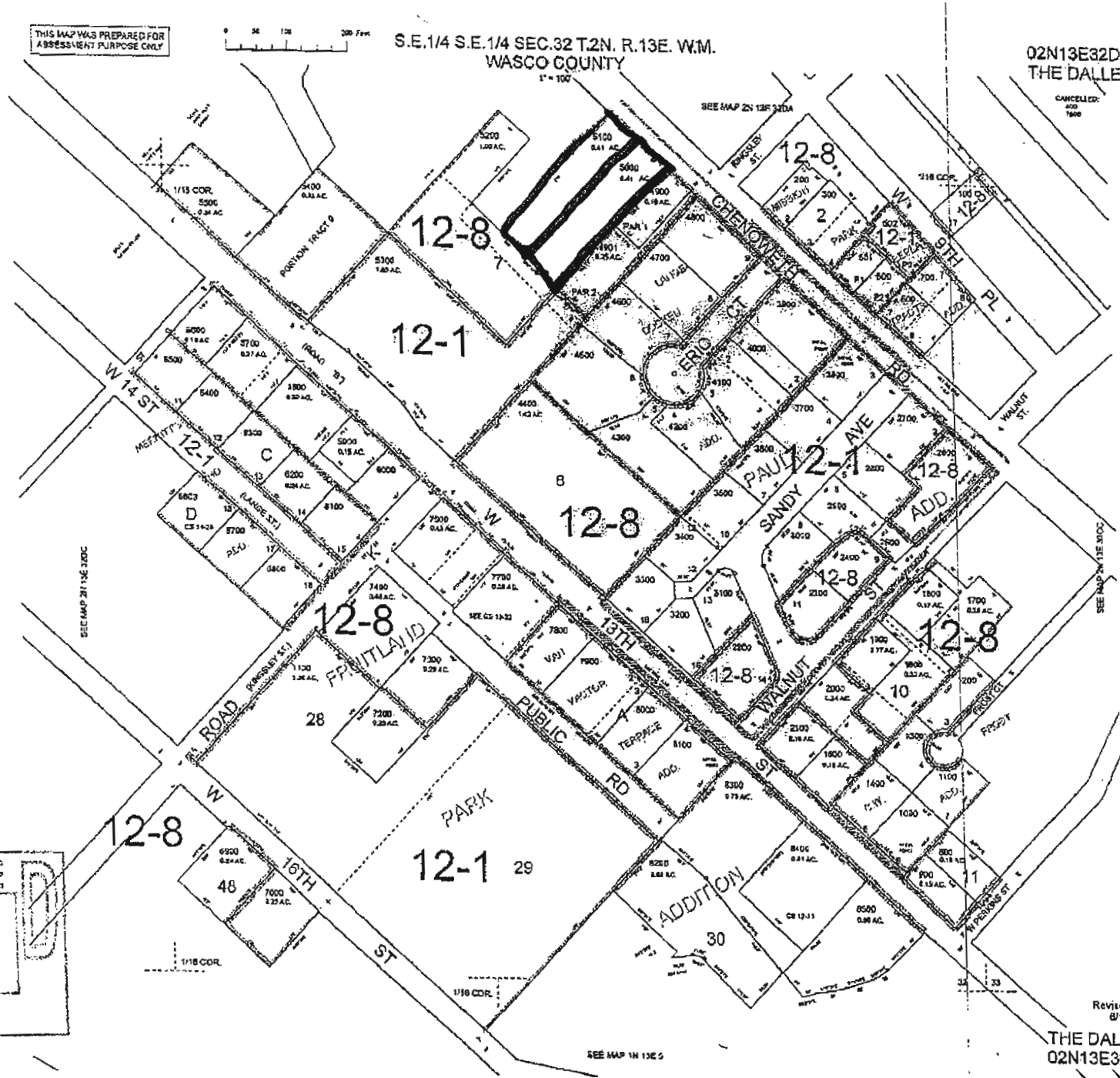
THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSE ONLY

0 50 100 200 Feet
1" = 100'

S.E. 1/4 S.E. 1/4 SEC. 32 T.2N. R.13E. W.M.
WASCO COUNTY

02N13E32DD
THE DALLES

CANCELLED:
400
7000



TO: The City Council of the City of The Dalles, Wasco County, Oregon

OWNER CONSENT TO ANNEXATION

I, Lyndall A. Bruce, OWNER of the following described real property situated in Wasco County, Oregon:

2N 13 E 32 AC, tax lot 580

223 W 9th

LOGGED GIS

Beginning on the Southerly boundary line of Tract 25 of Snipes Acres, Wasco County, State of Oregon, at a point 182 feet 6 inches Northeastly of the Southwest corner of said tract; thence Northeastly along the Southerly boundary line of said tract 142 feet 9 inches to the Southeast line of said tract 25; thence Northwestly along the Easterly boundary line of said Tract 25 a distance of 230 feet; thence Southwestly parallel with the Southerly boundary line of said tract 142 feet 9 inches; thence Southeasterly, parallel with the Westerly boundary line of said tract, to the point of beginning. EXCEPTING THEREFROM the Southerly 110 feet.

do hereby consent to and request annexation of the property described above to the City of The Dalles, Wasco County, Oregon; said property is contiguous to the present city limits of the City of The Dalles, Oregon.

Dated this 2 day of March, 19 99.

Lyndall A. Bruce



WAIVER OF ONE YEAR PERIOD FOR CONSENT TO ANNEXATION PURSUANT TO ORS 222.173

The undersigned, having an interest in the real property described above, has (have) consented to annexation of the real property described above to the City of The Dalles by separate written agreement.

The undersigned, and his or her heirs, successors or assigns hereby waive (u) the one (1) year period of effectiveness of his (her) consent to the annexation pursuant to ORS 222.173.

Lyndall A. Bruce

991796

STATE OF OREGON)
County of Wasco) ss.

STATE OF OREGON)
County of Wasco) ss.

SUBSCRIBED AND SWORN to before me
this 2nd day of March
1999, by Lyndall A. Bruce.

SUBSCRIBED AND SWORN to before me
this _____ day of _____
19____, by _____.

Cawn Marie Hert
Notary Public for Oregon
My Commission expires: Oct 1, 2002

Notary Public for Oregon
My Commission expires: _____



Grantor

TO: The City Council of the City of The Dalles, Wasco County, Oregon

OWNER CONSENT TO ANNEXATION
(ORS 222.170)

I/We, Vonda Bender. OWNER(S) of the following described real property situated in The Dalles, Oregon: 2816 W. 9th Street and further described as 2 North 13 East 32AC Tax Lot 1300;

(see attached legal description)

do hereby consent to and request annexation of the property described above to the City of The Dalles, Wasco County, Oregon; said property is contiguous to the present city limits of the City of The Dalles, Oregon.

Dated this 19 day of September, 2002.

LOGGED GIS

Vonda M Bender
Vonda Bender

STATE OF OREGON)
) ss.
County of Wasco)

STATE OF OREGON)
) ss.
County of Wasco)

SUBSCRIBED AND SWORN to before me this 19th
day of September, 2002, by Vonda M. Bender

SUBSCRIBED AND SWORN to before me this _____
day of _____, 2002, by _____

Dawn Marie Hart
Notary Public for Oregon
My Commission expires: Oct 1, 2006

Notary Public for Oregon
My Commission expires: _____



Received by the City on the _____ day of _____, 2002.

Grantor

City of The Dalles
313 Court Street Grantee
The Dalles, Oregon 97058

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

EXHIBIT 3 - Page 2

TO: The City Council of the City of The Dalles, Wasco County, Oregon

OWNER CONSENT TO ANNEXATION

(ORS 222.115)

I/We, Ernesto + Lucila Aguilar, OWNER(S) of the following described real property situated in Wasco County, Oregon:

1004 Snipes
2N13E32AC6101

do hereby consent to and request annexation of the property described above to the City of The Dalles, Wasco County, Oregon; said property is contiguous to the present city limits of the City of The Dalles, Oregon.

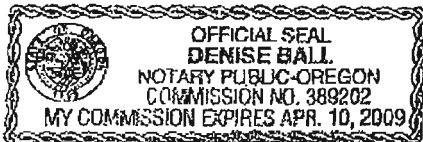
Dated this 12 day of Feb., 2009.

Ernesto Aguilar

STATE OF OREGON)
) ss.
County of Wasco)

SUBSCRIBED AND SWORN to before me this 12th
day of February, 2009, by Ernesto Aguilar

Denise Ball
Notary Public for Oregon
My Commission expires: April 10, 2009

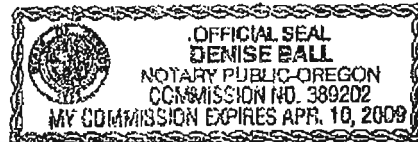


Lucila Aguilar

STATE OF OREGON)
) ss.
County of Wasco)

SUBSCRIBED AND SWORN to before me this 12th
day of February, 2009, by Lucila Aguilar

Denise Ball
Notary Public for Oregon
My Commission expires: April 10, 2009



Received by the City on the 12th day of February, 2009

Grantor

City of The Dalles
313 Court Street Grantee
The Dalles, Oregon 97058

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

EXHIBIT 3 - Page 3

TO: The City Council of the City of The Dalles, Wasco County, Oregon

OWNER CONSENT TO ANNEXATION
(ORS 222.115)

We, Ronald Hageman and Patricia Cavens OWNER(S) of the following described real property situated in Wasco County, Oregon and described as: 2 North 13 East 32 BA, Tax Lot 1700 and 2 North 13 East 32 BB, Tax Lot 700.

Do hereby consent to and request annexation of the property described above to the City of The Dalles, Wasco County, Oregon; said property is contiguous to the present city limits of the City of The Dalles, Oregon.

Dated this 17th day of September, 2007

Ronald Hageman
Ronald Hageman
STATE OF OREGON)
) ss.

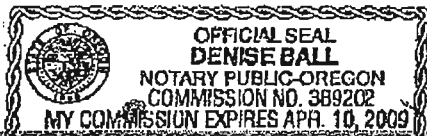
County of Wasco)

Patricia Cavens
Patricia Cavens
STATE OF OREGON)
) ss.

County of Wasco)

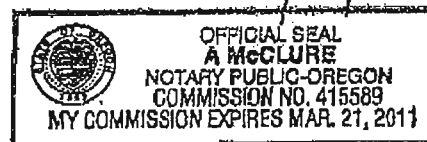
SUBSCRIBED AND SWORN to before me this 17th
day of Sept., 2007 by Ronald Hageman

Denise Ball
Notary Public for Oregon
My Commission expires: April 10, 2009



SUBSCRIBED AND SWORN to before me this 17th
day of Sept., 2007 by Patricia Cavens

Ken McClure
Notary Public for Oregon
My Commission expires: 3/21/2011



Received by the City on the 17th day of September, 2007

Grantor

City of The Dalles
313 Court Street Grantee
The Dalles, Oregon 97058

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

Wasco County Official Records **2007-005328**
DEED-IPPS
Cnt=1 SIn=1 WASCO COUNTY 10/18/2007 01:31 PM
\$10.00 \$11.00 \$10.00 \$15.00 **\$46.00**



0002359320070005328020025

I, Karen LeBreton Coats, County Clerk for Wasco County, Oregon, certify that the instrument identified herein was recorded in the Clerk records.



EXHIBIT 3 - Page 4

LOGGED GIS


TO: The City Council of the City of The Dalles, Wasco County, Oregon

OWNER CONSENT TO ANNEXATION
(ORS 222.115)

I. John Roberts, OWNER(S) of the following described real property situated in Wasco County, Oregon at 2208 and 2212 W. 10th Street and described as: 2 North 13 East 32 DD, Tax Lots 5000 & 5100.

Do hereby consent to and request annexation of the property described above to the City of The Dalles, Wasco County, Oregon; said property is contiguous to the present city limits of the City of The Dalles, Oregon.

Dated this 3 day of May, 2007



John Roberts
STATE OF OREGON)
) ss.
County of Wasco)

STATE OF OREGON)
) ss.
County of Wasco)

SUBSCRIBED AND SWORN to before me this 3rd
day of May, 2007 by John Roberts

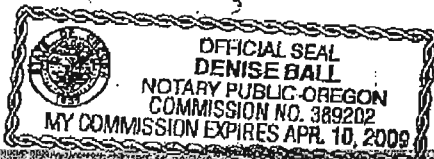
SUBSCRIBED AND SWORN to before me this _____
day of _____, 2007 by _____

Notary Public for Oregon

My Commission expires: 4-10-2009

Notary Public for Oregon

My Commission expires: _____



Received by the City on the 3rd day of May, 2007

Grantor

City of The Dalles
313 Court Street Grantee
The Dalles, Oregon 97058

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

EXHIBIT 3 - Page 5



CITY of THE DALLES


313 COURT STREET
THE DALLES, OREGON 97058


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

AGENDA STAFF REPORT

MEETING DATE	AGENDA LOCATION	AGENDA REPORT #
January, 11, 2010	Contract Review Board 12, A	10-003

TO: Honorable Mayor and City Council

FROM: Dan Durow, Urban Renewal Manager 

THRU: Nolan Young, City Manager 

DATE: December 16, 2009

ISSUE: Consideration of Contract Addendum #2 with HDJ Design Group, for Construction Management Services for the East Gateway/Brewery Grade project.

BACKGROUND:

The City entered into a contract with HDJ Design Group on May 1, 2009, to provide engineering services during the construction of the East Gateway/Brewery Grade Streetscape project (this does not include the East Gateway II project). At that time, the HDJ engineering services proposal was based upon complete closure of the area to traffic, starting construction in August, and completing 95 percent of it by Thanksgiving.

All of this changed when it was determined that traffic had to be kept open on E. 2nd Street throughout the entire construction phase, which added significantly to the time it would take to get the project completed. In addition, there were significant construction delays when the wall material had to be manufactured pushing the start date back to mid-September, adding to the construction and inspection timeline. The six change orders requested by the City to date and the nighttime construction have also added to the cost of these engineering services.

Because of the time crunch in getting the paperwork done in time to spend the ARRA stimulus monies, it was decided initially to monitor the rate of spending under the original proposal rather than to try and get the contract amended by the ARRA deadline.

The original contract was for \$249,040, but anticipating an increase due to the construction schedule change the Council originally authorized up to \$275,000.

Based upon the remaining construction schedule, on-going change order work, and the amount expended to date, it is anticipated that it will take another \$95,000 to cover the additional costs, bringing the total to \$370,000.

BUDGET IMPLICATIONS:

There are sufficient monies that have been transferred from the Urban Renewal Fund to the City's Fund 18 to pay for the additional construction management services costs.

STAFF RECOMMENDATION: [suggested motion] ... Move to authorize the City Manager to sign the Second Addendum to Contract Number 2009-012 for Construction Management Services for the East Gateway/Brewery Grade Project with HDJ Design Group, to increase the amount of compensation to be paid to a total sum not to exceed \$370,000.

Alternative 1: Not authorize the contract addendum and provide staff with further direction.

SECOND ADDENDUM TO
AGREEMENT FOR PROFESSIONAL SERVICES FOR
EAST GATEWAY BREWERY GRADE INTERSECTION PROJECT
CONTRACT NO. 2009-012

WHEREAS, the City of The Dalles, hereinafter referred to as "CITY", and HDJ Design Group, hereinafter referred to as "CONSULTANT", entered into an Agreement for Professional Services for Construction Management Inspection Services during construction of the East Gateway Brewery Grade Intersection Project, Contract No. 2009-012, on May 1, 2009; and

WHEREAS, CITY and CONSULTANT entered into a First Addendum on August 17, 2009, amending the May 1, 2009, Agreement to include the performance of contract administrative services of the Consultant Agreement entered into between CONSULTANT and Archaeological Investigations Northwest, Inc.; and

WHEREAS, the CONSULTANT'S original engineering services proposal which was incorporated into the May 1, 2009, Agreement was based upon closing the area around the project to traffic, starting construction in August, 2009, and completing 95% of the project by Thanksgiving, 2009; and

WHEREAS, unforeseen circumstances have caused a significant increase in the amount of time required to complete the project, including a decision by the CITY to keep traffic open on East Second Street throughout the entire construction phase of the project, and a delay in the manufacturing of wall material which delayed the start of construction until mid-September, 2009; and

WHEREAS, CONSULTANT has provided overtime construction inspection services, which were not anticipated in the CONSULTANT'S original proposal; and CONSULTANT was required to attend mandatory ARRA training, which was not included in CONSULTANT'S original proposal; and

WHEREAS, CONSULTANT has estimated that an additional \$95,000 will be needed to pay for the construction management services that will be required to complete the project by May, 2010; and

WHEREAS, CITY and CONSULTANT desire to enter into an addendum that will authorize the payment of funds for the additional services to be provided by CONSULTANT; and

NOW, THEREFORE, in consideration of the terms and conditions set forth herein, it is mutually agreed as follows:

1. Section 2.1.1 of the Professional Services Agreement dated May 1, 2009, between CITY and CONSULTANT shall be modified to increase the amount of compensation to be paid to CONSULTANT to a sum not to exceed \$370,000.00.

2. Except as modified by this Second Addendum, and the First Addendum dated August 17, 2009, the terms and conditions of the May 1, 2009, Professional Services Agreement shall remain in full force and effect.

Dated this _____ day of _____, 2010.

CITY OF THE DALLES

CONSULTANT

Nolan Young, City Manager

By: _____
Gregory P. Jellison, P.E., Principal

ATTEST:

Julie Krueger, MMC, City Clerk

APPROVED AS TO FORM:

Gene E. Parker, City Attorney

**CITY of THE DALLES**313 COURT STREET
THE DALLES, OREGON 97058(541) 296-5481 ext. 1122
FAX: (541) 296-6906

AGENDA STAFF REPORT

CITY OF THE DALLES

MEETING DATE:	AGENDA LOCATION:	AGENDA REPORT #
January 11, 2010	Action Items 13, A	10-004

TO: Honorable Mayor and City Council**FROM** Gene E. Parker, City Attorney
Dick Gassman, Senior Planner**THRU:** Nolan K. Young, City Manager**DATE:** December 29, 2009**ISSUE:** Deliberation for decision concerning remand of decision approving Site Plan #379-08 for the construction of a Wal-Mart Store, and possible adoption of Resolution No. 10-001 affirming the City Council's decision to approve Site Plan #379-08.**RELATED CITY COUNCIL GOAL:** None.**PREVIOUS AGENDA REPORT NUMBERS:** #09-090 and #09-093.

BACKGROUND: On December 14, 2009, the City Council held a public hearing to hear testimony and evidence related to the remand by the Land Use Board of Appeals for the approval of Site Plan #379-08 of Pacland for the construction of a Wal-Mart store. Prior to the close of the public hearing, a request was made by the opponents of the application (with a similar request made by the applicant) to allow for the opportunity to present additional evidence, arguments and testimony concerning the issues addressed during the remand hearing. The Council granted the requests by voting to keep the record open until December 21, 2009, to allow for additional written evidence, arguments or testimony.

Enclosed with this staff report is a copy of a memorandum dated December 21, 2009, submitted on behalf of the Applicant by DKS Associates. This memorandum was provided as a response to information submitted in a letter from Kenneth Helm dated December 14, 2009, and to a letter from Greenlight Engineering dated December 11, 2009. Under Oregon law, the opponents had until December 28, 2009, to submit a written response to the December 21, 2009, memorandum submitted by DKS Associates. Enclosed with this staff report is a copy of a letter dated December 28, 2009, from Mr. Helm, responding to the memorandum submitted by DKS Associates. Under Oregon law, the Applicant has the right to file final written arguments in support of their application, which document must be received by January 4, 2010. The Applicant has advised City staff they will be submitting their final written arguments by January 4, 2010; and they will also be submitting proposed findings, which the Council could choose to consider including in a resolution affirming their decision to approve the site plan for the proposed Wal-Mart store.

Mr. Helm asserts that the DKS memorandum of December 2, 2009, the PowerPoint presentation submitted during the December 14th hearing, and the December 21, 2009, DKS memorandum do not constitute "substantial evidence" upon which the Council can rely. Mr. Helm's assertion rests upon the premise that the opponents have presented evidence and testimony which contradicts and calls into question the conclusions and supporting documentation submitted by the Applicant's experts. In its opinion remanding the City's decision, LUBA explained the City's authority in choosing between conflicting evidence, and LUBA's role in determining whether a local government's decision is supported by substantial evidence where there is conflicting evidence in the record:

"When faced with competing evidence, the city is entitled to choose between that conflicting evidence, and as long as the city's reliance is reasonable, we will not substitute our judgment for the decision maker's. Rather, we must consider and weigh all the evidence in the record to which we are directed, and determine whether, based on that evidence, the local decision maker's conclusion is supported by substantial evidence" Citizens for Responsible Development v. City of The Dalles, LUBA No. 2009-048, pages 13-14.

In this opinion, the LUBA Board, citing the case of Wal-Mart Stores, Inc. v. City of Bend, 52 Or LUBA 261, 276 (2006) set forth the following principle to be used in determining whether there is substantial evidence in the record to support a local government's decision, when there is conflicting evidence in the record:

"The critical issue for the local decision maker will generally be whether any expert or lay testimony offered by permit opponents raises questions or issues that undermine or call into question the conclusions or supporting documentation that are presented by the applicant's experts, and, if so, whether any such questions or issues are adequately rebutted by the applicant's experts". Citizens for Responsible Development, supra at page 15.

Staff has reviewed the documentation provided in the December 21, 2009, DKS memorandum in response to the issues raised by Mr. Helm and Greenlight Engineering; and it is staff's position

that the testimony and evidence submitted by the Applicant's experts has sufficiently rebutted the questions and issues raised by the opponent's expert, and that the expert testimony and evidence submitted by the Applicant as part of the record for the remand hearing can constitute substantial evidence upon which the Council can rely, if they determine they want to affirm their decision to approve Site Plan #379-08.

To assist the Council in its deliberations, staff offers the following comments upon Mr. Helm's letter of December 28, 2009:

1. Concerning the alleged failure of DKS to address flaws in the July Tuesday traffic counts as shown by the October 30, 2009, traffic counts, DKS directly addressed this issue by noting the weekday p.m. peak hour traffic volumes were 3.5% higher than the Sunday peak hour volumes at the Chenoweth Interchange. On pages 11 to 12 of their analysis, DKS provided further rationale contradicting Greenlight's assertion that the Sunday traffic counts established flaws in the Tuesday traffic counts, noting that Greenlight's comparison of the 2007 weekday p.m. peak hour and the 2009 Sunday peak hour count data was flawed, because it does not apply a growth factor to the 2007 traffic counts.
2. Mr. Helm asserts that Greenlight Engineering established errors in judgment made by DKS Associates by improperly characterizing the impacts upon the Chenoweth Interchange from nearby recreational uses. Mr. Helm asserts that as a fact, these uses "already have an impact on the interchange". No citations are provided to any testimony or evidence reciting specific facts detailing the specific recreational uses, and the precise nature of the impacts on the Chenoweth Interchange from these recreational uses.

Concerning the assertion that there is not substantial evidence in the record to support DKS's conclusion that the Chenoweth Interchange ramp terminals have characteristics that are more similar to a large urban area than a recreational area, because there allegedly is no specific data offered to support this conclusion, pages 18 to 19 of the DKS analysis set forth the detailed rationale as to the "sound engineering judgment" which DKS used to ensure their methodology complied with ODOT's Analysis Procedures Manual.

3. Regarding the assertion that DKS allegedly failed to explain why the Friday traffic counts were not relevant for the Chenoweth Interchange, on page 20 of their December 21, 2009 memorandum, DKS explained that ODOT uses Tuesday through Thursday counts to avoid the traffic variation related to flex working schedules and extended weekends, which made it inappropriate to use Friday counts for weekend analysis.
4. Concerning the assertion that the applicant relied upon ATR data from 2006, and that the applicant should be required to conduct traffic counts in July 2010, staff believes that the detailed documentation supplied by the Applicant's expert established that the traffic counts taken in July complied with ODOT's

requirements for the proper methodology to determine the 30th highest hour volume, and that there is substantial evidence in the record to support findings to establish that the 30th highest hour was correctly determined, and there is no necessity or justification for requiring any further traffic counts to be done in July, 2010.

5. Concerning the assertion that there is evidence of a potential violation of the 75 volume to capacity ratio for the Chenoweth Interchange if only two of the specified traffic mitigation projects are constructed before the proposed store is opened, on page 5 of their analysis, DKS explained how use of the 2027 analysis year with project mitigations established that the Chenoweth Interchange would actually operate at volume to capacity ratios below the 75 ratio.

Enclosed with this staff report is a proposed Resolution affirming the City Council's decision to approve the site plan for the proposed Wal-Mart store. As mentioned previously, the Applicant anticipates preparing proposed findings which could be incorporated into the proposed resolution. Staff will provide the Council with a copy of the proposed findings as soon as they become available. If the Council determines that it wants to affirm its original decision to approve the site plan, and if the Council has sufficient time in advance to review the proposed findings, and desires to incorporate them into the resolution, the findings can be attached as an exhibit to the resolution and included as part of the resolution.

BUDGET IMPLICATIONS: None.

ALTERNATIVES:

- A. Staff Recommendation. The Council move to adopt Resolution No. 10-001, affirming the decision to approve Site Plan #379-08 of Pacland for the construction of a Wal-Mart store, including the findings of fact and conclusions of law submitted by the Applicant which are incorporated into the Resolution as Exhibit "A", with the twenty conditions of approval included in Resolution No. 09-013.
- B. Postpone consideration of adoption of Resolution No. 10-001 to the January 25th Council meeting.

MEMORANDUM

TO: Dale McCabe, City of The Dalles
Rod Cathcart, ODOT Region 4
Ana Jovanovic, ODOT Region 4
Marty Matherly, Wasco County

CC: Scott Franklin, PacLand
Greg Hathaway, Davis Wright Tremaine

FROM: Scott Mansur, P.E., P.T.O.E. *SM*
Brad Coy, E.I.T.

DATE: December 21, 2009

SUBJECT: **Response to Kenneth Helm (December 14, 2009) and
Greenlight Engineering (December 11, 2009) Letters**



P08269-001-000

This memorandum provides DKS Associates' responses to transportation comments provided by Kenneth Helm¹ and Greenlight Engineering² in their letters dated December 14, 2009, and December 11, 2009, respectively. Kenneth Helm and Greenlight primarily use the same arguments as in their previous letters to contend that the recent DKS Associates analysis dated December 2, 2009, did not provide sufficient evidence that the correct 30th highest hour was used consistent with LUBA's remand.³ DKS Associates does not agree with this conclusion and finds the arguments used by Kenneth Helm and Greenlight Engineering to be unsubstantiated based upon the documented evidence in the record.

The recent DKS memorandum (December 2, 2009) and PowerPoint presentation (December 14, 2009, for The Dalles City Council) provide detailed documentation of how Oregon Department of Transportation (ODOT) methodology (discussed as seven steps) supports the selection of a weekday p.m. peak hour in July as the appropriate 30th highest hour analysis period. ODOT and the City of The Dalles have both submitted supporting letters stating that traffic counts taken during a weekday p.m. peak hour in July satisfy ODOT's requirement to measure 30th highest hour traffic impacts based on the methodology and analysis performed by DKS in its December 2, 2009 traffic analysis. The Tuesday on which traffic counts were collected is both a weekday and is in July; therefore, it satisfies both criteria related to the 30th highest hour.

¹ LUBA Remand of SPR 379-08-December 2, 2009, DKS Wal-Mart: Additional Traffic Analysis for LUBA Remand, Letter by Kenneth Helm to Gene Parker (City of The Dalles), December 14, 2009.


² Wal-Mart Response to DKS December 2, 2009 Memorandum, Letter by Rick Nys (Greenlight Engineering) to City of The Dalles, December 11, 2009.

³ Wal-Mart Additional Traffic Analysis for LUBA Remand, DKS Associates, December 2, 2009.

The DKS memorandum (December 2, 2009) and PowerPoint presentation (December 14, 2009, for The Dalles City Council) also provided that the Sunday peak hour analysis would have less impact on the Chenoweth interchange and that a Saturday in July is not appropriate for the 30th highest hour on I-84 since it has 25% lower volumes than a Sunday in July.

Furthermore, the arguments and data provided by Greenlight Engineering continue to rely entirely on the Rowena Automatic Traffic Recorder (ATR), which has traffic volumes that are more than twice as high as the Chenoweth Interchange ramp terminals (as documented in the DKS memorandum and PowerPoint presentation). ODOT procedures specify that data from an ATR should only be used to determine when the 30th highest hour occurs if traffic volumes are within 10% of project area volumes. Therefore, the Greenlight Engineering arguments that use Rowena ATR data to make specific conclusions about the 30th highest hour at the Chenoweth Interchange are inherently flawed and not in compliance with ODOT's requirements for determining the 30th highest hour.

In this memorandum, DKS addresses all paragraphs and sections of the Kenneth Helm letter that are related to traffic (December 14, 2009) and Greenlight Engineering letter (December 11, 2009). Sections of the Kenneth Helm and Greenlight letters are displayed in boxes and are direct copies from the letters. These boxes are provided in consecutive order and include the Kenneth Helm and Greenlight letters in their entirety. Clarifications and rebuttals are provided below each box.

KENNETH D. HELM ATTORNEY AT LAW		
16280 NW MISSION OAKS DRIVE BEAVERTON, OR 97006		
TELEPHONE 503-753-6342	E-MAIL knhelm@comcast.net	
VIA E-MAIL AND MAIL DELIVERY		
Mr. Gene Parker City Attorney 313 Court Street The Dalles, OR 97058		
December 14, 2009		
Re: LUBA Remand of SPR 379-08 – December 2, 2009, DKS “Wal-Mart: Additional Traffic Analysis for LUBA Remand.”		
Mr. Parker:		
As you know, I represent Citizens for Responsible Development in The Dalles. We have reviewed Wal-Mart’s traffic analysis submitted in response to the city council’s direction on LUBA’s remand of application SPR 379-08. Attached is a review of the DKS analysis by Greenlight Engineering. Please enter both the Greenlight Engineering document and this letter into the record in this proceeding.		
The reason the city’s approval was remanded by LUBA is that the board found the city’s findings did not adequately respond to CRD’s evidence that showed Wal-Mart had not used the correct traffic counts for the 30 th highest hour in calculating the impacts of the Wal-Mart store on the volume to capacity ratio of the Chenoweth Interchange. The additional information submitted by DKS in its December 2, 2009 document does nothing to change that.		

The Land Use Board of Appeals (LUBA) had the following findings:

- “We tend to agree with petitioners that the city’s findings fail to adequately explain why traffic counts taken on a weekday satisfy the requirement to measure 30th highest hour volumes for traffic, when the 30th HHV for traffic as measured at the Rowena ATR occurred on a Sunday afternoon in July. Although the city may be correct that traffic at the other affected intersections that are located entirely within the city is busiest during the week that does not necessarily mean that traffic at the Chenoweth Interchange, located directly on I-84, is busiest during the week, when ODOT’s ATR counts at Rowena appear to at least call that conclusion into question.” (page 14)

- “ traffic counts taken at the Chenoweth Interchange on a weekend day may be necessary in order to reach an accurate conclusion about whether the proposed development will significantly affect that interchange.” (page 15)
- “The first assignment of error is sustained, in part.” (page 15)

LUBA’s findings in no way indicated that the previous DKS traffic analysis was flawed. Instead, LUBA only stated that they were not sufficiently convinced that “traffic counts taken on a weekday satisfy the requirement to measure 30th highest hour volumes for traffic” and that “traffic counts taken at the Chenoweth Interchange on a weekend day may be necessary in order to reach an accurate conclusion about” project impacts. The recent DKS memorandum (December 2, 2009) and PowerPoint presentation (December 14, 2009, City Council Meeting) address both of these issues by providing the following:

- Detailed documentation of how ODOT methodology supports the selection of a weekday p.m. peak hour in July as the appropriate 30th highest hour analysis period
- Additional Sunday peak hour impact analysis that shows that even if the 30th highest hour occurs on a Sunday (based on the Rowena ATR), then the improvements previously conditioned on the developer pursuant to Resolution No. 09-013 will still mitigate project impacts at the Chenoweth Interchange
- Documentation that Rowena ATR volumes are more than 25% lower on Saturday than on Sunday, and therefore that Saturday does not constitute the 30th highest hour and should not be used as the analysis period to measure project impacts.

Both ODOT⁴ and the City of The Dalles⁵ have written letters in support of the DKS analysis and findings.

⁴ Wal-Mart Additional Traffic Analysis for LUBA Remand, Ana Jovanovic, ODOT, December 11th, 2009.

⁵ Wal-Mart Traffic Analysis and Additional Analysis for LUBA Remand, Dale McCabe, City Engineer, December 14th, 2009

The analysis by Greenlight Engineering shows that Wal-Mart's application continues to fail to demonstrate that the .75 volume to capacity ratio at the Chenoweth Interchange will be met. The DKS analysis lacks substantial evidence to support their choice for the 30th highest hour. The Sunday counts used by DKS essentially prove that the 30th highest hour times that they have chosen are far too low. Greenlight's analysis shows that even using the conservative 37th highest would increase the trip volume by approximately 1000 vehicle trips over what Wal-Mart has used. Thus, the DKS document cannot be the basis for amended findings complying with LUBA's order.

Remember that based on the 2007 DKS study and using DKS's preferred 30th highest hour estimates, the Chenoweth Interchange is only expected to function at a .72 V/C ratio.

Even the slightest increase in the 30th highest hour trip estimates is likely to push that V/C ratio past .75 which will result in a violation of the settlement agreement between ODOT and the city. Based on the current DKS analysis, the city cannot logically adopt findings which can comply with LUBA's remand. This is true at least in part because the Greenlight analysis so significantly calls into question, if not completely undercuts, the reasoning and evidence relied upon in DKS's December 2, 2009 submission.

These statements are inaccurate and misleading for the following reasons:

- The 0.72 v/c ratio referenced is an unmitigated 2010 analysis result reported in the *WM3 TIS*⁶ and is a misrepresentation of the improvements provided by the project. A more accurate picture of the effects of the project on Chenoweth Interchange operating conditions can be seen by considering the 2027 analysis year with both project traffic and project mitigations included in the analysis. In this 2027 mitigated scenario, the two Chenoweth Interchange ramp intersections would operate at v/c ratios of 0.44 and 0.55 (which are both at least 20% lower than the 0.75 v/c ratio operating standard). Also, the nearby US 30/River Road intersection would operate at a v/c ratio of 0.64 (which is more that 20% lower than its applicable 0.85 v/c ratio operating standard). Because the developer is conditioned to provide financial assurance that the identified improvements will be constructed when warranted (as was set forth in the City of The Dalles Resolution No. 09-013), the improvements will be installed as soon as they are needed to maintain compliance with ODOT's operating standards.
- Evidence has been provided in the recent DKS memorandum (December 2, 2009) and PowerPoint presentation (December 14, 2009, for The Dalles City Council Meeting) demonstrating that traffic counts taken during a weekday pm peak hour in July, satisfy ODOT's 30th highest hour requirement. In addition, ODOT and the City of The Dalles have both submitted supporting letters stating that traffic counts taken during a weekday p.m. peak hour in July satisfy ODOT's requirement to measure 30th highest hour traffic impacts and that DKS followed the appropriate methodology in determining the same.
- The 1,000 vehicle trips referenced for the 37th highest hour were measured at the Rowena ATR, which cannot be used to determine the 30th highest hour for the Chenoweth Interchange ramp terminals because it has approximately two times higher traffic volumes (as documented in the

⁶ *The Dalles WM3, Inc. Development Transportation Impact Study*, DKS Associates, September 2007.

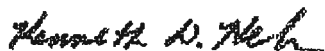
DKS memorandum and PowerPoint presentation). ODOT procedures specify that data from an ATR should only be used to determine when the 30th highest hour occurs if traffic volumes are within 10% of project area volumes. Therefore, using the Rowena ATR to determine the 30th highest hour or make conclusions regarding the selected count hour for the Chenoweth Interchange is contrary to ODOT procedures, as explained in the recent DKS memorandum (December 2, 2009) and PowerPoint presentation (December 14, 2009, for The Dalles City Council Meeting).

- Greenlight's assertion that the Sunday counts used by DKS are higher than the Tuesday afternoon counts is not factually correct. Weekday p.m. peak hour traffic volumes are 3.5 % higher than Sunday peak hour volumes at the Chenoweth Interchange. This assertion is without meaning since the evidence demonstrates that the previously imposed mitigation conditions by the City in Resolution No. 09-013 will mitigate project impacts under either analysis period.

CRD's suggestion and request is that the city council require Wal-Mart to conduct its own traffic counts at the appropriate time of year, in this case July, to determine with certainty, the correct 30th highest hour, and based on those counts recalculate the V/C ratio for the Chenoweth Interchange so that the city council can adequately determine whether the V/C ratio of .75 can be complied with. As the Greenlight analysis points out, Wal-Mart had the opportunity to do such counts in 2007 and 2008 and opted not to do so.

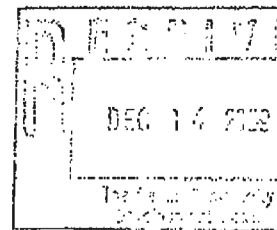
As a final matter, CRD continues to object to the city council's refusal to examine new information related to the wetlands on the Wal-Mart site. Wal-Mart's own information shows that dozens of additional wetlands have been discovered on the subject property and the area Wal-Mart intends to build upon. This fact has the potential to affect both the city council's former subdivision approval 62-08, and site plan approval in 379-09, in that roads, parking lots, utilities and other aspects of the development may need to be moved in order accommodate the wetlands. The question of how the wetlands will be mitigated is also unresolved. It is CRD's position that these changes will require new public hearings and review of any changes to the subdivision or site plan approvals.

Thank you for the opportunity to comment.



Ken Helm

Appropriate traffic counts and analysis have already been performed, as indicated by the recent DKS memorandum (December 2, 2009) and PowerPoint presentation (December 14, 2009, for The Dalles City Council Meeting). ODOT and the City of The Dalles have also both submitted letters supporting the DKS analysis.

GREENLIGHT ENGINEERING
TRAFFIC ENGINEERING/TRANSPORTATION PLANNING

December 11, 2009

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

RE: Wal-Mart - Response to DKS December 2, 2009 Memorandum

This memorandum responds to the December 2, 2009 memorandum submitted by DKS Associates.

Executive Summary

- The TIS has failed to collect traffic counts or provide analysis of the 30th highest hour as required by ODOT's *Analysis Procedures Manual (APM)*.
- The TIS has failed to provide substantial evidence that the chosen hour of analysis on Tuesday, July 10, 2007 is the 30th highest hour.
- Substantial evidence exists that the hour of analysis on Tuesday, July 10, 2007 is not the 30th highest hour.
- Substantial evidence exists that there were 134 weekday hours, 209 weekend or weekday PM hours in July 2007, and 1170 total hours in 2007 with a greater volume at the Rowena ATR than was chosen for analysis, which strongly suggests that the chosen hour of analysis is not the 30th highest hour.
- DKS has provided evidence that traffic on Sunday exceeds that of their chosen 30th highest hour baseline count, suggesting that their chosen count hour is not the 30th highest hour.
- The TIS has failed to provide an analysis of the 30th highest hour, as required by ODOT through the *APM*. Because the analysis is not based upon the 30th highest hour, there is no evidence to support that the study area intersections will operate with adequate v/c ratios during the 30th highest hour.
- The TIS Sunday analysis is flawed because it does not take into account the highly variable nature of the nearby recreational uses.
- The TIS fails to address weekend impacts at other ODOT intersections required for study.

Both the Executive Summary and the Conclusion correspond to issues raised in the body of the letter. These items are specifically addressed throughout the body of this memorandum to demonstrate that each and every assertion presented by Greenlight has been addressed.

Tuesday, July 10, 2007 PM Hour Chosen is not the 30th Highest Hour

The DKS memorandum contends and provides further argument that the appropriate hour for analysis, or the 30th highest hour as required by ODOT's *Analysis Procedures Manual* (APM), occurs on Tuesday, July 10, 2007 between 4 and 6 PM.

We agree with DKS that the peak month is July and that the 30th highest hour also occurs in July at the Chenoweth interchange and also likely at the other intersections in the study area. We continue to strongly disagree with DKS that the Tuesday PM hour in July chosen for their analysis is the 30th highest hour, or even remotely approximates the 30th highest hour. There is absolutely no data in the record that provides substantial evidence that their hours of analysis are or approximate the 30th highest hour of the Chenoweth interchange or any other intersection. There is substantial evidence in the record that indicates that this particular Tuesday in July does not approximate the 30th highest hour. DKS provides only their opinion that their Tuesday hour of analysis is the 30th highest hour as required by ODOT's APM, but provides no evidence to support their finding.

The recent DKS memorandum (December 2, 2009) and PowerPoint presentation (December 14, 2009, for The Dalles City Council Meeting) provide detailed documentation of how ODOT methodology (discussed as seven steps) supports the selection of a weekday p.m. peak hour in July as the appropriate 30th highest hour analysis period. Therefore, it is not only an opinion as Greenlight suggests. Furthermore, ODOT and the City of The Dalles have both submitted supporting letters stating that traffic counts taken during a weekday p.m. peak hour in July satisfy ODOT's requirement to measure 30th highest hour traffic impacts.

Additionally, the ODOT Development Review Guidelines state "Counts on the weekday should be conducted either on a Tuesday, Wednesday, or Thursday, unless directed by ODOT."⁷ ODOT uses Tuesday through Thursday counts to avoid the traffic variation related to flex working schedules and extended weekends. In addition, the ODOT Development Review Guidelines indicate that "the weekday peak hour typically occurs during the work-related commute period, usually between 7:00-9:00 a.m. or 4:00-6:00 p.m."⁸ Therefore, Tuesday, July 10, 2007 from 4:00-6:00 p.m. satisfies all applicable criteria related to the 30th highest hour (i.e., it is the p.m. peak period on a weekday in July). This finding was supported by the City of The Dalles and ODOT.

Greenlight asserts that there is substantial evidence in the record that demonstrates that the particular Tuesday in July used by the applicant "does not approximate the 30th highest hour of the Chenoweth Interchange or any other intersection." First, pursuant to LUBA's remand decision and the scope of review for this remand proceeding as defined by the City Council on November 23, 2009, "any other intersection" beyond the Chenoweth Interchange is not part of this remand proceeding. Second, in the previous proceeding, Greenlight asserted that a Sunday afternoon in July represented the 30th highest hour for purposes of measuring project impacts. Although the DKS analysis demonstrates that a Sunday afternoon does not represent the 30th highest hour for the Chenoweth Interchange, a Sunday peak hour analysis was performed that demonstrates that this time period has less impacts on the Chenoweth Interchange than a Tuesday afternoon analysis. There is no substantial evidence in the record that demonstrates that any other weekday afternoon, other than the Tuesday afternoon assessed, represents the 30th highest hour pursuant to ODOT's requirements.

⁷ Development Review Guidelines, ODOT, Chapter 3, Page 87.

⁸ Development Review Guidelines, ODOT, Chapter 3, Page 87.

Furthermore, the arguments and data provided by Greenlight Engineering rely entirely on the Rowena Automatic Traffic Recorder (ATR), which has approximately two times higher traffic volumes than the Chenoweth Interchange ramp terminals (as documented in the DKS memorandum and PowerPoint presentation). ODOT procedures specify that data from an ATR should only be used to determine when the 30th highest hour occurs if traffic volumes are within 10% of project area volumes. Therefore, arguments based entirely on Rowena ATR data do not follow ODOT analysis procedures and are inherently flawed.

DKS's conclusions are not based upon substantial evidence, do not accurately depict traffic conditions, and violate the parameters of the ODOT APM in that the analysis continues to not document the 30th highest hour conditions. Because the analysis does not approximate the 30th highest hour, it violates the APM. Because it violates the APM and is not based upon the 30th highest hour, there is no evidence to support that the Chenoweth Interchange or 6th Street Interchange will operate with acceptable v/c ratios and that the appropriate mitigation and the timing of that mitigation has been identified. There is no evidence to support that the study intersections can operate adequately during the 30th highest hour because this hour has never been analyzed.

The recent DKS memorandum (December 2, 2009) and PowerPoint presentation (December 14, 2009, for The Dallas City Council Meeting) provide detailed documentation of how ODOT methodology supports the selection of a weekday p.m. peak hour in July as the appropriate 30th highest hour analysis period. ODOT and the City of The Dalles have both submitted supporting letters stating that traffic counts taken during a weekday p.m. peak hour in July satisfy ODOT's requirement to measure 30th highest hour traffic impacts. The Tuesday on which traffic counts were collected satisfies both criteria (i.e., it is both a weekday and is in July). ODOT explicitly stated in their December 11, 2009 memo that "DKS followed the steps outlined in the APM to determine the appropriate method for arriving at the DHV for the I-84 Chenoweth Interchange ramps."

Furthermore, the arguments and data provided by Greenlight Engineering rely entirely on the Rowena Automatic Traffic Recorder (ATR), which has approximately two times higher traffic volumes than the Chenoweth Interchange ramp terminals (as documented in the DKS memorandum and PowerPoint presentation). ODOT procedures specify that data from an ATR should only be used to determine when the 30th highest hour occurs if traffic volumes are within 10% of project area volumes. Therefore, arguments based entirely on Rowena ATR data do not follow ODOT analysis procedures and are inherently flawed.

Regarding the 6th Street interchange, impacts and mitigation measures were addressed in prior Planning Commission, City Council, and LUBA hearings and decisions, and all decision-making bodies agreed with the DKS analysis. Furthermore, the City of The Dalles City Council voted on November 23, 2009 to establish the scope of the remand hearing to be limited to the issues identified by LUBA related to the Chenoweth Interchange. The comment related to the 6th Street Interchange is outside the LUBA Remand.

The DKS memorandum provides two key arguments that the weekday PM peak hour in July is the 30th highest hour. DKS argues that because “[t]he primary land uses surrounding the Chenoweth Interchange are industrial and residential...and...are primarily influenced by local traffic trends consisting of city residents and local employees who work, live and/or shop in The Dalles...” and because “[t]he Chenoweth Interchange entrance and exit ramps are not part of a key route to a prime recreational or tourist area, and while there are some nearby recreational amenities...(e.g., Columbia Gorge Discovery Center, the Dalles Riverfront Trail, and the Dalles Country Club), these are minor traffic generators”, that the 30th highest hour occurs on Tuesday, July 10, 2007 or at least closely relates to the 30th highest hour. Both of these arguments are not supported by substantial evidence and lack any supporting data.

The substantial evidence is provided in the recent DKS memorandum (December 2, 2009) and PowerPoint presentation (December 14, 2009, for The Dalles City Council Meeting), which include detailed documentation of how ODOT methodology (discussed as seven steps) supports the selection of a weekday p.m. peak hour in July as the appropriate 30th highest hour analysis period. ODOT and the City of The Dalles have both submitted supporting letters stating that traffic counts taken during a weekday p.m. peak hour in July satisfy ODOT’s requirement to measure 30th highest hour traffic impacts. The Tuesday on which traffic counts were collected satisfies both criteria related to the 30th highest hour (i.e., it is a weekday and is in July).

While it is true that some of the land uses surrounding the Chenoweth interchange are industrial and residential, commercial uses exist just as near to the interchange as do industrial or residential uses. Significant commercial uses exist between the Chenoweth interchange and the 6th Street interchange to the south such that certainly many drivers destined for businesses on 6th Street may find the Chenoweth interchange more attractive due to decreased travel time and distance.

The commercial uses have already been accounted for in the 30th highest hour analysis performed to date because all traffic volumes—whether industrial, residential, or commercial—are accounted for in the traffic counts both during the weekday p.m. peak hour and the Sunday peak hour.

Additionally, traffic volumes at the Chenoweth interchange indicate, as DKS puts it, that "Sunday and weekday p.m. peak hour traffic volumes are very similar..." In fact, the Sunday traffic volumes are actually higher than the Tuesday, July 10th traffic volumes at two of the three intersections that were studied. The I-84 WB Ramp/River Road logically carries a higher volume of traffic on during a weekday period than a weekend due to the industrial uses to the north of the interchange. A comparison of these traffic volumes are provided in Table 1 and the figures below.

Table 1. Entering Volume at Intersections Reported by DKS Associates

Intersection	Date		Sunday Higher Volume?
	Tuesday, July 10, 2007	Sunday, October 25, 2009	
River Rd/6th Street	574	621	Yes
I-84 EB Ramp/River Rd	521	543	Yes
I-84 WB Ramp/River Rd	322	271	No

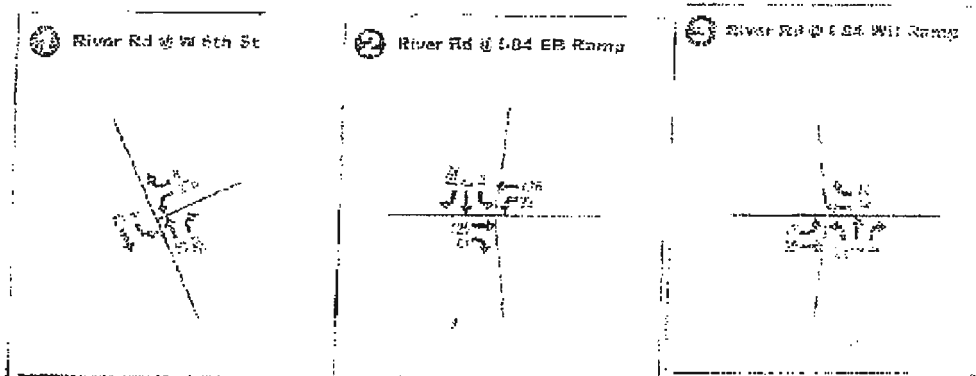


Figure 1: 2007 Existing weekday PM Traffic Volumes (Tuesday, July 10, 2007) from DKS September 2007 TIS

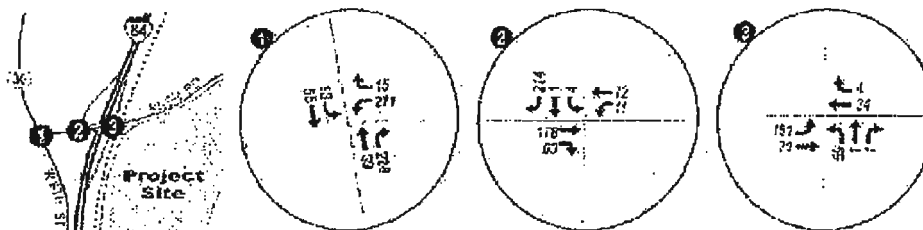


Figure 2: 2009 Existing Seasonally Factored Sunday Peak Traffic Volumes (October 25, 2009) from DKS December 2, 2009 memorandum

This result, while not surprising to us, provides evidence of higher traffic volumes on a Sunday than during DKS's purported 30th highest hour. Certainly this would not be expected if solely industrial and residential uses were dominant at this interchange, as residential and industrial uses both generate far fewer traffic on Sundays than weekday PM peak hours¹.

Greenlight's comparison of 2007 weekday p.m. peak hour and 2009 Sunday peak hour count data is flawed because it does not apply a growth factor to the 2007 counts. The importance of applying growth factors is an elementary traffic engineering principle and is needed in this instance in order for there to be a fair volume comparison of 2009 traffic data. In fact, a more accurate comparison of the 2007 and 2009

counts using a growth factor was provided in Table 3 of the recent DKS memorandum (December 2, 2009) and the PowerPoint presentation (December 14, 2009, for The Dalles City Council); however, this comparison was ignored by Greenlight Engineering.

Because the prior DKS comparison considered all vehicles entering and exiting the Chenoweth Interchange area and not each intersection separately, a comparison of the intersections is discussed below. To have the most accurate comparison of the 2007 and 2009 counts, a growth factor is needed for the 2007 counts and a seasonal factor is needed for the 2009 counts. The appropriate growth factor to apply is 1.046 (two years of 2.3% yearly growth, which is the rate that was provided by ODOT and has been assumed for all *WM3 TIS* analysis and has never been questioned). In addition, as documented in the DKS memorandum, a more conservative seasonal adjustment factor than necessary (i.e., 1.22 instead of 1.17) was applied to the Sunday counts to assure a worst case evaluation. Therefore, when the more appropriate 1.17 seasonal adjustment factor, as well as the 1.046 growth factor, are applied to the respective count volumes, a comparison of the traffic counts indicates that Sunday peak hour counts are actually lower at all three intersections (see table below).

Intersection	Date (Peak Month)		Sunday Volume Higher?
	Weekday P.M. Peak Hour (with 1.046 growth factor)	Sunday Peak Hr (with 1.17 seasonal factor)	
US 30 (W 6 th St)/River Rd	600	596	No, 1% lower
I-84 EB Ramps/River Rd	545	521	No, 4% lower
I-84 WB Ramps/River Rd	322	240	No, 25% lower

What is interesting here is that DKS conducted counts on Sunday, October 25, 2009 and Tuesday, July 10, 2007 and found that, seasonally adjusted, traffic is higher at two of the three study intersections on Sunday than on their purported 30th highest hour. While Wal-Mart generates less traffic on a Sunday than it does during a weekday PM peak hour, what does this say about their contention that they have correctly chosen the 30th highest hour. Their baseline traffic condition, supposedly based upon the 30th highest hour, is refuted with just one Sunday traffic count? What if other analysis hours were evaluated, such as a Saturday in July (when Wal-Mart would generate the most traffic) or during the various other weekday hours in July that have a much higher volume at the Rowena ATR than do the hours analyzed on Tuesday, July 10, 2007. What if Saturday traffic mirrors that of Sunday traffic? There is no evidence to suggest that it doesn't. It seems blatantly clear that there could be many hours that would better approximate the 30th highest hour based on this new information as well as the mountain of ATR data that suggests that during their analysis hour, there is far less traffic in the area than other hours.

The recent DKS memorandum (December 2, 2009) and PowerPoint presentation (December 14, 2009, for The Dalles City Council) provide detailed documentation of how ODOT methodology supports the selection of a weekday p.m. peak hour in July as the appropriate 30th highest hour analysis period. ODOT and the City of The Dalles have both submitted supporting letters stating that traffic counts taken during a weekday p.m. peak hour in July satisfy ODOT's requirement to measure 30th highest hour traffic impacts. The Tuesday on which traffic counts were collected satisfies both criteria related to the 30th highest hour (i.e., it is both a weekday and is in July).

Traffic volumes at the Chenoweth interchange are actually higher during the weekday p.m. peak hour as previously explained. Regardless of the results of the counts, the Sunday analysis as documented in the DKS memorandum (December 2, 2009) show that the Sunday impacts are less than the weekday PM peak hour. The DKS memorandum also showed that a Saturday in July is not appropriate for the 30th highest hour on I-84 since it has 25% lower volumes than a Sunday in July.

Additionally, what about at other intersections within the City, such as at the 6th Street Interchange? Are volumes also higher there on Sunday than the chosen hour? Would the same be true on a Saturday or during various other weekday PM hours?

The City of The Dalles City Council voted on November 23, 2009 to establish the scope of the remand hearing to be limited to the issues identified by LUBA related to the Chenoweth Interchange. The comment related to the 6th Street Interchange is outside the LUBA Remand and not appropriate.

These are all questions that DKS and the City cannot answer because they do not have the necessary data to answer them.

These questions have been answered in the recent DKS memorandum (December 2, 2009) and PowerPoint presentation (December 14, 2009, for The Dalles City Council) that provide detailed documentation of how ODOT methodology supports the selection of a weekday p.m. peak hour in July as the appropriate 30th highest hour analysis period. ODOT and the City of The Dalles have both submitted supporting letters stating that traffic counts taken during a weekday p.m. peak hour in July satisfy ODOT's requirement to measure 30th highest hour traffic impacts. The Tuesday on which traffic counts were collected satisfies both criteria related to the 30th highest hour (i.e., it is both a weekday and is in July).

The DKS memorandum (December 2, 2009) and PowerPoint presentation (December 14, 2009, for The Dalles City Council) also provided supporting data that the Sunday peak hour analysis would have less impact on the Chenoweth interchange and that a Saturday in July is not appropriate for the 30th highest hour on I-84 since it has 25% lower volumes than a Sunday in July.

Based upon this information, it would seem that the Chenoweth interchange experiences a different mix than primarily residential and industrial traffic than claimed, although not supported by data, by DKS. These facts refute one of the two key arguments raised by DKS that "local trends" of residential and industrial traffic result in the conclusion that the appropriate 30th highest hour is the Tuesday PM hour in July as chosen for their analysis.

No facts have been provided by Greenlight to refute any claim made by DKS Associates. Therefore, DKS reasserts that a weekday p.m. peak hour in July is the appropriate 30th highest hour analysis period as discussed in the recent DKS memorandum (December 2, 2009) and PowerPoint presentation (December 14, 2009, for The Dalles City Council) that provide detailed documentation of how ODOT methodology supports the selection of a weekday p.m. peak hour in July as the appropriate 30th highest hour analysis period. In addition, ODOT and the City of The Dalles have both submitted letters supporting this finding.

There is simply no evidence to support that traffic volumes of the chosen Tuesday PM hour in July is the 30th highest hour or even remotely approximates this hour. It is an undisputed fact that Wal Mart's peak hour will occur on Saturday. There is a very high possibility, if not likelihood, that if a seasonally adjusted Sunday traffic volumes as reported in the DKS memo yield very similar traffic volumes (with several movements actually higher in traffic volume) than the July Tuesday PM hour, then a Saturday analysis in July, a Sunday analysis in July, or any of the hundreds of other hours that exceed the Tuesday analysis hour ATR volume could produce interchange volumes in excess of that of the Tuesday July PM hour chosen for analysis.

Greenlight is again misrepresenting the purpose of the 30th highest hour and is inappropriately using Rowena ATR data as the basis for its conclusions. ODOT procedures specify that data from an ATR should only be used to determine when the 30th highest hour occurs if traffic volumes are within 10% of project area volumes. However, the Rowena Automatic Traffic Recorder (ATR) has approximately two times higher traffic volumes than the Chenoweth Interchange ramp terminals. This was documented in both the DKS memorandum (December 2, 2009) and PowerPoint presentation (December 14, 2009, for The Dalles City Council Meeting).

Greenlight appears to assert that the 30th highest hour needs to be determined based on the time and day of greatest project impacts. Although peak hour project impacts may occur on a Saturday afternoon in July, this fact is not relevant for determining the 30th highest hour in accord with ODOT requirements to measure project impacts during the 30th highest hour. Once the 30th highest hour is determined, project impacts are measured accordingly. For example, if the 30th highest hour in July occurs on a Tuesday afternoon, then project impacts are measured during that time. If the 30th highest hour occurs on a Sunday afternoon, then project impacts are measured during that time. Based on DKS analysis, project impacts have been measured during both a Tuesday afternoon and Sunday afternoon analysis period.

In addition, evidence is provided in the recent DKS memorandum (December 2, 2009) and PowerPoint presentation (December 14, 2009, for The Dalles City Council Meeting), which include detailed documentation of how ODOT methodology (discussed as seven steps) supports the selection of a weekday p.m. peak hour in July as the appropriate 30th highest hour analysis period. ODOT and the City of The Dalles have both submitted supporting letters stating that traffic counts taken during a weekday p.m. peak hour in July satisfy ODOT's requirement to measure 30th highest hour traffic impacts. The Tuesday on which traffic counts were collected satisfies both criteria related to the 30th highest hour (i.e., it is both a weekday and is in July).

The DKS memorandum (December 2, 2009) and PowerPoint presentation (December 14, 2009, for The Dalles City Council) also provided supporting data that the Sunday peak hour analysis would have less impact on the Chenoweth interchange and that a Saturday in July is not appropriate for the 30th highest hour on I-84 since it has 25% lower volumes than a Sunday in July.

The DKS memorandum says this about step 3 of Figure 4-1 Process for Development of 30th Highest Hour Volumes of the APM:

"The purpose of this step is to determine both the peak month of the year and peak hour of the week, where are the two separate trends that must be considered when determining the appropriate time period to use for the 30th HV."

The DKS memorandum says this about note 2 of Figure 4-1 Process for Development of 30th Highest Hour Volumes of the APM:

"[t]he purpose of Note 2 in Figure 1 is to help determine whether the peak hour of the week occurs on a weekday or weekend. On one end of the spectrum are large urban areas (e.g., Portland, Salem, Eugene, Redmond, Bend) where local traffic (especially commuters) and the associated weekday p.m. peak hour volumes are the most significant. On the other side of the spectrum are recreational areas (e.g., Mt. Hood, Black Butte, Sunriver, the Oregon coast) where tourists and recreational users are the most significant. The Chenoweth Interchange ramp terminals fall somewhere in the middle of this spectrum. Two main findings support the conclusion that the Chenoweth Interchange has trends that are more closely associated with a large urban area, thereby resulting in use of the weekday p.m. peak hour as the appropriate peak hour of the week..."

DKS's states that this interchange "fall somewhere in the middle of this spectrum" between a "large urban area" and a "recreational area". We concur with this conclusion that The Dalles traffic patterns do not fit neatly into "large urban area" that would likely lead one to conclude that the weekday PM peak hour approximates the 30th highest hour. We also concur that The Dalles traffic patterns do not fit neatly into a "recreational area" pattern which would likely result in the analysis of just a weekend period. While we and DKS agree that The Dalles does not fit neatly into either category, DKS contends that the Tuesday in July chosen for analysis is the 30th highest hour, or is at least a close enough fit.

DKS's conclusion does not instill much confidence, due to the absence of supporting data, that the Tuesday in July chosen for analysis is better in approximating the 30th highest hour conditions than a weekend in July or any of the numerous other weekday PM hours in July. DKS's conclusion is not based upon data, but upon the speculation of their two faulty conclusions. DKS fails to supply any data or substantial evidence to support their conclusion that the Tuesday hour chosen for analysis represents the 30th highest hour or approximate 30th highest hour than July weekend hours (with Wal-Mart generating the most traffic on Saturday) with higher area volume or any other weekday PM hour in July.

The recent DKS memorandum (December 2, 2009) and PowerPoint presentation (December 14, 2009, for The Dalles City Council Meeting) provide detailed documentation of how ODOT methodology supports the selection of a weekday p.m. peak hour in July as the appropriate 30th highest hour analysis period. ODOT and the City of The Dalles have both submitted supporting letters stating that traffic counts taken during a weekday p.m. peak hour in July satisfy ODOT's requirement to measure 30th highest hour traffic impacts. The Tuesday on which traffic counts were collected satisfies both criteria related to the 30th highest hour (i.e., it is both a weekday and is in July).

The DKS memorandum (December 2, 2009) and PowerPoint presentation (December 14, 2009, for The Dalles City Council) also provided supporting data that the Sunday peak hour analysis would have less impact on the Chenoweth interchange and that a Saturday in July is not appropriate for the 30th highest hour on I-84 since it has 25% lower volumes than a Sunday in July.

Furthermore, the arguments and data provided by Greenlight Engineering rely entirely on the Rowena Automatic Traffic Recorder (ATR), which has approximately two times higher traffic volumes than the Chenoweth Interchange ramp terminals (as documented in the DKS memorandum and PowerPoint presentation). ODOT procedures specify that data from an ATR should only be used to determine when the 30th highest hour occurs if traffic volumes are within 10% of project area volumes. Therefore, arguments based entirely on Rowena ATR data do not follow ODOT analysis procedures and are inherently flawed.

DKS argues that the weekday PM peak hour is the equivalent of the 30th highest hour and how traffic volumes on a Sunday at the Chenoweth interchange would not yield results equivalent to the 30th highest hour, DKS states that "the Sunday and weekday p.m. peak hour volumes are very similar..." The DKS traffic count data proves that seasonally adjusted Sunday traffic, well off-peak from peak I-84 traffic volumes and likely off-peak for tourism in The Dalles, traffic volumes are actually higher on a Sunday peak hour. It is important to note that Greenlight Engineering has never contended that Sunday or Saturday is the 30th highest peak hour, but that the Tuesday PM hour chosen for analysis is not the 30th highest hour.

Greenlight Engineering has multiple incorrect claims in this paragraph.

- They state that *seasonally adjusted* Sunday traffic is *off-peak* from peak I-84 traffic volumes. This is, by definition, incorrect because the purpose of the seasonal adjustment is to adjust the volumes so that they are equivalent to peak volumes (or at least approximate them for analysis purposes). On the contrary, the July weekday p.m. peak hour traffic counts and the seasonal factor that was applied to the Sunday October 2009 traffic counts account for tourist traffic consistent with ODOT methodology.
- Greenlight also reiterates its previous erroneous finding that Sunday peak hour traffic is higher than weekday p.m. peak hour traffic. This finding was erroneous because Greenlight did not apply a growth factor so that volumes from different years could be accurately compared. In fact, as previously addressed in this response memorandum, the weekday p.m. peak hour traffic volumes at the Chenoweth interchange are higher than the Sunday seasonally adjusted traffic volumes.
- Then, Greenlight claims that they have "never contended that Sunday or Saturday is the 30th highest peak hour, but that the Tuesday PM hour chosen for analysis is not the 30th highest hour." However, in their February 6, 2009 letter, Greenlight asserted that "the 30th highest hour ... occurred on Sunday, July 29, 2007." Greenlight has continually referred to the Rowena Automatic Traffic Recorder (ATR) in their letters as the correct indicator of the 30th highest hour. LUBA stated that "Petitioners argue that the TIA is flawed because it did not use either the 30th highest hour traffic counts as measured at the nearest ODOT automatic trip recorder (ATR) at the I-84 Rowena Interchange approximately 6 miles west of The Dalles, or traffic counts remotely close to the 30th HHV." It is clear to DKS and LUBA that Greenlight has always indicated that Sunday was the appropriate 30th highest hour to be used at the Chenoweth interchange based on the ATR data.

Therefore, DKS asserts that the recent DKS memorandum (December 2, 2009) and PowerPoint presentation (December 14, 2009, for The Dalles City Council Meeting) provide detailed documentation

of how ODOT methodology supports the selection of a weekday p.m. peak hour in July as the appropriate 30th highest hour analysis period. ODOT and the City of The Dalles have both submitted supporting letters stating that traffic counts taken during a weekday p.m. peak hour in July satisfy ODOT's requirement to measure 30th highest hour traffic impacts.

The DKS memorandum (December 2, 2009) and PowerPoint presentation (December 14, 2009, for The Dalles City Council) also provided supporting data that the Sunday peak hour analysis would have less impact on the Chenoweth interchange and that a Saturday in July is not appropriate for the 30th highest hour on I-84 since it has 25% lower volumes than a Sunday in July.

It has been well established that July is the peak month and that the hours chosen for analysis occurred on Tuesday, July 10, 2007. It has also been well established that the hours chosen for analysis are based upon the 1171st and 1223rd highest hours of the nearest ATR. DKS contends that because of the "local trends", the appropriate 30th highest hour is a weekday PM hour in July. What they have failed to prove is that the chosen date, the Tuesday in July chosen for analysis is the 30th highest hour as required by ODOT's APM. Indeed, if DKS contentions are true, that the 30th highest hour at the interchange are governed by "local trends", then substantial evidence in the record should support this finding. However, exactly the opposite is true. Substantial evidence exists that the chosen hour of analysis is not the 30th highest hour. DKS seems to conclude that since neither "large urban area" or "recreational area" fit nicely, "large urban area" should control for the two reasons they describe.

The recent DKS memorandum (December 2, 2009) and PowerPoint presentation (December 14, 2009, for The Dalles City Council Meeting) provide detailed documentation of how ODOT methodology supports the selection of a weekday p.m. peak hour in July as the appropriate 30th highest hour analysis period. ODOT and the City of The Dalles have both submitted supporting letters stating that traffic counts taken during a weekday p.m. peak hour in July satisfy ODOT's requirement to measure 30th highest hour traffic impacts. The Tuesday on which traffic counts were collected satisfies both criteria related to the 30th highest hour (i.e., it is both a weekday and is in July). Notwithstanding Greenlight's assertion, there is evidence in the record submitted by DKS (and accepted by ODOT and the City) that because of local trends, and the fact that The Dalles area has more characteristics of an urban area, that the 30th highest hour for the Chenoweth Interchange occurs on a weekday afternoon. There is no evidence in the record to the contrary.

Furthermore, the arguments and data provided by Greenlight Engineering rely entirely on the Rowena Automatic Traffic Recorder (ATR), which has approximately two times higher traffic volumes than the Chenoweth Interchange ramp terminals (as documented in the DKS memorandum and PowerPoint presentation). ODOT procedures specify that data from an ATR should only be used to determine when the 30th highest hour occurs if traffic volumes are within 10% of project area volumes. Therefore, arguments based entirely on Rowena ATR data do not follow ODOT analysis procedures and are inherently flawed. Because the hours chosen for analysis were not determined using detailed volumes from the Rowena ATR, it is a misrepresentation to say the analysis is based on the 1171st and 1223rd highest hours.

DKS provides on page 7 of their December 2, 2009 memorandum:

"Can counts be taken during the 30th HV?"

"Answer: Yes."

"Discussion: Now that the 30th HV has been determined, counts should be taken during the 30th HV (i.e. peak month and peak hour of the week)..."

We agree that counts should and could have been taken during the 30th HV. However, we do not agree that they were. It should be noted that DKS has had the opportunity to collect traffic counts during this period in July on two occasions (July 2007 and July 2008), yet has opted not to do so.

This Greenlight Engineering assertion continues to rely on a misapplication of Rowena ATR data and has no merit. Instead, the 30th highest hour has been properly determined to be a weekday p.m. peak hour in July as indicated in the original DKS analysis, the recent DKS memorandum (December 2, 2009) and PowerPoint presentation (December 14, 2009), and the ODOT and City of The Dalles support letters. The Tuesday on which traffic counts were collected is both a weekday and is in July; therefore, it satisfies applicable ODOT criteria.

DKS concludes that "[t]herefore, the Chenoweth Interchange ramp terminals have characteristics that are more similar to a large urban area than a recreational area..." and that "[t]herefore, ODOT guidelines indicate that the 30th HV should be assumed to occur on a typical weekday during the peak month." Unfortunately, ODOT's guidelines indicate nothing of the sort. The guidelines describe how to appropriately develop 30th highest hour volumes. ODOT's APM states that "Experience has shown that the 30 HV in large urban areas usually occurs on a weekday during the peak month of the year," and "[t]he 30th Highest Hour Volume will likely occur during the peak month on a weekday in large urban areas and on weekends in recreational areas." There is no such statement in the APM that an applicant should make assumptions that an area most nearly fits a "large urban area" and should use a blanket Tuesday PM hour if an area that we and DKS agree does not fit neatly into a "large urban area" or a "recreational area", but is somewhere in the "middle of the spectrum". ODOT's APM does not absolve the applicant of the need to determine the 30th highest hour or direct the applicant to make assumptions regarding what the 30th highest hour might be. This would seem especially true when there is compelling evidence that suggests that the chosen analysis hour does not approximate the 30th highest hour.

In its introduction, ODOT's APM states the following:

"The Analysis Procedures Manual (APM) was created to provide a comprehensive source of information regarding current methodologies, practices and procedures for conducting long term analysis of Oregon Department of Transportation (ODOT) plans and projects. Although this information is extensive, *it is not intended to be exhaustive* . . . While the direction provided represents recommended best-practices for producing consistent and accurate results, it should be recognized that every project analysis presents a unique set of problems to address. *This manual is not intended to replace the need for sound engineering judgment, which must continue to be a vital part in the process of applying the methodologies to individual studies.*" (page 1, italics added)

Because the APM does not specifically identify what the appropriate peak hour is for a small urban area (such as The Dalles), the APM provided a process of checks and balances as was discussed in the recent DKS memorandum (December 2, 2009) and PowerPoint presentation (December 14, 2009, for The Dalles

City Council Meeting). The APM was followed to determine the appropriate 30th highest hour. The assumptions and methodologies were followed consistent with the APM in that sound engineering judgment was used to make the weekday PM Peak hour determination. In the case of the Chenoweth Interchange, DKS Associates asserts that sound engineering judgment consistent with the APM supports the use of the weekday p.m. peak hour as the appropriate peak period for three primary reasons:

- *The seven steps provided in Figure 4-1 in the APM provided the conclusion that the weekday p.m. peak hour is the correct analysis period at the Chenoweth interchange.*
- *The City of The Dalles Traffic Impact Study Guidelines* identifies the weekend p.m. peak hour as the typical analysis period for impact studies.⁹
- The sound engineering judgment applied by DKS that The Dalles area functions more as an urban area than a recreational area for purposes of Step 3, Note #2, was coordinated with both the City of The Dalles and ODOT staff and was agreed to and approved based on numerous letters from both agencies in the record. Both ODOT and the City of The Dalles have written letters in support of the DKS analysis and findings; these letters specifically mention that the appropriate 30th highest hour was correctly determined to be the weekday p.m. peak hour.

As shown in Appendix A of this memorandum, in July of 2007, considering only weekday periods, there were 134 hours during weekday periods with a higher ATR traffic volume than the hours chosen for analysis. It should logically be concluded, with all other factors being equal including the residential and industrial factors ("local trends") purported by DKS, that any number of these other 134 hours could conceivably result in a higher volume at the Chenoweth interchange than the Tuesday chosen for analysis, simply because there is additional traffic in the area.

As shown in Appendix B of this memorandum, in July of 2007, there were 208 hours during weekday and weekend periods with a higher ATR traffic volume than the hours chosen for analysis. As previously established by DKS, traffic volumes at the Chenoweth Interchange can exceed that of weekday periods.

As previously shown in our February 6, 2009 memo, there are 1170 hours during 2007 with a higher ATR traffic volume than the hours chosen for analysis. As previously established by DKS, traffic volumes at the Chenoweth Interchange can exceed that of weekday periods.

Likely, during these hours, volumes are higher for precisely the reason DKS states that the Chenoweth interchange falls "somewhere in the middle of this spectrum" of a "large urban area" and a "recreational area." The fact is that volumes vary widely due to these recreational users. DKS has failed to establish that volumes don't vary widely because they have relied solely upon their Tuesday in July data (the 1171st and 1223rd ATR peak hour). Certainly, the presence of I-84 and the numerous commercial establishments and other recreational opportunities in and around The Dalles have some impact on the traffic volume at the Chenoweth interchange.

Greenlight is again misrepresenting the purpose of the 30th highest hour and is inappropriately using Rowena ATR data as the basis for its conclusions. ODOT procedures specify that data from an ATR should only be used to determine when the 30th highest hour occurs if traffic volumes are within 10% of project area volumes. The Rowena Automatic Traffic Recorder (ATR) has approximately two times higher traffic volumes than the Chenoweth Interchange ramp terminals. This was documented in both the

⁹ *The City of The Dalles Traffic Impact Study Guidelines*, January 22, 2004.

DKS memorandum (December 2, 2009) and PowerPoint presentation (December 14, 2009, for The Dalles City Council Meeting).

Greenlight has previously asserted in its February 6, 2009, report that the 30th highest hour occurs on a Sunday afternoon in July. So even if Greenlight was correct, DKS has performed a Sunday analysis and demonstrated that the Sunday peak hour analysis shows less impact on the Chenoweth Interchange than a Tuesday afternoon assessment.

The July weekday peak hour with the highest ATR volume (Friday, July 20th, although still just the 37th highest hour of the year) had a combined hourly volume of 2471 vehicles, while the hours chosen for analysis had just 1573 and 1559 vehicles, respectively. The difference in the analysis hour versus the highest weekday PM hour is roughly 40%, or nearly 1000 vehicles traveling on I-84, possibly some using the Chenoweth interchange. This hour would seem to fall within DKS's apparent count parameters of a weekday PM hour in July. What remains unclear from DKS's analysis is why Tuesday, July 10, 2007 was chosen (and continues to be defended) when so many other weekday PM hours as well as weekend hours (and it has been established that weekend traffic at the Chenoweth interchange can be greater on Sunday) carry such a higher volume and would logically and conceivably result in higher volumes at the Chenoweth interchange. Certainly, it would seem possible, if not likely, that the net result would be a higher reported volume at the Chenoweth interchange, greater than that reported in the DKS analysis and far closer to the actual 30th highest hour as required by ODOT's APM.

The recent DKS memorandum (December 2, 2009) and PowerPoint presentation (December 14, 2009, for The Dalles City Council Meeting) provide detailed documentation of how ODOT methodology supports the selection of a weekday p.m. peak hour in July as the appropriate 30th highest hour analysis period. ODOT and the City of The Dalles have both submitted supporting letters stating that traffic counts taken during a weekday p.m. peak hour in July satisfy ODOT's requirement to measure 30th highest hour traffic impacts. The Tuesday on which traffic counts were collected satisfies both criteria related to the 30th highest hour (i.e., it is both a weekday and is in July). Other weekdays in July would also satisfy both criteria, but this does not preclude the selected count date from doing so as well.

Additionally, the ODOT Development Review Guidelines state "Counts on the weekday should be conducted either on a Tuesday, Wednesday, or Thursday, unless directed by ODOT."¹⁰ ODOT uses Tuesday through Thursday counts to avoid the traffic variation related to flex working schedules and extended weekends. Therefore, it is inappropriate to use Friday traffic counts for weekday analysis. Instead, the weekday p.m. peak hour traffic counts collected in July on a Tuesday afternoon are consistent with ODOT methodology and accepted by ODOT and the City.

Furthermore, the arguments and data provided by Greenlight Engineering rely entirely on the Rowena Automatic Traffic Recorder (ATR), which has approximately two times higher traffic volumes than the Chenoweth Interchange ramp terminals (as documented in the DKS memorandum and PowerPoint presentation). ODOT procedures specify that data from an ATR should only be used to determine when the 30th highest hour occurs if traffic volumes are within 10% of project area volumes. Therefore, arguments based entirely on Rowena ATR data do not follow ODOT analysis procedures and are inherently flawed.

¹⁰ Development Review Guidelines, ODOT, Chapter 3, Page 87.

It should logically be concluded that if there significantly more traffic in the area of analysis (as is true during the various weekday PM hours depicted in Appendix A and the various weekday PM and weekend hour as depicted in Appendix B) during various other weekday PM hours or weekend hours, that traffic at the Chenoweth interchange compared to that of the hour of the analysis, that the extra area traffic would have at least a marginal, yet currently unmeasured, impact.

Greenlight is again misrepresenting the purpose of the 30th highest hour and is inappropriately using Rowena ATR data as the basis for its conclusions. Specifically, Appendices A and B contain Rowena ATR volumes, which are not the same as the Chenoweth Interchange volumes. Therefore, the Greenlight appendices do not support the conclusion that "there is significantly more traffic in the area of analysis".

ODOT procedures specify that data from an ATR should only be used to determine when the 30th highest hour occurs if traffic volumes are within 10% of project area volumes. However, the Rowena Automatic Traffic Recorder (ATR) has approximately two times higher traffic volumes than the Chenoweth Interchange ramp terminals. This was documented in both the DKS memorandum (December 2, 2009) and PowerPoint presentation (December 14, 2009, for The Dalles City Council Meeting).

Furthermore, as shown in the DKS memorandum (December 2, 2009), significant capacity would still be available at the Chenoweth interchange with the conditioned mitigations above and beyond the 2027 total traffic volumes with the estimated volume to capacities being 0.44 (EB ramp) and 0.55 (WB Ramp) and the ODOT standard being 0.75. These analysis results show that the recommended mitigations will still allow for 20% additional capacity at the Chenoweth interchange.

Flawed Sunday October 25, 2009 DKS Analysis at Chenoweth Interchange

The DKS memorandum reports that on a Sunday in October, the analysis of the Chenoweth interchange is adequate to serve the proposed development. However, because the traffic counts were taken on a Sunday at the end of October, the DKS analysis has very likely understated the impact of the various recreational traffic generators in or near the Dalles. Some of these generators are described by DKS as "minor traffic generators", a term that DKS neither defines nor quantifies.

The defined purpose of the seasonal adjustment factor in the ODOT APM is that "since manual counts are taken throughout the year, data derived from a count taken in a particular month may need to be converted to the peak month by applying a seasonal factor" (page 46). A seasonal factor was applied to the October Sunday peak hour counts and was specifically calculated for October 25th. The seasonal factor is documented in detail in the DKS memorandum (December 2, 2009) and PowerPoint presentation (December 14, 2009, for The Dalles City Council Meeting). In fact, the DKS memorandum (December 2, 2009) documents how a more conservative seasonal adjustment factor than necessary was used for the Sunday analysis. This is because ODOT procedures indicate that interchange ramps should use the average of the mainline (I-84) and cross road (River Road) seasonal adjustments. However, the higher of the two (I-84's seasonal adjustment was 1.22) was used instead of the average (1.17) in order to be more conservative and provide additional weight to the analysis findings. This seasonal adjustment that was applied accounts for the various recreational traffic generators in the vicinity of the Chenoweth interchange and accepted by ODOT and the City.

ODOT's *APM* states that "[u]sing a winter count...to represent the peak summer period will likely not represent turning movements accurately, as driving patterns change in the winter compared to the summer...suppose a count was taken at a rural intersection in the winter months with one of the minor legs of the intersection serving a campground...Simply factoring for the season would still leave the turning movements too low." It should be noted that the applicant has had the opportunity to collect traffic counts during this period in July on two occasions (July 2007 and July 2008), yet has opted not to do so.

This APM quote was taken out of context. The focus of the particular paragraph being quoted is that seasonal factors greater than 30% should be avoided. The entire paragraph is provided below:

"Seasonal factors greater than 30% should be avoided. Factors such as these indicate that a count was NOT taken at or close to the time that the 30 HV occurs. Using a winter count with a high seasonal factor to represent the peak summer period will likely not represent traffic turning movements accurately, as driving patterns change in the winter compared to the summer. As an example, suppose a count was taken at a rural intersection in the winter months with one of the minor legs of the intersection serving a campground beyond the intersection. The turning movement volume in the direction of the campground may be small or non-existent; say 5 vph [vehicles per hour]. Even with a seasonal factor of 50%, this would result in an adjusted volume of only 8vph, compared to an actual summer 30 HV that may be 20 vph. Simply factoring for the season would still leave the turning movements too low." (APM, page 46, underlines correspond to portions quoted by Greenlight)

Because the seasonal adjustment factor for the Sunday analysis performed by DKS Associates (documented in the December 2, 2009 memorandum) was 1.22 or 22% (i.e., less than 30%) and there are not any intersection legs that provide limited seasonal access, the argument provided misrepresents the clearly stated purpose of this paragraph in the APM.

In addition, it was not clear whether Sunday traffic counts would be necessary until after the LUBA remand, which was not provided until September 2009. Even in the remand, it was only stated that weekend traffic counts "*may be necessary*" (page 15, italics added). Therefore, the applicant did not intentionally forgo the opportunity to collect weekend counts in July 2007, July 2008, and even July 2009. Instead, the applicant chose to collect weekend traffic counts and did so following ODOT procedures, which allow counts to be taken in an off-peak month as long as the seasonal adjustment factor is less than 30%.

ODOT's *APM* also states "[v]olumes for the non-standard peak hour should be developed along with the PM peak hour volumes so that all of the volumes may be analyzed at a later date. Multiple sets of volumes may be necessary in these circumstances, which may include areas of heavy industrial, retail, or recreational uses; coastal routes; or on routes with highly directional commuter flows."

This quote appears to be a misapplication of the point being made in the prior paragraph (i.e., that counts should have been collected in 2007 or 2008 during other hours in July besides during just the p.m. peak hour). The entire paragraph from the APM is provided below:

“Generally PM peak hour volumes are higher than AM peak hour volumes. In areas where there are large industries with shift changes, the hour during the shift change may be as high as or higher than the PM peak hour for the remainder of the transportation network. If this is true, another set of volumes should be developed. Volumes for the non-standard peak hour should be developed along with the PM peak hour volumes so that all of the volumes may be analyzed at a later date. Multiple sets of volumes may be necessary in these circumstances, which may include areas of heavy industrial, retail, or recreational uses; coastal routes; or on routes with highly directional commuter flows.” (APM, page 45, underlines correspond to portions quoted by Greenlight)

This paragraph does not apply to the Chenoweth Interchange. Instead, the recent DKS memorandum (December 2, 2009) and PowerPoint presentation (December 14, 2009, for The Dalles City Council Meeting) provide detailed documentation of how ODOT methodology supports the selection of a weekday p.m. peak hour in July as the appropriate 30th highest hour analysis period. ODOT and the City of The Dalles have both submitted supporting letters stating that traffic counts taken during a weekday p.m. peak hour in July satisfy ODOT’s requirement to measure 30th highest hour traffic impacts. The Tuesday on which traffic counts were collected satisfies both criteria (i.e., it is both a weekday and is in July). ODOT explicitly stated in their December 11, 2009 memo that “DKS followed the steps outlined in the APM to determine the appropriate method for arriving at the DHV for the I-84 Chenoweth Interchange ramps.”

Weekend Analysis not Provided at 6th Street Interchange

The December 2, 2009 DKS memorandum has analyzed traffic flow of just three of the study area intersections, while the previous traffic impact study work analyzed several more intersections. DKS has argued that a Tuesday PM peak hour in July approximates the 30th highest hour since at the Chenoweth Interchange “[t]he primary land uses surrounding the Chenoweth Interchange are industrial and residential...”. Although we have provided argument against this assessment, several of the study intersections required for analysis fit this characteristic even less than at Chenoweth. Certainly, the 6th Street exit serves primarily commercial and residential traffic, and likely carries a heavy recreational commercial traffic load (stop and go I-84 traffic). However, the 6th Street interchange did not benefit from a weekend analysis in the DKS memorandum although DKS’s analysis provides evidence that Sunday traffic can be higher than weekday PM traffic. Our February 6, 2009 memorandum raised significant concerns not just regarding the Chenoweth interchange, but also of other intersections, namely the 6th Street interchange.

The 6th Street interchange impacts and mitigation measures were addressed in prior Planning Commission, City Council, and LUBA hearings and decisions, and all decision-making bodies agreed with the DKS analysis. Furthermore, the City of The Dalles City Council voted on November 23, 2009 to establish the scope of the remand hearing to be limited to the issues identified by LUBA. The comment related to 6th Street is outside the LUBA Remand.

Conclusion

- The TIS has failed to collect traffic counts or provide analysis of the 30th highest hour as required by ODOT's *Analysis Procedures Manual (APM)*.
- The TIS has failed to provide substantial evidence that the chosen hour of analysis on Tuesday, July 10, 2007 is the 30th highest hour.
- Substantial evidence exists that the hour of analysis on Tuesday, July 10, 2007 is not the 30th highest hour.
- Substantial evidence exists that there were 134 weekday hours, 209 weekend or weekday PM hours in July 2007, and 1170 total hours in 2007 with a greater volume at the Rowena ATR than was chosen for analysis, which strongly suggests that the chosen hour of analysis is not the 30th highest hour.
- DKS has provided evidence that traffic on Sunday exceeds that of their chosen 30th highest hour baseline count, suggesting that their chosen count hour is not the 30th highest hour.
- The TIS has failed to provide an analysis of the 30th highest hour, as required by ODOT through the APM. Because the analysis is not based upon the 30th highest hour, there is no evidence to support that the study area intersections will operate with adequate v/c ratios during the 30th highest hour.
- The TIS Sunday analysis is flawed because it does not take into account the highly variable nature of the nearby recreational uses.
- The TIS fails to address weekend impacts at other ODOT intersections required for study.

Both the Executive Summary and the Conclusion correspond to issues raised in the body of the letter. These items were previously addressed throughout the body of this memorandum.

Based upon the submitted traffic impact study and associated memorandums, our February 6, 2009 memorandum and our comments here, it is clear that the proposed development is not in compliance with City of the Dalles and ODOT requirements. The traffic impact study and application fail to provide substantial evidence that the standards are met or can be met with appropriate conditions of approval.

Thus far, the applicant's traffic engineer's analysis is inaccurate, flawed, and has understated the effects of the proposed development on the transportation system. Should you have any questions, feel free to contact me at 503-317-4559.

Sincerely,



Rick Nys, PE, PTOE
Principal Traffic Engineer

DKS Associates disagrees with Greenlight Engineering. Appropriate analysis has already been performed, as indicated by the recent DKS memorandum (December 2, 2009) and PowerPoint presentation (December 14, 2009, for The Dalles City Council Meeting). In addition, both ODOT and the

City of The Dalles have repeatedly found the DKS analysis to be in compliance with their respective requirements and have stated so in letters they have submitted for the record.

Furthermore, even if additional analysis were performed at the Chenoweth Interchange, it will not result in any additional project mitigations. This is because under the 2027 mitigated analysis scenario, the two Chenoweth Interchange ramp intersections were shown to operate at v/c ratios of 0.44 and 0.55. Therefore, they both have excess capacity of at least 20% before operations meet the 0.75 v/c ratio operating standard. Also, the nearby US 30/River Road intersection would operate at a v/c ratio of 0.64 (which also has excess capacity of at least 20% before meeting the applicable 0.85 v/c ratio operating standard). Because the developer is conditioned to provide financial assurance that the identified improvements will be constructed when warranted (as was set forth in the City of The Dalles Resolution No. 09-013), the improvements will be installed as soon as they are needed; therefore, even the exact timing of the improvements is inconsequential to the results of the DKS analysis.

Please contact me if you have any further questions or comments.

Appendix

found in Figure 3.3.2 at the end of this chapter. The amount of available vehicle storage in the left and right turn lanes could also be provided in this diagram.

Traffic flow diagrams, such as the one shown in Figure 3.3.3 at the end of this chapter, should be prepared and included in the report illustrating the existing traffic volumes – average daily traffic (ADT) on the links, and the appropriate peak hour or 30th highest hour turning movements at each study intersection and site approach location.

In general, ODOT requires the use of the 30th highest hourly volume (30 HV) of the year for design purposes. In large urban areas, the 30 HV can often be closely approximated by using the weekday peak hour volume from the peak month of the year. The weekday peak hour typically occurs during the work-related commute period, usually between 7-9 a.m. or 4-6 p.m. Seasonal factors can be applied to the counts obtained to model conditions during the peak month of the year.

In rural or recreational areas, the time of the 30 HV may be less predictable. Historical data from Automatic Traffic Recorded (ATR) stations can be very useful in determining the 30 HV in these situations.

Complete instruction for determining the 30 HV in both urban and rural areas can be found in the document titled, "Developing Design Hour Volumes" published by ODOT's Transportation Planning Analysis Unit and found at:
http://www.oregon.gov/ODOT/TD/TPAU/docs/A_APM/ch4.pdf.

The dates of the traffic counts should be stated and the actual count data must be included in the report. Traffic counts should not be more than a year old from the date the report is prepared. Counts between one and three years old must be factored to the current year. In areas where significant amounts of development or regional traffic growth have recently occurred, it may be preferable to require the collection of current count data to accurately capture these changes. Counts should not be taken within a week of state or federal holidays, unless directed by ODOT. Counts on the weekday should be conducted either on a Tuesday, Wednesday, or Thursday, unless directed by ODOT. The presence of schools in the area should be considered when determining the date of counts. It is preferable to count when schools are in session.

Using the above information, an analysis of existing study area intersection operations during the time periods specified in the scope of work should be provided. The results should be clearly presented in tables or figures (see Table 3-3). Most jurisdictions measure intersection operational performance by Level of Service (LOS) or delay. ODOT measures the performance of the highway using volume to capacity (v/c) ratios. The performance of each intersection analyzed should be reported using the measuring criteria preferred by the jurisdiction having authority over that intersection. Having both LOS and v/c data helps to get a more accurate picture of how well an intersection is functioning. For example, for a minor

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Mr. Gene Parker
City Attorney
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December 28, 2009

Re: LUBA Remand of SPR 379-08 -- Citizens for Responsible Development in The Dalles Response to DKS memo of December 21, 2009

Mr. Parker:

CRD has reviewed Wal-Mart's traffic analysis submitted on December 28, 2009 and offer the following response. CRD continues to believe that Wal-Mart has failed to meet its burden of proof to demonstrate that the ODOT required 30th highest hour traffic volumes have been correctly calculated. Furthermore, CRD believes that the city cannot rely on the DKS Associates' memorandum of December 2, 2009, the recent rebuttal dated December 21, 2009 and the December 14, 2009 Power Point presentation as substantial evidence supporting a decision to approve Wal-Mart's application on remand from LUBA. The Greenlight Engineering analysis dated December 11, 2009 continues to contradict Wal-Mart's documentation, and therefore, cannot be used as the basis for revised findings that satisfy LUBA's remand order. CRD adheres to all of its prior arguments and without waiving any of those arguments offers the following comments.

The DKS analysis continues to use the same Tuesday in July for its 30th highest hour despite Greenlight's showing that it is not the 30th highest hour. DKS asserts that July 10, 2007 from 4:00-6:00 pm is the appropriate analysis point. DKS incorrectly asserts that "[t]here is no substantial evidence in the record that demonstrates that any other weekday afternoon, other than the Tuesday afternoon assessed, represents the 30th highest hour pursuant to ODOT's requirements." There are two problems with this position. First, it is DKS and Wal-Mart's burden to demonstrate that substantial evidence exists to support this application. Second, Greenlight Engineering's analysis shows that the Tuesday in July selected is not the 30th highest hour no matter how the numbers are rationalized to reach that conclusion.

Greenlight Engineering correctly pointed out that DKS's own recent counts taken on Sunday October 30, 2009 demonstrate that the Tuesday in July counts relied on by DKS for the 30th highest hour are flawed. Rather than confront this contradiction, the DKS memo simply reasserts that the Tuesday traffic counts are correct. See page 12 of DKS December 21, 2009 memo.

Greenlight Engineering also found error in the judgment made in characterizing the impacts on the Chenoweth Interchange from nearby recreational areas. While DKS states that the Chenoweth Interchange has patterns analogous to a large urban area, no data is identified to support this conclusion in light of the fact that several recreational uses are nearby and already have an impact on the interchange. Again, rather than confront the contradiction, DKS simply asserts that the Tuesday in July is correct. That does not constitute substantial evidence, its a conclusion that does not satisfy Wal-Mart's burden of proof.

Greenlight Engineering also identified other potential hours within the Rowena ATR data that are near in time to the Tuesday used by DKS, but which show a huge increase in vehicle volume. The 37th highest hour occurred on Friday, July 20, 2007 and showed a combined hourly volume of 2471 vehicles as compared to the 1573 and 1559 vehicle volume relied upon by DKS. Again rather than confront this huge disparity, DKS simply states that ODOT did not require counts on days other than Tuesday, Wednesday or Thursday. However, neither DKS nor ODOT explain why with respect to the Chenoweth Interchange, the Friday counts are not relevant. Without such an explanation, DKS's response amounts to little more than an assertion, which is not sufficient to constitute substantial evidence.

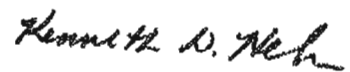
CRD and Greenlight Engineering also assigned error to Wal-Mart's reliance on ATR data from 2006 when counts could have been done in July 2007, 2008 and 2009 to corroborate the earlier data. CRD continues to urge the city, and to believe that the only option to determine the correct 30th highest hour is to conduct counts in July 2010 to eliminate flaws and contradictions in the data relied upon by DKS.

As a final matter, the DKS response relies repeatedly on the traffic system mitigation projects previously identified by the city to assert that potential impacts will be taken care of even if the 30th highest hour calculations are incorrect. CRD continues to believe that since only two of those mitigation projects will be required prior to the time the proposed store opens that violations of the settlement agreement with regard to the .75 V/C ratio could occur before the other mitigation projects are fully built. Those temporary failures will also violate the settlement agreement with ODOT and subject the citizens of The Dalles to the adverse traffic impacts that the settlement agreement was intended to prevent.

For the reasons stated above, and those previously raised in CRD's letter of December 14, 2009 and Greenlight Engineering's memo of December 11, 2009, CRD continues to believe that the 30th highest hour calculations relied upon by Wal-Mart and the city undercount the vehicle volumes at the Chenoweth Interchange and that even with the

mitigations identified by the applicant, the .75 V/C limit at the interchange could be violated as a result of allowing development of the proposed Wal-Mart store.

Thank you for the opportunity to comment.

A handwritten signature in black ink, appearing to read "Kenneth D. Helm". The signature is written in a cursive style with a prominent "K" and a long, sweeping underline.

Ken Helm

RESOLUTION NO. 10-001

A RESOLUTION AFFIRMING THE CITY COUNCIL'S
APPROVAL FOR SITE PLAN NUMBER 379-08 FOR
PACLAND, TO DEVELOP LOT #2 OF SUBDIVISION #62-08,
WITH A 150,000 SQUARE FOOT BUILDING, PARKING,
LANDSCAPING, AND UTILITIES FOR A WAL-MART
RETAIL STORE

WHEREAS, on March 9, 2009, the City Council adopted Resolution No. 09-013, affirming the Planning Commission's decision to approve the site plan review application of Pacland to develop a 150,000 square foot building on Lot #2 of Subdivision #62-08, which application is referred to as SPR #379-08, with certain modifications to the conditions of approval recommended by the Planning Commission; and

WHEREAS, Citizens for Responsible Development in The Dalles, Luise Langheinrich, John Nelson, and Michael Leash filed an appeal of the City Council's decision of March 9, 2009, with the Land Use Board of Appeals; and

WHEREAS, on October 8, 2009, the Land Use Board of Appeals issued a Final Opinion and Order remanding the City's decision of March 9, 2009, back to the City; and

WHEREAS, on November 23, 2009, the City Council considered the written request submitted pursuant to ORS 227.181 by the Applicant to proceed with the remand hearing; and

WHEREAS, following the presentation of testimony from the public, the applicant, and the petitioners who filed the LUBA appeal, the Council voted to establish the scope of the remand hearing, to be limited to the issues as identified by LUBA in its Final Opinion and Order related to the Chenoweth Interchange, as set forth in the Applicant's written request to proceed; and

WHEREAS, on November 23, 2009, the Council also determined the Applicant would be allowed to present new evidence as set forth in the Applicant's written request to proceed with the remand, and that interested parties would be allowed an opportunity to testify regarding any new evidence related to the 30th highest hour volume which would be presented at the December 14, 2009, public hearing, and that interested parties would be provided an opportunity to present testimony and evidence related to the 30th highest hour volume using Saturday as the weekend day for purposes of calculation; and

WHEREAS, on December 14, 2009, the City Council conducted a public hearing to consider the remanded decision; and

WHEREAS, the City Council granted a request made prior to the close of the hearing for an opportunity to present additional evidence, arguments or testimony concerning the application by voting to keep the record open for seven (7) days pursuant to ORS 197.763(6)(c); and

WHEREAS, additional testimony, evidence and arguments were submitted by the Applicant on December 21, 2009; the opponents submitted a response to this additional testimony, evidence and arguments on December 28, 2009; and the Applicant submitted a written closing statement on January 4, 2010; and

WHEREAS, following the close of the public hearing and the closure of the record, on January 11, 2010, the City Council deliberated and voted _____ to _____ to affirm the City Council's approval of the application of Pacland to develop a 150,000 square foot retail building upon Lot #2 of Subdivision #62-08, referred to as Site Plan Review #379-08, with the twenty conditions of approval, as set forth in Resolution No. 09-013; and

WHEREAS, the City Council has reviewed the proposed findings of fact and conclusions of law, attached to this Resolution as Exhibit "A", and incorporated herein by this reference;

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

1. The City Council hereby adopts and approves the findings of fact and conclusions of law set forth in Exhibit "A". Based upon these findings of fact and conclusions of law, and the findings of fact and conclusions of law set forth in Resolution No. 09-013, the City Council hereby affirms its decision of March 9, 2009, to grant approval for the application of Pacland to develop a 150,000 square foot retail building upon Lot #2 of Subdivision #62-08, referred to as SPR #379-08, with the following conditions:

CONDITIONS OF APPROVAL:

1. All development must be completed according to the Land Use and Development Ordinance. (LUDO). The LUDO can be found online at www.ci.the-dalles.or.us.
2. Applicant must comply with all the conditions of approval for Subdivision 62-08 that pertain to this lot or the access to this lot.
3. Applicant must get approval from the City Engineer for construction plans for all public improvements. Both the design and details must be approved by the City Engineer. All public improvements will be required to submit as built upon completion.
4. Public improvements on the public street running north and south will include a sidewalk on the west side from River Road to the southern boundary of this property, curbs on both sides, and full street paving. A sidewalk on the east side of the public street may be deferred until time

of development of adjoining properties. All public improvements shall be built to City standards, and the costs for such improvements shall be paid for by the Applicant.

5. Sanitary sewer will be provided with the use of a lift station proposed to be located on lot 1 of subdivision 62-08. The proposal for sanitary sewer as contained in the subdivision application meets minimum City standards, but is not the preferred location. Applicant and City will continue to examine other possible locations. Until such time as other locations have been reviewed, no final decision on the location of the lift station will be made. If the lift station is constructed to accommodate property which is located beyond the lots in Subdivision #62-08, the Applicant will be required to pay their proportionate share of the costs of the improvements associated with the lots in Subdivision #62-08.

6. Applicant will need to connect to the City water main on River Road and extend an eighteen inch line along the frontage of the public street unless a different route, acceptable to the City, is selected as part of the subdivision development. Applicant will need to coordinate exact location of water lines with City Engineer. The Applicant will be responsible for paying for the costs of connecting to the water main and installing the eighteen inch line.

7. On site stormwater from the parking area can be retained on site or piped to an approved point of disposal. Applicant will need approval from all agencies with jurisdiction for disposing of stormwater. The proposed use of bioswales and Tract A as a private disposal system meets City regulations. The drainage from the building will need to be piped into a public system along the public road. Those portions of the paved areas not piped to Tract A shall be provided with an oil/water separator according to Section 7.020.100.

8. The applicant shall submit and obtain approval from the City Engineer for as built construction plans for all public improvements.

9. All development must meet the provisions of section 8.050. Cuts and/or fills over 50 cubic yards require a physical constraints permit. Cuts and/or fills over 250 cubic yards require engineered plans. Ground disturbance of one acre or more require a 1200-c permit from DEQ.

10. Disturbed topsoil must be revegetated according to the provisions of 8.050.030 A.

11. The recommended traffic mitigation elements as set forth in the Traffic Impact Study (TIS) prepared by DKS Associates, dated September 2007, shall be completed according to the schedule in the TIS listing the elements to be accomplished by the day of opening and those to be completed by the year 2027 or earlier. Prior to issuance of any building permits for the proposed development, the City and Applicant shall enter into a development agreement, which will include detailed provisions for implementing construction of the traffic mitigation elements in accordance with the schedule outlined in the TIS.

The development agreement will identify the mitigation elements to be constructed at the Applicant's expense by the date of opening of the proposed retail store. For those mitigation elements to be completed by the year 2027, or earlier as warranted, including those at West 6th Street/River Road, I-84 Eastbound Ramp Terminal/River Road, I-84 Westbound Ramp/River Road, Webber Street/West 6th Street, and West 6th Street (Highway 30) River Road, the development agreement will include a provision that the full cost of installing these improvements will be at the Applicant's expense, and the Applicant will be provided with two options: First, to construct the improvements at the time the City gives notice to the Applicant to proceed with construction of the improvements; or Second, the Applicant will provide a financial guaranty for future construction of the improvements, which guaranty could take the form of payment into a City fund, or a letter of credit, or other form of guaranty approved by the City. Installation of the traffic signals at the two I-84 Interchange off ramps will occur upon confirmation that warrants for the traffic signals exist, and approval for the installation by ODOT has been obtained. The mitigation elements for Webber and 6th Streets listed in the schedule shall be installed upon the giving of notice from the City to the Applicant, in the manner to be set forth in the development agreement.

For the mitigation element for the I-84 Westbound Ramp Terminal/Highway 197, the development agreement shall include provisions consistent with the recommended proportionate share mitigation on page 5 of the Memorandum from DKS Associates to ODOT Region 4, dated September 5, 2007. The development agreement will include provisions giving the Applicant a choice between two options, similar to those provided for the other mitigation elements to be constructed by 2027 or earlier; i.e., to pay for the actual proportionate share of the costs of the mitigation element at the time of construction, or to provide some form of financial guaranty approved by the City assuring the Applicant will pay their proportionate share of the cost of constructing the improvement in the future.

12. A detailed landscaping plan for both the parking area and for general landscaping will be required at the time of the building permit application. The detailed site plan will need to include provisions for consideration of buffer plantings along the west side of the property, taking into account the view of the subject property from the residential area across Interstate 84, while providing a view of the proposed retail building and any signage on the subject property from Interstate 84.

13. A total of 745 parking spaces is allowed, with a minimum of 15 accessible spaces, two of which must be van accessible. Signage for accessible spaces will be reviewed after construction.

14. A total of 25 bicycle spaces is required on a temporary basis. The City will review the adequacy of this amount at the end of one year after the store has opened. If more bicycle spaces are needed, City will inform the applicant who will have 90 days to provide additional spaces.

15. If any public improvements are located on private property, the City will require easements.

16. A detailed lighting plan meeting the requirements of Section 7.030.120 will be submitted at the time of the building permit application.

17. In the event the City is able to secure an easement or other right-of-way to provide access from River Road to the existing Riverfront Trail system, on or before the time when Applicant requests their final certificate of occupancy, the Applicant shall pay for the costs of providing a paved connection from its property to the nearest point on the Riverfront Trail in order to provide access to the existing Riverfront Trail system.

18. Applicant shall pay for the costs of constructing a fence along the boundary line of its property with the right-of-way for the Union Pacific Railroad track line.

19. Applicant shall be responsible for the cost of installing a bike lane to connect to the adjacent bike lane on River Road.

20. Subject to approval by ODOT, and prior to obtaining its final certificate of occupancy, Applicant shall pay for the costs of installation of a sidewalk from the I-84 Exit 82 Interchange overpass to the intersection with Highway 30, to facilitate pedestrian access from Highway 30 to the site of the development. The sidewalk shall be required only on the south side of the connection between the overpass and Highway 30.

2. Effective Date. This resolution shall be considered effective as of January 11, 2010.

PASSED AND ADOPTED THIS 11TH DAY OF JANUARY, 2010.

Voting Yes, Councilor: _____

Voting No, Councilor: _____

Absent, Councilor: _____

Abstaining, Councilor: _____

AND APPROVED BY THE MAYOR THIS 11TH DAY OF JANUARY, 2010.

Nikki L. Lesich, Mayor

Attest:

Julie Krueger, MMC, City Clerk



CITY of THE DALLES

313 COURT STREET
THE DALLES, OREGON 97058

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

AGENDA STAFF REPORT

CITY OF THE DALLES

MEETING DATE:	AGENDA LOCATION:	AGENDA REPORT #
January 11, 2010	Action Items 13, B	10-001

TO: Honorable Mayor and City Council

FROM: Gene E. Parker, City Attorney

THRU: Nolan K. Young, City Manager

DATE: December 28, 2009

ISSUE: Resolution No. 10-002, amending certain provisions of the Revised Exempt Employee Handbook concerning personnel policies, records, compliance with the 2008 Federal Genetic Information Nondiscrimination Act, and Senate Bill 928

RELATED CITY COUNCIL GOAL: None.

PREVIOUS AGENDA REPORT NUMBERS: None.

BACKGROUND: During the audit for the 2008-2009 fiscal year, the City's auditors provided comments concerning certain policies in the City's exempt employee handbook. The comments were offered to assist the City in clarifying certain practices and procedures, and reducing the risk of potential liability for the City in certain areas.

One area of the policies concerned the policies regarding maximum limits on the accrual of vacation leave. The City's current policy provides the maximum amount of vacation time shall not exceed the amount earned in 24 months of service. There are times when employees exceed the maximum limit for various reasons, and the City Manager has been authorizing an extension for employees who have worked out a plan to use up the excess accrued vacation time with their Department Manager, subject to the City Manager's approval. The Exempt Employee Handbook does not currently have any provision allowing for such exceptions of the maximum limit. A

new section providing for this exception is set forth in **proposed** Section 33.3.1 to be added to the Exempt Employee Handbook.

A second policy proposed for revision is in Section 20 of the Exempt Employee handbook concerning Records. The City's auditors discussed with management that some Personnel Action Forms (PAF) were not being signed by City employees. The Exempt Employee Handbook does not have specific provisions concerning when PAF forms must be used or signed by the affected employee. Under the proposed revisions, the current language in Section 20 concerning the use of time sheets would be renumbered Section 20.1, and a new Section 20.2 concerning PAF forms would be added to the Exempt Employee Handbook.

In addition to the provisions outlined above, staff has prepared revisions to include in the Exempt Employee Handbook concerning the City's compliance with the Federal Genetic Information Nondiscrimination Act of 2008, and for the provisions of Senate Bill 928 which created new provisions concerning unlawful employment practices involving victims of certain crimes. All of the proposed revisions to the Exempt Employee Handbook are set forth in Resolution No. 10-002.

BUDGET IMPLICATIONS: None.

ALTERNATIVES:

- A. Staff Recommendation. The Council move to adopt Resolution 10-002.

RESOLUTION NO. 10-002

A RESOLUTION AMENDING CERTAIN PROVISIONS OF THE REVISED EXEMPT EMPLOYEE HANDBOOK CONCERNING PERSONNEL POLICIES, RECORDS, AND COMPLIANCE WITH THE 2008 FEDERAL GENETIC INFORMATION NONDISCRIMINATION ACT AND SENATE BILL 928

WHEREAS, on May 5, 2005, the City Council adopted Resolution No. 005-018 adopting a Revised Exempt Employee Handbook; and

WHEREAS, during the recent audit for the 2008-2009 fiscal year, the City's auditors provided comments concerning certain policies included in the Exempt Employee Handbook, particularly the policies concerning the maximum limits on the amount of vacation that can be accrued, and the policies concerning the use and signatures of personnel action forms ("PAF"); and

WHEREAS, City staff has reviewed the auditor's comments, and has prepared proposed revisions to the policies in the Exempt Employee handbook to address those comments; and

WHEREAS, City staff is also recommending the Exempt Employee Handbook be revised to include provisions concerning the federal Genetic Information Nondiscrimination Act of 2008 and the provisions of Senate Bill 928 concerning unlawful employment practices involving victims of certain crimes; and

WHEREAS, the City Council has reviewed the proposed revisions to the Exempt Employee Handbook prepared by City staff, and has determined it is appropriate to incorporate those revisions into the Exempt Employee Handbook;

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

Section 1. The introductory paragraph for Section 5, Equal Employment Opportunity, of the Exempt Employee Handbook shall be revised by adding the following language to the paragraph:

In addition, the City complies with the Federal Genetic Information Nondiscrimination Act of 2008, and therefore prohibits the use of genetic information in making decisions related to any terms, conditions, or privileges of employment, including, but not limited to, hiring, firing, pay, promotion, layoff, and benefits. Collection, retention, or disclosure

of genetic information by the City shall be done in compliance with the Federal Genetic Information Nondiscrimination Act of 2008.

Section 2. Section 20, Records, of the Exempt Employee Handbook shall be amended by renumbering the current paragraph concerning the use of time sheets to be Section 20.1, and by inserting a new paragraph 20.2 which shall read as follows:

20.2 Personnel Action Forms (PAF) shall be used for any change in an employee's status, including, but not limited to, initial hire, completion of probationary period, cost of living increase, performance based wage increase, promotion, demotion, transfer, etc. PAF's may be initiated by the employee or the Department Manager as appropriate. PAF's for discretionary changes must be signed by the employee and the Department Manager. PAF's for routine or mandatory changes must be signed by the Department Manager. All PAF's must then be submitted to the City Clerk/Human Resources Department for review. Approval requires signatures of both the City Clerk and the City Manager. Copies of the approved PAF's are then sent back to the department for the employee and Department Manager. A copy is also sent to the Payroll Technician for processing. The original of the PAF shall be placed in the employee's personnel file.

Section 3. Section 33, Vacation, of the Exempt Employee handbook, shall be amended by inserting a new Section 33.3.1, which shall read as follows:

33.3.1 At the discretion of the City Manager, an extension may be allowed for employees who exceed the vacation accrual limit if the Department Manager submits a plan, subject to the approval of the City Manager, for that employee to use the excess accrued vacation within a 30 to 60 day period.

Section 4. Section 45, Safety, shall be amended by inserting a new Section 45.2, which shall read as follows:

45.2 The Oregon Legislature has adopted Senate Bill 928, which will take effect on January 1, 2010. This legislation relates to unlawful employment practices involving victims of certain crimes. Under this legislation, it is an unlawful employment practice for the City to refuse to make a reasonable safety accommodation requested by an individual who is a victim of domestic violence, sexual assault or stalking, unless the City can demonstrate that the accommodation would impose an undue hardship on the operation of the business of the City, as determined under ORS 659A.121. A reasonable safety accommodation is defined as follows:

"Reasonable safety accommodation" may include, but is not limited to, a transfer, reassignment, modified schedule, unpaid leave from employment, changed work telephone number, changed work station, installed lock, implemented safety procedure or

any other adjustment to a job structure, workplace facility or work requirement in response to actual or threatened domestic violence, sexual assault or stalking.

Section 5. Effective Date. This Resolution shall be effective as of January 11, 2010.

PASSED AND ADOPTED THIS 11TH DAY OF JANUARY, 2010

Voting Yes, Councilor: _____

Voting No, Councilor: _____

Absent, Councilor: _____

Abstaining, Councilor: _____

AND APPROVED BY THE MAYOR THIS 11TH DAY OF JANUARY, 2010

SIGNED:

Nikki L. Lesich, Mayor

ATTEST:

Julie Krueger, MMC, City Clerk



CITY of THE DALLES

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AGENDA STAFF REPORT CITY OF THE DALLES

MEETING DATE	AGENDA LOCATION	AGENDA REPORT #
January 11, 2010	Action Items 13, C	10--005

TO: Mayor and City Council

FROM: Nolan K. Young, City Manager

DATE: December 31, 2009

ISSUE: Request from Mid Columbia Medical Center (MCMC) for Transportation SDC credit

BACKGROUND: Mid Columbia Medical Center is preparing to construct a linear accelerator vault at Celilo Cancer Center on the campus of Mid Columbia Medical Center. Attached is their letter of request. They had previously requested an exemption of the fee based on Section 5 and 7 of the Ordinance. Attached is a letter from the City Manager denying that exemption.

Section 6G of the Ordinance (copy attached) allows for MCMC as a non-profit agency to request up to a 50% credit of a Transportation SDC. When deciding whether or not to approve the 50% credit, the Council will need to determine the public benefit. In reviewing the request, we feel that the value of having a cancer treatment center in the community and the options that this new space creates in that treatment presents a solid position in support of the request. We recommend the Council approve the requested 50% credit.

BUDGET IMPLICATIONS: The total Transportation SDC for the facility is \$12,896.59; a 50% credit would be \$6,448.29.

COUNCIL ALTERNATIVES:

1. **Staff recommendation:** Approval of 50% credit of Transportation SDC for MCMC's Celilo Center Linear Accelerator.
2. Approve a lesser credit amount.
3. Deny the request for a Transportation SDC credit.

Nolan Young, City Manager
City of The Dalles

December 31, 2009

Dear Nolan,

I am writing in regard to the transportation SDC fees related to the construction of the linear accelerator vault at Celilo Cancer Center on the campus of Mid-Columbia Medical Center (MCMC). I am requesting that the SDC's fees be reduced 50% due to the hospital's non-profit tax status.

In addition I am asking that the City Council consider an exemption for the remaining balance based on the fact the fee schedule is calculated on square feet and its intent is to provide funds for additional traffic/transportation activity attributable to the new services resulting from the new construction. But because of the unique use of the building that this new construction is designed for, it will not increase traffic to the site based on the following facts:

1. The new vault will house a new linear accelerator (linac) for the purpose of providing radiation therapy to cancer patients at Celilo. Once the construction of the new vault is completed, the new linac will be installed over an eight week period.
2. The current linac will be removed from the existing vault as soon as the new linac is operational.
3. The option of removing the current linac and installing a new linac in the existing vault over eight weeks was considered and the options were presented to the MCMC Board of Directors. The Board agreed with the recommendation to build the new vault rather than shutting down treatments for eight weeks based on the need to provide continuity of patient care, maintain patient referral patterns and maintain cash flow and employment of our technicians. In addition, the subsequent vacant vault will allow us to replace the linac in the future without any downtime or construction.
4. Patient volumes for radiation therapy are very consistent for population statistics. The new linac provides better treatments, lower radiation levels to peripheral tissue, etc. It increases quality of care, but the patient volume is not expected to increase.
5. We are currently providing an additional radiation service called brachytherapy in the existing vault using a small portable machine. The advantage of this type of radiation treatment, (to the small number of patients that qualify), is that radiation therapy can be delivered in five days using brachytherapy instead of 35 days using the linac. This treatment actually decreases traffic flow to Celilo as the number of patient treatments is dramatically decreased. It is a highly specialized treatment vehicle and only certain cancers in certain stages and sites can be treated with this regimen.

6. With the installation of the new linac in the new vault, the current vault will be vacant except for the occasional use of the brachytherapy equipment. Again, there is no data to suggest the construction of the new vault will in any way increase patient loads and traffic. Brachytherapy is currently being performed and this service will simply transfer to the vacant vault instead of being delivered in the same vault as the linac. If in the off chance this increases the number of patients receiving brachytherapy vs. traditional radiation therapy, the number of patient visits, and the amount of traffic, will actually decrease to Celilo.

Thank you for your consideration of this request to provide a 50% exemption of the transportation SDC fees based on our non-profit tax status and in addition, an additional exemption based on the unique use of the space having no impact on increased traffic flow. Please keep in mind the hospital is paying all other applicable building permit fees related to new construction.

I am available for any questions, concerns, etc. Please do not hesitate to contact me if you need additional information to make your decision.

Sincerely,

Randy Skov
Vice President, Mid-Columbia Medical Center
541 296 7535

c: Dale McCabe, City Engineer
Dawn Hert, Associate Planner



CITY of THE DALLES

313 COURT STREET
THE DALLES, OREGON 97058

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December 31, 2009

Randy Skov, Vice President
Mid Columbia Medical Center
1900 East 19th
The Dalles, OR 97058

Dear Mr. Skov,

On November 16, 2009 the City received a request from Mid Columbia Medical Center for either a 50% credit or full exemption from Transportation SDC's for the construction of a linear accelerator vault at Celilo Cancer Center located on the campus of Mid Columbia Medical Center. Your request is based on your belief that the replacement facility will not result in any increase of vehicle trips to the site.

Section 5 of Ordinance 07-1286 (attached) allows for full or partial exemption if it can be determined that there will be no additional traffic impacts as a result of the improvements. The typical purpose for expansion of facilities is due to growth that requires additional space since the initial construction. In your particular case, you are creating a replacement space without eliminating the existing space. You contend that the replacement activity in the existing vault will generate less traffic.

Based on the information we have received the SDC's being charged are consistent with SDC's for other expansions. It is difficult to determine the long-term use of this specific space. The charges are based on total square footage for a general use category. We believe the additional space does have a correlation with potential traffic that can be generated. Therefore, we deny your request for a full exemption.

We feel that there is adequate justification for community benefit that warrants referral to the City Council at their January 11th meeting with our recommendation to grant a 50% credit as allowed by Section 6G of the attached ordinance.

As we approach the January 11th meeting date, we will see that you receive copies of the agenda and the staff report in order for you to attend the meeting to discuss your request with the City Council.

Sincerely,

Nolan K. Young
City Manager

