

CITY OF THE DALLES PLANNING COMMISSION MINUTES

Thursday, January 17, 2002

City Hall Council Chambers
313 Court Street
The Dalles, OR 97058
Conducted in a handicap accessible room

CALL TO ORDER:

Chair Bruce Lavier called the regular meeting of the City of The Dalles Planning Commission to order at 6:30 P.M.

ROLL CALL:

Present: Bruce Lavier, Ted Bryant, Ron Ahlberg, and Jean Thomas

Absent: Mark Poppoff

Staff: Dan Durow, Community Development Director; Gene Parker, City Attorney; Dale McCabe, City Engineer; Denise Ball, Admin. Secretary.

AGENDA: Ahlberg moved to approve the agenda and Bryant seconded. The motion carried unanimously with Poppoff absent.

MINUTES: Lavier asked if any corrections were needed for the minutes of December 6, 2001. Thomas said that on page six, Paragraph four, the sentence reading "Thomas said she lives next door..." should read, "Thomas said she lived next door...". Ahlberg moved to approve the minutes as corrected and Bryant seconded. The motion passed unanimously, Poppoff absent.

PUBLIC COMMENT: None

PUBLIC HEARING: *Quasi-Judicial*

Rebuttal on disclosed ex parte contact for Conditional Use Permit 123-01 of Wayne Lease to construct a Residential Care Facility for a maximum of 15 Alzheimer's disease patients. The subject property is located at 1812/1816 Liberty Way and is further described as 1N 13E 4DC TL 4200. Property is zoned "RL"- Residential Low Density.

Lavier said he would dispense with reading the rules for conducting a public hearing unless someone objected. No one did. He then opened the hearing.

John Kelly, opponent, spoke to a point of order and asked exactly who is allowed to speak at the hearing tonight.

Parker replied that parties of record, people who did testify either in person or in writing at the previous hearing, would be allowed to speak.

Wayne Lease, applicant, asked if he could present an expert witness to testify in his behalf to verify information he is presenting tonight.

Parker said he assumed it would be permissible if the testimony would just be verifying some documents. He would need to wait and see what testimony is offered and rule on it at that point.

Lavier asked if that was clear to everyone and then opened the hearing for the Supplemental Staff Report.

Durow presented the Supplemental Staff Report with attached drawings.

Ahlberg asked how pedestrians would get from the street to the proposed residence.

Durow replied that the City's ordinance does not require sidewalks on the property of a residential building.

Lavier asked if Staff would be making modifications to the recommended conditions of approval, if the conditional use were to be approved.

Durow said yes, if the conditional use should be approved, Staff would request the 125-foot vision clearance requirement, as in the Clark decision. Also, the proposed no parking zone 100 feet in either direction of the proposed driveway.

Ahlberg asked if the no parking zone would affect the adjoining neighbor's property.

Durow said that no other property or driveway would be affected.

There were no other questions of Staff.

Proponent Testimony

Wayne Lease, 41 Private Lake Road, White Salmon, WA. said he would first like to speak to the Staff Report. Lease pointed out that this is an allowed use. In the first meeting on this Conditional Use Application, one of the Commissioners asked where a care facility like this could not be built. There is no residential area in the City of The Dalles where this use is not allowed. This is a residence. Lease asked if he could have a clarification on what a Conditional Use with conditions is.

Lavier said this hearing should only deal with the four issues before the Commission tonight and Parker agreed.

Lease went on with his rebuttal presentation. Lease provided each Commissioner a color-coded packet of information.

Issue one is the fence and lot line adjustment that took place between the Lease and Kortge properties. Page nine shows the lot line adjustment. Lease asked if there were any questions on issue one and there were none.

Issue two deals with the sewer line easement. Page 11 shows the easement for the water line as well as a private easement granted to the owner of Lot 11. Pages 12 through 17 show the easement agreement. Page 18 shows the criteria for placing a structure on the property in relation to these easements. Page 19 shows that Staff has notified Lease he has met all those criteria. Page 19A speaks to the credibility of the staff. City Staff, including Police, were paid over \$3,000,000 last year. Lease went on to say that some members of the Planning Commission, during the previous hearing on this conditional use, said they did not believe that the infrastructure was sufficient and what staff said was inaccurate. He believes that Staff are the experts, and both the applicant and the Commissioners should rely on their judgment.

Lease moved on to issue three and asked Commissioners to look at Page 24, a letter from Police Chief Jay Waterbury. The letter says Liberty Way is an adequate street; traffic safety isn't an issue if people obey all traffic and speed laws. Lease went to page 25. There have been only four reported accidents since 1988. Lease went on to discuss the accident on Liberty Way that John Kelly mentioned during the November 15 hearing. Pages 37 through 41 document that reckless driving incident. This Conditional Use Permit will not increase the number of careless or reckless drivers on Liberty Way. Lease pointed out page 21, item (1), Facility Description.

Lease next moved to page 24A, and the Lane classification for Liberty Way. Based upon the ITE Trip Generation Manual, the calculated trips per day for the care facility are 37.4, add in the combined 66.9 trips per day for the other seven lots that are served by Liberty Way and the total is 104.39 trips per day (see page 6, paragraphs two and three). The Lane volume allowance is 150 per day, so, Liberty Way is capable of handling an additional 30% traffic volume in addition to the existing homes and proposed care facility.

Lease asked if there were any questions on issue three.

Bryant asked how many employees there would be per day.

Lease said there would be two to three per shift per day and he has an expert witness if Commissioner Bryant would like to hear from him.

Bryant said no thank you.

Thomas asked how Lease arrived at the one visit per month. Lease explained that he has an expert witness to testify to this figure. It is shown that the longer people are in dementia care facilities the visits become less frequent.

Ahlberg asked why Lease felt the Commission was taking the value of his land away.

Lease said if the Commission denies this application then they are devaluing his land.

Ahlberg said Lease himself stated that he had other options.

Lease said this conditional use is the best value for his land.

Ahlberg said that is debatable. He recalled Lease talking about dividing the property into three or four lots.

Lease replied that those four residential lots would create 38.28 trips per day on Liberty Way in comparison to the 37.4 trips per day for the care facility.

Lease went on to issue four. The driveway on the property is pre-existing and Mr. Lease did not feel it would come under this type of scrutiny during this Conditional Use Application process. The vacation of the street, that had provided access to this property, should not have devalued this property. The current driveway was built following the vacation of the previous access street. Various public and private individuals have used it for over 30 years. Creating conditions that would deny placement of a residential care home in a permitted zone is dangerously close to being discriminatory. Mr. Lease also presented a letter from Stu Nagel, Fire Marshall, Mid-Columbia Fire and Rescue. Fire Marshall Nagel, in his professional capacity, said he believes a workable solution can be achieved regarding the driveway and access. (See page 55)

There were no more questions of Mr. Lease.

Laurel Lease, 41 Private Lake Road, White Salmon, WA, said she would like to address rebuttal items three and four.

Mrs. Lease called attention to the report and letter by Police Chief Jay Waterbury, which shows that the road itself is not the problem; people who do not obey the traffic laws are the problem. This residence will not be contributing to excessive or unreasonable traffic generation. Mrs. Lease would like to offer expert testimony on the traffic generation following her testimony.

As to issue four, Mrs. Lease clarified that this is not a proposed driveway but is an existing driveway that has been used for over thirty years by many, many people, including City employees and neighbors. The topography of the land does not allow for too much change to that existing driveway. Lease said the facility does not want on street parking and has allowed for more off-street parking than the amount required in the ordinance. Mrs. Lease has also spoken to one of the neighbors, Jada Gay, regarding the possibility of making the street one-way. This would lessen the likelihood of some people driving too fast to "get air" when driving on Liberty Way. This residence meets this neighborhoods guidelines as to quality of living more so than partitioning into four lots and placing four, smaller single family homes. Lease asked Commissioners to look at the Police Chief reports, the Fire Marshall's letter, and the supplemental Staff Report. These people are the experts and all support the approval of this Conditional Use Permit to place this residence in this residential neighborhood. If there are any questions that would create additional conditions before approving this allowed use, Mrs. Lease said to please bring them up now so they can work with the Commission on getting them addressed. Also, this driveway cannot be assessed any differently than any other driveway in this neighborhood. This is a proposed residence with an existing driveway that is not as steep as the Kelly's driveway.

Lavier asked if there were any questions and Bryant said he had two questions.

Bryant asked what the neighbor said when asked about making Liberty Way a one-way street.

Mrs. Lease said the neighbor said she would approve of that.

Bryant asked if the Kelly's driveway was steeper than the Lease's driveway.

Mrs. Lease said she is not an expert, but just looking at it you can see that it is steeper.

There were no other questions.

Lavier called for the expert witness testimony.

Doug Ewing, 3784 Farlight Place, Boise Idaho, spoke as an expert witness for the Lease application. Ewing said he works with Americare, who is interested in purchasing the property from Mr. Lease. He has participated in about fifty care facilities being sited and is looking at forty more. He said the figures presented by Lease on visitors are correct. Most of these residents are not able to converse and do not have many visitors.

Ahlberg asked if this facility would be for Alzheimer's patients or dementia patients.

Mr. Ewing said Alzheimer's is a form of dementia.

Bryant asked how many trips would be generated by this facility.

Mr. Ewing said the employees, a visiting nurse once or twice a week, and family members would be the traffic. The laundry is done at the home, the medicine is mailed to the home; there is very little traffic created by this residence.

Ahlberg asked about the other fifty homes that are in operation and what their topography is.

Mr. Ewing said they have all different sites. Some are on steeper hills than this one. These homes are no different than any other residence.

Lavier said some of the proponent testimony has gone beyond the four issues allowed. He asked City Attorney Parker if opposition testimony should be allowed to go beyond the four issues as well.

Parker said the additional proponent testimony should be looked at as irrelevant and opposition testimony should deal with the four issues only.

Opponent Testimony

John Kelly, 1815 Liberty Way, The Dalles, Oregon spoke in opposition. Kelly again stated that he is not opposed to an Alzheimer's care facility. He wanted to speak to issues three and four,

which are appropriate to this hearing, the traffic and the slope of the driveway. Before doing that, however, he reiterated that he believes this is an ill-conceived plan. He said there is only the outline of a roof on piece of property and he would like to see what the proposed building is going to look like.

The traffic numbers on Liberty Way are not the problem for Kelly; it is the speed of the traffic. He disputed the amount of wrecks shown on the Police Report. He has no documents to show his numbers, but his observations are that there are four wrecks there per year. He presented Exhibit Opponents Rebuttal #1, pictures of the existing driveway on the Lease's property. Kelly believes this driveway would create access problems. He also mentioned that he had to remove his mailbox, which was close to this driveway, because it was run into on several occasions. Kelly also showed pictures of a fire hydrant on Liberty Way with a large piece of iron placed in front of it for protection. The iron is bent and marked from being hit by vehicles. Kelly also mentioned someone hitting a power pole further down the road. Kelly said the problem is not the amount of traffic but the speed of the traffic. All of his neighbors drive a very slow speed; it is not the residents of the neighborhood causing the problem. Kelly said he does not believe the Fire Marshall should have authority in approving the driveway. He also mentioned that the motion to deny at the November hearing listed four reasons. He believes that even though only two of those are at issue during this hearing, the other two are still reasons to deny as well.

Lavier said the Commission would look at previous testimony and evidence as well as current testimony in making their decision.

Lavier asked Kelly if he would have a problem with this street whether or not Mr. Lease builds on his property.

Kelly said sure, but he has a different problem with this facility because of on-street parking.

Lavier said he wished there was some way the Commission could help with the problem.

Kelly said he appreciates that they can't help any more than they can designate a 100-foot no parking zone.

Debbie Kelly, 1815 Liberty Way, The Dalles, Oregon spoke in opposition next. Mrs. Kelly questioned the proponent's expert witness on the staffing numbers. She asked if there would be three staff members during the day. Mr. Ewing said that is correct and that three staff exceed the States requirements.

There was no more opponent testimony.

Proponent Sur-rebuttal

Mr. Lease said he appreciates Mr. Kelly's concern with what the building will look like. However, that is not a requirement of a concept site plan. The Commission can ask to have the engineered drawing of the building come back to them for their review and approval and Mr.

Lease is in agreement with that. The opposition testimony saying they did not want the proposed facility on this property is the same as saying they want nothing on the property. The Fire Marshall comes in to play the same as the electrical, plumbing, and building inspectors come in to play. They have areas of authority that they have jurisdiction over. The Fire Marshall does have jurisdiction over the proposed driveway. Mr. Lease is also concerned with the four issues stated in the resolution when he believes only two were mentioned during the November meeting.

Mrs. Lease pointed out that a one-way street, in the opposite direction of the rise that creates "thrill hill", would go a long way to reducing the speed on Liberty Way. As Mr. Kelly pointed out, it is not the people who live on the street that are the problem. By removing the ability to "grab air", the speeding non-residents would have no reason to drive unlawfully on that street. No parking zones on the street would help the street be safer. The numbers presented by the police report spreadsheet are factual and documented.

There were no questions.

Lavier closed the public testimony portion of the hearing and proceeded with deliberation.

Deliberation

Ahlberg asked Staff about the discrepancy in the slope or grade calculations between the Fire Marshall and Staff.

Durow replied that there is a difference between grade and degree of slope and that is where the confusion came from.

Ahlberg asked if Staff is standing by the 19% and City Engineer Dale McCabe said yes, that is the grade of the driveway.

Ahlberg asked if color, aerial photos could be provided today.

Durow said that would be new evidence and the hearing is closed.

Ahlberg said it should just be a matter of clicking a few buttons to get that type of photo and he would like to see that in the future.

Durow explained that the present aerials were taken when the trees had leaves on them, so they may not help. A new aerial will be taken soon and should provide a better view.

Lavier explained that the previous testimony and evidence as well as the new testimony and evidence presented tonight are what the Commissioners should consider in coming up with a new motion.

Bryant asked what the four criteria was that was the basis for the previous motion to deny.

Parker directed the Commissioners to page four of the draft resolution.

Ahlberg asked why this is being handled as a conditional use rather than an administrative decision.

Durow replied that the ordinance places home care facilities in that category.

A recess was called until 8:30 PM so copies of the draft resolution could be provided to those who needed them.

The meeting was called to order again at 8:30 PM.

Lavier asked if any of the other three Commissioners had heard anything that would change their vote.

Thomas said she has changed her mind but that pedestrian access was a concern to her. She asked if a sidewalk would be required along the street.

Durow replied that the applicant would sign a waiver of remonstrance for sidewalk, curb, gutter, and storm drains. There is no way of knowing when those improvements would take place.

Lavier said the LUDO has to require criteria in order for the Commissioners to base their decisions on it.

Ahlberg said if that was the case, then everything could be handled administratively. He feels interpretation and experience of the Planning Commission do come in to play and that is why some people don't get the decisions they are looking for. He said he has not heard anything that would change his vote. He said he is not opposed to any type of medical facility but he feels there are so many better places in this community to put this facility. He is still concerned with the accessibility. Ahlberg went on to say if these were standard residences where someone chooses to live then you would know that you should be physically fit because you won't always be able to drive up the driveway and will need to walk up a steep hill. This is a quasi-public facility and other people will come to it. Because of that, he prefers to see it in a more accessible location. That is one of the reasons he is opposed to it; he does not like this location for it. The driveway is a concern. He could not get up and down that driveway in his chair.

Bryant told Mr. Lease that he had a very thorough and detailed package, but he did not see anything that would cause him to change his mind.

Parker said it would take three of the Commissioners to vote the same to make a decision. He recommended reviewing and discussing the criteria again to see what items they feel have not been met.

Lavier said he believes there isn't enough in the LUDO that could stop this project from taking place. He would like to add some conditions, one of which would be for the detailed plan coming back to the Commission for final approval. He said conceptually, he doesn't see why an Alzheimer's facility wouldn't work on this site.

Bryant said he is bothered by the lack of information concerning Staffing levels and visits to the facility. This concept plan isn't solid enough for him. He still has questions about the application.

Lavier explained that this is a decision on whether, conceptually, this could be done. The details of how it will be done can come back to the Commission for further review and approval if the applicant agrees.

Ahlberg said the LUDO shows the preferred grade of a driveway to be 12%. If this were a private residence and that owner didn't care about how steep his driveway was, then that would be one thing. This is a quasi-public facility, for lack of a better description, and it needs to be more accessible. This is not the right piece of property for this type of facility. Ahlberg said that due to the fact a majority of the Commission cannot agree upon a decision, he would like an opportunity to study the large packet of information presented by Mr. Lease to see if there is anything that could change his decision.

Lavier asked Staff where this hearing is time-wise.

Durow said the applicant has agreed to extend the 120-decision deadline to April 11. Staff and Commissioners looked at the Calendar to see when the meetings would take place, including City Council, should there be an appeal.

Commissioner Poppoff will need to review the minutes and tapes in order to be able to vote at the next meeting.

The decision and resolution will need to be complete by February 7, 2002, to maintain the necessary time schedule.

Ahlberg asked about a private versus a public easement. He inquired if there is a problem building over an easement.

Durow said usually there is something there. If the easement is well written, then a building could not be placed on top of it.

Parker said this would be a civil matter between the two parties.

Lavier felt recommended conditions of approval could include having the Traffic Safety Commission look at this road. He would like to see the site plan approval come back to the Planning Commission and also have storm drainage addressed. He asked Commissioners to think about this while reviewing the materials. The vision clearance area and no parking zone, as suggested by the Supplemental Staff Report, would also be conditions of approval.

Lavier asked Bryant how he felt about the application.

Bryant said he did have trouble following along as Mr. Lease presented his rebuttal material.

Thomas moved to continue the deliberations on Conditional Use Permit 123-01 until a special meeting to be held Thursday, January 31, 2002 at 6:30 pm in City Hall council chambers, to give

the Commissioners time to study the packet of material presented by the applicants Wayne and Laurel Lease. Bryant seconded the motion and it carried unanimously, Poppoff absent.

The Lease's said they would not be able to attend on January 31, 2002, as they will be out of town.

Resolutions

The resolution was continued and will follow further deliberation and a new vote at the next meeting.

COMMISSIONER COMMENTS AND CONCERNS

Commissioners discussed upcoming training seminars.

Commissioner Bryant thought he had someone for the Planning Commission but the person lives outside the City Limits, in Murray's Addition, and is not eligible.

Staff said they would check if the requirement for Planning Commission is living within City Limits or in the Urban Growth boundary. Murray's Addition is outside both, however.

Ahlberg said he went to a legal conference and understands that if a seven-member commission has two vacant positions, then you only need a quorum of the remaining members, in this case three of the five active members.

Parker said he would look into that.


NEXT MEETING:

The next special meeting January 31, 2002.

ADJOURNMENT:

The regular Planning Commission meeting was adjourned at 9:10 P.M.

Respectfully submitted by Denise Ball, Administrative Secretary.



Bruce Lavier, Planning Commission Chair

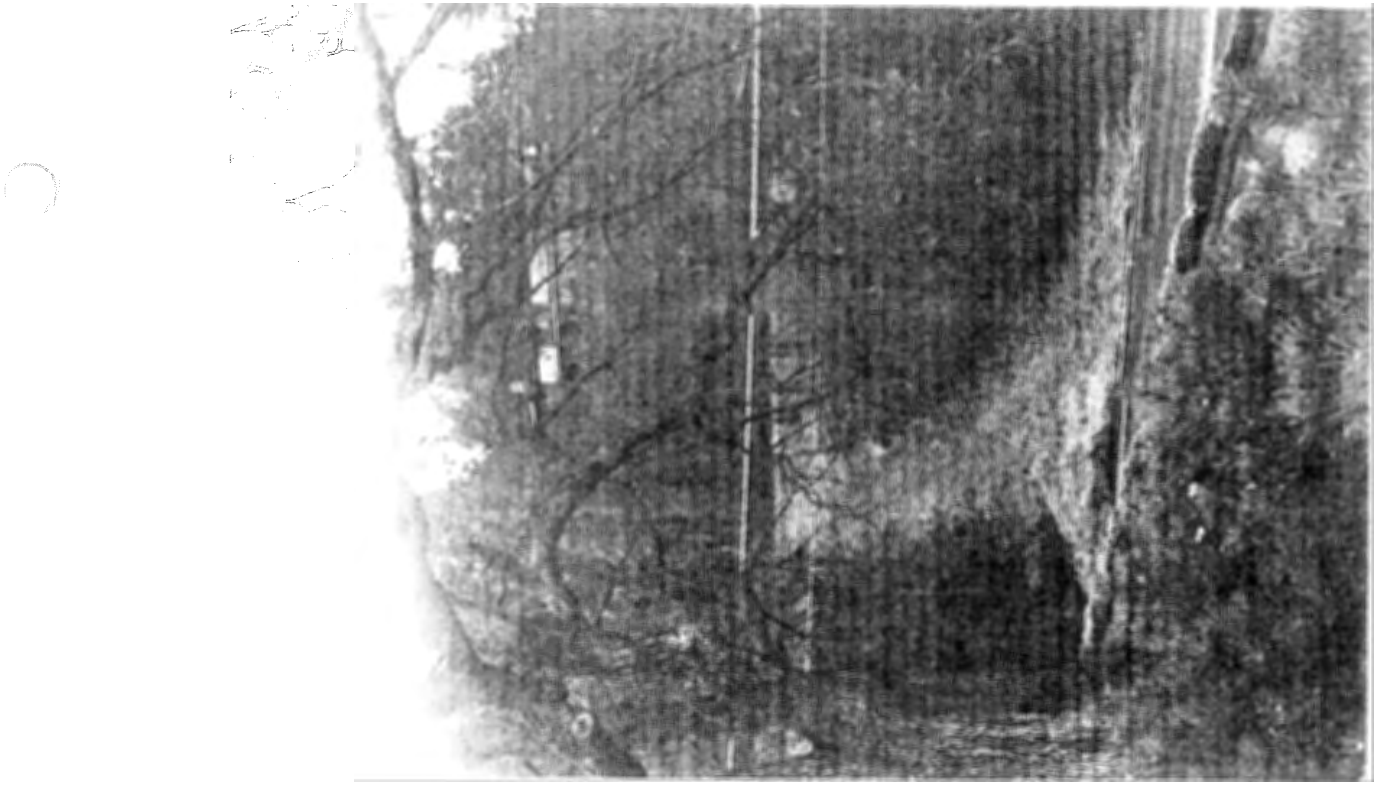
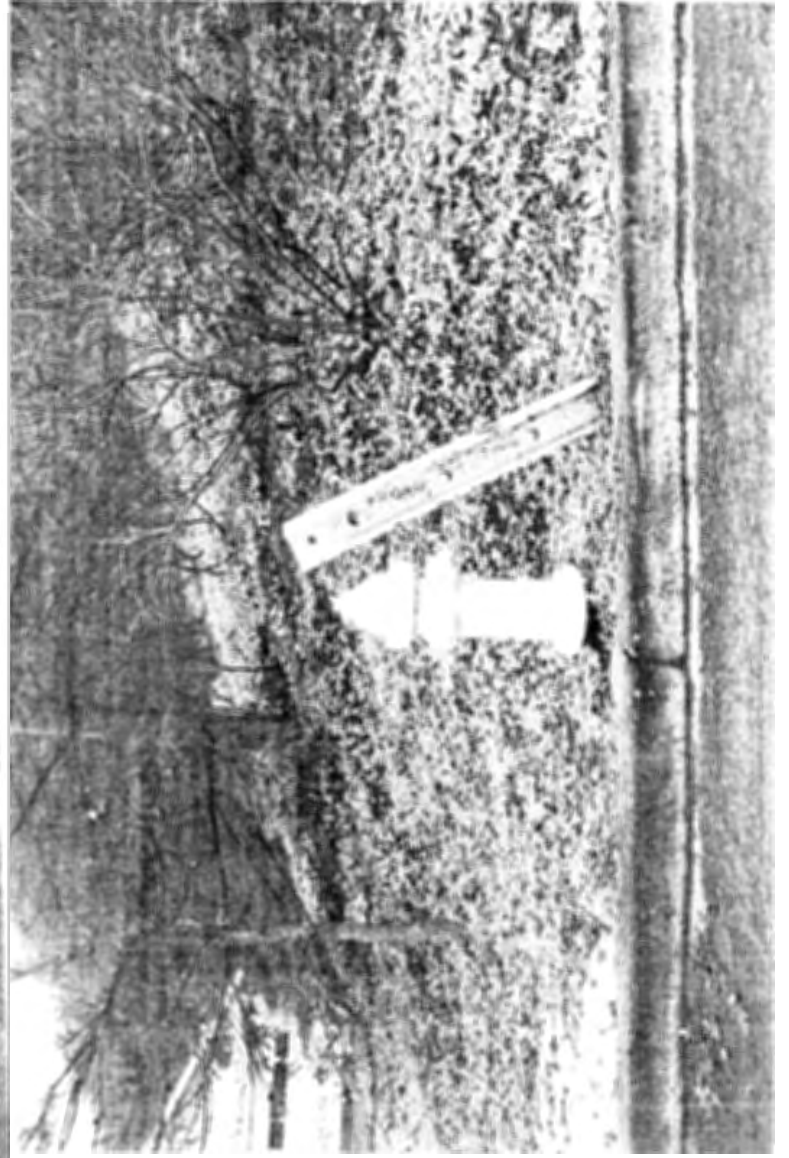


EXHIBIT
OPONENTS Rebuttal #1

RESOLUTION NO. 426-01

A RESOLUTION APPROVING THE APPLICATION OF WAYNE LEASE
FOR CONDITIONAL USE PERMIT NO. 123-01 TO CONSTRUCT A
RESIDENTIAL CARE FACILITY FOR A MAXIMUM OF FIFTEEN
ALZHEIMER'S DISEASE PATIENTS

WHEREAS, on November 15, 2001, the City of The Dalles Planning Commission conducted a hearing upon an application submitted by Wayne Lease for Conditional Use Permit No. 123-01, to construct a residential care facility for a maximum of fifteen Alzheimer's disease patients, upon the property located at 1812/1826 Liberty Way; and

WHEREAS, a staff report was presented to the Planning Commission and public testimony was received during the public hearing; and

WHEREAS, following the close of the public hearing, the Planning Commission deliberated and voted 4 to 1, to deny the application of Wayne Lease for Conditional Use Permit No. 123-01, based upon findings of fact and conclusions of law; and

WHEREAS, prior to the Planning Commission's adoption of a resolution denying the application for a conditional use permit, the Planning Commission was advised on December 6, 2001, of the existence of an undisclosed ex parte contact between K.C. Kortge and Commissioner Ted Bryant; and

WHEREAS, on January 17, 2001, the Planning Commission conducted a hearing to allow interested persons the opportunity to provide testimony and argument to rebut the substance of the undisclosed ex parte communication; and

WHEREAS, following additional deliberation, and reconsideration of the evidence and testimony presented during the November 15, 2001 hearing, and the evidence and testimony presented during the January 17, 2002 hearing, the Planning Commission voted ____ to _____, to approve the application of Wayne Lease for Conditional Use Permit No. 123-01, based upon findings of fact and conclusions of law;

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of The Dalles adopts the following findings of fact:

1. The subject property is located at 1812/1816 Liberty Way, and is further described as Assessor's Map No. 1N 13 4DC, Tax Lot 4200. The Comprehensive Plan designation and zoning classification for the parcel is "R-L" Low Density Residential. The applicant, Wayne Lease, requests approval for the siting of a fifteen bed residential care facility upon the property. The site contains approximately 0.83 acres of vacant land lying adjacent to Liberty Way. The site

has northwest-facing slopes ranging from 5 to over 20 percent. Water, sewer, storm sewer, and other public utilities are available to the site, although there would be some construction costs associated with providing service to the property, which costs would be incurred by the applicant.

2. The concept site plan submitted by the applicant proposed a 6,500 square foot structure which would house up to fifteen patients suffering from Alzheimer's disease. The plan showed a driveway to be constructed from Liberty Way to the upper portions of the parcel. The applicant indicated on the concept plan that the slopes would be in the character of 20 percent on the upper levels of the driveway. The applicant proposed to construct a total of seven off-street parking spaces, including one handicap parking space, and a 10 foot by 10 foot bicycle rack to be provided adjacent to the handicap parking area. The height of the structure was proposed to be 22 and one-half feet.

3. Notice of the application was submitted to property owners within 100 feet of the subject parcel, and to City Departments and franchise utilities. Notice of the public hearing was published in The Dalles Chronicle. The application was deemed to be complete as of October 26, 2001. The required number of copies of the concept site plan were submitted by the applicant.

4. Several comments were received from the City's Site Team Review Committee. The Site Team initially recommended that the proposed driveway needed to be at a 5% grade for the first twenty feet, and be at a ninety-degree angle to the street, and the remainder of the driveway should not exceed a 12% grade. In reviewing the provisions of Section 6.060.030(C) of the Land Use and Development Ordinance, staff discovered this provision established a "preferred" grade for driveways of 12% or less. In conversations with Stu Nagel, the Fire Marshal for Mid-Columbia Fire and Rescue, staff was advised by Mr. Nagel that it may be possible to allow for a grade higher than 12% on the remaining portion of the proposed driveway. Staff recommended a condition that any detailed site plan submitted by the Applicant would have to comply with the requirements established by the Fire Marshal for Mid-Columbia Fire and Rescue.

5. During the hearing, the Applicant testified that the size of the subject parcel was comparable to the size of adjacent lots. The Applicant testified in his opinion, the residents of the proposed residential care facility would be quiet, and that the volume of traffic in the vicinity of the facility was low. The Applicant stated the proposed facility would potentially have two staff members on site. The Applicant also testified in his opinion, that the volume of traffic that would be generated by the proposed facility, would be much less than the traffic that could be generated from three manufactured homes, which could be placed upon the site if the property was partitioned. In response to a question from a planning commissioner, the Applicant acknowledged a concern regarding blind corners which could exist as a result of the placement of the proposed driveway to the facility. In rebuttal testimony, the Applicant offered to provide more off-street parking spaces if that was deemed to be necessary. He also asserted that problems created by speeding drivers on the adjacent street are the result of the driver's actions, and not caused by the proposed residential care facility. The Applicant also testified the City could take action to expedite the removal of snow on Liberty Way if such action was needed to

ensure vehicles had access to the facility in the event of bad weather.

6. Several adjacent property owners testified in opposition to the proposed residential care facility. The neighbors expressed strong concerns that the existing steep grade of the adjacent street created a traffic hazard, which would be exacerbated by the construction of the proposed residential care facility. Two of the opponents, who had experience in the health care field and experience in working in a residential care facility, questioned whether the proposed number of employees (which was two) would be adequate to ensure the safety of the residents, and they testified in their opinion the facility would likely require a larger number of full time employees, which would cause an impact to the traffic generated upon the street. The opponents also asserted the number of daily trips to and from the facility would be more significant than the amount claimed by the Applicant, resulting from visits from health care providers, service delivery vehicles, and visitors to the facility. The opponents expressed concerns about the ability of emergency vehicles to have access to the facility, particularly in the winter months when snow and ice could make it difficult to get into and out of the steep driveway.

7. At the January 17, 2002 hearing, the staff presented a supplemental staff report. The report indicated that although there had been no recent traffic counts on Liberty Way, in the staff's opinion, the volume of traffic on Liberty Way was relatively low. The report indicated Liberty Way could be classified as a "Lane" based upon the dimensional standards in the Land Use and Development Ordinance for street width and right-of-way width, but that the street could also be classified as a "neighborhood" or "residential" street based upon the number of lots the streets serves and its overall length. The posted speed for the section of the street adjacent to the proposed facility was 20 miles per hour. In the staff's opinion, Liberty Way has the capacity to carry a significantly larger volume of traffic than the number used to classify the street as a "Lane". The staff also recommended the Planning Commission consider applying a clear vision distance of 125 feet from the proposed driveway. The staff report also indicated that by requiring a twenty foot distance with a five percent slope or less at the entrance to the driveway, acceptable egress and ingress to the proposed facility would be ensured.

8. At the January 17, 2002 hearing, the applicants presented a response to the four issues which were to be addressed at the hearing. Mr. Lease presented drawings and documents which showed the location of the boundary lines and the lot line adjustment which concerned the Lease's property and the Kortge's property, and also explained the circumstances concerning the private sanitary sewer easement which crossed the property. Concerning the issue of the adequacy of Liberty Way in terms of traffic volume, Mr. Lease presented a letter from Police Chief Waterbury, expressing the Chief's opinion that the area of Liberty Way should not present a traffic safety problem if drivers would comply with the traffic laws. Mr. Lease presented copies of records from the Police Department indicating there had been four reported accidents on Liberty Way since 1988.

9. Mr. Lease testified according the ITE Trip Generation Manual, a residential facility comparable in size to the proposed facility would generate approximately 22 trips per day. Mr.

Lease testified the number of employees was anticipated to be between 12 to 14 employees on a 24 hour basis. He testified this payroll schedule would be expected to generate approximately 11.4 trips per day. Mr. Lease asserted that residents at these type of facilities typically receive one visit per month, and the number of visits generated by nursing services, which are provided by contract, average approximately two per month. Mr. Lease estimated that the total number of additional trips to be generated by the proposed facility would be 15.4 trips, which would include trips for items such as maintenance, services, and patient visits. Mr. Lease testified that the total number of average daily trips to be generated by the proposed facility (37.4) would be less than the number of trips that could be generated (38.28) if the property was partitioned into four lots, and four single family dwellings were placed upon the lots. Doug Ewing, testifying as an expert witness on behalf of Mr. Lease, confirmed that Mr. Lease's estimate as to the average number of visitors to these types of facilities was accurate.

10. Next, Mr. Lease addressed the issue related to concerns as to the slope of the proposed driveway to the facility. Mr. Lease testified the proposed driveway for the facility had been in existence for over 30 years, and had been used by public and private individuals to gain access to the property. Mr. Lease presented a letter from Stu Nagel, the Fire Marshall for Mid-Columbia Fire & Rescue, in which Mr. Nagel indicated he had evaluated the subject property, and estimated the existing driveway slope to be approximately 11% for a distance of about 130 feet. Mr. Nagel indicated that if the proposed driveway were paved, and the other access requirements were satisfied, that he believed the proposed driveway could be designed to ensure sufficient access for the fire department's emergency vehicles.

11. John Kelly, an opponent of the proposed application, presented testimony concerning the third and fourth issues to be addressed during the rebuttal hearing. Mr. Kelly testified in his opinion, the number of accidents which had occurred on Liberty Way since 1988 was higher than the reported number of four in the police department records, but he had no documentation to support his estimate of the number of accidents. Mr. Kelly submitted a photograph of the proposed driveway, and testified in his opinion it would create access problems. He testified he had to remove a mailbox which had been close to this driveway, because the mailbox had been struck by vehicles on several previous occasions. Mr. Kelly also submitted photographs of a fire hydrant on Liberty Way with a large piece of iron placed in front of the hydrant to protect the hydrant. The hydrant was bent and marked from having been struck by motor vehicles. Mr. Kelly testified the traffic safety concern stemmed from the speed of the traffic in the vicinity, not the volume of traffic. Mr. Kelly asserted the Fire Marshall should not be delegated the responsibility for determining if the slope of the driveway was adequate for access for vehicles to enter and exit the property.

BASED UPON THE FOREGOING FINDINGS OF FACT, THE PLANNING COMMISSION ADOPTS THE FOLLOWING CONCLUSIONS OF LAW:

1. The application of Wayne Lease, for Conditional Use Permit No. 123-01, for a Concept Site Plan to develop a fifteen bed residential care facility on the property located at

1812/1816 Liberty Way, is hereby approved, with the following conditions:

- A. The Traffic Safety Commission is requested to conduct an analysis of the traffic safety conditions upon Liberty Way, and to make any recommendations that would address any traffic safety problems that exist in the vicinity of the proposed facility.
- B. A detailed site plan meeting the requirements of the Land Use and Development Ordinance shall be prepared and submitted to the City for review and approval by ~~the Community Development Director and the City Engineer~~ prior to the issuance of a building permit. The detailed site plan shall indicate the type of paving or other hard surface materials on the driveway and parking lot, and shall adequately provide for storm drainage.
- C. A detailed landscaping plan shall be provided to the City for review and approval by City staff.
- D. All requirements of Mid-Columbia Fire & Rescue shall be satisfied, including provisions for the grade and surfacing of the driveway.
- E. A waiver of remonstrance agreement for future improvements, including street, curb, sidewalk, storm sewer, and water and sanitary sewer shall be executed by the applicant prior to the issuance of a building permit.
- F. Any signage shall be subject to the sign permitting process set forth in the City's sign ordinance, which involves a separate process.
- G. A bicycle rack housing at least three bicycles shall be provided.
- H. All outside lighting shall be directed downward and any glare shall be shielded from adjacent properties.
- I. A physical constraints permit for cut and fill operations resulting in more than 50 cubic yards of material being moved shall be required pending final design and preparation of the detailed site plan. Any cuts or fills for over 250 cubic yards of material must be designed by a licensed professional engineer.
- J. A geological impact statement shall be required pursuant to Section 8.040,030 of the Land Use & Development Ordinance.
- K. A clear vision zone using a distance of 125 feet on both sides of the proposed driveway shall be established, and a no parking zone for a distance of 100 feet on both sides of the proposed driveway shall be established.

The Planning Comm at Quasi Judicial Hearing.

NOT TO EXCEED 12% GRADE

not greater than 8'10" grade

- L. The applicant shall provide for pedestrian access from Liberty Street, ~~alongside the proposed driveway,~~ to the residential facility, ~~in a manner acceptable to the City Engineer.~~
- M. This Conditional Use approval is conditioned upon the facility obtaining a licence or licences from the State of Oregon for the operation of a residential care facility. If the license(s) is (are) revoked, this Conditional Use Permit shall be null and void under the terms of Section 3.050.080, Revocation.

2. Section 3.030.040 sets forth the review criteria for a concept site plan. Three of the pertinent criteria are set forth in subsections (A), (B), and (C), which provide as follows:

- A. City Ordinance Provisions. All the provisions from the applicable City ordinances have been met or will be met by the proposed development.
- B. Public Facilities Capacity. Adequate capacity of City facilities for water, sanitary sewer, storm sewer, and streets and sidewalks can and will be provided to, and where applicable, through, the subject property.
- C. Arrangement of Site Elements. Elements of the site plan are arranged to:
 - 1. Promote pedestrian, bicycle, and vehicular safety and welfare.
 - 2. Preserve and maintain public amenities and significant natural features.
 - 3. Avoid traffic congestion.
 - 4. Minimize potential adverse impacts on surrounding properties.

3. Section 3.050.040 sets forth the following review criteria for a conditional use permit:

- A. Permitted Conditional Use. The proposed use is conditionally permitted in the zone district where it is proposed to be located.
- B. Standards. The proposed use conforms to all applicable standards of the zone district where the use is proposed to be located.
- C. Impact. The location, size, design, and operating characteristics of the proposed use shall be made reasonably compatible with, and have minimal adverse impact on, the legal development of abutting properties and the surrounding neighborhood, with consideration given to:

1. Harmony of scale, bulk, building coverage, and density.
2. The availability of public facilities and utilities.
3. Any harmful effects on desirable neighborhood characteristics and livability.
4. Traffic generation and the capacity and safety of surrounding streets and alleys.
5. Bicycle and pedestrian circulation, access and safety.
6. Any other impacts of the development deemed relevant by the Commission.

D. Nuisance. The use shall not generate off-site nuisance conditions including, but not limited to, noise, glare, odor, or vibrations.

4. Pursuant to the requirements of Section 5.010.030(E), the Planning Commission concludes that the proposed residential care facility is a conditional use allowed in the "R-L" Low Density Residential zoning district. Based upon the following table, the Commission concludes that the proposed facility complies with the required siting standards of the "R-L" Low Density Residential District".

(See attached copy of Table).

5. The Planning Commission notes there is conflicting evidence in the record as to the potential impact upon the neighborhood resulting from traffic generated by the proposed residential facility. The applicant presented testimony that the proposed facility would generate an estimated 37.4 average daily trips, including trips from visitors to the facility. The opponents disputed this testimony, and asserted the facility would generate a large number of trips per day. Under the right-of-way and street width classifications for streets in the Land Use Ordinance, Liberty Way would be classified as a lane, which is capable of handling up to 150 average daily trips. Assuming for the sake of argument that the opponents are correct that the facility will generate additional average daily trips than the amount claimed by the applicants, the Planning Commission finds and concludes that Liberty Way has sufficient capacity to handle the additional average daily trips to be generated by the facility, in addition to the average daily trips currently being generated by the single family dwellings in the neighborhood.

6. The Planning Commission notes there is conflicting evidence in the record as to the number of traffic accidents which have occurred on Liberty Way, in the vicinity of the proposed facility. However, the record is clear that the accidents that have occurred in the vicinity of the proposed facility have been caused by drivers failing to comply with various provisions of the

Low Density Residential	Standard	Proposal	Meets Requirements
Lot Size	<i>7,260 square foot minimum</i>	Approximately 0.83 acre	Yes
Setbacks	<i>Front = 15 feet (garage = 20 feet) Rear – 10 feet Sides – 5 feet</i>	28 feet to front of structure, 13 feet to deck, 10 feet rear, 10 to 140± feet on either side yard	Yes/depending on final site plan and height of deck
Building Height	<i>30 feet</i>	22-1/2 feet	Yes
Lot Coverage	<i>60% Maximum</i>	20% Structure Only	Yes
Building Orientation	<i>The front building line shall be parallel to the street or private accessway</i>	Oriented toward Liberty Way	Yes
Off-Street Parking	<i>Auto @ 1 per 4 beds minimum with no maximum and bicycle @ 1 per 6 beds. Requires 4 car and 3 bicycle spaces</i>	7 auto spaces including 1 accessible space. Unspecified number of bicycle spaces	Yes for auto and yes, with condition that bicycle rack be capable of securing 3 bicycles
Accessory Uses, Buildings and Structures	<i>Per Section 6.030</i>	Trash storage facility	Yes
Driveway locations	<i>24 foot maximum width. 10 foot separation</i>	16 foot width. 39 feet from property line.	Yes
Landscaping Requirements	<i>Approximately 800 square feet</i>	7,000 square feet	Yes

traffic law. There is no direct evidence in the record establishing that the proposed use would cause or contribute to the type of accidents which were cited or discussed by the parties. The Planning Commission concludes that including the conditions that a clear vision area measuring 125 in each direction from the proposed driveway to the facility, and a no parking zone measuring 100 feet in each direction from the driveway, will provide a clearer view for drivers entering and existing the facility, and promote the safety of motorists and pedestrians using Liberty Way.

7. Concerning issues related to the safety of pedestrians, the Commission finds and concludes that including the conditions requiring the applicant to execute a waiver of remonstrance agreement for future street improvements, including sidewalks, and requiring the applicant to provide a means of access for pedestrians from Liberty Way, alongside the driveway to the facility, in a manner acceptable to the City Engineer, will assist in ensuring the safety of pedestrians. Concerning the issue related to the slope of the proposed driveway, the Commission finds and concludes there is sufficient evidence in the record to find that the access provided by the proposed driveway is sufficient. Section 6.060.030(C) provides the preferred drive grade is 12% or less. The letter from Stu Nagel, Mid-Columbia Fire & Rescue Fire Marshall, submitted by the applicant, indicates he measured the proposed driveway and established the grade at approximately 11% for a distance of approximately 130 feet. The Fire Marshall expressed his opinion that with proof that the proposed driveway was paved, and otherwise complied the fire department's other access requirements, the proposed driveway would be sufficient to ensure emergency vehicles could have access to the proposed facility.

7. This resolution shall be considered effective as of January 31, 2002.

APPROVED AND ADOPTED THIS 31st DAY OF JANUARY, 2002.

Bruce Lavier, Chairman
Planning Commission

The Secretary of the Commission shall (a) certify to the adoption of the Resolution, and (b) transmit a copy of the Resolution along with a stamped approved/denied site plan to the applicant.

I, Daniel C. Durow, Director, Community Development Department of the City of The Dalles, hereby certify that the foregoing Resolution was adopted at the regular meeting of the City Planning Commission, held on the 31st day of January, 2002.

AYES:

NAYS:

ABSENT:

ABSTAIN:

ATTEST: _____
Daniel C. Durow, City of The Dalles

RESOLUTION NO. 426-01

VOID

A RESOLUTION DENYING THE APPLICATION OF WAYNE LEASE FOR CONDITIONAL USE PERMIT NO. 123-01 TO CONSTRUCT A RESIDENTIAL CARE FACILITY FOR A MAXIMUM OF FIFTEEN ALZHEIMER'S DISEASE PATIENTS

WHEREAS, on November 15, 2001, the City of The Dalles Planning Commission conducted a hearing upon an application submitted by Wayne Lease for Conditional Use Permit No. 123-01, to construct a residential care facility for a maximum of fifteen Alzheimer's disease patients, upon the property located at 1812/1826 Liberty Way; and

WHEREAS, a staff report was presented to the Planning Commission and public testimony was received during the public hearing; and

WHEREAS, following the close of the public hearing, the Planning Commission deliberated and voted 4 to 1, to deny the application of Wayne Lease for Conditional Use Permit No. 123-01, based upon findings of fact and conclusions of law; and

WHEREAS, prior to the Planning Commission's adoption of a resolution denying the application for a conditional use permit, the Planning Commission was advised on December 6, 2001, of the existence of an undisclosed ex parte contact between K.C. Kortge and Commissioner Ted Bryant; and

WHEREAS, on January 17, 2001, the Planning Commission conducted a hearing to allow interested persons the opportunity to provide testimony and argument to rebut the substance of the undisclosed ex parte communication; and

WHEREAS, following additional deliberation, and reconsideration of the evidence and testimony presented during the November 15, 2001 hearing, and the evidence and testimony presented during the January 17, 2002 hearing, the Planning Commission voted ___ to ___, to deny the application of Wayne Lease for Conditional Use Permit No. 123-01, based upon findings of fact and conclusions of law;

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of The Dalles adopts the following findings of fact:

1. The subject property is located at 1812/1816 Liberty Way, and is further described as Assessor's Map No. 1N 13 4DC, Tax Lot 4200. The Comprehensive Plan designation and zoning classification for the parcel is "R-L" Low Density Residential. The applicant, Wayne Lease, requests approval for the siting of a fifteen bed residential care facility upon the property. The site contains approximately 0.83 acres of vacant land lying adjacent to Liberty Way. The site

void

has northwest-facing slopes ranging from 5 to over 20 percent. Water, sewer, storm sewer, and other public utilities are available to the site, although there would be some construction costs associated with providing service to the property, which costs would be incurred by the applicant.

2. The concept site plan submitted by the applicant proposed a 6,500 square foot structure which would house up to fifteen patients suffering from Alzheimer's disease. The plan showed a driveway to be constructed from Liberty Way to the upper portions of the parcel. The applicant indicated on the concept plan that the slopes would be in the character of 20 percent on the upper levels of the driveway. The applicant proposed to construct a total of seven off-street parking spaces, including one handicap parking space, and a 10 foot by 10 foot bicycle rack to be provided adjacent to the handicap parking area. The height of the structure was proposed to be 22 and one-half feet.

3. Notice of the application was submitted to property owners within 100 feet of the subject parcel, and to City Departments and franchise utilities. Notice of the public hearing was published in The Dalles Chronicle. The application was deemed to be complete as of October 26, 2001. The required number of copies of the concept site plan were submitted by the applicant.

4. Several comments were received from the City's Site Team Review Committee. The Site Team initially recommended that the proposed driveway needed to be at a 5% grade for the first twenty feet, and be at a ninety-degree angle to the street, and the remainder of the driveway should not exceed a 12% grade. In reviewing the provisions of Section 6.060.030(C) of the Land Use and Development Ordinance, staff discovered this provision established a "preferred" grade for driveways of 12% or less. In conversations with Stu Nagel, the Fire Marshal for Mid-Columbia Fire and Rescue, staff was advised by Mr. Nagel that it may be possible to allow for a grade higher than 12% on the remaining portion of the proposed driveway. Staff recommended a condition that any detailed site plan submitted by the Applicant would have to comply with the requirements established by the Fire Marshal for Mid-Columbia Fire and Rescue.

5. During the hearing, the Applicant testified that the size of the subject parcel was comparable to the size of adjacent lots. The Applicant testified in his opinion, the residents of the proposed residential care facility would be quiet, and that the volume of traffic in the vicinity of the facility was low. The Applicant stated the proposed facility would potentially have two staff members on site. The Applicant also testified in his opinion, that the volume of traffic that would be generated by the proposed facility, would be much less than the traffic that could be generated from three manufactured homes, which could be placed upon the site if the property was partitioned. In response to a question from a planning commissioner, the Applicant acknowledged a concern regarding blind corners which could exist as a result of the placement of the proposed driveway to the facility. In rebuttal testimony, the Applicant offered to provide more off-street parking spaces if that was deemed to be necessary. He also asserted that problems created by speeding drivers on the adjacent street are the result of the driver's actions, and not caused by the proposed residential care facility. The Applicant also testified the City could take action to expedite the removal of snow on Liberty Way if such action was needed to

ensure vehicles had access to the facility in the event of bad weather.

void

6. Several adjacent property owners testified in opposition to the proposed residential care facility. The neighbors expressed strong concerns that the existing steep grade of the adjacent street created a traffic hazard, which would be exacerbated by the construction of the proposed residential care facility. Two of the opponents, who had experience in the health care field and experience in working in a residential care facility, questioned whether the proposed number of employees (which was two) would be adequate to ensure the safety of the residents, and they testified in their opinion the facility would likely require a larger number of full time employees, which would cause an impact to the traffic generated upon the street. The opponents also asserted the number of daily trips to and from the facility would be more significant than the amount claimed by the Applicant, resulting from visits from health care providers, service delivery vehicles, and visitors to the facility. The opponents expressed concerns about the ability of emergency vehicles to have access to the facility, particularly in the winter months when snow and ice could make it difficult to get into and out of the steep driveway.

7. At the January 17, 2002 hearing, the staff presented a supplemental staff report. The report indicated that although there had been no recent traffic counts on Liberty Way, in the staff's opinion, the volume of traffic on Liberty Way was relatively low. The report indicated Liberty Way could be classified as a "Lane" based upon the dimensional standards in the Land Use and Development Ordinance for street width and right-of-way width, but that the street could also be classified as a "neighborhood" or "residential" street based upon the number of lots the streets serves and its overall length. The posted speed for the section of the street adjacent to the proposed facility was 20 miles per hour. In the staff's opinion, Liberty Way has the capacity to carry a significantly larger volume of traffic than the number used to classify the street as a "Lane". The staff also recommended the Planning Commission consider applying a clear vision distance of 125 feet from the proposed driveway. The staff report also indicated that by requiring a twenty foot distance with a five percent slope or less at the entrance to the driveway, acceptable egress and ingress to the proposed facility would be ensured.

8. At the January 17, 2002 hearing, the applicants presented a response to the four issues which were to be addressed at the hearing. Mr. Lease presented drawings and documents which showed the location of the boundary lines and the lot line adjustment which concerned the Lease's property and the Kortge's property, and also explained the circumstances concerning the private sanitary sewer easement which crossed the property. Concerning the issue of the adequacy of Liberty Way in terms of traffic volume, Mr. Lease presented a letter from Police Chief Waterbury, expressing the Chief's opinion that the area of Liberty Way should not present a traffic safety problem if drivers would comply with the traffic laws. Mr. Lease presented copies of records from the Police Department indicating there had been four reported accidents on Liberty Way since 1988.

9. Mr. Lease testified according the ITE Trip Generation Manual, a residential facility comparable in size to the proposed facility would generate approximately 22 trips per day. Mr.

void

Lease testified the number of employees was anticipated to be between 12 to 14 employees on a 24 hour basis. He testified this payroll schedule would be expected to generate approximately 11.4 trips per day. Mr. Lease asserted that residents at these type of facilities typically receive one visit per month, and the number of visits generated by nursing services, which are provided by contract, average approximately two per month. Mr. Lease estimated that the total number of additional trips to be generated by the proposed facility would be 15.4 trips, which would included trips for items such as maintenance, services, and patient visits. Mr. Lease testified that the total number of average daily trips to be generated by the proposed facility (37.4) would be less than the number of trips that could be generated (38.28) if the property was partitioned into four lots, and four single family dwellings were placed upon the lots. Doug Ewing, testifying as an expert witness on behalf of Mr. Lease, confirmed that Mr. Lease's estimate as to the average number of visitors to these types of facilities was accurate.

10. Next, Mr. Lease addressed the issue related to concerns as to the slope of the proposed driveway to the facility. Mr. Lease testified the proposed driveway for the facility had been in existence for over 30 years, and had been used by public and private individuals to gain access to the property. Mr. Lease presented a letter from Stu Nagel, the Fire Marshall for Mid-Columbia Fire & Rescue, in which Mr. Nagel indicated he had evaluated the subject property, and estimated the existing driveway slope to be approximately 11% for a distance of about 130 feet. Mr. Nagel indicated that if the proposed driveway were paved, and satisfied the other access requirements were satisfied, that he believed the proposed driveway could be designed to ensure sufficient access for the fire department's emergency vehicles.

11. John Kelly, an opponent of the proposed application, presented testimony concerning the third and fourth issues to be addressed during the rebuttal hearing. Mr. Kelly testified in his opinion, the number of accidents which had occurred on Liberty Way since 1988 was higher than the reported number of four in the police department records, but he had no documentation to support his estimate of the number of accidents. Mr. Kelly submitted a photograph of the proposed driveway, and testified in his opinion it would create access problems. He testified he had to remove a mailbox which had been close to this driveway, because the mailbox had been struck by vehicles on several previous occasions. Mr. Kelly also submitted photographs of a fire hydrant on Liberty Way with a large piece of iron placed in front of the hydrant to protect the hydrant. The hydrant was bent and marked from having been struck by motor vehicles. Mr. Kelly testified the traffic safety concern stemmed from the speed of the traffic in the vicinity, not the volume of traffic. Mr. Kelly asserted the Fire Marshall should not be delegated the responsibility for determining if the slope of the driveway was adequate for access for vehicles to enter and exit the property.

BASED UPON THE FOREGOING FINDINGS OF FACT, THE PLANNING COMMISSION ADOPTS THE FOLLOWING CONCLUSIONS OF LAW:

1. The application of Wayne Lease, for Conditional Use Permit No. 123-01, for a Concept Site Plan to develop a fifteen bed residential care facility on the property located at

1812/1816 Liberty Way, is hereby denied.

void

2. Section 3.030.040 sets forth the review criteria for a concept site plan. Three of the pertinent criteria are set forth in subsections (A), (B), and (C), which provide as follows:

- A. City Ordinance Provisions. All the provisions from the applicable City ordinances have been met or will be met by the proposed development.
- B. Public Facilities Capacity. Adequate capacity of City facilities for water, sanitary sewer, storm sewer, and streets and sidewalks can and will be provided to, and where applicable, through, the subject property.
- C. Arrangement of Site Elements. Elements of the site plan are arranged to:
 - 1. Promote pedestrian, bicycle, and vehicular safety and welfare.
 - 2. Preserve and maintain public amenities and significant natural features.
 - 3. Avoid traffic congestion.
 - 4. Minimize potential adverse impacts on surrounding properties.

3. Section 3.050.040 sets forth the following review criteria for a conditional use permit:

- A. Permitted Conditional Use. The proposed use is conditionally permitted in the zone district where it is proposed to be located.
- B. Standards. The proposed use conforms to all applicable standards of the zone district where the use is proposed to be located.
- C. Impact. The location, size, design, and operating characteristics of the proposed use shall be made reasonably compatible with, and have minimal adverse impact on, the legal development of abutting properties and the surrounding neighborhood, with consideration given to:
 - 1. Harmony of scale, bulk, building coverage, and density.
 - 2. The availability of public facilities and utilities.
 - 3. Any harmful effects on desirable neighborhood characteristics and livability.

void

- 4. Traffic generation and the capacity and safety of surrounding streets and alleys.
- 5. Bicycle and pedestrian circulation, access and safety.
- 6. Any other impacts of the development deemed relevant by the Commission.

D. Nuisance. The use shall not generate off-site nuisance conditions including, but not limited to, noise, glare, odor, or vibrations.

4. Pursuant to the requirements of Section 5.010.030(E), the Planning Commission concludes that the proposed residential care facility is a conditional use allowed in the "R-L" Low Density Residential zoning district. Based upon the following table, the Commission concludes that the proposed facility complies with the required siting standards of the "R-L" Low Density Residential District".

(See attached copy of Table).

5. The Applicant did not comply with the burden of proof to submit substantial evidence that the application complied with the requirements set forth in Sections 3.030.04 (C)(1) and (3), and Section 3.050.040(C)(4) and (5). The applicants presented testimony relying upon the provisions of the ITE Trip Generation Manual, that based upon the anticipated number of employees and typical number of visits to such facilities by visitors and service providers, the proposed facility would generate 37.4 trips per day. The opponents presented testimony that the estimated number of trips generated by service providers and visitors would exceed the number estimated by the applicants. The Planning Commission finds and concludes the proposed facility would generate a more significant impact upon the traffic in the neighborhood of the facility, than the impact claimed by the Applicant.

6. The Planning Commission finds and concludes there is conflicting evidence in the record as to the number of traffic accidents which has occurred in the vicinity of the proposed facility since 1988. However, the Planning Commission finds and concludes that there is evidence in the record that automobile accidents have occurred in the vicinity of the proposed facility, which have damaged property. The Planning Commission finds and concludes that the steep grade of the proposed driveway, and the presence of blind corners which would be created by the proposed driveway, and the absence of sidewalks on the street and along the proposed driveway to the facility, will contribute to traffic congestion, and create circumstances which will pose a threat to the safety of pedestrians and motorists using Liberty Way. The Planning Commission finds and concludes the elements of the concept site plan are not arranged to promote pedestrian and vehicular safety and welfare, or to avoid traffic congestion, and that the location and design of the proposed use is not reasonably compatible in terms of the amount of traffic generated by the proposed facility and the capacity of Liberty Way to handle the increased traffic, in a manner that

Low Density Residential	Standard	Proposal	Meets Requirements
Lot Size	<i>7,260 square foot minimum</i>	Approximately 0.83 acre	Yes
Setbacks	<i>Front = 15 feet (garage = 20 feet) Rear — 10 feet Sides — 5 feet</i>	28 feet to front of structure, 13 feet to deck, 10 feet rear, 10 to 140± feet on either side yard	Yes/depending on final site plan and height of deck
Building Height	<i>30 feet</i>	22-1/2 feet	Yes
Lot Coverage	<i>60% Maximum</i>	20% Structure Only	Yes
Building Orientation	<i>The front building line shall be parallel to the street or private accessway</i>	Oriented toward Liberty Way	Yes
Off-Street Parking	<i>Auto @ 1 per 4 beds minimum with no maximum and bicycle @ 1 per 6 beds. Requires 4 car and 3 bicycle spaces</i>	7 auto spaces including 1 accessible space. Unspecified number of bicycle spaces	Yes for auto and yes, with condition that bicycle rack be capable of securing 3 bicycles
Accessory Uses, Buildings and Structures	<i>Per Section 6.030</i>	Trash storage facility	Yes
Driveway locations	<i>24 foot maximum width. 10 foot separation</i>	16 foot width. 39 feet from property line.	Yes
Landscaping Requirements	<i>Approximately 800 square feet</i>	7,000 square feet	Yes

void

will ensure the safety of motorists, and the safety of pedestrians walking on Liberty Way and needing access to the proposed facility.

7. This resolution shall be considered effective as of January 31, 2002.

void

APPROVED AND ADOPTED THIS 31st DAY OF JANUARY, 2002.

Bruce Lavier, Chairman
Planning Commission

The Secretary of the Commission shall (a) certify to the adoption of the Resolution, and (b) transmit a copy of the Resolution along with a stamped approved/denied site plan to the applicant.

I, Daniel C. Durow, Director, Community Development Department of the City of The Dalles, hereby certify that the foregoing Resolution was adopted at the regular meeting of the City Planning Commission, held on the 31st day of January, 2002.

AYES:

NAYS:

ABSENT:

ABSTAIN:

ATTEST: _____
Daniel C. Durow, City of The Dalles



EXHIBIT
OPPONENTS Rebuttal #1



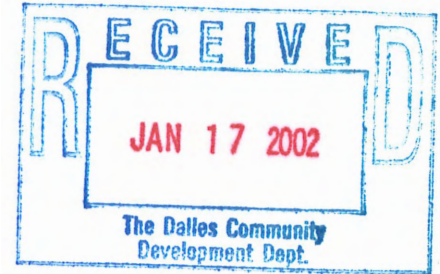
CITY of THE DALLES

313 COURT STREET
THE DALLES, OREGON 97058

(541) 296-5481

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

THURSDAY, JANUARY 17th, 2002
6:30 P.M.



- I. Call to order
- II. Roll call
- III. Approval of agenda
- IV. Approval of minutes: December 6th, 2001
- V. Public Comment
- VI. Public Hearing – rebuttal continuation

Rebuttal on disclosed ex parte contact for Conditional Use Permit 123-01 of Wayne Lease to construct a Residential Care Facility for a maximum of 15 Alzheimer's disease patients. The subject property is located at 1812/1816 Liberty Way and is further described as 1N 13E 4DC TL 4200. Property is zoned "RL"- Residential Low Density.

VII. Resolutions

Resolution #426-01 for Conditional Use Permit 123-01 of Wayne Lease to construct a residential care facility will be an agenda item for the Planning Commission meeting of February 7, 2002.

VIII. Commissioner Comments/Concerns

IX. Next meeting date: February 7th, 2002.

X. Adjournment

Public Hearing – rebuttal continuation

Memorandum
From
Mr. Gene Parker, Esq.
City of The Dalles





MEMORANDUM

TO: Parties of Record in Conditional Use Permit #123-01, submitted by Wayne and Laurel Lease to Construct a Residential Care Facility

FROM: Gene E. Parker, City Attorney *GP*
Dan Durow, Community Development Director *KDD*

DATE: January 3, 2002

RE: Procedure for Hearing Scheduled for January 17, 2002

As you may be aware, on December 6, 2001, Ted Bryant, a member of the City Planning Commission, disclosed the existence of an ex parte contact that had occurred prior to the initial evidentiary hearing on this matter on November 15, 2001. Under Oregon law, once this ex parte contact was disclosed, interested persons must be allowed an opportunity to present testimony and evidence rebutting the information disclosed in the ex parte contact. A hearing has been scheduled on January 17, 2002, at 6:30 PM, before the Planning Commission to provide interested persons with the opportunity to present such rebuttal evidence or testimony.

A review of the minutes of the December 6, 2001 meeting, in which the substance of the ex parte contact was disclosed, indicates there are four potential issues which could be the subject of rebuttal testimony or evidence. Those issues are as follows:

1. The location of a fence, as described by Mr. Kortge, as it relates to the boundary lines of Mr. Lease's property and Mr. Kortge's property, and the actual location of the boundary lines of the two properties.
2. The location of a sewer line, which may be a public or private line, adjacent to Mr. Lease's property.
3. The adequacy of Liberty Way in terms of traffic volume, i.e., exactly what impact would the traffic proposed to be generated by the residential facility have on the neighborhood?
4. Concerns over the slope of the proposed driveway to the facility, and whether it was sufficient to allow vehicular access to the facility.

During the hearing on January 17, 2002, only testimony or evidence which directly addresses the issues outlined above will be allowed. The applicants, Mr. and Mrs. Lease, will be given the initial opportunity to present any rebuttal testimony or evidence that addresses any or all of the four issues outlined above. After the applicants have presented their rebuttal testimony, an opportunity will be given to any other party of record, which includes any person who testified in opposition to the proposed use, either in person at the November 15, 2001 hearing, or who submitted a letter in opposition to the proposed use, to present any testimony or evidence which is intended to address any or all of the four issues mentioned above. If any new testimony or evidence is presented during the opponents's presentation, the applicants will be given a limited right of rebuttal (technically referred to as the right of sur-rebuttal) to address the new testimony or evidence.

After the opponents or any other parties of record have had an opportunity to present any rebuttal evidence or testimony, and the applicants have had the opportunity to present any sur-rebuttal testimony, if necessary, the hearing will be closed, and the matter will be open to the Planning Commission for deliberation. Oregon law provides the Planning Commission must reevaluate it's original decision, which was to deny the application for the conditional use permit. The Planning Commission will need to take into account the evidence and argument presented during the November 15, 2001 hearing, and also consider the evidence and testimony presented during the January 17, 2002 hearing. Prior to the disclosure of the ex parte contact, City staff had prepared Resolution No. 426-01 for the Planning Commission's review and possible adoption. Depending upon the Planning Commission's final decision following its reevaluation of its initial decision, it is likely that a new resolution will need to be prepared that would incorporate any additional findings of fact that would be necessary to support the Commission's final decision. City staff will prepare such a resolution, which would probably be considered by the Planning Commission at the meeting scheduled for February 7, 2002.

Rebuttal to Memorandum

REBUTTAL COMMENTS IN REGARDS TO CONDITIONAL USE PERMIT # 123-01 EX
PARTE CONTACT HEARING

HEARING OF JANUARY 17, 2001

The following comments are in response to the memo of January 3, 2002 from Mr. Gene Parker that outline the 4 potential issues subject to rebuttal.

Issue 1.

The location of the property line as it relates to the boundary between Mr. Kortge (tax lot 3500) and tax lot 3400 (lots 6 and 7) is clearly shown on drawing number 8160 dated November 19, 1993 and drawing number 3506 that was revised October 22, 2001 and submitted as part of the original permit application material for your review. Prior to purchasing the Liberty Street Property, I had it surveyed (drawing 7991) and discovered the owner of tax lot 3500 had a fence and an outside flower garden that was located on the westerly portion of lot 6. I subsequently sold an approximate 10-foot strip of land on the most westerly side of lot 6 to adjust for the encroachments and tax lot 3400 was once again surveyed and the property line adjusted accordingly as indicated on drawing number 8160. This drawing clearly shows the property line to be the existing fence line as now owned by Mr. Kortge and is also indicated by the "Lot Line Adjustment" notation on the revised drawing number 3506 that was submitted in the original permit application.

Issue 2

The proposed new construction is located as suggested by the siting standards for RL "Low Density Residential" and is approved as shown on the submitted site plan drawing by the planning staff as pursuant to Section 5.010.030(E). The setbacks as outlined in the Development Standards 5.010.050 are as required and shown in the attached table. The public utility easement location is shown on the revised drawing 3506 on the most easterly edge of lot 7. A private sewage easement that crosses lot 6 does exist and is an agreement between two private parties as outlined and substantiated by the accompanying Quick Claim and Easement Documents. NOTE: A private easement agreement clearly should not be of concern or fall under the jurisdiction of a public agency.

Issue 3

Liberty Way has acquired a reputation for being a hazard resulting from the design of the street. Compiled police records dating back to 1988 indicated that the street is no more a hazard than any other street in the City of The Dalles if the operator of the vehicle obeys the traffic and speed laws (see attached letter of December 4, 2001 from chief of police Jay B. Waterbury). The placement of a dwelling in the vicinity of "Thrill Hill" will not change the potential danger of Liberty Way as long as there are individuals who choose to ignore the traffic safety laws. If a passenger of a car is killed on Brewery Grade as a result of someone driving under the influence of alcohol, should the street be closed? Does an accident of this nature present such a potential traffic hazard to the residential area that it justifies that no more development should be allowed?

Records indicate that no traffic accidents of appreciable consequence have been recorded in the past 14 years that the records have been collated by computer (see attached traffic reports).

The accident that Mr. Kelly alluded to in his testimony of November 15, 2001 happened on September 27, 1985 at 5:30 PM. The traffic report (see enclosed) indicates 12 vehicles were parked along Liberty Way (6 vehicles on the South side of the street and 6 vehicles on the North side of the street). Liberty Way Street is 29 feet in width from curb to curb. Two vehicles parked within 12 inches of the curb that oppose each other will use 14 feet of space leaving moving vehicles that average 6 feet in width 15 feet to pass each other while traveling in opposite directions when observing the speed limit. What now remains is 36 inches to be shared by the 2 opposing vehicles and the 2 parked vehicles and this equates into 12 inches of clearance space per each vehicle. When a circumstance occurs as previously described a situation can arise that will become a recipe for disaster. With guests in excess of 100 it may have very well have happened and because the operators were responsible while operating their vehicle, there was not a problem. Instead, a vehicle operator catapulted over "Thrill Hill" ignoring the traffic laws and an accident resulted that thank God, did not result in any bodily harm or fatalities. 14 years later both of the aforementioned scenarios still remain a possibility, nothing has been done to improve Liberty Way, and the only solution is to not allow the placement of an approved planning staff, State, and Federally acknowledged Residential Occupancy in a zoned residential neighborhood.

The ITE Trip Generation Manual 5th and 6th edition provide weekly average trips per day (tpd) for specific land uses. A single-family residence is listed at 9.57 trips per day. Nursing homes are calculated at 4 tpd per 1000 square feet or approximately 22 trips per day for a complex estimated to be 5500 square feet. Furthermore, research also indicates fewer trips are generated by patients who stay for extended periods of time at dementia care facilities.

Employment is calculated to be 12 to 14 employees on a 24-hour 7-day basis. A payroll schedule of this size is expected to generate approximately 11.4 trips per day. Residents typically average 1 visit per month each while nursing services are by contract and average about 2 per month. If you include 4 trips per day for incidental items such as maintenance, services, and patient visits the total number of tpd is calculated to be 15.4. If the property were to be subdivided into 4 parcels as allowed by the present zoning ordinances the trips per day could be estimated to be in excess of 38.28 trips per day, or 3% greater than what is proposed.

When addressing the traffic safety issues regarding Liberty Way, consideration must also be given to the possible future development of the land (3 lots) located to the west of Mr. Kortge's property that is for sale and zoned residential. Will a denial to build a single-family residential occupancy on lots 6 and 7 effect the possible denial for the future development of property along Liberty Way/Scenic Drive (lots 1, 2, and 3) as well as other infill property in the City of The Dalles?

Issue 4:

At the time I had initial contact with the Planning Staff regarding the construction of a dementia care facility I expressed awareness regarding the access road. It was my contention then, as it is now, that the road way was preexisting and therefore not subject to scrutiny at this juncture of the planning process. The July 1956 Ordinance Number 1091 that vacated the access to lots 6 and 7 (Tax Lot 3400) was declared an emergency, was unopposed, and a determination was made that the vacation of the access street would not affect the value of the abutting property. Mr. Parker responded to my hypotheses and stated the following, "When a City

Council considers a vacation of a street, they typically do not have information concerning the specific types of future uses or development which may occur upon the portion of public-right-away which is proposed to be vacated”.

The vacation of the access road proper has nothing to do with what would possibly be built in the future on that portion of the vacated property. The neighborhood was then and remains to be now residential occupancies as per the present zoning ordinances. The issue then was the council’s intent to not devalue the abutting property recognizing that the vacation of the street would eliminate all access to lots 6 and 7. The roadway as it presently exists was then constructed to gain property entrée and egress and has been used by a number of individuals both public and private to build houses, swimming pools, sewer lines, store debris, and other personal access. The use and existence of the roadway for over 30 years has been documented and established. By requiring change to the road undermines the intent of the ordinance to not devalue the property. By creating conditions that will not allow the placement of a residential occupancy in a permitted zone is dangerously close to being discriminatory and in contradiction to equal protection of the law.

The roadway has been estimated to be approximately 20% in grade. A 20% grade is just under a 12% slope (11.94% to be exact). The fire marshal has visited the property and measured the actual slope with instrumentation and determined it to be approximately at 11.3%. A 12% slope will meet the emergency equipment access requirements and is in compliance with the planning ordinance regulations that have no established grade percentage maximums. (See letter of November 26, 2001 from Stu Nagel, Fire Marshall, MCF&R). The roadway will be a minimum of 12 feet in width and the proposed surfacing and parking will meet or exceed the perimeters that will allow for emergency vehicles entrance and egress requirements.

Issue 1

Issue 2

B

TO

122
W-17TH

W. 17TH ST.

BERTY WAY

JOINT SEWER
PRIVATE EASEMENT

TO UTILITY EASEMENT

DALLES CITY WATER DEPARTMENT
EASEMENT

NORTH

ALLEY

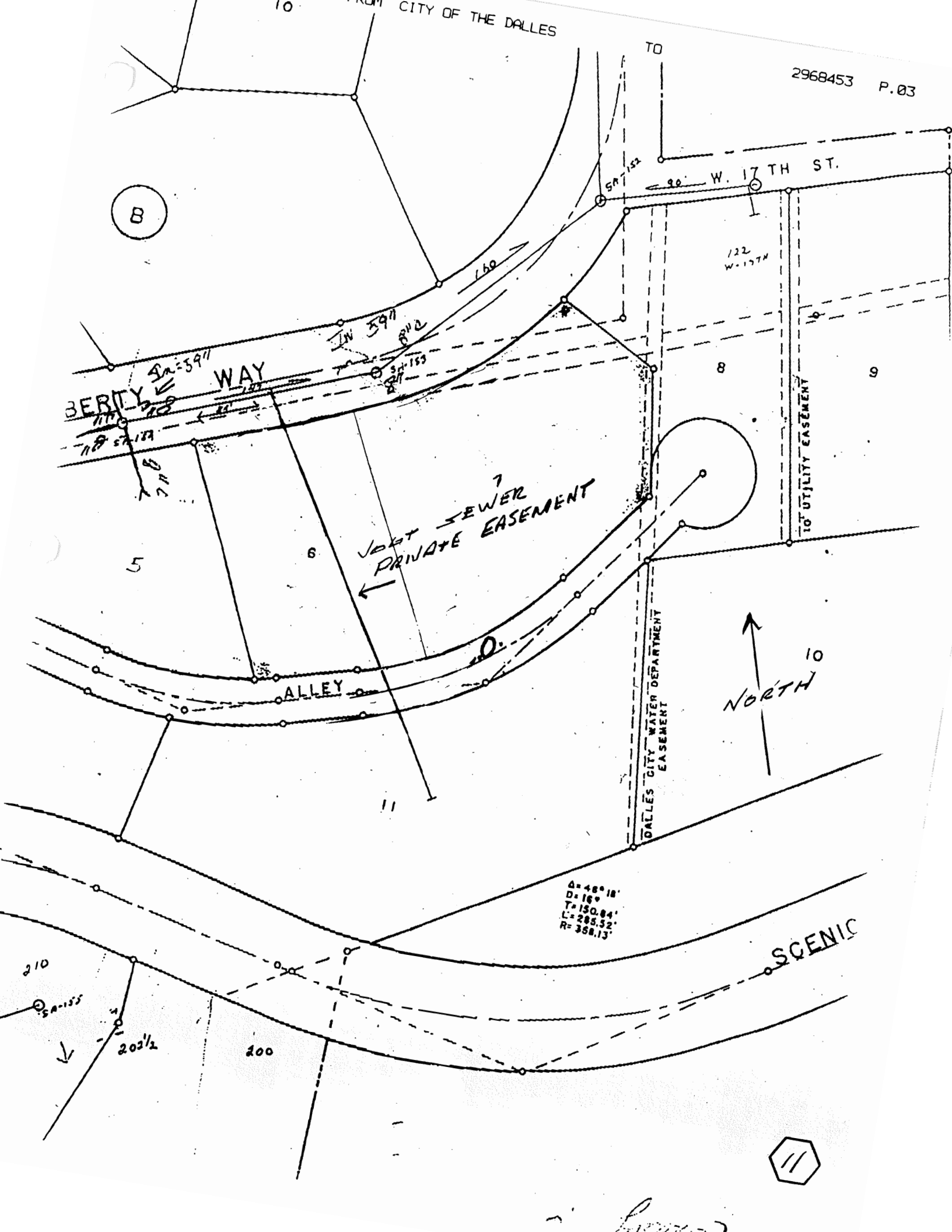
$\Delta = 48.18'$
 $D = 16'$
 $T = 150.84'$
 $L = 285.52'$
 $R = 358.13'$

SCENIC

210

203 1/2

200



63-2924 140 2

INDEXED

QUITCLAIM DEED

12

KNOW ALL MEN BY THESE PRESENTS, That PAUL R. VOGT and LUCETTA VOGT, husband and wife, Grantors, in consideration of Ten and no/100 Dollars, to them paid by EDGAR M. DICK and BEATRICE L. DICK, husband and wife, and in consideration of that certain easement between grantors and grantees herein dated July 31, 1963, do hereby remise, release and forever quitclaim unto the said Edgar M. Dick and Beatrice L. Dick, husband and wife, and unto their heirs and assigns all of their right, title and interest in and to that certain utility easement five feet in width lying at the junction of Lots 6 and 7, Block C, Grant Addition to Dalles City, in Dalles City, Wasco County, Oregon and extending along the common boundary common to said Lots.

TO HAVE AND TO HOLD the same to the said Edgar M. Dick and Beatrice L. Dick, husband and wife, and to their heirs and assigns forever.

IN WITNESS WHEREOF we have hereunto set our hands

IN WITNESS WHEREOF, we have hereunto set our hands
and seals this 2nd day of August, 1963.

13

Paul R. Vogt (SEAL)

Lucetta A. Vogt (SEAL)

STATE OF OREGON)
County of Wasco)

August 2nd, 1963

Personally appeared the above named PAUL R. VOGT and
LUCETTA VOGT, husband and wife, and acknowledged the foregoing
instrument to be their voluntary act and deed.

Before me:

James M. Beer
Notary Public for Oregon
My commission expires 9/15/65

STATE OF OREGON,)
County of Wasco,) ss

BOOK 150 PAGE 91

I, H. A. HOWARD, County Clerk and ex
officio Recorder of Conveyances, in and for
said county, do hereby certify that the with-
in instrument of writing was received for
record and recorded in the records of

Des of said county at
AUG 5 11 46 AM '63

13-2924

INDEXED

63-2935 1 of 4

EASEMENT

14

KNOW ALL MEN BY THESE PRESENTS, That EDGAR M. DICK and BEATRICE L. DICK, husband and wife, hereinafter referred to as Grantors, in consideration of Ten and no/100 Dollars and other considerations, to them paid by PAUL R. VOGT and LUCETTA VOGT, husband and wife, hereinafter referred to as Grantees, do hereby grant, bargain, sell and convey, unto the Grantees and Grantees' heirs and assigns, an easement five feet in width over a portion of Lot 6, Block C, Grant Addition to Dalles City in Dalles City, Wasco County, Oregon, which easement is for a sanitary sewer that is located presently in said Lot 6 and the center line of this easement shall be the sewer line as laid. The Grantees, their heirs and assigns, shall have the right to go upon said Lot 6 to maintain and repair the sewer line. The Grantors, however, shall have the right to use the ground upon which the easement is located, including the right to construct a road upon said easement and to adjust the same.

0004

WASCO COUNTY

11/19/98 FRI 10:32 FAX 503 298 1002

0005

WASCO COUNTY

18/96 FKI 10:32 FAX 503 298 1002

go upon said Lot 6 to maintain and repair the sewer line. The Grantors, however, shall have the right to use the ground upon which the easement is located, including the right to construct a road upon said easement and to adjust the location of the sewer as may be necessary in the construction and maintenance of a roadway by Grantors. Such relocation of the sewer line shall not in any way impair its function.

15

The acceptance of this easement by the Grantees shall constitute an abandonment of the five foot easement located at the boundary of Lots 6 and 7, Block C, Grant Addition, which easement was solely for the benefit of Grantees' lot adjoining on the south, being Lot 11, Block C, Grant Addition to Dalles City, in Dalles City, Wasco County, Oregon.

BOOK 152 PAGE 103

63-2935
2 of 4

TO HAVE AND TO HOLD the above described and granted
easement unto the said Grantees and Grantees' heirs and assigns
forever.

10

WITNESS grantors hands and seals this 31st day of
July, 1963.

[Handwritten signature]

[Handwritten signature]

(SEAL)

[Handwritten signature]

(SEAL)

STATE OF OREGON,)
County of Wasco.) ss.

July 31st, 1963

Personally appeared the above named EDGAR M. DICK and
BEATRICE L. DICK, husband and wife, and acknowledged the foregoing
instrument to be their voluntary act and deed.

Before me:

[Handwritten signature]
Notary Public for Oregon
My commission expires 6/30/66

63-2935
3 of 4

01/19/96 FRI 10:33 FAX 503 288 1002 WASCO COUNTY

5.010.050 Development Standards

RL Low Density Residential	Standard
Lot Size Lot Area Lot Area - Corner Duplex Lot Width Lot Width - Corner Duplex Lot Depth	5,000 sq. ft. minimum 4,500 sq. ft. per dwelling unit 50 ft. minimum 35 ft. minimum per dwelling, each unit shall front on a separate street 65 ft. minimum average
Setbacks Front Yard Rear Yard Side Yard (interior) Side Yard (corner lot) Garage/Carport Entrances (facing streets)	15 ft. minimum 10 ft. minimum 5 ft. minimum, OR 8 ft. minimum on one side of a dwelling unit with zero setback (0 ft.) on the opposite side. 10 ft. minimum on street side 20ft. minimum (corner lots and interior lots)
Building Height	30 ft. maximum
Lot Coverage	60% of Lot Area maximum
Building Orientation	The front building line shall be parallel to the street or private accessway. Practical adjustments may be made to accommodate street curvature. The front building line shall include the front door.
Off Street Parking	See <i>Chapter 7 - Parking Standards</i>
Accessory Uses, Buildings and Structures	See <i>Section 6.030: Accessory Development</i>
Driveway Locations	See <i>Section 6.050: Access Management</i>

6. Any other impacts of the development deemed relevant by the Commission.

D. Nuisance. The use shall not generate off-site nuisance conditions including, but not limited to, noise, glare, odor, or vibrations.

4. Pursuant to the requirements of Section 5.010.030(E), the Planning Commission concludes that the proposed residential care facility is a conditional use allowed in the “R-L” Low Density Residential zoning district. Based upon the following table, the Commission concludes that the proposed facility complies with the required siting standards of the “R-L” Low Density Residential District”.

Low Density Residential	Standard	Proposal	Meets Requirements
Lot Size	7,260 square foot minimum	Approximately 0.83 acre	Yes
Setbacks	Front = 15 feet (garage = 20 feet) Rear – 10 feet Sides – 5 feet	28 feet to front of structure, 13 feet to deck, 10 feet rear, 10 to 140± feet on either side yard	Yes/depending on final site plan and height of deck
Building Height	30 feet	22-1/2 feet	Yes
Lot Coverage	60% Maximum	20% Structure Only	Yes
Building Orientation	The front building line shall be parallel to the street or private accessway	Oriented toward Liberty Way	Yes
Off-Street Parking	Auto @ 1 per 4 beds minimum with no maximum and bicycle @ 1 per 6 beds. Requires 4 car and 3 bicycle spaces	7 auto spaces including 1 accessible space. Unspecified number of bicycle spaces	Yes for auto and yes, with condition that bicycle rack be capable of securing 3 bicycles
Accessory Uses, Buildings and Structures	Per Section 6.030	Trash storage facility	Yes
Driveway locations	24 foot maximum width. 10 foot separation	16 foot width. 39 feet from property line.	Yes
Landscaping Requirements	Approximately 800 square feet	7,000 square feet	Yes

5. The Applicant did not comply with the burden of proof to submit substantial evidence that the application complied with the requirements set forth in Sections 3.030.040(B) and (C)(1)

19 A

City of The Dalles

313 Court Street, The Dalles, OR 97058

Wk Phone (541) 296-5481 Ext. 113 Fax (541)-298-5107

No. 3247 P. 1

Fax

To: Wayne Lease	From: Daniel W. Izzo
Fax: 1-541-296-8453	Date: January 11, 2002
Phone: 1-541-298-4194	Pages: 1(including cover page)
Re: Labor Expenses	CC:

Urgent
 For Review
 Please Comment
 Please Reply
 Please Recycle

-Comments:

Dear Wayne,

The costs below are audit figures, if you would a copy of the CAFR or Budget they are avail. The labor charges below cover "all" costs associated with personnel including overtime for the FY 2000-2001.

Planning	\$ 185,995
Police	\$1,145,600
Street	\$ 428,249
Water	\$ 934,088
Sewer	\$ 446,067
	\$3,139,999

Jan. 11. 2002 2:49PM CITY OF THE DALLES

Issue 3

**Applicant's Response to Ordinance Criteria for
Conditional Use, Neighborhood Compatibility
and Site Review Application
Lot 9, East Knoll Estates Subdivision, The Dalles Oregon**

Project Overview

This is the application for a Residential Care Facility in an RL zone district. It is proposed for a fully serviced .49 acre lot at 445 East Knoll Drive, Assessor's map no. 1N-13E-1-BD. The lot is vacant with no significant trees, wetlands or other resource features.

Facility Description

This facility is a Residential Facility as described in ORS 197.660 (1). Residential Facilities have been acknowledged by the Oregon Legislature:

197.663 Legislative findings. The Legislative Assembly finds and declares that:

- (1) It is the policy of this state that disabled persons and elderly persons are entitled to live as normally as possible within communities and should not be excluded from communities because their disability or age requires them to live in groups;
- (2) There is a growing need for residential homes and residential facilities to provide quality care and protection for disabled persons and elderly persons and to prevent inappropriate placement of such persons in state institutions and nursing homes;
- (3) It is often difficult to site and establish residential homes and residential facilities in the communities of this state;
- (4) To meet the growing need for residential homes and residential facilities, it is the policy of this state that residential homes and residential facilities shall be considered a residential use of property for zoning purposes; and
- (5) It is the policy of this state to integrate residential facilities into the communities of this state. The objective of integration cannot be accomplished if residential facilities are concentrated in any one area. [1989 c.564 s.3]

The Oregon Legislature's findings concur somewhat with the Federal Fair Housing Act. A summary of this act, prepared by the owner's council, is attached as Exhibit C.

The building proposed has the appearance of a typical single family home with a pitched roof, gable features, elevation offsets, a 10-foot garage setback, horizontal siding and brick accents. The building is to be constructed as a One-Hour type V structure (wood framed) under the Oregon Structural Specialty Code. The building is designed with full fire sprinkler coverage.

Zone District Criteria

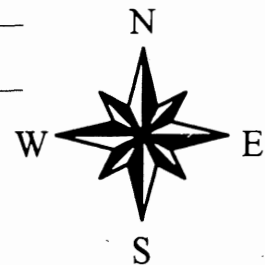
The City of The Dalles Land Use and Development Ordinance (LUDO) specifies criteria for development in the RL, Low Density Zone. LUDO Section 5.010.030 cites Residential Care Facilities as an allowed use in the RL zone subject to the provisions of Section 3.050. This application includes application for Neighborhood Compatibility Review as defined under LUDO Section 5.010.040.

LUDO Section 5.010.050 sets forth dimensional standards for the zone. The lot was developed under these standards and conforms. Exhibit A to this application is the Site and Grading Plan for the proposed facility. It shows sideyard setbacks meeting the 5-foot minimum noted in the section. The front and rear yards proposed are shown as exceeding the 15 and 10-foot requirements of the section. The exhibit includes the building's height and lot coverage that are in compliance with the section. The building is oriented to the street as required in the section.

Wayne & Laurel Lease Proposed Residential Care Facility



22



300

0

300

600

900 Feet

ap	Acres	Situs address	Owner	Mailadr	Mail_city	Mail_state	Zip
√ 13E 4 DC 2500	0.519	1817 LIBERTY WAY	GAY JOCELYN X	1817 LIBERTY WAY	THE DALLES	OR	97058
√ 13E 4 DC 3000	0.391	1709 LIBERTY WAY	WHARTON GUY N X	1709 LIBERTY WAY	THE DALLES	OR	97058
√ 13E 4 DC 3100	0.609	1815 LIBERTY WAY	REILLY JOHN V & DEBORAH J	1815 LIBERTY WAY	THE DALLES	OR	97058
√ 13E 4 DC 4600	1.509		0 KORTGE KENNETH C & CAROLYN	1820 LIBERTY WAY	THE DALLES	OR	97058
√ 13E 4 DC 4300	0.822	1710 LIBERTY WAY	HESTER MARGARET M	122 W 17TH	THE DALLES	OR	97058
√ 13E 4 DC 4100	0.497	1820 LIBERTY WAY	KORTGE KENNETH C & CAROLYN X	1820 LIBERTY WAY	THE DALLES	OR	97058
√ 13E 4 DC 4200	0.831	1812 LIBERTY WAY	LEASE WAYNE D ET AL	41 PRIVATE LAKE RD	WHITE SALMON	WA	98672
√ 13E 4 DC 4500	0.819	115 W SCENIC DR	VOGT PAUL R & LUCETTA A RLT X	115 W SCENIC DR	THE DALLES	OR	97058
√ 13E 4 DC 4400	1.096	105 W SCENIC DR	KINNER LEON E & MYRNA D X	105 W SCENIC DR	THE DALLES	OR	97058



CITY of THE DALLES

401 COURT STREET
THE DALLES, OR 97058
(541) 296-2613
FAX (541) 298-2747

POLICE DEPARTMENT

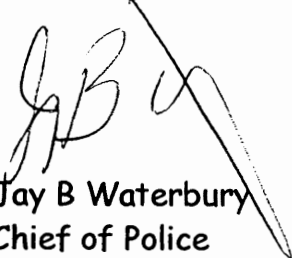
December 4, 2001

Mr. Dan Durow, Director
City of The Dalles
Community Development

Dear Mr. Durow,

Regarding the proposed development on Liberty Way in the area more commonly known as, Thrill Hill. As in most areas traffic safety shouldn't be an issue if people obey all traffic and speed laws.

Sincerely,



Jay B Waterbury
Chief of Police

The Dalles Residential Street Standards Matrix

Residential Street Type	Volume (Ave. Daily Trips)	Speed (MPH)	Street Width (Feet)	Sidewalk/ Planter Strip (Includes Curb)	ROW (Feet)
Alley		15	18 (no parking)	None	20-25
Lane (limited to 16 or fewer lots and/or 440 linear feet)	0-150	20	28 (8+12+8 non-striped)	11 feet each side	50
Neighborhood Street (requires traffic study)	150-500	25	32 (8+16+8 non-striped)	11 feet each side	54
Residential Street	500-1,000	25	36 (8+10+10+8 striped)	11 feet each side	58
Minor Collector (Residential)	1,000-3,000	25-30	38-40 (8+11/12+11/12+8 striped)	12.5 feet each side	64
Private Road			20 (no parking)	11 feet each side	42

Police Report Summary

DESCRIPTION	86	87	88	89	90	91	92	93	94	95	96	97	98	99	00	01	Total
Traff Comp				1	2	1		2		2	1		2			1	12
Firecrackers							1										1
Traffic Haz										1					1		2
Extra Patrol				2											1		3
Juv Prob																1	1
H & R						1		1		1	1						4
Abandon													2				2
Accident				1		1								2			4
Alarm			1			1	1	1	1	3	1	1		1			11
Alarm/Res															1		1
Alarm/veh											1						1
Assist										1							1
Animal Prob				1													1
Burglary			1						1								2
Crim Misch			1							1							2
Crim Misch 2															1		1
Reck Driv							1										1
Susp Cirm												1	1				2
Susp Veh					1												1
Theft					1										1		2
Well Fare Chck															1		1
Fraud													1				1
Information				1						1							2
MIP														1	1		2

The Dalles Police Dept.

401 Court St.
The Dalles, OR 97058
541-296-2613

Outside Distribution:

Distribution:

Incident Report: D952998 *

Current As Of: Tuesday, November 20, 2001

Rpt Date/ RcvdTime 12/11/95
 BeginDate/ DispTime
 Officer 31307 EndDate/ArvdTime
 Larson, BRENT Reorder/ClrdTime
 Incident
 Summary

Offense: **H & R Hit & Run**
 Location: LIBERTY WAY
 Apt: CityState:
 Grid: 30

Offense2:
 Offense3:
 Dispatcher:
 Disclose: Yes

People Involved:

Involve	Name / Address	Sex / Race Phone/Comments	DOB	Citation/Charge	Date Officer
Victim	WHARTON, GUY N	M W 541-296-5358	5/4/1917		12/11/95 Larson

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The Dalles Police Dept.

401 Court St.
The Dalles, OR 97058
541-296-2613

Outside Distribution:

Distribution:

Incident Report: DL911385 *

- log entry

Current As Of: Tuesday, November 20, 2001

Rpt Date/ RcvdTime	4/18/91	6:06 PM	Offense: <u>H & R</u> <i>Hit & Run</i>	Offense2:
BeginDate/ DispTime		7:38 PM	Location: 2010 LIBERTY WAY	Offense3:
Officer 04083		8:05 PM	Apt:	CityState:
EndDate/ArvdTime		8:11 PM	Grid: 30	Disclose: Yes
Reorder/CirdTime				Dispatcher:

Portwood, Daniel
 Incident Summary

People Involved:

Involved	Name / Address	Sex / Race	DOB	Citation/Charge	Date Officer
Reporting Per	LACOCK, HERBERT JR A	M	8/22/54		4/18/91 Portwood

The Dalles Police Dept.

401 Court St.
The Dalles, OR 97058
541-296-2613

Outside Distribution:

Distribution:

Incident Report: D961577 *

Current As Of: Tuesday, November 20, 2001

Rpt Date/ RcvdTime 7/16/96	Offense: <u>H & R</u> Hit & Run	Offense2:
BeginDate/ DispTime	Location: LIBERTY WAY/SCENIC	Offense3:
Officer 30791	Apt:	CityState:
Edsinga, DWAYN	Grid: 30	Disclose: Yes
EndDate/ArvdTime		Dispatcher:
Reorder/CldTime		

Incident Summary

People Involved:

Involvement	Name / Address	Sex / Race Phone/Comments	DOB	Citation/Charge	Date Officer
Victim	STAATS, AUDREY L	F	7/23/30		7/16/96 Edsinga
		541-296-3881			



The Dalles Police Dept.

401 Court St.
The Dalles, OR 97058
541-296-2613

Outside Distribution:
Distribution:

Incident Report: D932342 *

Current As Of: Tuesday, November 20, 2001

Rpt Date/ RcvdTime 11/20/93 7:00 AM **Offense:** H & R Hit & Run **Offense2:**
BeginDate/ DispTime **Location:** 1709 LIBERTY WAY **Offense3:**
Officer 20728 **EndDate/ArvdTime** **Apt:** **CityState:** **Dispatcher:**
 Kirk, LANCE **Reorder/ClrdTime** **Grid:** 30 **Disclose:** Yes
Incident Summary

People Involved:

Involvement	Name / Address	Sex / Race Phone/Comments	DOB	Citation/Charge	Date Officer
Victim	WHARTON, GUY N	M W 541-296-5358	5/4/1917		11/20/93 Kirk

29

The Dalles Police Dept.

401 Court St.
The Dalles, OR 97058
541-296-2613

Outside Distribution:

Distribution:

Incident Report: DL915707 *

Wf entry

Current As Of: Tuesday, November 20, 2001

Rpt Date/RcvdTime 12/22/91 5:11 PM **Offense:** ACCIDENT **Offense2:**
BeginDate/DispTime 5:14 PM **Location:** 1700 BLK LIBERTY WAY **Offense3:**
Officer 22981 **EndDate/ArvdTime** 5:19 PM **Apt:** **CityState:** **Dispatcher:**
Reorder/CldTime 5:28 PM **Grid:** 30 **Disclose:** Yes

Incident Summary

People Involved:

Involvement	Name / Address	Sex / Race Phone/Comments	DOB	Citation/Charge	Date Officer
Reporting Per	INGRAM, ALLEN LEE	M W 541-296-1036	9/30/57		12/22/91
Suspect	PEREIRA, BETHANY R	000	10/17/74		12/22/91



The Dalles Police Dept.

401 Court St.
The Dalles, OR 97058
541-296-2613

Outside Distribution:
Distribution:

Incident Report: D890324

Current As Of: Tuesday, November 20, 2001

Rpt Date/ RcvdTime	2/27/89 11:45 PM	Offense:	ACCIDENT	Offense2:	
BeginDate/ DispTime	11:47 PM	Location:	1800 BLK LIBERTY WAY	Offense3:	
Officer 04083	EndDate/ArvdTime	11:52 PM	Apt:	CityState:	Dispatcher:
Portwood, Daniel	Reorder/ClrdTime	12:14 AM	Grid: 30	Disclose: Yes	

Incident Summary

People Involved:

Involved	Name / Address	Sex / Race Phone/Comments	DOB	Citation/Charge	Date Officer
Reporting Per	HACKETT, KEN E	M W 000	11/2/56		2/27/89 Portwood



The Dalles Police Dept.

401 Court St.
The Dalles, OR 97058
541-296-2613

Outside Distribution:

Distribution:

Incident Report: DL990550 *

Log entry

Current As Of: Tuesday, November 20, 2001

Rpt Date/ RcvdTime	2/16/00	10:45 PM	Offense:	ACCIDENT	Offense2:	
BeginDate/ DispTime		10:46 PM	Location:	1815 LIBERTY WAY	Offense3:	
Officer J2441	EndDate/ArrvdTime	10:48 PM	Apt:	City/State:	Dispatcher:	
Redler, LARRY	Recorder/CldTime	11:14 PM	Grid:	30	Disclose:	Yes

Incident Summary

People Involved:

Involvement	Name / Address	Sex / Race	Phone/Comments	DOB	Citation/Charge	Date Officer
Suspect	GIFFORD, Michelle Arlene	F W	541-296-5648	4/9/60		2/16/99 Redler
Reporting Per	KELLY, JOHN V	M W		2/9/49		2/16/99 Redler



10 [F1]=Help [Alt-P]=Print [ENTER]=Select [ESC]=Exit							
DL#	DATE	TIME	OFFENSE	LOCATION	AMOUNT	STATUS	CLASS
DL955862	11/3/96	21:06	TRAFFIC F&Z	LIBERTY WAY	21106	30	C
DL956034	10/13/95	23:02	TRAFFIC COMP	LIBERTY WAY	29340	30	C
34781	9/24/93	08:51	TRAFFIC COMP	LIBERTY WAY		30	R
32329	6/1/93	13:44	TRAFFIC COMP	LIBERTY WAY W/ SCENIC DR	17407	30	C
DL923254	6/30/92	18:11	FIRECRACKERS	LIBERTY WAY	18806	30	C
DL903021	6/30/90	20:54	TRAFFIC COMP	LIBERTY WAY	23524	30	C
DL892801	6/16/89	21:20	EXTRA PATROL	LIBERTY WAY "THRILL HILL"	00000	30	C
DL011376	4/13/01	21:11	JUV PROB	LIBERTY WAY/SCENIC	31307	38	I
DL961577	7/16/96		H & R	LIBERTY WAY/SCENIC	30791	30	C
DL952998	12/11/95		H & R	LIBERTY WAY	31307	30	C

61	[F1]=Help	[Ctrl-P]-Print	[ENTER]=Select	[ESC]-Exit		
✓ 982309	9/29/98	13:19	FRAUD	1815 LIBERTY WAY		
✓ 932342 *	11/20/98	07:00	H & A	1709 LIBERTY WAY		
✓ 1577 *	7/16/96		H & A	LIBERTY WAY/SCENIC		
✓ 998 *	12/11/95		H & A	LIBERTY WAY		
✓ 11385 *	4/18/91	18:06	H & A	2010 LIBERTY WAY		
✓ L894937	9/25/89	13:41	INFORMATION	2010 LIBERTY WAY		
✓ L954536	8/10/95	05:01	INFORMATION	2010 LIBERTY WAY		
✓ L011376	4/13/01	21:11	JUV PROB	LIBERTY WAY/SCENIC		LOG 32
✓ 980217	11/4/00		MINOR IN POSSESSI...	W Scenic/Liberty Way		471.43
✓ 992344	10/30/99		MINOR IN POSSESSI...	W SCENIC/LIBERTY WAY		471.43
✓ 920805	4/20/92	12:58	RKLS DRV	1800 BLK LIBERTY WAY		
✓ L986584	11/10/98	20:02	SUSP CIRCUM	2030 LIBERTY WAY		
✓ L977426	12/4/97	03:34	SUSP CIRCUM	2031 LIBERTY WAY		
✓ L905490	11/18/90	05:34	SUSP VEH	2010 LIBERTY WAY		
✓ 801310	7/2/90	10:00	THEFT	2016 LIBERTY WAY		
✓ L001602	5/11/00	12:27	THEFT	2031 LIBERTY WAY		LOG 57
✓ L982263	5/7/98	15:53	TRAFFIC COMP	1600 BLK LIBERTY WAY		
✓ L981416	3/23/98	16:52	TRAFFIC COMP	W SCENIC DR/LIBERTY WAY		
✓ L932329	6/1/93	13:44	TRAFFIC COMP	LIBERTY WAY/W SCENIC DR		
✓ L334781	9/24/93	08:51	TRAFFIC COMP	LIBERTY WAY		
✓ L951606	3/30/95	14:51	TRAFFIC COMP	1700 BLK LIBERTY WAY		
✓ L011754	5/10/01	19:45	TRAFFIC COMP	1800 BLK LIBERTY WAY		LOG 59
✓ L913652	8/12/91	10:38	TRAFFIC COMP	2000 BLK LIBERTY WAY		
✓ L904416	9/9/90	19:48	TRAFFIC COMP	2000 BLK LIBERTY WAY		
✓ L903021	6/30/90	20:54	TRAFFIC COMP	LIBERTY WAY		
✓ L891824	4/23/89	19:23	TRAFFIC COMP	2010 LIBERTY WAY		
✓ L956034	10/13/95	23:02	TRAFFIC COMP	LIBERTY WAY		
✓ L965408	10/7/96	17:10	TRAFFIC COMP	1820 LIBERTY WAY		
✓ L965862	11/3/96	21:06	TRAFFIC HAZ	LIBERTY WAY		
✓ L003348	8/26/00	10:13	TRAFFIC HAZ	SCENIC DR/LIBERTY WAY		LOG 00

35

IN	[F1]=Help	[Ctrl-P]=Print	[ENTER]=Select	[ESC]=Exit		
✓ 884895	7/22/98	15:49	ABANDON	2018 LIBERTY WAY		
✓ 885196	8/18/98	17:12	ABANDON	2000 BLK LIBERTY WAY		
✓ 890550	2/16/99	22:45	ACCIDENT	1815 LIBERTY WAY		
✓ 914350	2/27/99	23:45	ACCIDENT	1800 BLK LIBERTY WAY		
✓ 91707	12/22/91	17:11	ACCIDENT	1700 BLK LIBERTY WAY		
✓ 914350	9/22/91	04:13	ALARM	1800 BLK LIBERTY WAY		
✓ 884988	9/2/89	15:44	ALARM	1815 LIBERTY WAY		
✓ 970526	2/8/97	12:40	ALARM	1820 LIBERTY WAY		
✓ 954886	8/21/95	01:48	ALARM	1820 LIBERTY WAY		
✓ 954847	8/19/95	12:40	ALARM	1820 LIBERTY WAY		
✓ 965129	9/24/96	03:41	ALARM	1820 LIBERTY WAY		
✓ 941919	5/1/94	14:51	ALARM	1820 LIBERTY WAY		
✓ 934578	9/13/93	15:45	ALARM	1820 LIBERTY WAY		
✓ 850044	1/4/95	04:37	ALARM	1820 LIBERTY WAY		
✓ 920580	2/11/92	19:14	ALARM	1700 BLK LIBERTY WAY		
✓ 990397	2/5/99	10:06	ALARM	1820 LIBERTY WAY		
✓ 000588	2/26/00	08:25	ALARM/RES	1815 LIBERTY WAY		LOG 7
✓ 861145	3/11/96	10:00	ALARM/VEH	1700 BLK LIBERTY WAY		
✓ 890664	2/13/89	08:33	ANIMAL PROB	1705 LIBERTY WAY		
✓ 957252	12/24/95	04:16	ASSIST	2031 LIBERTY WAY		
✓ 80839	4/8/94	12:05	BURGLARY	2016 LIBERTY WAY		
✓ 885020	9/4/88	19:01	BURGLARY	1815 LIBERTY WAY		
✓ 81916	10/12/88	16:04	CRIM MISCH	1709 LIBERTY WAY		
✓ 50670	3/21/95	06:00	CRIM MISCH	2000 BLK LIBERTY WAY		
✓ 50671	3/21/95	06:00	CRIM MISCH	2000 BLK LIBERTY WAY		
✓ 00082	1/14/00		CRIM MISCHIEF 2	1815 Liberty Way		164 354
✓ 992399	5/27/99	00:06	EXTRA PATROL	1815 LIBERTY WAY		
✓ 892801	6/16/89	21:20	EXTRA PATROL	LIBERTY WAY "THRILL HILL"		
✓ 004344	11/4/00	00:45	EXTRA PATROL	1701 LIBERTY WAY		LOG 24
✓ 923254	6/30/92	18:11	FIRECRACKERS	LIBERTY WAY		

TRAFFIC ACCIDENT REPORT - POLICE
STATE OF OREGON

FATAL INJURY PROP DAMAGE

Dept. Police

City McDermott

County Lasco

Page 1 of 4 Pages

Case No. 85-1581

1. ACCIDENT INVOLVED:
 One Other MV
 Three or More MV's
 Pedestrian
 Motorcycle/Moped
 Bicycle/Triicycle
 Fixed Object
 Non-Collision
 Animal
 Other
 City, County, State
 Property Damaged
 Describe _____

COMPUTER ENTRY
 Persons Booking
 Vehicle LEOS
 Crime NCIC
 Property

Distribution: D.M.U.
 Do Not Write in This Space

Classification: NON-INJURY
 2. Date Occurred 7-27-85
 3. Time Occurred 1130 AM PM

4. Reported Date 7-27-85
 5. Reported Time 1732 AM PM

6. Location of Occurrence (Route No. or Name)
Liberty Way

ACCOMPANYING REPORTS
 Ver. Prop. Sec. Custody
 Person Continuation

7. At Intersection of (Route No. or Name)

8. If not at Intersection Feet
70 Miles 8888

(Intersecting highway or street, landmark or house no.)
W. Seville Dr.

9. Mile Post _____
 10. _____

INJURY CODE:
 (Mark the first one that applies)
 A - INCAPACITATED - Unconscious, Could not walk, Broken or distorted limbs, severe lacerations, etc.
 B - NONINCAPACITATED - Lumps, Abrasions, Cuts
 C - POSSIBLE - Momentary Unconsciousness, pain, nausea, vomiting
 D - NO APPARENT INJURY

11. FULL NAME (Last) (First) (Middle)
SMITH ALAN LARA

12. Address 3127 Dix Hollow Rd
 22. Residence Phone 298-5624
 23. Business Phone _____

Seat	Boat	X	EJ	Inj.
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				

13. Operator License No. 4100506
 20. Issuing State OR
 21. Type (Specify) DRIVER

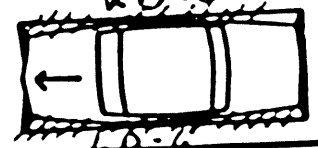
14. Occupant's Name _____
 15. _____
 16. _____

17. Address and Phone _____
 18. _____
 19. _____

24. Owner's Name and Address
SMITH LINDA

32. License Year 86
 33. Veh. removed by/to JOAN'S


34. Vehicle year 69
 35. Make CHEV
 36. Model CAM.
 37. Body Style 2D
 38. Color White
 39. BLK

40. Damage Sustained: Sketch damage to Motorcycles, Trailers, etc.


41. FULL NAME (Last) (First) (Middle)
UNAWENDED (DALLAS)

42. License Year _____
 43. Veh. removed by/to _____


44. Vehicle year _____
 45. Make _____
 46. Model _____
 47. Body Style _____
 48. Color _____

49. Damage Sustained: Sketch damage to Motorcycles, Trailers, etc.


50. Owner's Name and Address
PONCHERA KENNETH 1514 HAINSWAY

51. License Year 86
 52. Veh. removed by/to _____

53. Vehicle year 85
 54. Make BUICK
 55. Model Cent.
 56. Body Style SW
 57. Color BLUE


58. Damage Sustained: Sketch damage to Motorcycles, Trailers, etc.


11. Address (Other City, etc.)
12552

112. Primary Cause EXCESSIVE SPEED
 113. Agency 12552
 114. Date 70

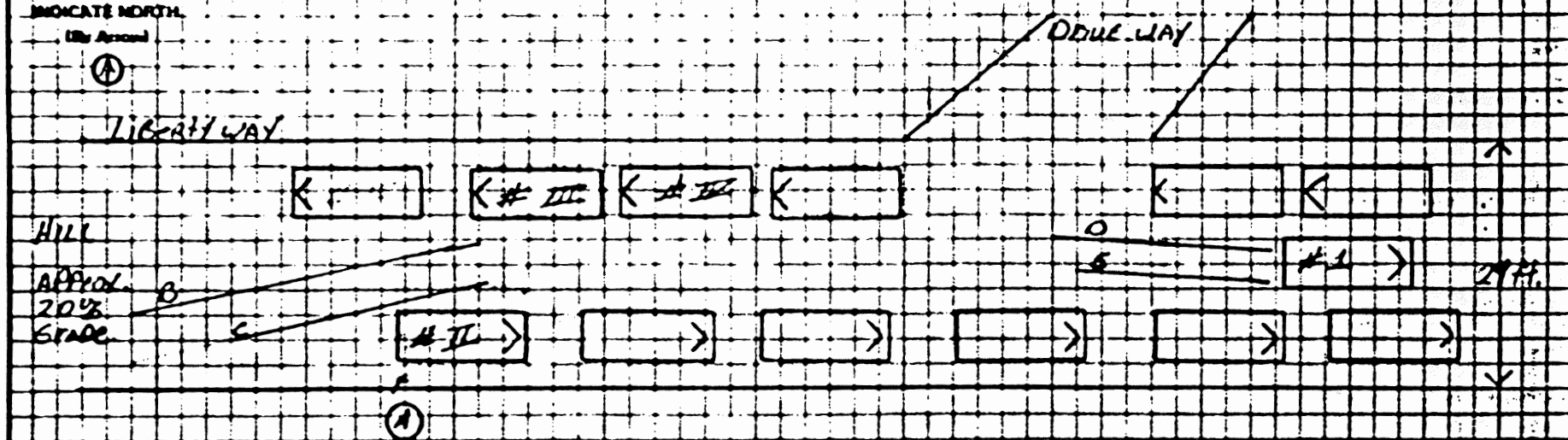
115. Time 1232
 116. Date 7/27/85
 117. Approved by [Signature]

118. Date 7/27/85

114 Weather (a) one <input checked="" type="checkbox"/> CLEAR <input type="checkbox"/> RAINING <input type="checkbox"/> SNOWING <input type="checkbox"/> FOG <input type="checkbox"/> CLOUDY <input type="checkbox"/> OTHER	115 Road Cond. (a) one <input checked="" type="checkbox"/> DRY <input type="checkbox"/> WET <input type="checkbox"/> SNOWY <input type="checkbox"/> ICY <input type="checkbox"/> OTHER	116 Light Cond. (a) one <input checked="" type="checkbox"/> DAYLIGHT <input type="checkbox"/> DAWN or DUSK <input type="checkbox"/> DRUNKS/Lighted <input type="checkbox"/> DRUNKS/Unlighted <input type="checkbox"/> OTHER	117 Unit 1 Unit 2 Skidmarks to Impact (ft.) 66' Distance Traveled after Impact (ft.) 36' Stated spd. before Impact (MPH) 42 Designated speed for area (MPH) 25	118 Traffic Control Devices <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO Describe: _____	FIRST AID GIVEN BY: N/A INJURED TAKEN TO:  BY: _____
---	---	--	---	---	--

WITNESSES: NAME O'Brien, Thomas R. RES. ADDRESS & PH. 811 Transit TD. 246-3912 + 298-8958
 NAME _____ RES. ADDRESS & PH. _____

DRAW SKETCH INDICATE NORTH (By Arrow) NARRATIVE: (Brief/Scene Chart) USE EXTRA PAGE IF NEEDED

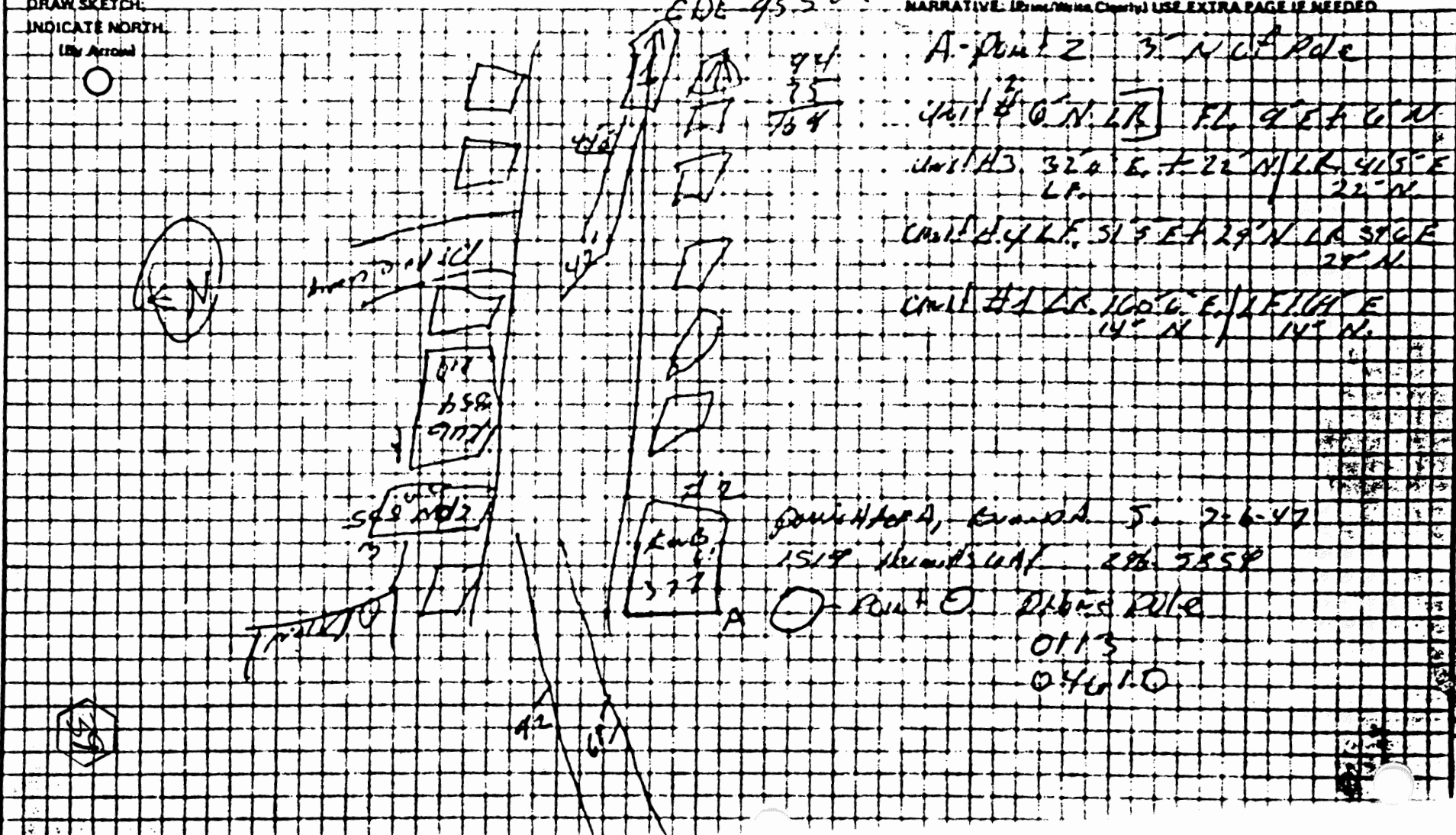


9-27-85 POINT ZERO KEY
 UNIT I - L.F. TIRE 16 FT. EAST + 14 FT. NORTH L.R. TIRE 160 FT. 6 IN. EAST + 14 FT. N.
 UNIT II - L.F. TIRE 9 FT. EAST + 6 FT. NORTH L.R. TIRE 6 FT. NORTH of Point Zero
 UNIT III L.F. TIRE 32 FT. 11 IN. EAST + 22 FT. NORTH L.R. TIRE 41 FT. 5 IN. EAST + 22 FT. NORTH
 UNIT IV L.F. TIRE 5 FT. 5 IN. EAST + 2 FT. NORTH L.R. TIRE 5 FT. 6 IN. EAST + 2 FT. NORTH
 A - PHONE POLE - # 013-09610 B - SKID MARK 92 FT. C - SKID MARK 69 FT.
 D - SKID MARK 44 FT. 6 IN. E - SKID MARK 42 FT. F - POINT ZERO (PHONE POLE + CURB)

114. Weather (x) one <input type="checkbox"/> CLEAR <input type="checkbox"/> RAINING <input type="checkbox"/> SNOWING <input type="checkbox"/> FOG <input type="checkbox"/> CLOUDY <input type="checkbox"/> OTHER	115. Road Cond. (x) one <input type="checkbox"/> DRY <input type="checkbox"/> WET <input type="checkbox"/> SNOWY <input type="checkbox"/> ICY <input type="checkbox"/> OTHER	116. Light Cond. (x) one <input type="checkbox"/> DAYLIGHT <input type="checkbox"/> DAWN or DUSK <input type="checkbox"/> DRKNS/Lighted <input type="checkbox"/> DRKNS/Unlighted <input type="checkbox"/> OTHER	117. Unit 1 Unit 2 Skidmarks to impact (ft.) _____ Distance Traveled after impact (ft.) _____ Stated spd. before impact (MPH) _____ Designated speed for area (MPH) _____	118. Traffic Control Devices <input type="checkbox"/> YES <input type="checkbox"/> NO Describe: _____	FIRST AID GIVEN BY: _____ INJURED TAKEN TO: _____ BY: 6-24-49 298-8958
---	---	--	---	---	--

(Witness)

WITNESSES:	NAME _____	RES. ADDRESS & PH. _____
	NAME _____	RES. ADDRESS & PH. _____



NARRATIVE: (Print/Write Clearly) USE EXTRA PAGE IF NEEDED

A-Point 2 3' N of Pole
 Unit # 6 N. LR FL 9' E of G.M.
 Unit # 3 32' E. of 22' N. LR 415' E
 L.P. 22' N
 Unit # 4 L.P. 51' E of 29' N. LR 376' E
 22' N
 Unit # 1 L.P. 100' E. of 14' N. LR
 14' N

TRAFFIC ACCIDENT REPORT - POLICE

STATE OF OREGON

FATAL INJURY PROP. DAMAGE

Dept Police

City T.O.

County WASCO

Page 2 of 4 Pages

Case No. 85-1584

1. ACCIDENT INVOLVED:
 Animal
 One Other MV
 Three or More MV's
 Pedestrian
 Motorcycle/ Moped
 Bicycle/Tricycle
 Fixed Object
 Non-Collision

COMPUTER ENTRY
 Persons Booking
 Vehicle LECS
 Crime NCIC
 Property

Distribution: D.P.V.

Classification: Non-Injury

2. Date Occurred 9-27-85 3. Time Occurred 1230 AM PM

4. Reported Date 9-27-85 5. Reported Time 1232 AM PM

6. Location of Occurrence (Route No. or Name) Liberty Way

7. At Intersection of (Route No. or Name) _____

8. If not at intersection Feet _____ (Intersecting highway or street, landmark or house no.)

9. Mile Post _____ 10. Nearest City _____

11. Full Name (Last, First, Middle) UNA Henders (Parked)

12. Address _____

13. Operator License No. _____ 14. Issuing State _____ 15. Type (Specify) _____

16. Residence Phone _____ 17. Business Phone _____

18. Occupant's Name _____

19. Address and Phone _____

INJURY CODE: (Mark the first one that applies)
 A - INCAPACITATED - Unconscious, Could not walk, Broken or dislocated limbs, severe lacerations, etc.
 B - NONINCAPACITATED - Lumps, Abrasions, Cuts
 C - POSSIBLE - Momentary Unconsciousness, pain, nausea, tingling
 D - NO APPARENT INJURY

MAI Code: Minor Injured - 0, Leg Injured - 1, Injured Injured - 2, Arm Injured - 3, Fatal Injured - 4

28. Owner's Name and Address O'Brien THOMAS J. 511 Travis T.O. 94571

29. Odometer Reading 34571

30. Damage Scale LBO2

31. Damage Sustained: Sketch damage to Motorcycles, Trailers, etc.

32. License No. CPN 855 33. License State OL 34. License Year 87 35. Veh. removed by/to Driver

36. Vehicle year 77 37. Make PLYMOUTH 38. Model VOE 39. Body Style 4 DO 40. Color Brown

41. Vehicle Drivable? Yes No

48. Owner's Name and Address BYRNE, JOSEPH H. 1301 E. 18th T.O. 97340

49. Odometer Reading 23400

50. Damage Scale LFQ3

51. Damage Sustained: Sketch damage to Motorcycles, Trailers, etc.

52. License No. KUG 859 53. License State OL 54. License year 85 55. Veh. removed by/to MILTS

56. Vehicle year 84 57. Make FORD 58. Model ESCORT 59. Body Style SW 60. Color SILVER

61. Vehicle Drivable? Yes No

61. Actions Taken (Citations, etc.) Refer to PAGE ONE.

62. Primary Cause _____

63. Secondary Cause _____

Reporting Officer [Signature] Prec. Div. 17552 Fleet/Shift 3 Assn./Dist. 30 R/C Times 1232 ARR: 1234 CLB# 1855 Approved by: [Signature]

114. Weather (x) one <input type="checkbox"/> CLEAR <input type="checkbox"/> RAINING <input type="checkbox"/> SNOWING <input type="checkbox"/> FOG <input type="checkbox"/> CLOUDY <input type="checkbox"/> OTHER	115. Road Cond. (x) one <input type="checkbox"/> DRY <input type="checkbox"/> WET <input type="checkbox"/> SNOWY <input type="checkbox"/> ICY <input type="checkbox"/> OTHER	116. Light Cond. (x) one <input type="checkbox"/> DAYLIGHT <input type="checkbox"/> DAWN or DUSK <input type="checkbox"/> DRKNS/Lighted <input type="checkbox"/> DRKNS/Unlighted <input type="checkbox"/> OTHER	117. Unit 1 Unit 2 Skidmarks to Impact (ft.) _____ Distance Traveled after Impact (ft) _____ Stated spd. before Impact (MPH) _____ Designated speed for area (MPH) _____	118. Traffic Control Devices <input type="checkbox"/> YES <input type="checkbox"/> NO Describe: _____	FIRST AID GIVEN BY: INJURED TAKEN TO: BY:
---	---	--	--	---	---



WITNESSES:	NAME _____	RES. ADDRESS & PH. _____
	NAME _____	RES. ADDRESS & PH. _____

DRAW SKETCH: _____ NARRATIVE: (Draw/Write Clearly) USE EXTRA PAGE IF NEEDED

INDICATE NORTH (By Arrow)

SUMMARY:

ON THE ABOVE LISTED TIME AND DATE, I RESPONDED TO A NON-INJURY ACCIDENT AT THE ABOVE LISTED LOCATION. THE INCIDENT ENDED WITH THE ISSUE OF UNIT # 1 CHARGED FOR CARELESS DRIVING.

NARRATIVE:

I ARRIVED AT THE SCENE AND SECURED IT FROM PASSING TRAFFIC. I MADE CONTACT WITH THE SUSPECT AND WITNESS AND TOOK THEIR STATEMENTS (REFER TO STATEMENTS). I CHECKED THE VEHICLES FOR DAMAGE AND MAKED THEM. I AVOIDED EXCHANGING OPINION WITH THE PARTIES INVOLVED. I THEN TOOK THE MEASUREMENTS AND DREW ROUGH SKETCH OF THE SCENE.

I CITED DRIVER # 1, BARBARA L. SMITH, FOR CARELESS DRIVING.

I THEN CALLED FOR A TOW TRUCK FOR UNIT # 1. UNIT # 4 REQUESTED TO HAVE HIS VEHICLE TOWED BY UNIT # 2 SO I HAD UNIT # 2 DISPATCHED.

STATEMENTS:

Driver # 1 SMITH, BARBARA L.

HE STATED HE WAS EAST BOUND ON LIBERTY WAY, AS HE TOPPED THE HILL HE HIT UNIT 2 AND LOST CONTROL VEERED TO THE LEFT AND SIDE SWIPED UNITS 3 & 4. HE STATED HE DIDN'T KNOW HOW FAST HE WAS GOING.

Witness - O'Brien, THOMAS P.

HE STATED HE SAW UNIT # 1 EAST BOUND TRAVELING AT AN ESTIMATED SPEEDS OF 55 TO 60 M.P.H. HE SAW UNIT # 1 STRIKE UNIT # 2 FROM BEHIND DUE TO THE RIGHT HAND SIDE SWIPE UNIT # 3 & 4, THEN CAME TO A STOP.

(3) This section does not authorize speeds higher than those required for compliance with the basic speed rule.

(4) The offense described in this section, violating the maximum speed limit on the ocean shore, is punishable as provided in ORS 811.109. [1983 c.338 §567; 1987 c.887 §13; 1995 c.383 §18]

811.122 [1989 c.592 §2; repealed by 1991 c.728 §6]

811.123 Violation of maximum speed limit in urban area. (1) A person commits the offense of violating a maximum speed limit in an urban area if the person drives a vehicle upon a highway in any city or upon a highway within an urban growth boundary that is in a county with a population greater than 100,000 at a speed greater than any speed posted by authority granted under ORS 810.180 or, if no speed is posted, the following:

(a) Fifteen miles per hour when driving on an alley.

(b) Twenty miles per hour in a business district.

(c) Twenty miles per hour when passing school grounds or a school crosswalk if notice of the grounds or crosswalk is indicated plainly by traffic control devices conforming to the requirements established under ORS 810.200 and posted under authority granted by ORS 810.210 and:

(A) Children are present, as described in ORS 811.124; or

(B) A flashing light used as a traffic control device and operated under ORS 811.106 indicates that children may be arriving at or leaving school.

(d) Twenty-five miles per hour in any public park.

(e) Twenty-five miles per hour on a highway in a residence district if the highway is not an arterial highway.

(f) Sixty-five miles per hour on any rural interstate highway.

(g) Fifty-five miles per hour in locations not otherwise described in this section.

(2) This section does not authorize speeds higher than those required for compliance with the basic speed rule.

(3) This section does not apply on a state highway.

(4) The offense described in this section, violating a maximum speed limit in an urban area, is punishable as provided in ORS 811.109. [1991 c.728 §2; 1995 c.383 §19; 1995 c.558 §4; 1997 c.404 §6; 1997 c.438 §4]

Note: 811.123 was added to and made a part of ORS chapter 811 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

811.124 Meaning of "children are present" in ORS 811.105 and 811.123. For purposes of provisions of ORS 811.105 and 811.123 dealing with permissible speeds when passing school grounds or a school crosswalk, children are present at any time and on any day when children are in a place where they are or can reasonably be expected to be visible to a person operating a motor vehicle that is passing a school ground or a school crosswalk. [1997 c.438 §2]

Note: 811.124 was added to and made a part of ORS chapter 811 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

(Racing)

811.125 Speed racing on highway; penalty. (1) A person commits the offense of speed racing on a highway if, on a highway in this state, the person drives a vehicle or participates in any manner in any of the following in which a vehicle is involved:

(a) A speed competition or contest.

(b) An acceleration contest.

(c) A test of physical endurance.

(d) An exhibition of speed or acceleration.

(e) The making of a speed record.

(f) A race. For purposes of this paragraph, racing is the use of one or more vehicles in an attempt to outgain, outdistance or prevent another vehicle from passing, to arrive at a given destination ahead of another vehicle or vehicles or to test the physical stamina or endurance of drivers over long distance driving routes.

(g) A drag race. For purposes of this paragraph, drag racing is the operation of two or more vehicles from a point side by side at accelerating speeds in a competitive attempt to outdistance each other, or the operation of one or more vehicles over a common selected course, from the same point to the same point for the purpose of comparing the relative speeds or power of acceleration of the vehicle or vehicles within a certain distance or time limit.

(2) The offense described in this section, speed racing on a highway, is a Class A traffic infraction and is applicable on any premises open to the public. [1983 c.338 §568; 1985 c.16 §287]

(Impeding Traffic)

811.130 Impeding traffic; penalty. (1) A person commits the offense of impeding traffic if the person drives a motor vehicle or a combination of motor vehicles in a manner that impedes or blocks the normal and reasonable movement of traffic.

(2) A person is not in violation of the offense described under this section if the person is proceeding in a manner needed for safe operation.

(3) Proceeding in a manner needed for safe operation includes but is not necessarily limited to:

(a) Momentarily stopping to allow oncoming traffic to pass before making a right-hand or left-hand turn.

(b) Momentarily stopping in preparation of, or moving at an extremely slow pace while, negotiating an exit from the road.

(4) A person is not in violation of the offense described under this section if the person is proceeding as part of a funeral procession under the direction of a funeral escort vehicle or a funeral lead vehicle.

(5) The offense described in this section, impeding traffic, is a Class D traffic infraction. [1983 c.338 §569; 1985 c.16 §288; 1989 c.433 §1; 1991 c.482 §18; 1995 c.383 §45]

CARELESS AND RECKLESS DRIVING

811.135 Careless driving; penalty. (1) A person commits the offense of careless driving if the person drives any vehicle upon a highway or other premises described in this section in a manner that endangers or would be likely to endanger any person or property.

(2) The offense described in this section, careless driving, applies on any premises open to the public and is a Class B traffic infraction unless commission of the offense contributes to an accident. If commission of the offense contributes to an accident, the offense is a Class A traffic infraction. [1983 c.338 §570; 1995 c.383 §20]

811.140 Reckless driving; penalty. (1) A person commits the offense of reckless driving if the person recklessly drives a vehicle upon a highway or other premises described in this section in a manner that endangers the safety of persons or property.

(2) The use of the term "recklessly" in this section is as defined in ORS 161.085.

(3) The offense described in this section, reckless driving, is a Class A misdemeanor and is applicable upon any premises open to the public. [1983 c.338 §571]

SPECIAL SAFETY MEASURES

811.145 Failure to yield to emergency vehicle or ambulance; penalty. (1) A person commits the offense of failure to yield to an emergency vehicle or ambulance if an ambulance or emergency vehicle that is using a visual or audible signal in a manner described under ORS 820.300 and 820.320 approaches the vehicle the person is operating



Chapter 161

c.743 §3; 1973 c.139 §1; 1979 c.656 §3; 1991 c.67 §3;
c.625 §4; 1995 c.651 §5]

CRIMES AND PUNISHMENTS

General Definitions

161.015 General definitions. As used in chapter 743, Oregon Laws 1971, and ORS 166.635, unless the context requires otherwise:

(1) "Dangerous weapon" means any weapon, device, instrument, material or substance which under the circumstances in which it is used, attempted to be used or threatened to be used, is readily capable of causing death or serious physical injury.

(2) "Deadly weapon" means any instrument, article or substance specifically designed for and presently capable of causing death or serious physical injury.

(3) "Deadly physical force" means physical force that under the circumstances in which it is used is readily capable of causing death or serious physical injury.

(4) "Peace officer" means a sheriff, constable, marshal, municipal police officer, member of the Oregon State Police, investigator of the Criminal Justice Division of the Department of Justice or investigator of a district attorney's office and such other persons as may be designated by law.

(5) "Person" means a human being and, where appropriate, a public or private corporation, an unincorporated association, a partnership, a government or a governmental instrumentality.

(6) "Physical force" includes, but is not limited to, the use of an electrical stun gun, tear gas or mace.

(7) "Physical injury" means impairment of physical condition or substantial pain.

(8) "Serious physical injury" means physical injury which creates a substantial risk of death or which causes serious and protracted disfigurement, protracted impairment of health or protracted loss or impairment of the function of any bodily organ.

(9) "Possess" means to have physical possession or otherwise to exercise dominion or control over property.

(10) "Public place" means a place to which the general public has access and includes, but is not limited to, hallways, lobbies and other parts of apartment houses and hotels not constituting rooms or apartments designed for actual residence, and highways, streets, schools, places of amusement, parks, playgrounds and premises used in connection with public passenger transportation. [1971

Criminal Liability

161.085 Definitions with respect to culpability. As used in chapter 743, Oregon Laws 1971, and ORS 166.635, unless the context requires otherwise:

(1) "Act" means a bodily movement.

(2) "Voluntary act" means a bodily movement performed consciously and includes the conscious possession or control of property.

(3) "Omission" means a failure to perform an act the performance of which is required by law.

(4) "Conduct" means an act or omission and its accompanying mental state.

(5) "To act" means either to perform an act or to omit to perform an act.

(6) "Culpable mental state" means intentionally, knowingly, recklessly or with criminal negligence as these terms are defined in subsections (7), (8), (9) and (10) of this section.

(7) "Intentionally" or "with intent," when used with respect to a result or to conduct described by a statute defining an offense, means that a person acts with a conscious objective to cause the result or to engage in the conduct so described.

(8) "Knowingly" or "with knowledge," when used with respect to conduct or to a circumstance described by a statute defining an offense, means that a person acts with an awareness that the conduct of the person is of a nature so described or that a circumstance so described exists.

(9) "Recklessly," when used with respect to a result or to a circumstance described by a statute defining an offense, means that a person is aware of and consciously disregards a substantial and unjustifiable risk that the result will occur or that the circumstance exists. The risk must be of such nature and degree that disregard thereof constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation.

(10) "Criminal negligence" or "criminally negligent," when used with respect to a result or to a circumstance described by a statute defining an offense, means that a person fails to be aware of a substantial and unjustifiable risk that the result will occur or that the circumstance exists. The risk must be of such nature and degree that the failure to be aware of it constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation. [1971 c.743 §7; 1973 c.139 §2]



TRAFFIC ACCIDENT REPORT - POLICE

STATE OF OREGON

FATAL INJURY PROP. DAMAGE

Dept. _____ City _____ County _____ Page _____ of _____ Pages

Case No. 85-1582

Classification: _____

2. Date Occurred _____ 3. Time Occurred _____
 AM PM


4. Reported Date _____ 5. Reported Time _____
 AM PM

1. ACCIDENT INVOLVED:
 One Other MV Animal
 Three or More MV's Other
 Pedestrian City, County, State
 Motorcycle/Moped Property Damaged
 Bicycle/Triicycle Describe _____
 Fixed Object _____
 Non-Collision _____

COMPUTER ENTRY:
 Persons Booking
 Vehicle LEOS
 Crime NCIC
 Property

ACCOMPANYING REPORTS:
 Veh. Pres. Spec. Custody
 Person Continuation

Distribution: _____

Do Not Write In This Space 

8. If not at Intersection Feet Miles N S E W (Intersecting highway or street, landmark or house no.)

9. Mile Post _____ 10. Nearest City _____
 Miles N S E W of _____

INJURY CODE:
 (Mark the first one that applies)
 A - INCAPACITATED - Unconscious, Could not walk, Broken or distorted limb, severe lacerations, etc.
 B - DEAD BEFORE REPORT MADE
 C - POSSIBLE - Momentary Unconsciousness, pain, nausea, Hemiparesis
 D - NO APPARENT INJURY

12 AT MIT CODE _____
 Neck Injured _____
 Leg Injured _____
 Shoulder Injured _____
 Arm Injured _____

13. Sex M F O 14. Race _____ 15. D.O.B. _____ 16. Seat Belt X E.J. Inj. _____

UNIT No. 1 - MOTOR VEHICLE

11. FULL NAME (Last) (First) (Middle) SMITH ARTHUR LARRY Computer # _____ 12. Address 3127 Dix Hollow RD

13. Operator License No. 4100506 14. Issuing State OR 15. Type (Specify) Driver 16. Residence Phone 298-3624 17. Business Phone _____

18. Seat _____ 19. Occupant's Name _____ Computer # _____ 20. Address and Phone _____

21. _____ 22. _____ 23. _____

24. _____ 25. _____ 26. _____

27. _____ 28. _____ 29. _____

30. _____ 31. _____ 32. _____

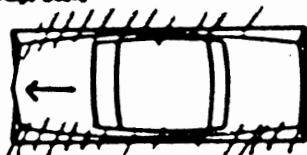
33. _____ 34. _____ 35. _____

36. _____ 37. _____ 38. _____

39. _____ 40. _____ 41. _____

42. _____ 43. _____ 44. _____

45. _____ 46. _____ 47. _____

48. Owner's Name and Address SMITH LINDA 49. Odometer Reading 82355 50. Damage Scale 

51. License No. COE 953 52. License State OR 53. License Year 86 54. Veh. removed by/to Driver

55. Vehicle year 69 56. Make Chev. 57. Model CANAD 58. Body Style 2 DO 59. Color White

60. Damage Sustained: Sketch damage to Motorcycles, Trailers, etc. _____

61. In Vehicle Drivable? Yes No

UNIT No. 2 - MOTOR VEH., PED., OTHER

62. FULL NAME (Last) (First) (Middle) _____ Computer # _____ 63. Address _____

64. Operator License No. _____ 65. Issuing State _____ 66. Type (Specify) _____ 67. Residence Phone _____ 68. Business Phone _____

69. Seat _____ 70. Occupant's Name _____ Computer # _____ 71. Address and Phone _____

72. _____ 73. _____ 74. _____

75. _____ 76. _____ 77. _____

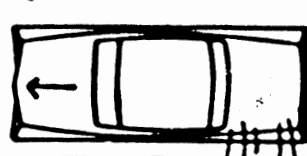
78. _____ 79. _____ 80. _____

81. _____ 82. _____ 83. _____

84. _____ 85. _____ 86. _____

87. _____ 88. _____ 89. _____

90. _____ 91. _____ 92. _____

93. Owner's Name and Address _____ 94. Odometer Reading 15342 95. Damage Scale 

96. License No. KWB 377 97. License State OR 98. License year 86 99. Veh. removed by/to _____

100. Vehicle year _____ 101. Make BUICK 102. Model CANADY 103. Body Style SW 104. Color Blue

105. Damage Sustained: Sketch damage to Motorcycles, Trailers, etc. _____

106. In Vehicle Drivable? Yes No

111. Actions Taken (Citations, etc.) _____ 112. Primary Cause _____ 113. Secondary Cause _____

Reporting Officer(s) _____ Pres./Dns. _____ Retire/Shift _____ Assn./Dist. _____ R/C Times _____ AAR: _____ CLP: _____ Approved by: _____

TRAFFIC ACCIDENT REPORT - POLICE

STATE OF OREGON

FATAL INJURY PROP. DAMAGE

Dept. _____

City _____

County _____

Page ____ of ____ P.


Case No.	1. ACCIDENT INVOLVED: <input type="checkbox"/> One Other MV <input type="checkbox"/> Three or More MV's <input type="checkbox"/> Pedestrian <input type="checkbox"/> Motorcycle/Moped <input type="checkbox"/> Bicycle/Trikeyle <input type="checkbox"/> Fixed Object <input type="checkbox"/> Non-Collision	<input type="checkbox"/> Animal <input type="checkbox"/> Other <input type="checkbox"/> City, County, State Property Damaged Describe: _____ _____ _____	COMPUTER ENTRY: Persons <input type="checkbox"/> Booking <input type="checkbox"/> Vehicle <input type="checkbox"/> LEDS <input type="checkbox"/> Crime <input type="checkbox"/> NCIC <input type="checkbox"/> Property <input type="checkbox"/>	Distribution: <div style="border: 1px solid black; width: 40px; height: 40px; text-align: center; margin: 0 auto;">43</div>
Classification:	2. Date Occurred			3. Time Occurred <input type="checkbox"/> AM <input type="checkbox"/> PM
4. Reported Date	5. Reported Time <input type="checkbox"/> AM <input type="checkbox"/> PM	6. Location of Occurrence (Route No. or Name)		7. At Intersection of (Route No. or Name)


8. If not at Intersection Feet Miles N S E W (Intersecting highway or street, landmark or house no.)

9. Mile Post _____ 10. Nearest City _____
 Miles N S E W of _____

INJURY CODE: (Mark the first one that applies)
 A - INCAPACITATED - Unconscious, Could not walk, Broken or distorted limbs, severe lacerations, etc.
 B - NONINCAPACITATED - Lumps, Abrasions, Cuts
 C - POSSIBLE - Momentary Unconsciousness, pain, nausea, limging
 D - NO APPARENT INJURY

SEAT BELT CODE: Head Injured 0, Leg Injured 1, In Use 11, Shoulder Injured 2, Air Bag Installed A

UNIT No. 1 - MOTOR VEHICLE	DR	11. FULL NAME (Last) (First) (Middle)	Computer #	12. Address	13. 14. 15.	16. 17. 18.
	19. Operator License No.	20. Issuing State	21. Type (Specify)	22. Residence Phone	23. Business Phone	24. 25. 26.
	27. Seat	24. Occupant's Name		Computer #	25. Address and Phone	
	28.	29.		30.	31.	
32.	33.		34.	35.		
36.	37.		38.	39.		
48. Owner's Name and Address				49. Odometer Reading 89571	50. Damage Sustained: Sketch damage to Motorcycles, Trailers, etc.	
50. License No. CPN 855	51. License State OR	52. License Year 87	53. Veh. removed by/to			
54. Vehicle year	55. Make Plymouth	56. Model Volare	57. Body Style 4D	58. Color Brown		
Is Vehicle Drivable? <input type="checkbox"/> Yes <input type="checkbox"/> No						

UNIT No. 2 - MOTOR VEH., PED., OTHER	DR	61. FULL NAME (Last) (First) (Middle)	Computer #	62. Address	63. 64. 65.	66. 67. 68.
	69. Operator License No.	70. Issuing State	71. Type (Specify)	72. Residence Phone	73. Business Phone	74. 75. 76.
	77. Seat	74. Occupant's Name		Computer #	75. Address and Phone	
	78.	79.		80.	81.	
82.	83.		84.	85.		
86.	87.		88.	89.		
98. Owner's Name and Address				99. Odometer Reading 23400	110. Damage Sustained: Sketch damage to Motorcycles, Trailers, etc.	
100. License No. 505859	101. License State OR	102. License year 85	103. Veh. removed by/to			
104. Vehicle year	105. Make Ford	106. Model Escort	107. Body Style SU	108. Color Silver		
Is Vehicle Drivable? <input type="checkbox"/> Yes <input type="checkbox"/> No						

111. Actions Taken (Citations, etc.) _____ 112. Primary Cause _____ 113. Secondary Cause _____

Reporting Officer (s) _____ Pres./Obs. _____ Retired/Shift _____ Assn./Dist. _____ R/C Times _____ AAR: _____ CLR: _____ Approved by: _____

Issue 4

Wayne D. Lease
41 Private Lake Road
White Salmon, Washington 98672

City of The Dalles
Community Development Department
313 Court Street
The Dalles, Oregon 97058
Mr. Gene Parker

Dear Mr. Parker,

12/14/01

Please revisit the following two items relating to our property located on Liberty Way in The Dalles:

1. Geological Hazard: The panning ordinance that was in effect when I received my Liability of Release for a Geohazard Survey clearly indicates that it was an option that could have been requested and received by any interested property owner. It does not indicate that a request must be made at the time a building permit is issued, nor does it mandate what type of structure or in what type of zone the structure will be built. As you are aware, I have argued the validity of the initial geohazard report and the findings since its conception and subsequent formal adoption by the City of The Dalles Planning Department. The survey was to be reviewed periodically and this has not been done. It remains to be ambiguous and needs exacting clarification to protect the vested interest of present and future property owners. I requested and received a release of liability that was tendered by the Planning Department and it was signed, notarized, and returned for their acceptance. On several occasions you personally affirmed its reliability and also indicated that it ran in perpetuity with the ownership of the land.
2. Access: Upon examination of the 1956 ordinance that approved vacating the access street as it was originally platted and recorded, you will find that it was determined and stated that granting approving of the street vacation would not devalue the property. The roadway to the property as it presently exists, was then constructed for the purpose of gaining access to the property for the construction and improvement of the adjacent properties (swimming pools, buildings, fences, sewage systems and the disposal of debris), as well as past and future access by the property owner. Over the years the established use of the roadway clearly defines it as existing in nature and acceptable as is. By mandating additional conditions and expense to upgrade the roadway to meet present planning expectations, the intention of the governmental body that approved the vacation of the original street has been undermined.

Please respond in writing,

Wayne D. Lease

45

RESEARCH
WAS DONE A M...
Dante A. OPTI...

City's current zoning ordinance no longer requires a waiver of liability signed by an applicant seeking a building permit. Section 8.040.030 of the City's current land use ordinance clearly requires a geologic impact statement for development of properties located within the A-1 and A-2 geologic hazard areas. It is still my opinion that the permit for the proposed residential care facility requires a geologic impact statement that addresses any potential impacts that such a facility may have upon the geological stability of the property.

Concerning the issue of access and the vacation of the alley in 1956, it is correct that the City Council made a finding in adopting the ordinance approving the vacation, that the proposed vacation would not affect the market value of the abutting property. ~~When a City Council considers a street vacation, they typically do not have information concerning the specific types of future uses or development which may occur upon the portion of public right-of-way which is proposed to be vacated.~~ The ordinance granting the street vacation in 1956 was not a guarantee that some future development would not occur which could have a negative impact upon the market value of adjacent property. It is the responsibility of the Planning Commission to review your proposed development in terms of the standards and criteria in the City's land use ordinance, and to determine what conditions, if any, are imposed upon the proposed development. Any concerns about conditions proposed by the Planning Commission, affecting the access to your property, need to be specifically addressed to the Planning Commission.

USE THIS FOR
CHANGE
TO OPTION ?
BOM - AU

Very truly yours,
Gene E. Parker
Gene E. Parker
City Attorney

cc: Planning Department





CITY of THE DALLES

313 COURT STREET
THE DALLES, OREGON 97058

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

January 11, 2002

Mr. Wayne Lease
41 Private Lake Road
White Salmon, WA 98672

Re: Conditional Use Permit #123-01 - Residential Care Facility

Dear Wayne:

This letter will confirm our telephone conversation this date in which I briefly outlined City staff's response to the concerns which you mentioned to me in our telephone conversation on January 9, 2002. Regarding the question as to how City staff intended to proceed with the hearing scheduled for January 17th, based upon my legal research, it is my recommendation that the Planning Commission proceed with the rebuttal hearing which will be restricted to the four issues outlined in the memorandum dated January 3, 2002. It is my opinion that the proposed rebuttal hearing complies with the requirement of Oregon law, and is designed to protect the rights of all interested parties.

The Planning Commission has the authority to decide whether or not to grant a request for a new hearing. Prior to presenting any rebuttal testimony, you could make a request to the Planning Commission to consider conducting a new hearing. It is within the discretion of the Planning Commission to grant or deny such a request.

As we discussed during our conversation, there is the potential that the Planning Commission could consider additional conditions that were not initially proposed at the first hearing. For example, if the Planning Commission decided to reverse its original decision after reconsideration, and voted to approve the conditional use permit, the Commission could desire to impose a condition that might be intended to mitigate any traffic safety concerns that the proposed residential facility could present. If any new conditions were to be proposed by the Planning Commission, you would be provided an opportunity to address any proposed new condition.

Regarding the issue of the geological hazard study, the Planning Department has conducted a review of applications involving property in the geologic hazard zones for the period from 1996 to June of 1998, before the new Land Use & Development Ordinance became effective. From this review, it does appear there may have been applications for development where the City did not require both the preparation of geological hazard report and a waiver of liability executed by the developer. Although such a practice does not appear to comply with the provisions of the

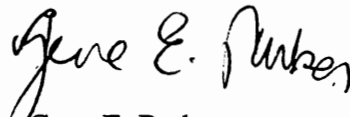
46
A

Mr. Wayne Lease
January 11, 2002
Page 2

City's previous zoning ordinance, the key point is the provisions of the City's current Land Use & Development Ordinance, which apply to your application for the residential care facility, clearly require the preparation of a geologic impact statement for development of properties located within the A-1 and A-2 geologic hazard areas. The current Land Use & Development Ordinance no longer requires the execution of the waiver of liability.

Concerning the issue of access and the vacation of the alley in 1956, there is a reference in Section 2 of the ordinance granting the vacation, that the vacation was being granted to permit construction of the buildings in the adjacent area. However, there was no specific reference or description of the existing roadway (which I understand was constructed after the ordinance approving the vacation was adopted) in the ordinance granting the vacation. The ordinance granting the vacation of the alley did not address the issue as to whether the existing roadway would be compatible for some future land use which occurred after the vacation ordinance was adopted. It is the Planning Commission's responsibility to apply the relevant standards in the City's current Land Use & Development Ordinance to determine whether the existing roadway complies with the City's requirements for access to the proposed residential facility.

Very truly yours,



Gene E. Parker
City Attorney

GEP/naa

cc: Planning Department



CHAPTER VI. GEOLOGIC HAZARD PROTECTION

Section 25. GENERAL PROVISIONS

(A) Land to Which this Chapter Applies:

This Chapter shall apply to all areas of "Active Geologic Hazards" within the jurisdiction of the City of The Dalles.

(B) Basis for Establishing the Areas of Active Geological Hazards:

Known areas of active geological hazards shall mean only those areas clearly identified and described on maps issued by the U.S. Geological Survey, the U.S. Army Corps of Engineers, State disaster planning agencies, or City of The Dalles, which maps are on file in the Planning/Building Department.

(C) Compliance:

No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the terms of this Chapter and other applicable regulations.

Section 25.1 Administration

(A) Building Permits shall be issued for the erection, enlargement, remodeling, repair or alteration of structures in areas of known active geological hazards when:

1. A written report by a geologist or other qualified person that describes the problems associated with the site in question and offers site specific alternatives necessary to solve those problems is submitted with the application for a building permit (other qualified person must be approved by the City Engineer).
2. A waiver is executed relieving the City or any utility provider or any governmental unit or agency from any and all liability in connection with damage, loss or injury. The waiver shall be in form prescribed by the City Attorney.
3. All other permits and approvals required under this and other ordinances have been obtained.

WAYNE D. LEASE AND

WHEREAS, LAUREL O. LEASE, hereinafter referred to as

Grantor(s), has submitted a building permit for the development of property described as LOTS 6 & 7 TAX LOT 3400 - 1N-13-40C, located at 1816 & 1812 LIBERTY Way in The Dalles, Oregon; and

WHEREAS, Chapter VI, Section 25.1(A)(2) of The Dalles Zoning Ordinance requires an applicant to submit a waiver releasing the City of The Dalles, hereinafter referred to as Grantee, from liability in connection with damage, loss or injury which may result from the development of property within an area of known geological hazard, before a building permit can be issued; and

WHEREAS, the Grantee has received a written report from

N/A

, dated _____

_____, describing the problems associated with the site in question, and recommending steps to solve those problems;

NOW, THEREFORE, in consideration of the above-mentioned recitals, Grantor(s), his heirs, successors, and assigns, do release, discharge, and waive any and all claims and actions against Grantee, which Grantor(s) may presently have, or which Grantor(s) may have in the future, for any and all damages, loss or injury, of whatever kind or nature, to the property located at 1816 & 1812 LIBERTY Way in The Dalles, Oregon, which may occur as a result of the development of the above-described property which is located in a geologically hazardous area. This release shall run with the property located at 1816 & 1812 LIBERTY Way, The Dalles, Oregon, and shall be binding upon future owners and occupants of the property.

Dated this 18 day of JAN, 1996.

GRANTOR(S):

Wayne D. Lease
Laurel O. Lease

STATE OF OREGON)
County of Wasco) ss.

The foregoing instrument was acknowledged before me on this 18th day of JANUARY, 1996, by WAYNE D & LAUREL O LEASE to be his/her/their voluntary act and deed.

Paula Fontenot
Notary Public for Oregon
My commission expires: 10/2/98

(SEAL)



RELEASE FROM LIABILITY

WHEREAS, _____, hereinafter referred to as Grantor(s), has submitted a building permit for the development of property described as _____, located at _____ in The Dalles, Oregon; and

WHEREAS, Chapter VI, Section 25.1(A)(2) of The Dalles Zoning Ordinance requires an applicant to submit a waiver releasing the City of The Dalles, hereinafter referred to as Grantee, from liability in connection with damage, loss or injury which may result from the development of property within an area of known geological hazard, before a building permit can be issued; and

WHEREAS, the Grantee has received a written report from _____, dated _____, describing the problems associated with the site in question, and recommending steps to solve those problems;

NOW, THEREFORE, in consideration of the above-mentioned recitals, Grantor(s), his heirs, successors, and assigns, do release, discharge, and waive any and all claims and actions against Grantee, which Grantor(s) may presently have, or which Grantor(s) may have in the future, for any and all damages, loss or injury, of whatever kind or nature, to the property located at _____ in The Dalles, Oregon, which may occur as a result of the development of the above-described property which is located in a geologically hazardous area. This release shall run with the property located at _____, The Dalles, Oregon, and shall be binding upon future owners and occupants of the property.

Dated this _____ day of _____, 199__.

GRANTOR(S): _____

STATE OF OREGON)
) ss.
County of Wasco)



The foregoing instrument was acknowledged before me on this _____ day of _____, 199__, by _____ to be his/her/their voluntary act and deed.

hereinafter referred to as Grantee, from liability in connection with damage, loss or injury which may result from the development of property within an area of known geological hazard, before a building permit can be issued; and

WHEREAS, the Grantee has received a written report from

_____, dated _____, describing the problems associated with the site in question, and recommending steps to solve those problems;

NOW, THEREFORE, in consideration of the above-mentioned recitals, Grantor(s), his heirs, successors, and assigns, do release, discharge, and waive any and all claims and actions against Grantee, which Grantor(s) may presently have, or which Grantor(s) may have in the future, for any and all damages, loss or injury, of whatever kind or nature, to the property located at _____ in The Dalles, Oregon, which may occur as a result of the development of the above-described property which is located in a geologically hazardous area. This release shall run with the property located at _____, The Dalles, Oregon, and shall be binding upon future owners and occupants of the property.

Dated this _____ day of _____, 199__.

GRANTOR(S): _____

STATE OF OREGON)
) ss.
County of Wasco)

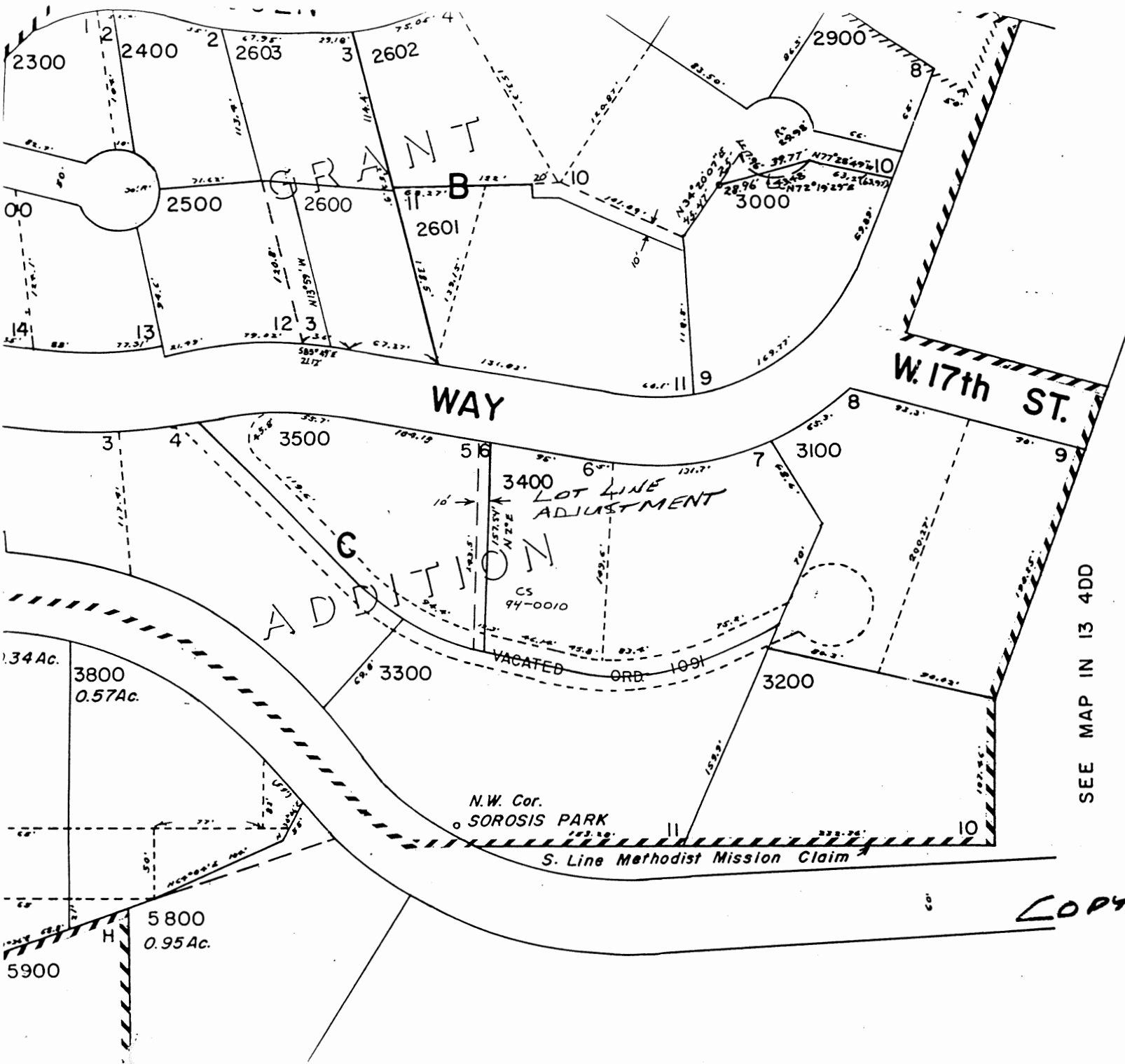
The foregoing instrument was acknowledged before me on this _____ day of _____, 199__, by _____ to be his/her/their voluntary act and deed.

Notary Public for Oregon
My commission expires: _____

(SEAL)



52



SEE MAP IN I3 4DD

COPY: DWG 8160

*From - Nestor
Sawyer*

SPECIAL ORDINANCE No. 1091

An Ordinance to vacate the alley in Block C, Grant's Addition to Dalles City from its intersection with the southerly line of Liberty Way to its terminus in Lot 8 of said Block C in Dalles City, Oregon, and declaring an emergency.

WHEREAS, on the 16th day of July, 1956, the Council duly determined by Resolution No. 792 to vacate the alley in Block C, Grant's Addition to Dalles City from its intersection with the southerly line of Liberty Way to its terminus in Lot 8 of said Block C. in Dalles City, Oregon, and set Monday, the 5th day of November, 1956, at 8:00 o'clock P. M., in the Council Chambers of the City Hall in The Dalles, Oregon, as the time and place for hearing the matter of the vacation of the above described alley, and of any objections or remonstrances thereto, and directed the City Clerk to publish a notice of time and place of such hearing for four successive weeks in a newspaper of general circulation in The Dalles, Wasco County, Oregon, and also by posting copies of said notice as provided by law upon the alley proposed to be vacated, and

WHEREAS, the affidavit of the principal clerk of The Dalles Chronicle, a newspaper of general circulation published in Wasco County, Oregon, is on file herein in the possession of the City Clerk, and it appearing from said affidavit that the attached notice of street vacation was published in said newspaper on the 28th day of September and on the 5th, 12th and 19th days of October, 1956, and

WHEREAS, it appears from the certificate of the City Clerk on file herein that the City Clerk posted copies of the notice at both ends of said alley proposed to be vacated, and in two places in said alley proposed to be vacated, all on the 28th day of September, 1956, and

~~WHEREAS, it further appears to the Council that the vacation of said alley will not affect the market value of the abutting property, and~~

WHEREAS, at the time set for the hearing on the 5th day of November, 1956, no one appeared or filed any objection to the proposed alley vacation and the Council does now determine and find that notice has been duly given and that the public interest will not be prejudiced by the vacation of the described alley in Block C, Grant's Addition to Dalles City, and that said alley proposed to be vacated is of no profit or value to the public or the City, and

NOW, THEREFORE, THE PEOPLE OF DALLES CITY DO ORDAIN AS FOLLOWS:

Section 1. That the alley in Block C, Grant's Addition to Dalles City, from its intersection with southerly line of LibertyWay to its terminus in Lot 8 of said Block C, in Grant's Addition to Dalles City, Oregon, be and the same hereby is vacated.

Section 2. Inasmuch as it is necessary and desirable that the described alley be vacated as soon as possible in order to permit proposed construction of buildings in the adjacent area, and it is in the interest of the public safety and welfare that this ordinance go into effect immiately, now, therefore, an emergency hereby is declared to exist, and this ordinance shall go into full force and effect immediately upon its passage and approval.

The foregoing ordinance was introduced and read once in full and by unanimous consent, the rules were suspended, and it was read the second time by title only and passed this 19th day of November, 1956, by the following vote:

Yes

No

Absent

Approved by the Mayor this _____ day of November, 1956.



ATTEST:


MAYOR



Wayne Lease
41 Private Lake Road
White Salmon WA. 98672
cc: Chief Richardson
cc: Dawn Hert, City of The Dalles-Planner

November 26, 2001

Dear Mr. Lease,

You recently called requesting a letter explaining my role in the site team planning process, particularly with regards to property located on Liberty Way in The Dalles, OR.

The responsibility for me as the representative of the Fire District is to insure that compliance with the Uniform Fire Code (UFC) is met. These rules and standards were established to prevent the recurrence of catastrophic events that history showed to be preventable through proper planning. These codes address the issues of access for the fire apparatus, and minimum water supply and flow. The water supply issues are dependent upon the type of building construction and the size of the structure. These issues are addressed in UFC tables A-111-A-1 and A-111-B-1.

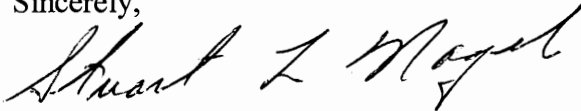
The standards for access for fire department vehicles are highly variable. Weather, topography, elevation and individual department apparatus all play a role. The concern is that apparatus be able to safely achieve access as specified in UFC section 902. The usual standard for grade that I employ is "not to exceed an average of 8% with a maximum of 12% on short pitches". I evaluated the property on Liberty Way and found the existing driveway slope to be about 11% for a distance of about 130 feet. It appears that this slope can be further reduced slightly. You have assured me that the access would be paved or otherwise surfaced to provide for appropriate access. These factors plus the location (in town as opposed to remote and out in extreme elevations) have allowed me to deviate from my usual standards. I believe that a workable solution can be achieved. The other access requirements regarding driveways would of course have to be met. I am enclosing a copy of the pertinent driveway requirements.

It should be noted that as the Fire Marshal for the District, I have been given the latitude to use my discretion in determining that the "spirit of the law" if not the "letter of the law" is followed. The Chief of the District, and/or the State Fire Marshal have the

authority to overrule my decisions, and would certainly do so if my decisions become notably improper. It should further be noted that the State Building Code official is the ultimate authority in granting Building Permits and Certificates of Occupancy. The building official will usually honor my recommendations with regard to variances in the letter of the laws regarding fire department issues, but they are not required to do so. My role after a Certificate of Occupancy has been issued, is to insure that the standards are maintained.

Hopefully this letter clarifies your concerns, but I am certainly available if it does not.

Sincerely,

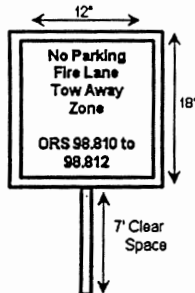
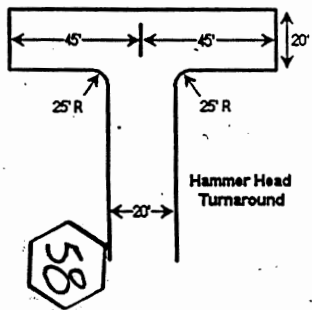
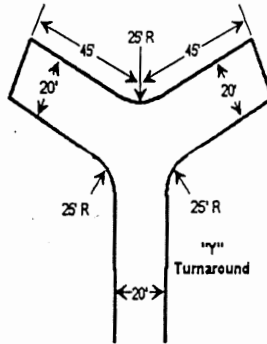
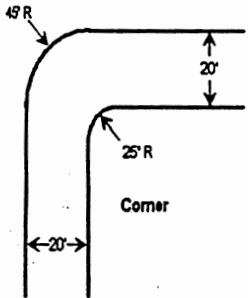
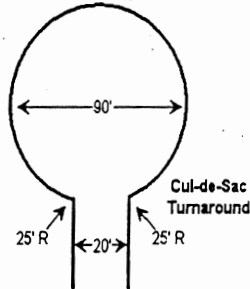
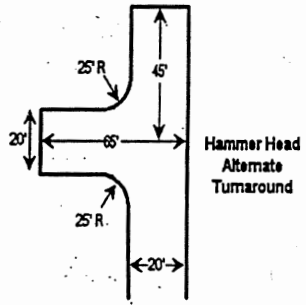
A handwritten signature in cursive script that reads "Stuart L. Nagel".

Stu Nagel
Fire Marshal, MCF&R



- f. Driveways and Private Roads shall be maintained to a level that is passable for fire equipment.
1. Driveway and private roads shall be built and maintained to provide a minimum of twelve (12) foot width, a minimum curve radius of forty-eight (48) feet and a vertical clearance of thirteen feet (13), six (6) inches.
 2. Grades shall not exceed an average of 8% with a maximum of 12% on short pitches.
 3. Vehicle Passage Turnouts – Driveways in excess of two hundred (200) feet in length, shall provide twenty (20) foot wide by forty (40) foot long turnouts at a maximum spacing of $\frac{1}{2}$ the driveway length or four hundred (400) feet, whichever is less. Existing driveways may be used as a turnout if they meet the spacing requirements above.
 4. Deadend driveways over one hundred (150) feet in length shall have turnarounds of not less than a forty-eight (48) foot radius.
5. Submit written or oral comments to the Planning Office from Mid-Columbia Fire & Rescue verifying that the site development, including the driveway, complies with all fire department standards.

Dead End, Turning Radius and No Parking Sign Diagrams



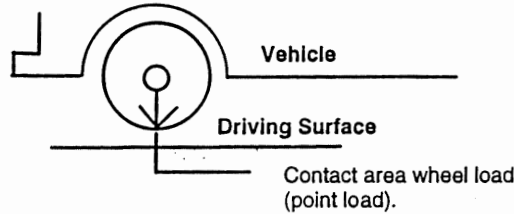
Fire Department Access Criteria

The following requirements have been adopted by TVF&R as established minimum access roadway design criteria for fire apparatus to all proposed and newly constructed structures.

Wheel load

Required access roads and streets shall be constructed to support a minimum of 12,500 pounds wheel point load and a gross vehicle weight of ~~50,000~~ ^{65,000} pounds.* Road design and compaction reports verifying load carrying capacity shall be submitted prior to construction. An inspection may be required for final approval.

Wheel load is weight applied to contact area.



** To meet this requirement, the following options are acceptable:

a soil compaction report certifying 2,000 P.S.F. for the roadbed, plus a minimum depth of five (5) inches of compacted one and one-half (1-1/2) inch minus gravel

or

a minimum depth of eight (8) inches of uncompacted one and one half (1-1/2) inch minus gravel

or

construction plans prepared and stamped by a registered engineer.

After completion of construction the design engineer shall provide the Fire District with a letter of construction approval.

Fire & Life Safety Requirements for Fire Department Access and Water Supplies

This brochure is being provided as a resource only. The items listed inside are the requirements most generally cited on plans for approval. If these items are included on the plans, the likelihood of a timely approval on the initial review is greatly increased. If questions arise with regard to any of the provisions, please call.



**Tualatin Valley Fire & Rescue
Fire Marshal's Office**

PO Box 4755
Beaverton, OR 97076
(503) 526-2469

Adult foster homes *Roger Severson, OSFM (Retired)*



Nearly every person perceives living in a private dwelling as natural and acceptable as eating or sleeping. Elderly people have an equal or even greater desire to reside in an atmosphere such as a single-family dwelling. However, as senior citizens become less capable of performing basic acts of daily life, they must turn to others for assistance, and may seek the services of an adult foster-home. Over the years, there has been an increased need for these homes, due to an increasing senior population. Because of the need to have facilities and staff that are capable of providing personal-care services, provisions were made through ORS 443.705 to establish criteria for licensed adult foster-homes. This state law establishes adult foster-homes as private residences. Reaffirmation of the significance of foster-homes as private dwellings has been made through the Attorney General's opinions and letters of advice, which take into consideration the anti-discrimination provisions of the federal *Fair Housing Act*.

The Oregon Structural Specialty Code (OSSC) and One- and Two-Family Dwelling Specialty Code contain sections that are consistent with ORS 443.705. OSSC Section 310.1 and dwelling code Section 103.1 list adult foster-homes

as Group R, Division 3 occupancies. A similar occupancy group, SR occupancies, specifically excludes adult foster-homes as being SR occupancies. Section 312A.1.1 defines SR occupancies as "special residences" where personal care is administered in buildings or portions thereof that are licensed by, or are subject to licensure by or under the authority of, the Department of Human Services. There are two exceptions to this section. Exception 1 reads: "Group SR Occupancies shall not include foster care-homes as defined in ORS Chapter 418 and ORS 443.705."

Several years ago, in a meeting to attempt to reclassify special residences, the attorneys representing the Office of the State Fire Marshal, Building Codes Division, and the Department of Human Services stated that adult foster-homes are private dwellings and cannot be classified as any other occupancy. Regardless of required licensing and that providers are hired to care for residents, federal and state laws, the state building code, and attorneys of the State Attorney General's office agree that adult foster-homes are Group R-3 private dwellings. ■

Egress control devices for alzheimer facilities

*Roger Severson,
OSFM (Retired)*

For approximately 20 years, there have been approved methods for controlling egress in health care facilities. Group I-1 and I-2 nursing homes have been permitted to control egress at either exterior or interior doors when conforming with operating guidelines of the Office of the State Fire Marshal. Variations of these guidelines, in effect today, were established in the early 1980s. Similar conditions for egress control have been placed into the Oregon Structural Specialty Code (OSSC). The current OSSC references provide two basic methods for installing egress control devices.

Section 1003.3.1.10 is a general section for a variety of occupancies, offering satisfactory egress-control requirements by limiting the ease of exiting with a time-delay device. However, when the intent is to provide health and safety to occupants of SR and I occupancies, there must be controls that will not allow patients to wander from these facilities. The two-second irreversible action to release the door is not practical or adequate for the safety and security of residents who have Alzheimers' disease or other forms of dementia.

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Continued next page...

APPENDIX III-A

1997 UNIFORM FIRE CODE

TABLE A-III-A-1—MINIMUM REQUIRED FIRE FLOW AND FLOW DURATION FOR BUILDINGS

FIRE AREA (square feet)					FIRE FLOW (gallons per minute) ¹	FLOW DURATION (hours)
× 0.0929 for m ²						
Type I-F.R. (I-F.R.) ¹	Type II One-HR. (II One-HR.) ¹	Type IV-N, T, V-One-HR. ¹	Type II-N (II-N) ¹	Type V-N ¹	× 3.785 for L/min.	
0-22,700	0-12,700	0-8,200	0-5,900	0-3,600	1,500	2
22,701-30,200	12,701-17,000	8,201-10,900	5,901-7,900	3,601-4,800	1,750	
30,201-38,700	17,001-21,800	10,901-12,900	7,901-9,800	4,801-6,200	2,000	
38,701-48,300	21,801-24,200	12,901-17,400	9,801-12,600	6,201-7,700	2,250	
48,301-59,000	24,201-33,200	17,401-21,300	12,601-15,400	7,701-9,400	2,500	
59,001-70,900	33,201-39,700	21,301-25,500	15,401-18,400	9,401-11,300	2,750	
70,901-83,700	39,701-47,100	25,501-30,100	18,401-21,800	11,301-13,400	3,000	3
83,701-97,700	47,101-54,900	30,101-35,200	21,801-25,900	13,401-15,600	3,250	
97,701-112,700	54,901-63,400	35,201-40,600	25,901-29,300	15,601-18,000	3,500	
112,701-128,700	63,401-72,400	40,601-46,400	29,301-33,500	18,001-20,600	3,750	
128,701-145,900	72,401-82,100	46,401-52,500	33,501-37,900	20,601-23,300	4,000	
145,901-164,200	82,101-92,400	52,501-59,100	37,901-42,700	23,301-26,300	4,250	
164,201-183,400	92,401-103,100	59,101-66,000	42,701-47,700	26,301-29,300	4,500	4
183,401-203,700	103,101-114,600	66,001-73,300	47,701-53,000	29,301-32,600	4,750	
203,701-225,200	114,601-126,700	73,301-81,100	53,001-58,600	32,601-36,000	5,000	
225,201-247,700	126,701-139,400	81,101-89,200	58,601-65,400	36,001-39,600	5,250	
247,701-271,200	139,401-152,600	89,201-97,700	65,401-70,600	39,601-43,400	5,500	
271,201-295,900	152,601-166,500	97,701-106,500	70,601-77,000	43,401-47,400	5,750	
295,901-Greater	166,501-Greater	106,501-115,800	77,001-83,700	47,401-51,500	6,000	
"	"	115,801-125,500	83,701-90,600	51,501-55,700	6,250	
"	"	125,501-135,500	90,601-97,900	55,701-60,200	6,500	
"	"	135,501-145,800	97,901-106,800	60,201-64,800	6,750	
"	"	145,801-156,700	106,801-113,200	64,801-69,600	7,000	
"	"	156,701-167,900	113,201-121,300	69,601-74,600	7,250	
"	"	167,901-179,400	121,301-129,600	74,601-79,800	7,500	
"	"	179,401-191,400	129,601-138,300	79,801-85,100	7,750	
"	"	191,401-Greater	138,301-Greater	85,101-Greater	8,000	

¹Types of construction are based upon the Building Code.