

AGENDA

REGULAR CITY COUNCIL MEETING

July 23, 2018

5:30 p.m.

CITY HALL COUNCIL CHAMBER

313 COURT STREET

THE DALLES, OREGON

1. CALL TO ORDER
2. ROLL CALL OF COUNCIL
3. PLEDGE OF ALLEGIANCE
4. APPROVAL OF AGENDA
5. AUDIENCE PARTICIPATION

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

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

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

A. Approval of July 9, 2018 Regular City Council Meeting Minutes

10. CONTRACT REVIEW BOARD ACTIONS

A. Award Contract for Janitorial Services for State Office Building

CITY OF THE DALLES

"By working together, we will provide services that enhance the vitality of The Dalles"

- B. Consider Authorizing Purchase of Two Spare Pumps for the New Clarifier being Constructed at the Wastewater Treatment Plant

11. ACTION ITEMS

- A. Adoption of Resolution No. 18- 022 A Resolution of the City Council Denying Appeal #31-18 of Planning Commission Resolution No. P.C. 574-18 and Affirming the Planning Commission's Decision Approving Minor Partition No. 349-18 and Adjustment No. 18-036 of Jonathan Blum to Partition one 8,778 Square Foot Lot into Two 4,389 Square Foot Lots, Reducing the Minimum Lot Size from 5,000 Square Feet and the Minimum Lot Width From 50 feet to 46 feet on Property Located at 1605 East 19th Street
- B. Identify Legislative Priorities for 2019 Legislative Session For League of Oregon Cities
- C. Approval of ASOS Weather Station Lease with Federal Aviation Administration at Columbia Gorge Regional Airport

12. ADJOURNMENT

This meeting conducted in a handicap accessible room.

Prepared by/
Izetta Grossman
City Clerk



AGENDA STAFF REPORT

AGENDA LOCATION: Item #9

MEETING DATE: February 12, 2018

TO: Honorable Mayor and City Council

FROM: Izetta Grossman, City Clerk

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

- A. **ITEM:** Approval of the July 9, 2018 Regular City Council Meeting Minutes.

BUDGET IMPLICATIONS: None.

SYNOPSIS: The minutes of the July 9, 2018 Regular City Council meeting have been prepared and are submitted for review and approval.

RECOMMENDATION: That City Council review and approve the minutes of the July 9, 2018 Regular City Council meeting minutes.

MINUTES
Regular City Council Meeting
July 9, 2018
Page 1

MINUTES
REGULAR CITY COUNCIL MEETING
OF
July 9, 2018
5:30 p.m.

THE DALLES CITY HALL
313 COURT STREET
THE DALLES, OREGON

PRESIDING: Mayor Stephen Lawrence

COUNCIL PRESENT: Russ Brown, Linda Miller, Darcy Long-Curtiss, Tim McGlothlin,
Taner Elliott

COUNCIL ABSENT: None

STAFF PRESENT: City Manager Julie Krueger, City Attorney Gene Parker, City Clerk
Izetta Grossman, Finance Director Angie Wilson, Planning
Director Steve Harris, Public Works Director Dave Anderson,
Police Chief Patrick Ashmore, Human Resources Director Daniel
Hunter, Assistant to the City Manager Matthew Klebes, Senior
Planner Dawn Hert

Number of people present: 28

CALL TO ORDER

The meeting was called to order by Mayor Lawrence at 5:30 p.m.

ROLL CALL

Roll call was conducted by City Clerk Grossman, all Councilors present.

PLEDGE OF ALLEGIANCE

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

MINUTES
Regular City Council Meeting
July 9, 2018
Page 2

APPROVAL OF AGENDA

It was moved by Miller and seconded by Elliott to approve the agenda as presented. The motion carried unanimously.

PRESENTATIONS

Columbia Gorge Regional Airport Quarterly Report

Airport Manager Chuck Covert reviewed the staff report.

Covert said the Airport Board meetings were held on the first Friday of every month at the Airport. He invited anyone interested in the activities of the Airport to attend.

He reported a Mexican Rodeo was held at the Airport last weekend. He said it went well. Covert said the charge for use of the Airport for the event was \$1,500.

AUDIENCE PARTICIPATION

Luise Langheinrich, Main Street President updated the Council on Main Street Activities for the month of June (see attached report).

Summit Storm, 3120 Old Dufur Road thanked the City Manager for offering to print color posters for his gatherings. He said he was excited about the art possibility of trash cans throughout the City.

He shared his vision of having communication opportunities for the whole community.

CITY MANAGER REPORT

City Manager Julie Krueger asked Finance Director Wilson to give a report.

Finance Director Wilson read a notice that City's Go Bond rating was raised from AA- to AA (attached).

City Manager Krueger said she had placed a letter to Representative Walden on the dais for Council information. She said the letter was in support of broadband use of TV white space (attached).

MINUTES

Regular City Council Meeting

July 9, 2018

Page 3

CITY ATTORNEY REPORT

City Attorney Gene Parker reported that the duties of prosecuting attorney had come back to his office. He said he would be hiring a part time para-legal as soon as possible.

CITY COUNCIL REPORTS

Councilor McGlothlin reported he attended:

- Lion's Convention in Las Vegas.

Councilor Miller reported she attended:

- Concert at the Granada
- Independence Day Parade.

Mayor Lawrence reported he attended:

- Next Door Ribbon Cutting
- Neon Sign Museum Tour
- Rosie the Riveter Celebration
- Regional Solutions meeting – decision to fund Dee Irrigation District first, others as funds available

CONSENT AGENDA

Councilor Brown said he would abstain because he had done work for the property owner. He said he might do work again.

It was moved by McGlothlin and seconded by Miller to approve the Consent Agenda as presented. The motion carried, Brown abstained.

Items approved by Consent Agenda were: 1) Approval of June 25, 2018 Regular City Council Meeting Minutes; 2) Authorization to Provide Sanitary Sewer Service Outside City Limits to 2300 Block of West 16th Street for New Residential Development.

PUBLIC HEARING

Appeal Hearing of Planning Commission Resolution No. P.C. 574-18 Approving Minor Partition No. 349-18 and Adjustment No. 18-036 of Jonathan Blum to Divide the Property Located at 1605 East 19th Street into Two Lots, and Reduce the Minimum Lot Size and Lot Width for the Two Lots

Mayor Lawrence reviewed the procedure for the public hearing. Mayor Lawrence opened the

MINUTES
Regular City Council Meeting
July 9, 2018
Page 4

hearing.

Councilor Elliot stated a potential conflict of interest. He said he knew and had worked for the applicant.

City Attorney Parker asked Elliott if he had discussed the issue with him. Elliott said he had not.

Planning Director Steve Harris reviewed the staff report and PowerPoint (Attachment #1A). He said there were letters/emails on the dais that had been received regarding the appeal (Attachment #1B).

Councilor Long-Curtiss asked what Harris would look at regarding the house design.

Harris said the overall design of the house would be during site review. He said the final decision would be at the Administrative Hearing. Harris said that decision could be appealed to the Planning Commission.

In response to questions regarding issue of livability and appearance, Harris said that criteria was not part of the appeal process, however, it was brought up at the Planning Commission hearing and therefore had to be included in the information provided to the Council.

Councilor Brown said the hearing was just about the dirt, the partition.

Mayor Lawrence asked for testimony from the applicant.

Jonathan Blum, applicant, 403 East 8th Street presented a PowerPoint presentation (Attachment #2).

Councilor Elliott said there were smaller lots in other areas of The Dalles.

Senior Planner Hert said there were smaller lots on the S curve on Scenic where the old KODL Radio station was located, and some on Garrison. She said there were others she could get street locations if desired.

Mr. Blum said there was one on 18th and Dry Hollow.

Councilor Miller asked if Mr. Blum would build a single home if the appeal did not go in his favor.

Mr. Blum said it was hard to say. He said the process had taken them out of the current building

MINUTES
Regular City Council Meeting
July 9, 2018
Page 5

season already.

Mayor Lawrence asked for testimony from those in favor of partition.

Jim Wilcox, 416 W. 7th Street said the Mill Creek Crossing development were smaller lots. He encouraged Council to deny the appeal. He said the partition was according to the Ordinances. He noted that new construction often brings a neighborhood up.

Mayor Lawrence asked for testimony from the appellant.

Alex Maia, 1601 E. 19th Street presented a PowerPoint (Attachment #3). He said he lived directly next to the subject property.

Mr. Maia noted the current congestion on 19th Street, and the traffic issues due to Dry Hollow School drop off and pick up.

Dan Hamill 2005 Lewis spoke to the increased fire danger of higher density (Attachment #4).

Jerry Snodgrass, 1826 Minnesota said Ed Goodman made a presentation to the Planning Commission stating the neighbors purchased the property with the belief that the lots would stay the same throughout the development. He said he would like to preserve owner occupied homes on larger lots.

Steve Hunt, PO Box 81 provided Council with Municipal Code 10.3.080.020 (Attachment #5).

Lorene Hunt, PO Box 81 asked if Council received her letter. It was noted that they had. Mrs. Hunt said there was enough property in RM and RH Zones there was no need to build in low density zones.

Mayor Lawrence asked for Mr. Blum's rebuttal.

Mr. Blum said he proceeded with the purchase of the property after speaking with the Planning Department and the minor lot adjustment being granted by the Planning Commission.

He said he took the fire concerns seriously.

Mayor Lawrence concluded the testimony.

Councilor Long- Curtiss said it was a reasonable expectation that the CC&R's would stay in place.

MINUTES

Regular City Council Meeting

July 9, 2018

Page 6

Councilor Brown said he liked the neighborhood as it was. He said if staff felt the process was done legally, he had to uphold the Planning Commission decision.

City Attorney Parker said that staff was confident the Planning Commission decision was sound.

Mayor Lawrence said high end home was not defined, but livability and appearance were.

Parker said high end home was not a term in the Land Use Development Ordinance.

Planning Director Harris said the issue before the Council is only the minor lot adjustment.

Councilor Elliott said the question before Council was does this minor partition increase density.

It was moved by Long-Curtiss to direct staff to prepare a resolution approving the appeal and denying the Planning Commission's approval Planning Commission Resolution No. P.C. 574-18 Approving Minor Partition No. 349-18 and Adjustment No. 18-036 of Jonathan Blum to Divide the Property Located at 1605 East 19th Street into Two Lots, and Reduce the Minimum Lot Size and Lot Width for the Two Lots. The motion died for lack of a second.

It was moved by Miller and seconded by Brown to direct staff to prepare a resolution denying the appeal and affirming the Planning Commission's approval Planning Commission Resolution No. P.C. 574-18 Approving Minor Partition No. 349-18 and Adjustment No. 18-036 of Jonathan Blum to Divide the Property Located at 1605 East 19th Street into Two Lots, and Reduce the Minimum Lot Size and Lot Width for the Two Lots.

Councilor Long-Curtiss asked that the Council not do this to the home owners.

Councilor McGlothlin said there was another step that could change the usage.

Long-Curtiss said she didn't believe it would change the usage. She urged the Council to make another decision.

The motion carried; Long-Curtiss and Elliott opposed.

ACTION ITEMS

Adoption of Resolution No. 18-021 Denying Appeal #32-18 and Affirming the Planning Commission's Decision Approving Adjustment #18-037 of Jonathan Blum to Reduce the Minimum Lot Size for a Parcel Located at West 13th and Perkins from 9,000 Square Feet to 7,745 Square Feet

MINUTES
Regular City Council Meeting
July 9, 2018
Page 7

City Attorney Parker reviewed the staff report.

It was moved by Miller and seconded by Brown to adopt Resolution No. 18-021 Denying Appeal #32-18 and Affirming the Planning Commission's Decision Approving Adjustment #18-037 of Jonathan Blum to Reduce the Minimum Lot Size for a Parcel Located at West 13th and Perkins from 9,000 Square Feet to 7,745 Square Feet. The motion carried unanimously.

Adoption of General Ordinance No. 18-1369 Repealing Chapter 7.08 of The City of The Dalles Municipal Code Concerning Impoundment of Vehicles

City Attorney Parker reviewed the staff report.

It was moved by Elliott and seconded by Miller to adopt General Ordinance No. 18-1369 Repealing Chapter 7.08 Sections 7.08.010 to 7.08.090 of The City of The Dalles Municipal Code Concerning Impoundment of Vehicles. The motion carried unanimously.

ADJOURNMENT

Being no further business, the meeting adjourned at 8:05 p.m.

Submitted by/
Izetta Grossman
City Clerk

SIGNED: _____

Stephen E. Lawrence, Mayor

ATTEST: _____

Izetta Grossman, City Clerk



**Main Street is currently seeking new volunteers
for events, committee and the board**

**Visit our newly refreshed website:
<https://www.thedallesmainstreet.org/>**

**You can also find us on Facebook:
<https://www.facebook.com/TDMainStreet>**

MAIN STREET IMPACTS OVER 150 BUSINESSES WITH OUR SERVICES AND SUPPORT INCLUDING:

**Grant development and support for historic preservation,
redevelopment and facade improvement**

Business retention and expansion

Business location services

Parklet program and downtown beautification works

Website and social media promotion

Special events and shopping promotions



5 NEW BUSINESS

6.5 NEW JOB



206 FACEBOOK
LIKES, SHARES AND
COMMENTS



54 VOLUNTEER HRS.



GRANT DOLLARS TO DATE:

\$168,563



4 RADIO
APPEARANCES



12 BOAT GREETINGS



1 BUSINESS LOSSES

1 BUSINESS RELOCATED



432 WEBSITE
VISITORS



MADE ON MAIN STREET GRANT
(1 OF 6 CITIES NATIONALLY)



EVENTS THIS MONTH:

Oregon Main Street Network Conference
3 worksessions for Branding the Downtown
Parklet Construction @ Kainos Coffee

UPCOMING EVENTS:

Cruise the Gorge (8/10/18)
Made on Main Street Celebration (8/11/18)
Main Street Uncorked (Tentatively 9/15/2018)

S&P Global Ratings

(/en_US/web/guest/home) The Dalles, OR GO Bond Rating Raised To 'AA' From 'AA-' On Growing Local Economy

21-Jun-2018 18:10 EDT

[View Analyst Contact Information](#)

SAN FRANCISCO (S&P Global Ratings) June 21, 2018--S&P Global Ratings raised its long-term rating and underlying rating (SPUR) to 'AA' from 'AA-' on The Dalles, Ore.'s full faith and credit general obligation (GO) bonds. The outlook is stable.

"The raised rating reflects our view of the city's growing local economy, strong budgetary performance, strong debt profile, and increase in the city's available reserves," said S&P Global Ratings credit analyst Cody Nelson. "The rating further reflects our view of the city's strong management practices," Mr. Nelson added.

The historical city is located about 85 miles east of Portland along Interstate 84, the city serves as the county seat for Wasco County with about 15,000 people. The relatively narrow city wraps around the Columbia River, which is a well-known tourist and recreational area destination.

Certain terms used in this report, particularly certain adjectives used to express our view on rating relevant factors, have specific meanings ascribed to them in our criteria, and should therefore be read in conjunction with such criteria. Please see Ratings Criteria at www.standardandpoors.com for further information. Complete ratings information is available to subscribers of RatingsDirect at www.capitaliq.com. All ratings affected by this rating action can be found on S&P Global Ratings' public website at www.standardandpoors.com. Use the Ratings search box located in the left column.

Primary Credit Analyst: Cody J Nelson, San Francisco + 1 (415) 371 5022;
cody.nelson@spglobal.com (mailto:cody.nelson@spglobal.com)

Secondary Contact: Christopher Grant, San Francisco + 1 (415) 371 5096;
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CITY of THE DALLES

313 COURT STREET
THE DALLES, OREGON 97058

(541) 296-5481
FAX (541) 296-6906

July 9, 2018

The Honorable Greg Walden
2185 Rayburn House Office Building
Washington, DC 20515

Dear Congressman Walden,

As you are aware, forty percent of Wasco County is very rural. In this age of technological advancement the rural areas still face slow or absent internet access.

Without reliable internet our children don't have access to the knowledge and opportunities needed to succeed in the world today. Our local small businesses cannot remain competitive with the "online marketplace".

The availability of affordable and reliable broadband through the use of the TV white space spectrum would be beyond beneficial to our businesses, families, schools and students.

The FCC has already helped advance white space technology by issuing orders over the last decade that set the stage for its introduction and development. It is time for the FCC to finalize the permanent policies that will be necessary to ensure that white space can be used at a commercial scale.

We urge you to work with the FCC to ensure a new era of internet accessibility for rural areas across America.

Sincerely,

Stephen E. Lawrence
Mayor

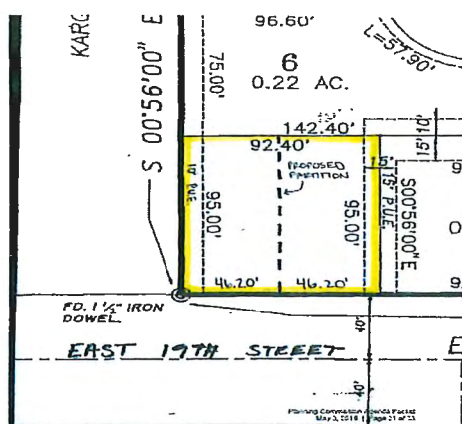
**Appeal #31-18
PC Reso #574-18
Minor Partition #349-18
ADJ #18-036 - J. Blum**

City Council Meeting
July 9, 2018

Appeal #31-18

- ▶ Request – 1605 E. 19th Street
 - Minor Partition – 8,778 sq ft lot
 - 2 lots of 4,389 sq ft
 - Adjustment of Minimum lot size
 - 12.2% reduction of 5,000 sq ft – RL Zone
 - Adjustment of Minimum lot width
 - 50 ft to 46 ft
 - 7.6% adjustment – RL Zone
- ▶ PC approved – May 3, 2018
- ▶ Appealed filed – Alexander & Alexandria Maia
 - May 14, 2018

Appeal #31-18



Appeal #31-18

- ▶ PC Resolution No. PC 574-18
 - Approval with conditions
 - Final plat satisfy provisions of LUDO
 - 1 year to submit recorded plat
 - Physical constraints permits required for cuts/fills exceeding 50 yards³
 - Development to be completed per LUDO
 - PC added condition
 - *"The Planning Director will process any land use development review of the building permit application as an Administrative Action."*

Appeal #31-18

▶ Review of Criteria

- Section 10.3.080.020 Applicability
 - B. Adjustments prohibited:
 - To allow an increase in density in the RL Zone
 - Oak Grove Subdivision – 29.27 gross acs
 - 18 lots @ 3.97 dus/ac (w/ 0.5 ac church lot)
 - 17 lots @ 4.28 dus/ac (w/o 0.5 ac church lot)
 - Applicant's proposal
 - 19 lots @ 4.19 dus/ac (w/ 0.5 ac church lot)
 - 18 lots @ 4.53 dus/ac (w/o 0.5 ac church lot)
- Criteria Satisfied – Comprehensive Plan Land Use Designation Residential Low Density – 3–6 dus/ac

Appeal #31-18

▶ Review of Criteria

- Section 10.3.080.020(D)(2)(3) –
 - Quasi-judicial Adjustments
 - 2) Up to 20% lot width or depth requirements
 - 3) Up to 20% reduction in minimum lot areas
 - Applicant's Proposal
 - Lot width – 7.6% reduction (50 ft to 46 ft)
 - Lot area – 12.2% (611 sq ft) reduction

- Criteria Satisfied

Appeal #31-18

▶ Review of Criteria

- Section 10.3.080.040(A)
 - 1. Will not significantly detract from livability or appearance of residential area
 - "Livability" & "appearance" not defined in LUDO
 - Conceptual architectural renderings presented at PC
 - Shared driveway/mature landscaping to be preserved
 - 2. Cumulative effect of multiple adjustments on zone
 - RL Zone – 1&2 family dus, ADUs, parks, care facilities, B&B
 - Future structures to meet RL Zone requirements
- Criteria Satisfied – added PC Condition of Administrative Review of future land use development

Appeal #31-18



Appeal #31-18

▶ Review of Criteria

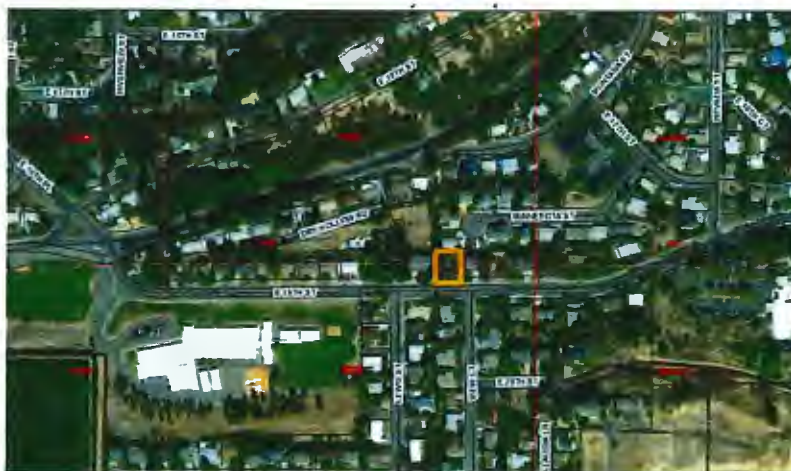
- Section 10.3.080.040(A)
 - 3. Scenic & historic resources preserved
 - No known scenic/historic resources
 - 4. Potential impacts mitigated
 - None identified attributed to adjusted lot size
 - 5. Protection of environmental sensitive areas
 - Not w/in sensitive area
- Criteria Satisfied

Appeal #31-18

► Review of Criteria

- Section 10.3.080.040 (B)(4) – Additional Criteria
 - 4. Result in a structure that conforms to the general character of neighborhood or zone district (RL)
 - “Character” – not defined in LUDO
 - Neighborhood – single family dus, elementary school, church, MCMC & prof offices
 - PC added condition – *“The Planning Director will process any land use development review of the building permit application as an Administrative Action.”*
- Criteria Satisfied

Appeal #31-18



Appeal #31-18

- ▶ Comprehensive Plan Goal #10 – Housing
 - “To Provide for the housing needs of citizens of the State”
 - City’s Housing Strategies Report – April 2017
 - “Like other cities in Oregon, the City of The Dalles is responsible for helping to ensure that its residents have access to a variety of housing types that meet the housing needs of households & residents of all incomes, ages & specific needs.”
 - ORS 197.303 Needed Housing
 - Attached & detached single/multi family housing for both owner & renter occupancy

Goal #10 & ORS 197.303 Satisfied

Izetta F. Grossman

From: Steve Harris
Sent: Monday, July 09, 2018 1:48 PM
To: Izetta F. Grossman
Subject: FW: APPEAL 32-18 - MIP 349-18 and ADJ 18-037

Importance: High

Email recd for tonight's CC appeal hearing

Steven Harris, AICP | Director
Planning Department
City of The Dalles | 541.296.5481 x1151
313 Court Street | The Dalles, OR 97058
www.thedalles.org

From: Dawn Hert
Sent: Monday, July 09, 2018 11:28 AM
To: Steve Harris; Gene Parker
Subject: FW: APPEAL 32-18 - MIP 349-18 and ADJ 18-037

From: Bill Marick [<mailto:billmarick5@gmail.com>]
Sent: Sunday, July 8, 2018 9:57 PM
To: Dawn Hert <dhert@ci.the-dalles.or.us>
Subject: APPEAL 32-18 - MIP 349-18 and ADJ 18-037

As properties in this area are zoned Low Density Residential, we feel that dividing a property will set a precedent that will change the type of residences that will be built in the area in the future.

Thank you for giving us the opportunity to express our opinion.

William T. and Darlene C. Marick
1620 E. 19th St.
The Dalles, OR 97058

To Members of the City Council
and Mayor re the hearing 7/9/18:

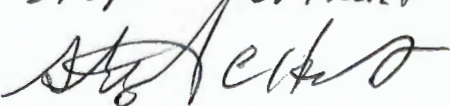
We support the appellant and
the 19th St. neighborhood in
rejecting MIP 349-18 + ADJ 18-036


City Code 10.3.080.020, which
refers to adjustments, states in
Part B:

"Adjustments are prohibited
for the following items:

6. To allow an increase in density
in the RL zone."

Conditions are met to prohibit
the adjustment application ADJ 18-036.

Stephen C. Hunt

PO Box 81
The Dalles

Lorene C. Hunt

PO Box 81
The Dalles, OR

Minor Partition Appeal

1605 E 19th Street
Robert Bart & Jonathan Blum
The Dalles City Council
July 9th, 2018

Introduction - Who we are?

- Friends and building partners who live in The Dalles and Hood River, and have been residents here cumulatively for almost two decades
- Small business owners, a nurse, a community educator and builders in our community
- Working on real property development in The Dalles
- Emphasis on single family homes and residential properties that add value and character to neighborhoods
- Friends who wish to invest in and build equity in our local community

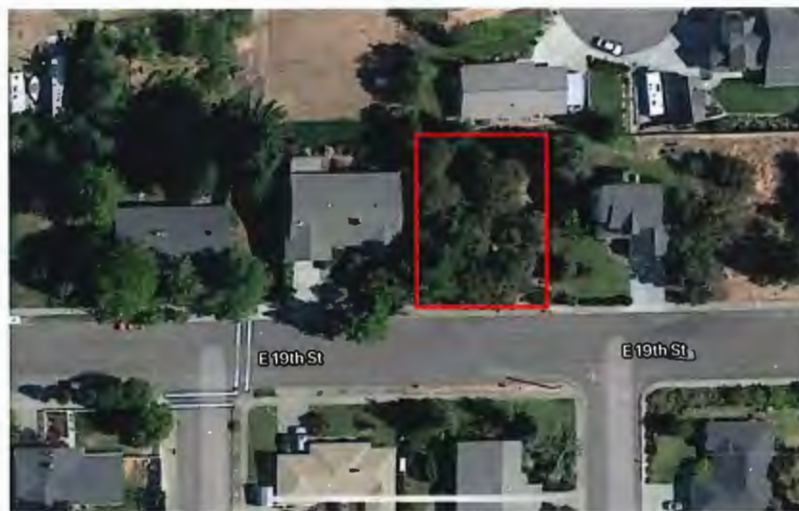
Minor Partition

- This Minor Partition was approved by the Planning Commission on May 3rd, 2018
 - The Planning Commission added a condition that future land use development will be processed as an Administrative Action
- The current lot size is 8,778 square feet, 95' x 92'4" (width on 19th Street)
- We are partitioning into two equal sized lots:
 - Adjust minimum lot size from 5,000¹ square feet to 4,389 square feet (12.2% reduction) allowed in the RL zone with a Quasi-Judicial hearing²
 - Up to a 10% reduction is allowed with an administrative adjustment
 - Adjust minimum lot width from 50'¹ to 46'2" (7.6% reduction) which is allowed in the RL zone with an administrative adjustment²
 - All other setbacks, easements, utility easements, height restrictions and parking requirements will be met on each lot

1) Defined in Section 10.3.080

2) Defined in Section 10.5.010.060

Map overview



Lot partition



To approve minor partition

- Proposal must satisfy relevant criteria in the LUDO including considerations of:
 - Livability
 - Appearance
 - Neighborhood compatibility
 - Environment

The plan review conducted by the Planning Department and Agenda Staff Report prepared by the City Attorney and Senior Planning staff both have evaluated and determined our proposal meets all relevant criteria for this minor partition

Factors not for consideration

The following are not factors of the decision criteria for this minor partition:

- The intended future plans with the constructed homes
- The type or style of structures that are being proposed
- The cost or expenses involved in constructing residences
- “Probable valuation” of future, yet unconstructed structures
- The character of the applicants

As is customary process with any new residential construction in The Dalles, the homes will meet City Building Standards and be approved by planning and then building codes

Livability & Appearance

- Reduction of minimum lot width will not affect livability or appearance of neighborhood as we will exceed set back from the street, and be at lower elevations than the neighboring houses
- Meeting required off-street parking and single driveway to property will minimize interruption of arterial flow of E 19th Street
- Mature trees will be maintained as much as possible with construction, especially along 19th Street and adjacent properties

Other relevant information

- Residential lots smaller than 4,389 sq ft currently exist in the RL zone in other subdivisions
- The density of the neighborhood (Oak Grove Subdivision) will increase with two homes constructed to a density of 4.19 units/ gross acre
 - However, the overall density still remains well within the RL density guidelines of 3-6 units/ gross acre
- A similar alternative to the structures and layout could be achieved by building a single family home and an ADU, which would be permitted outright under the LUDO
- All setbacks, easements, right-of-ways, restrictions and requirements of this zone are honored by our plans

Benefits

- Project supports development goals of the Comprehensive Plan for The City of The Dalles
- Utilization of this space for residential homes instead of as a vacant lot will create much needed additional housing near schools, CGCC, and MCMC
- Constructing new homes adds commerce and jobs to our local economy and boosts tax base

Considerations

- Large vacant lot in this neighborhood could be developed with a single larger home with larger visual impact
- We wish to build attractive homes that will add value and character to the neighborhood
- The Dalles is in need of additional housing, and maximizing the usefulness of this lot as allowed by LUDO fits into residential goals desired by the city and state
- This minor partition meets all required criteria
- Our plans utilize this unique parcel in a way that aligns with the neighborhood while providing much needed housing for citizens of The Dalles

Thank you.

Questions?

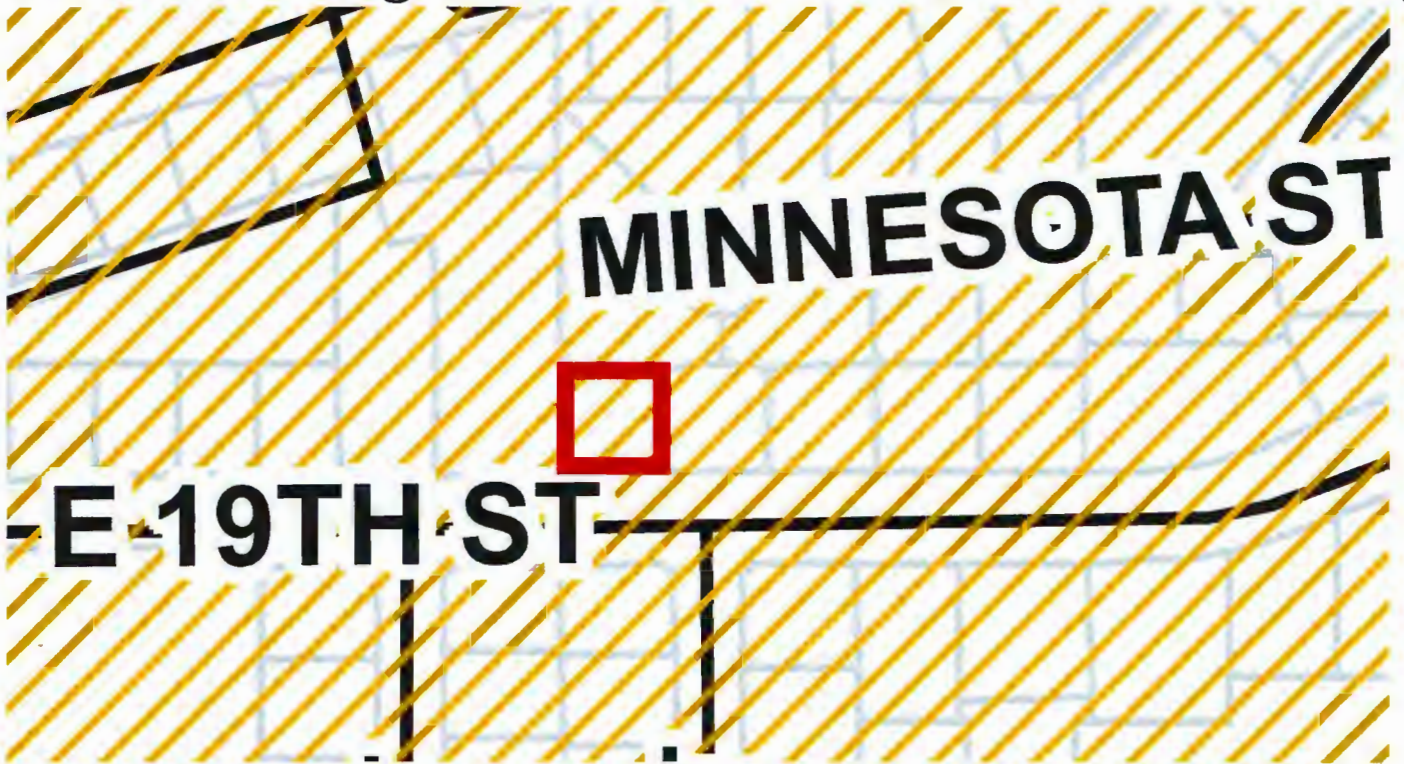
1605 E 19th St Appeal

Minor Partition No. 349-18 and Adjustment No. 18-036

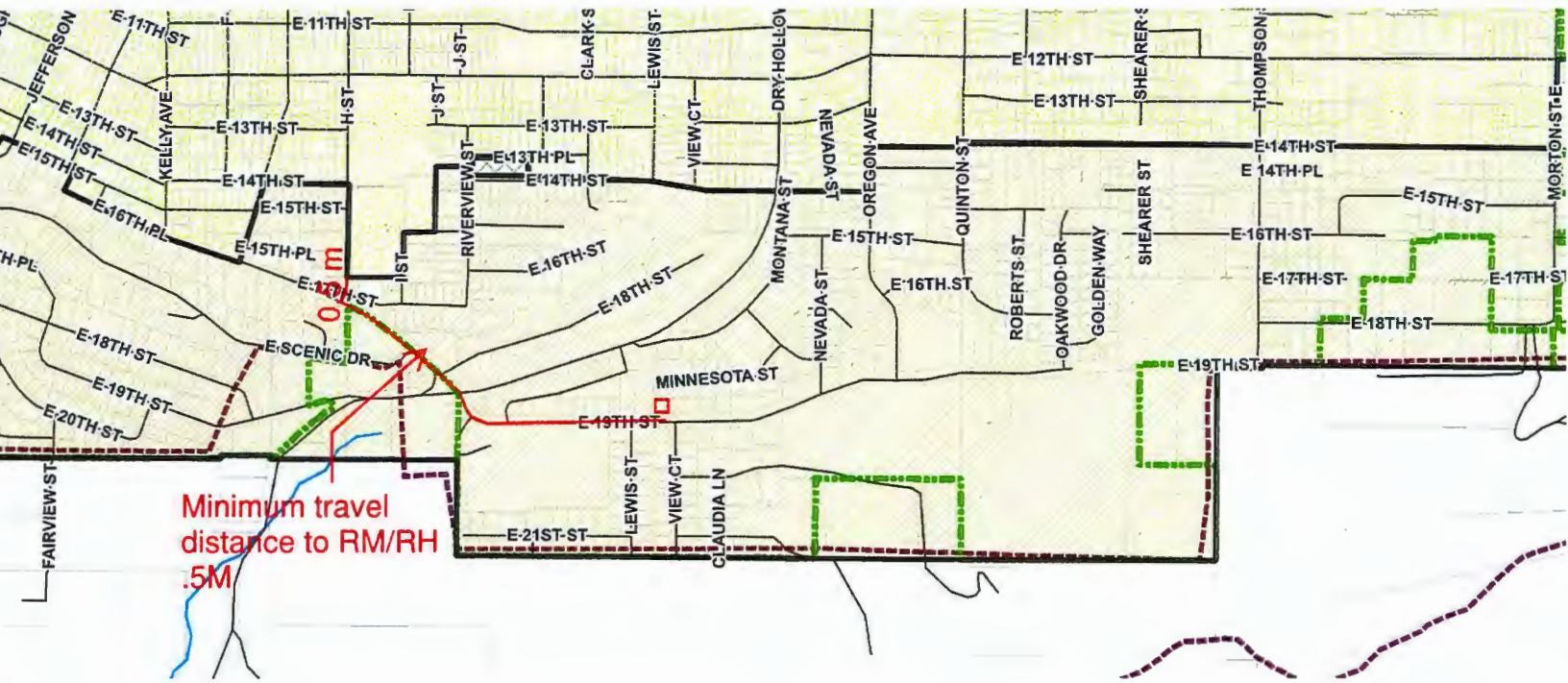
Review of Planning submission-Lot/dwelling

- During initial public hearing, the City Planning team stated numerous times that “we are not here to review the type of dwelling or dwelling proposal as part of this process. We are only here to review the proposed adjustments.”
 - Per LUDO Section 10.090.030.030 section A.6, it states that as part of the application, the “Number and type of dwelling units proposed where known and appropriate.” are to be disclosed.
 - As such, it is the right of the citizens to understand, and review the proposed dwelling as part of the public hearing.
-

A Look at the neighborhood-Lot Location and Zoning



Lot Location and Zoning (zoomed out)



Reason for Appeal –1 - Legality

- Is it Legal to divide 1605 E 19th ST into two separate lots?
- NO
- Why?

LUDO section 10.3.080.020 states that adjustments are “PROHIBITED” if they are “To allow an increase in density in the RL zone”.

- Public Hearing on 6/25/18 regarding another adjustment.
 - When the City Council questioned the legality of the adjustment, Director Harris defined, and the City Attorney agreed with the definition of what constitutes an increase in density.
 - Increase in density = creating additional lots out of one existing lot.
 - This Adjustment (18-036) is to Divide the Property Located at 1605 East 19th Street into Two Lots, and Reduce the Minimum Lot Size and Lot Width for the Two Lots.
 - According to the Director’s own definition, this lot division is prohibited under the adopted ordinances.

Reason for Appeal –2 Review Criteria- Rentals

Refer to Adjustment Application Form.

Page 2 of the Adjustment Application form includes the "Justification of Requests."

For an application to be approved, it must meet the criteria in EITHER section A or B. It does not state that it needs to meet "some" of the criteria in these sections, implying it must meet all in either section.

- Item A.1 states – *"If in a residential zone, show that the proposal will not significantly detract from the livability or appearance of the residential area."* Director Harris has stated that this has only been argued in opinion, and no evidence has been presented. Following is evidence as to the affects of rental properties, minimum lot sizes, and minimum building sizes.
 - Rental properties –
 - According to a [study posted on realtor.com](#) on 3/2016, an increased concentration of rental homes results in a decreased property value 13.8%. The only two items that are more detrimental are a strip club at -14.7% and bad schools as -22.2%.

Reason for Appeal –2 Review Criteria – Min Lot

Minimum Lot sizes –

- Citizens, myself and family included, purchase a home in an area that is of a particular zoning and character, with the expectation that these established criteria will remain. If this criteria can be deemed irrelevant for convenience by the Planning Commission, then you are placing the investments of your citizens at risk. Your citizens are paying a premium to have a semi-rural feel outside of the congested city center (where property values are lower). This investment, and the ordinances that justify that investment are to be honored.
- Factual Example - An approx. 1650 sq' home on 19th St sold recently for \$217K. Similar homes in the RM/RH district sold in the same time frame for \$175K (-19%), \$187K (-14%), and \$205K (-6%).
- Higher density = reduced valuation.

According to the American Planning Association controlling density *“permits adequate planning of community facilities and utilities on the basis of the number of families per acre. Where density is regulated, it is often more possible to predict the future requirements for school facilities, for sewer and water system capacities, and for the many other facilities affected by population density.”*

- Our personal experience with Dry Hollow Elementary.
- 19th St Congestion/traffic problems
- Increased Fire Risk.

Reason for Appeal –2 Review Criteria – Min Bldg

Minimum Bldg sizes – According to the American Planning Association “a large minimum building size requirement may be supported because it preserves the character of the neighborhood.”

A study posted on [realtor.com on October 2017](#), discussed the impact of small homes on the neighborhood. In it, it was disclosed how, in addition to local codes and ordinances, “Home Owners’ Associations (HOAs) often have a minimum building size requirement because they say it preserves the character of the neighborhood, the property values, and the tax base of the community, according to a report from the American Planning Association.”

Planning Commission is to perform a compatibility review as part of reviewing an adjustment. Did they do this, or did they let us down?

LUDO section 10.3.040.010 states that the purpose of a compatibility review is done as part of an application review procedure and “addresses the issues of compatibility with overall neighborhood character in terms of the design of buildings, their size, massing, and architectural features. The purpose of neighborhood compatibility review is to minimize the impacts of new development, and the impacts of additions or modifications to existing development, the surrounding established neighborhood(s) by insuring, to the greatest extent possible, that the design and placement of new development, additions, or modifications are compatible with the surrounding established neighborhood(s).”

- 10.3.040.020-B clarifies that an established neighborhood is one where 65% of the platted lots are developed. 84% of the platted lots in this area are developed.

Average size of 14 nearby homes in neighborhood = 2301sq’ (10 minutes of research)

Per Jonathan Blum the proposed dwellings are 1200sq’, or 52% the size of the AVERAGE home. This is NOT in line with the “character of the neighborhood.”



Reason for Appeal –3

- Justification of Request Item A.2 states – “If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project which is still consistent with the overall purpose of the zone.”
 - The application request is to divide the lot, adjust the minimum lot size requirements, and adjust the lot frontage requirements. Three adjustments which deem this criteria applicable, and as such, the result must align with the overall purpose of the zone.
- **What is the purpose of the RL zone?**
- The purpose of the RL zone as listed in section 5.010.010 of LUDO 98-1222, states that “The RL district is intended to provide low density family residential areas for present and future needs, together with a full range of urban services.”
 - As previously stated in quote by the American Planning Association, these zoning minimums allow for city officials to effectively plan for current and future needs. If these minimums are changed on a case by case basis, the City will not be able to accurately plan. As was mentioned already, urban services, such as the local school, traffic congestion, etc, are already struggling to meet the present needs. Increasing density will only intensify the situation.
- This result alignment is NOT met as this request adjusts the sizing and density below the RL (residential low density zoning) that this lot falls within.

Reason for Appeal –4

- Justification of Request section B
 - Item 2: Granting the adjustment is the minimum necessary to allow the use of the site.
 - The existing lot is fully capable of being developed as it stands, in alignment with the RL zoning it is housed in. This would allow one home on the current lot. Neighbors in the “established neighborhood” have stated they do not object to one home being built on this property, however, strongly object to a lot split, and size adjustment resulting in two homes.
 - Gorge planning commission study dictates the need for additional high end, and entry level homes for planned capacity. It has been stated that this neighborhood caters much more to the “high end” style homes needed, and should be retained for that use.
-

Reason for Appeal – 5 – Approval Conditions

- A condition/contingency was set on this adjustment to break the stalemate of the Planning Commission.
 - Require the building permit design criteria for the homes on 1605 E 19th to be reviewed in a public hearing as part of a staff review.
 - Two Responses:
 - 1. This would be conducted by the same Planning Commission that did not hear the unanimous opposition to the partition adjustment and lot division. As shown by the continuous outcry by the affected citizens, we have little hope that this contingency will provide a fruitful outcome.
 - 2. The citizens have already provided feedback in a public hearing, and are doing so again today. Build one home on one lot, that aligns with the character of the neighborhood.
-

Closing Remarks

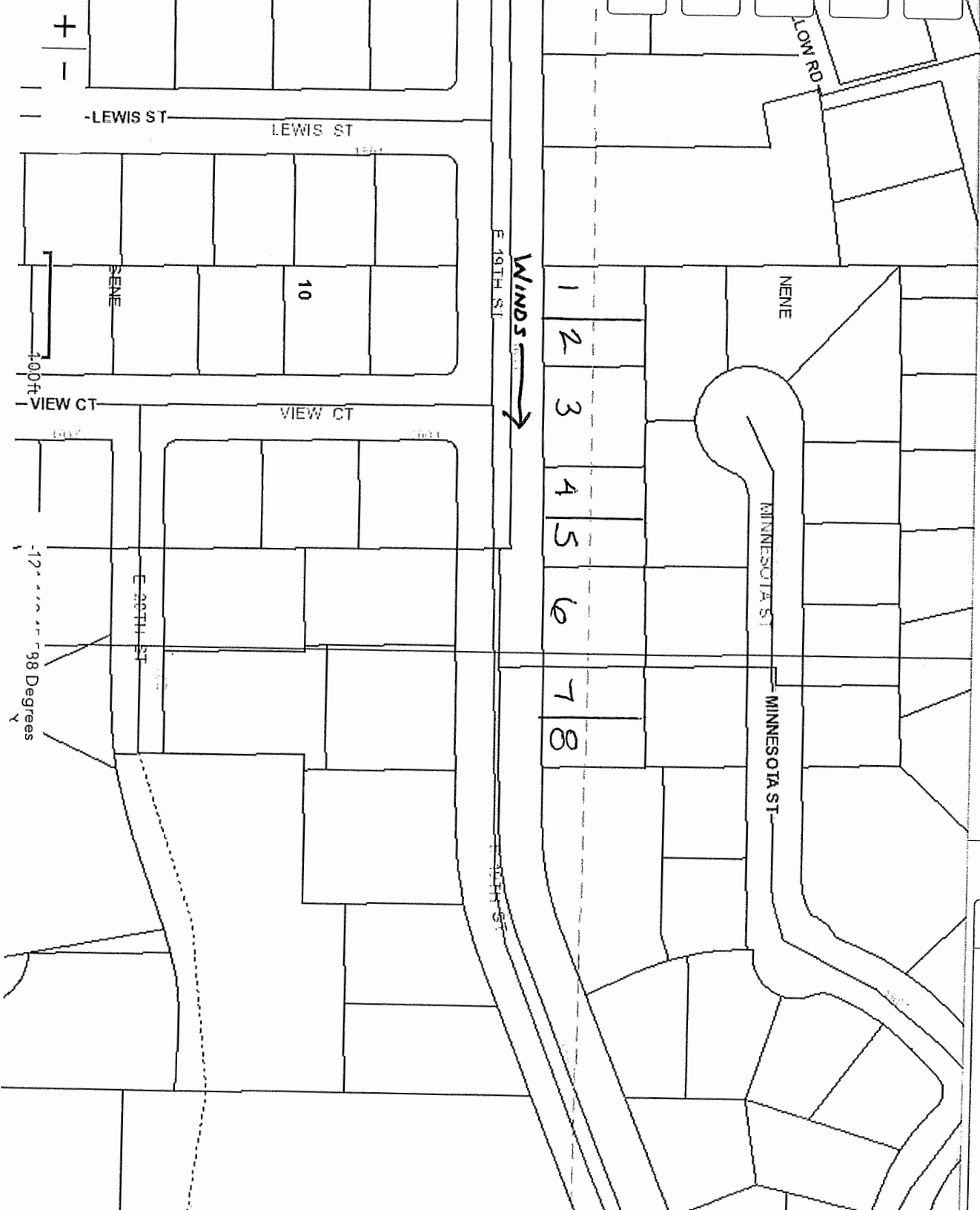
- Ask yourselves...Could you allow this adjustment to go through, in good conscience, based on the overwhelming evidence against it?
 - It is prohibited by ordinances created and adopted by the City of The Dalles.
 - It is breaking the Character of the neighborhood, and in doing so creating financial impacts to your citizens due to
 - Rental property density
 - Minimum lot sizes
 - Minimum building sizes.
 - There are multiple adjustments that do not align with the Purpose of the zone
 - The adjustment is not necessary for beneficial use of the property.
 - Approval contingency was put in place, that has already been declined by my affected established neighborhood...many of whom I suspect you are about to hear from.
-

Thank You
Questions

1. Declaration of Covenants, Conditions and Restrictions
 - a. Warranty Deed states subject to Covenants;
 - b. Covenants state "desirable for the efficient preservation of the value, desirability and attractiveness of said property";
 - c. Declares all properties shall be held, sold and conveyed subject to the covenants;
 - d. Shall comply with City of The Dalles zoning & building code requirements;
 - e. Single family dwelling shall be minimum of 1250 square feet (inside measurements);
 - f. Landscaping plan submitted to the architectural committee.
 - g. All covenants shall be deemed covenants running with the property on any and every conveyance, whether or not it shall be so expressed in the deed or other conveyance thereof.
2. Low Density Residential Zoning
 - a. 0-6 Homes (per gross acre)
 - b. 8 Potential with two additional lots dividable under allowance to divide. (Medium Density)
 - c. Neighborhood compatibility review is required in established neighborhoods in the RL-Low Density Residential;
 - d. Shared detached garage:
 - i. How they plan to meet required fire separations.
3. Fire Safety
 - a. Kentucky newspaper article titles **Too close for comfort? Compact neighborhoods see spreading fires.**
 - i. Row housing of yesterday is now compact neighborhoods.
 - ii. Allowing smaller lots to be squeezed into existing neighborhoods will increase the danger of fires spreading from home to home.
 - b. Fire History (With existing LUDO standards in place)
 - i. Nevada Street: Destroyed 1 home, Damaged 2 homes, vehicle & power pole.
 - ii. W 8th / Pentland: Destroyed 2 homes, Fire Damage to 1 home & Water Damage to a 2nd home.
 - iii. E 14th Street: Destroyed 2 homes.
 - c. Firefighter challenges (Fire Rescue Magazine):
 - i. Access to sides & rear of structures
 - ii. Fire attack challenges when going from exterior to interior operations
 - iii. Laddering the structures.
 - iv. Open floor plans allow fire, heat and smoke to quickly spread throughout the building.
 - v. Additional manpower needs to check neighboring structures.
 - d. Radiant heat will easily transfer to the neighboring structure causing early ignition of exposures.
4. School Safety
 - a. School District & City have already admitted to safety concerns with traffic along 19th and the safety of our children.
 - b. As I have stated previously, it is not a matter of if it will happen, but rather a matter of when it will happen. We must not allow any density changes to move forward until we have resolved the existing issues. To do otherwise is simply negligence on our part as a community.

Wasco County Base Map

Find address or place



Wasco County Base Map

Find address or place

WASCO COUNTY
OREGON
established 1864

DRY HOLLOW RD

NENE

10

Subject Property

WINDS →

E 19TH ST

E 19TH ST

EWIS ST

VIEW CT

60ft

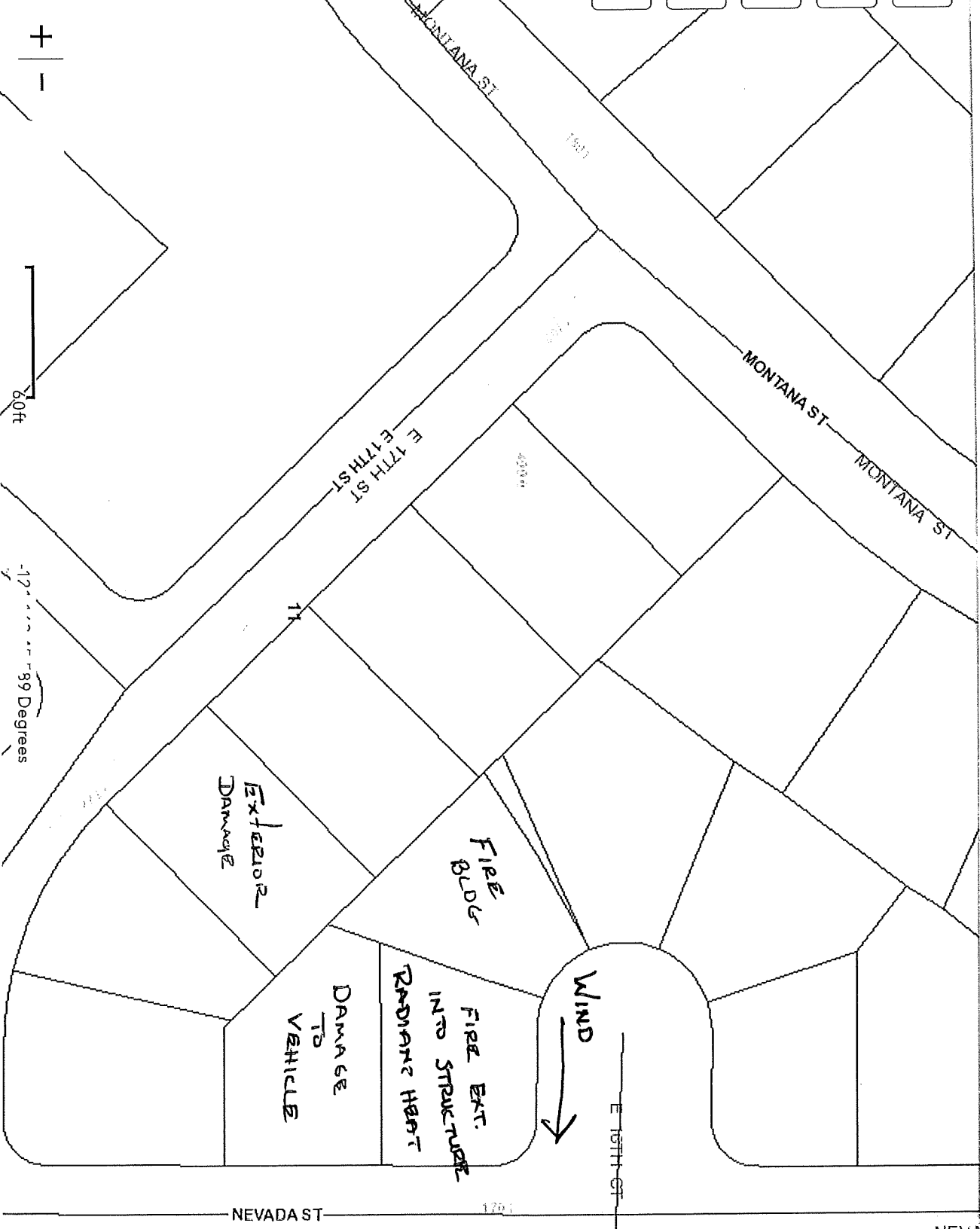
-12° - 128 Degrees

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WASCO COUNTY
OREGON
established 1864

Wasco County Base Map

Find address or place



WASCO COUNTY
OREGON
established 1854

Wasco County Base Map

Find address or place

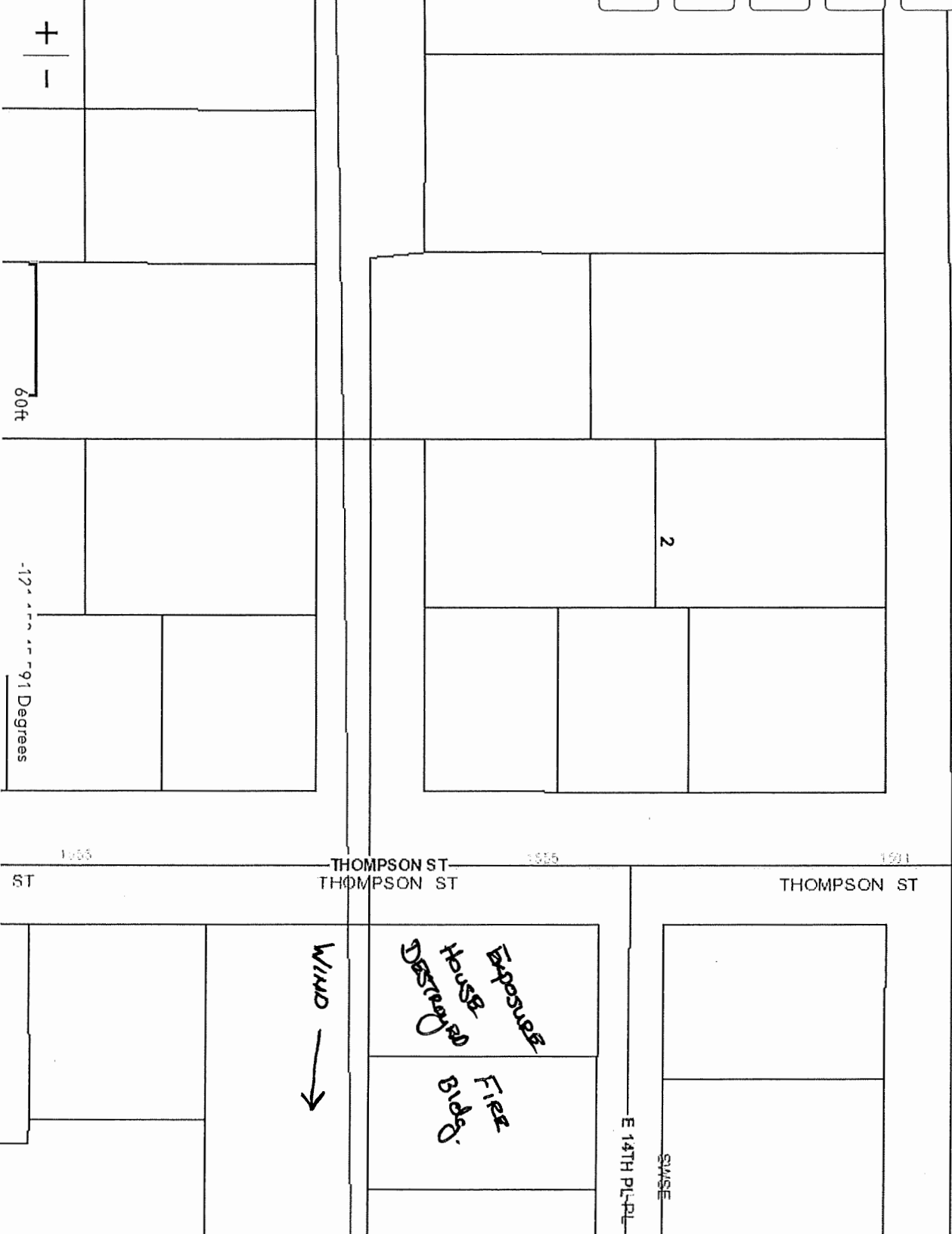


Wasco County Base Map



Find address or place

E 14TH ST



From **The Dalles Municipal Code****10.3.080.020 Applicability**

- A. **Unless listed in subsection B of this section, all regulations in the LUDO may be modified using the adjustment review process.**
- B. **Adjustments are prohibited for the following items:**
1. To allow a primary or accessory use that is not allowed by the regulations.
 2. As an exception to any restrictions on uses or development which contain the word "prohibited";
 3. As an exception to a threshold for a review. An example is Section 10.3.050.110. That provision states that an increase in the gross floor area of more than 10% or in excess of 1,000 square feet requires a major modification process. An adjustment could not be granted to allow an increase of 1,100 square feet as a minor modification;
 4. As an exception to a definition or classification. An example is a family day care which is defined as care of 12 or fewer children. An adjustment could not be granted to change the number of children within that definition to be 13;
 5. As an exception to the procedural steps of a procedure or to change assigned procedure;
 6. **To allow an increase in density in the RL zone.**
- C. The administrative adjustment procedure may be used to change the following:
1. Up to 33% reduction of standard setback requirements.
 2. Up to 10% reduction in lot width or depth requirements, but not less than a minimum width of 35 feet in a residential zone and a minimum depth of 50 feet in a residential zone.
 3. Up to 10% reduction in required minimum lot area.
 4. Up to 10% increase in the maximum lot coverage area.
 5. Up to 10% increase in maximum height requirements for accessory structures, but height cannot exceed the height of the primary structure.
 6. Up to 25% reduction in off-street parking requirements, however no adjustment is allowed for parking requirements of 20 or more spaces.
- D. The quasi-judicial adjustment process may be used to change the following items:
1. Up to 50% reduction in standard setback requirements.
 2. Up to 20% reduction in lot width or depth requirements, but not less than a minimum width of 35 feet in a residential zone and a minimum depth of 50 feet in a residential zone.
 3. Up to 20% reduction in required minimum lot area.
 4. Up to 20% increase in the maximum lot coverage area.
 5. Up to 20% increase in maximum height requirements for accessory structures, but height cannot exceed the height of the primary structure.
 6. Up to 50% reduction in off-street parking requirements, however no adjustment is allowed for parking requirements of 20 or more spaces.
 7. One- and two-family dwellings may qualify for a quasi-judicial adjustment exempting them from meeting the requirements of Section 10.5.010.060. Factors to be considered include the following: lots exceeding the minimum size; difference in elevation between building site and street; slope of lot; setback from street; difficult access from the street, and other relevant factors. If approved, the Planning Commission may require additional landscaping, among other conditions, to reduce the effect on the view from the street.

Compliance standards in 10.1.100 of the Land Use Development Ordinance (referred to as LUDO in the city code) state: "No structure, building, land, or use within the City of The Dalles planning jurisdiction... shall be erected, moved, reconstructed, used, extended, enlarged or in any way altered contrary to the provisions of this Title. *All officials, and employees (including contractor-officials) of the City vested with authority to issue permits or grant approvals shall adhere to, and require conformance with, this Title. The aforementioned persons shall issue no permit or grant approval for any development or use which fails to comply with conditions or standards imposed to carry out this Title. No person shall erect, construct, alter, maintain or use any building or structure in violation of this Title or any amendment thereto. No person shall use, divide, or transfer any land in violation of this Title or any amendment thereto.*

From the comments of members of the Planning Commission, proposed changes in the city code were relied upon in deciding two cases (including this case) to favor the developer rather than in support of unanimous opposition from all other citizens present at the hearing. These proposed changes have great impact in low density neighborhoods, and should be of particular concern to homeowners in RL zones who would like to maintain the character of those neighborhoods for quality of life and preservation of property values.



AGENDA STAFF REPORT

AGENDA LOCATION: Contract Review Board #10-A

MEETING DATE: July 23, 2018

TO: Mayor and City Council

FROM: Gene Parker, City Attorney

ISSUE: Award of Contract for Janitorial Services for State Office Building

BACKGROUND: The City has lease agreements with the State Human Resources Office and State Employment Department for rental of space in the State Office Building located at 700 Union Street. Pursuant to the leases, the City is required to provide janitorial services for the building's tenants. The lease provides that the City pay the monthly cost for the janitorial services, and the City is reimbursed for these costs through the rent paid by the two state agencies.

On June 21, 2018, a request for proposals for janitorial services for the State Office Building was published in The Dalles Chronicle. A copy of the RFP was also posted to the City's website. One response to the RFP was received from Thomas Metelak, dba Reflective Janitorial for the amount of \$55,665.00. Mr. Metelak is the current provider of janitorial services for City Hall, the City Police Department, Public Works Department, and City Library, and has performed the services well over a period of years.

BUDGET IMPLICATIONS: The 2018/2019 budget shows the sum of \$44,187 for janitorial services for the State Office Building. As noted above, the City is reimbursed for the costs it incurs in providing janitorial services from the rental income received for lease of the State Office Building.

COUNCIL ALTERNATIVES:

1. **Staff recommendation:** *Move to authorize the City Manager to enter into a contract with Thomas Metelak dba Reflective Janitorial for janitorial services for the State Office Building in an amount not to exceed \$55,665.00.*
2. Move to reject the proposal from Thomas Metelak dba Reflective Janitorial and provide direction to staff as to how to proceed.



AGENDA STAFF REPORT

AGENDA LOCATION: Contract Review Board #10-B

MEETING DATE: July 23, 2018

TO: Honorable Mayor and City Council

FROM: Dave Anderson, Public Works Director

ISSUE: Authorization To Purchase Two Spare Pumps For The New Clarifier Being Constructed At The Wastewater Treatment Plant

BACKGROUND: The scope of the project to upgrade the Wastewater Treatment Plant under a progressive design-build contract was expanded in November 2017 to include the construction of a new secondary clarifier. As the design for the new clarifier and associated equipment was completed, it was learned that two of the associated pumps (the RAS and WAS pumps) would not be the same models as those for the existing clarifier. It is important to have spare back-up pumps on hand so that they can be replaced quickly in the event of a pump failure. With these two new pumps being different from anything we already have in stock, it is necessary to order new back-up spare pumps.

Pricing for the pumps was obtained through the same competitive process as was used for the rest of the project. However, staff is proposing to utilize the project pricing and purchase these two spare pumps directly, outside of the plant upgrade project. By purchasing the pumps directly, the City will avoid paying the additional profit and overhead mark-up on the purchase that would occur if it was included in the project contract.

The two back-up pumps would be purchased from Apsco LLC in Kirkland, Washington which is the supplier of the equipment for the new clarifier. The combined cost of the two pumps is \$55,199 including shipping. The pumps have an 18-20 week lead time on delivery so ordering them soon is important so that they are received at about the same time, or shortly after, the new clarifier comes on line.

BUDGET IMPLICATIONS: If approved, the purchase of the two new back-up RAS and WAS pumps from Apsco LLC would require the expenditure of \$55,199.00 from Fund 57, the Sewer Plant Construction/Debt Service Fund. There are adequate funds available for this purchase.

COUNCIL ALTERNATIVES

1. **Staff Recommendation:** *Authorize the purchase of spare RAS and WAS pumps for the new Clarifier #2 from Apsco LLC in an amount not to exceed \$55,199.00.*
2. Deny authorization to purchase the pumps and provide additional direction to staff.



AGENDA STAFF REPORT

AGENDA LOCATION: Action Item #11-A

MEETING DATE: July 23, 2018

TO: Mayor and City Council

FROM: Gene E. Parker, City Attorney

ISSUE Resolution No. 18-022 Denying Appeal #31-18 and Affirming the Planning Commission's Decision Approving Minor Partition No. 349-18 and Adjustment #18-036 of Jonathan Blum to Partition One 8,778 Square Foot Lot into Two 4,389 Square Foot Lots, to Reduce the Minimum Lot Size from 5,000 Square Feet and to Reduce the Minimum Lot Width from 50 Feet to 46 Feet on Property Located at 1605 East 19th Street.

BACKGROUND: On July 9, 2018, the City Council conducted a public hearing Appeal #31-18 filed by Alexander and Alexandra Maia, concerning the Planning Commission's decision to approve Minor Partition No. 349-18 and Adjustment #18-036 of Jonathan Blum to partition a lot measuring 8,778 square feet into two lots measuring 4,389 square feet, to reduce the minimum lot size from 5,000 square feet, and to reduce the minimum lot width from 50 feet to 46 feet on property located at 1605 East 19th Street.

Following the public hearing, the Council voted to deny the appeal and affirm the Planning Commission's decision, and directed staff to prepare a resolution setting forth the Council decision and the applicable findings of fact and conclusions of law. Resolution No. 18-022 is included with this staff report for the Council's review and approval.

BUDGET IMPLICATIONS: None.

COUNCIL ALTERNATIVES:

1. **Staff recommendation:** *Move to adopt Resolution No. 18-022 Denying Appeal #31-18 and Affirming the Planning Commission's Decision Approving Minor Partition No. 349-18 and Adjustment #18-036 of Jonathan Blum to Partition One 8,778 Square Foot Lot into Two 4,389 Square Foot Lots, to Reduce the Minimum Lot Size from 5,000 Square Feet and to Reduce the Minimum Lot Width from 50 Feet to 46 Feet on Property Located at 1605 East 19th Street.*
2. If the Council desires to revise any of the proposed findings of fact and conclusions of law set forth in Exhibit "A" to Resolution No. 18-022, identify those changes, and move to adopt Resolution No. 18-022 with Exhibit "A" as amended by the Council.

RESOLUTION NO. 18-022

A RESOLUTION OF THE CITY COUNCIL DENYING APPEAL #31-18 OF PLANNING COMMISSION RESOLUTION NO. P.C. 574-18, AND AFFIRMING THE PLANNING COMMISSION'S DECISION APPROVING MINOR PARTITION NO. 349-18 AND ADJUSTMENT #18-036 OF JONATHAN BLUM TO PARTITION ONE 8,778 SQUARE FOOT LOT INTO TWO 4,389 SQUARE FOOT LOTS, REDUCING THE MINIMUM LOT SIZE FROM 5,000 SQUARE FEET AND THE MINIMUM LOT WIDTH FROM 50 FEET TO 46 FEET ON PROPERTY LOCATED AT 1605 EAST 19TH STREET

WHEREAS, Jonathan Blum submitted an application on March 15, 2018 to partition one lot into two lots, and for an adjustment to reduce the minimum lot size from 5,000 square feet, and reduce the minimum lot width from 50 to 46 feet, for a parcel located at 1605 East 19th Street, which application was assigned the file number Minor Partition No. 349-18 and Adjustment #18-036 by the Planning Department; and

WHEREAS, on May 3, 2018, the Planning Commission conducted a public hearing for Minor Partition No. 349-18 and Adjustment #18-036, and following the public hearing, the Planning Commission voted to approve the requested adjustment based upon findings of fact and conclusions of law, which decision was set forth in Resolution PC 574-18; and

WHEREAS, on May 14, 2018, Alexander and Alexandria Maia filed a Notice of Appeal of the Planning Commission's decision, which was assigned Appeal #31-18 by the Planning Department; and

WHEREAS, on July 9, 2018, the City Council conducted a public hearing for Appeal #31-18, and following the public hearing, the City Council voted three (3) to two (2) to deny the appeal and affirm the decision of the Planning Commission set forth in Resolution PC 574-18, based upon findings of fact and conclusions of law; and

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

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

Section 1. The City Council hereby approves and adopts the findings of fact and conclusions of law set forth in Exhibit "A", attached hereto and incorporated herein by this reference. The appeal designated Appeal #31-18 filed by Alexander and Alexandria Maia is denied.

Section 2. This resolution shall be considered effective as of July 23, 2018.

PASSED AND ADOPTED THIS 23RD DAY OF JULY, 2018.

Voting Yes, Councilors: _____

Voting No, Councilors: _____

Absent, Councilors: _____

Abstaining, Councilors: _____

AND APPROVED BY THE MAYOR THIS 23RD DAY OF JULY, 2018.

Stephen E. Lawrence, Mayor

Attest:

Izetta Grossman, City Clerk



EXHIBIT “A”
FINDINGS OF FACT AND CONCLUSIONS OF LAW
FOR RESOLUTION NO. 18-022

BACKGROUND: On May 3, 2018, the City Planning Commission adopted Resolution No. P.C. 574-18 approving a minor partition and adjustment application submitted by Mr. Jonathan Blum for property located at 1605 East 19th Street. The minor partition approval allowed for the partitioning of an existing 8,778 square lot into two lots of 4,389 square feet each. Approval of the adjustment application allowed for a reduction in the “RL” Residential Low Density Zone minimum lot size of 5,000 square feet to 4,389 square feet, as well as a reduction in the RL Zone minimum lot width requirement of 50 feet to 46 feet for the two new lots. On May 14, 2018, Alexander and Alexandra Maia filed an appeal of the Planning Commission’s decision.

The subject property is located on the north side of East 19th Street, between Lewis Street and View Court. Along East 19th Street, Dry Hollow Elementary School is located to the west, while the Mid-Columbia Medical Center is located to the east. The vacant lot was created as part of the Oak Grove Subdivision. The Tax Lot number for the property is 1N 13E 10AA 1100. The Comprehensive Plan designation and Zoning District is “RL” Residential Low Density Residential.

The applicant is requesting the partition of the 8,778 square foot lot into two lots of 4,389 square feet, a 12.2% reduction in the minimum lot size from 5,000 square feet; and a 7.6% reduction in the minimum lot width of 50 feet to 46 feet to allow for the development of a single family residence on each of the newly created lots. Section 10.5.010.060 of the City’s Municipal Code provides that the minimum lot size for single-family detached units is 5,000 square feet, and the minimum lot width is 50 feet.

REVIEW OF APPLICABLE CRITERIA

MUNICIPAL CODE TITLE 10 LAND USE AND DEVELOPMENT

Section 10.3.020.080 Appeal Procedures

Section 10.3.020.080 (A). De Novo. Appeals shall be a de novo evidentiary hearing. A De Novo hearing allows for the introduction of additional evidence on issues raised at a lower level and included in the notice of appeal, and for arguments or testimony based on those issues. It does not allow for new issues to be raised, nor does it allow for evidence, arguments or testimony to be presented on issues not raised in the appeal notice.

FINDING #1: The appeal hearing before the City Council is referred to as a “de novo” evidentiary hearing. This means that in addition to the record before the Planning Commission, which includes the initial staff report and minutes from the Planning Commission hearing held on May 3, 2018, the City Council will consider the evidence and testimony offered during the Council hearing. The testimony during the appeal hearing can include additional evidence on issues which were raised during the Planning Commission hearing, and which were included in the Notice of Appeal, and arguments and testimony based upon those issues. Under the City’s land use rules, new issues that were not raised before the Planning Commission cannot be presented during the appeal hearing before the Council, and the Council cannot consider evidence, arguments, or testimony on issues that were not raised in the Notice of Appeal. The burden of proof to establish that the applicable review criteria have been satisfied is upon the applicant.

CONCLUSION: The criteria in Section 10.3.020.080(A) have been satisfied.

Section 10.3.020.080(B)(1). Right to Appeal Decisions. *The following may file an appeal to decisions resulting from planning actions described in this Section:*

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

FINDING #2: The appeal of the Planning Commission’s Decision of May 3, 2018, was filed on May 14, 2018, by Alexander and Alexandria Maia, who testified before the Planning Commission and who are parties of record.

CONCLUSION: The criteria in Section 10.3.020.080(B)(1) have been satisfied.

Section 10.3.020.080(C). Filing Appeals.

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

FINDING #3: The appeal with the information required under Section 10.3.020.080(C)(1) was filed on May 14, 2018, within the ten day period set forth in Section 10.3.020.080(2), along with the required filing fee.

CONCLUSION: The criteria in Section 10.3.020.080(C) have been satisfied.

Section 10.3.020.080(G). Notification of Appeal Hearing. The Notice of Appeal, together with notice of the date, time and place of the appeal hearing shall be mailed to all parties at least 14 days prior to the hearing.

FINDING #4: Notice of the appeal hearing was mailed to all parties on June 22, 2018.

CONCLUSION: The criteria in Section 10.3.020.080(G) have been satisfied.

Section 10.3.020.080(H). Decision of Appeal.

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

FINDING #5: Once the Council has made a decision whether to affirm, reverse or modify the Planning Commission's decision to approve the application for the requested adjustment, staff will prepare a resolution setting forth the applicable findings of fact and conclusions of law, and a notice of the appeal decision will be sent to all parties participating in the appeal.

CONCLUSION: The criteria in Section 10.3.020.080(H) have been satisfied.

Section 10.3.010.040 Applications

B. Completeness. An application shall be considered complete when it contains the information required by this Title, addresses the appropriate criteria for review and approval of the request, and is accompanied by the required fee, unless waived by the City Council per Section 10.1.120: Fees. Complete applications shall be signed and dated by the Director.

FINDING #6: The application was found to be complete by the Planning Department on April 23, 2018.

CONCLUSION: The criteria in Section 10.3.010.040 have been satisfied.

Section 10.3.080.020 Applicability

D. The quasi-judicial adjustment process may be used to change the following items:

2. *Up to 20% reduction in lot width or depth requirements, but not less than a minimum width of 35 feet in a residential zone and a minimum depth of 50 feet in a residential zone.*
3. *Up to 20% reduction in required minimum lot area.*

FINDING #7: The proposal includes a 7.6% (4 foot) adjustment to the required 50 foot lot width and a 12.2% (611 square feet) adjustment to the 5,000 square minimum lot area in the RL Residential Low Density Zoning District. The requested adjustments are within the allowable 20% reductions provided for in Section 10.3.080.020.

CONCLUSION: The criteria in Section 10.3.080.020 have been satisfied.

10.3.020.050 Quasi-Judicial Actions

Section 10.3.020.050(B) Staff Report. The Director shall prepare and sign a staff report for each quasi-judicial action which identifies the criteria and standards applying to the application and summarizes the basic findings of fact. The staff report may include a recommendation for approval, approval with conditions, or denial.

FINDING #8: The agenda staff report submitted to the Council serves as the staff report required by Section 10.3.020.050(B).

CONCLUSION: The criteria in Section 10.3.020.050(B) have been satisfied.

Section 10.3.020.050(D) Notice of Hearing. At least 10 days before a scheduled quasi-judicial public hearing, notice of the hearing shall be mailed to:

1. *The applicant and owners of property within 300 feet of the subject property. The list shall be compiled from the most recent property tax assessment roll.*

Section 10.3.020.080(G) Notification of Appeal Hearing. The notice of appeal, together with notice of the date, time, and place of the appeal hearing shall be mailed to all parties at least 14 days prior to the hearing.

FINDING #9: Notices of the appeal hearing were mailed to the applicant and owners of property within 300 feet of the development site, and to interested parties on June 22, 2018.

CONCLUSION: The criteria in Section 10.3.020.050(D) and Section 10.3.020.080(G) have been satisfied.

Section 10.3.080.020 Applicability

B. Adjustments are prohibited for the following items:

6. *To allow an increase in density in the RL zone.*

The Notice of Appeal includes the statement that adjustments are prohibited for the following items:

“To allow an increase in density in the RL Zone. As stated by Planning Commissioner Stiles, there already exists residential high density areas, however this is zoned as Residential Low Density, and its rules, previously established, should remain intact.”

FINDING # 10: The subject property was included in the original Oak Grove Subdivision; an 18 lot subdivision on 29.27 gross acres. Lot sizes varied from 0.15 acres (6,534 square feet) to 0.56 acres (24,394 square feet). The density at the time of

subdivision was 3.97 dwelling units/gross acre. Included within the gross acreage calculation was 0.67 acres (29,185 square feet) of dedicated public right-of-way (Minnesota Street). The 0.56 acre lot has since been developed as a church. Separating this non-residential use from the 17 remaining residential lots resulted in a density of 4.28 dwelling units/gross acre for the subdivision. Approval of the proposed minor partition and lot size adjustment would create one additional residential lot for a density of 4.53 dwelling units/gross acre; increasing the subdivision's current density by 0.21 dwelling units/gross acreage. Compared to the original subdivision's 3.97 dwelling units/gross acre, approval of the proposal would result in a density of 4.19 dwelling units/gross acre.

The Comprehensive Plan's establishes a density range of 3-6 dwelling units/gross acre for the Residential Low Density Zoning District. Since the applicant's proposal would establish a density of 4.19 dwelling units per gross acre, which is within the density range allowed by the City's Comprehensive Plan, the Council concludes that the proposal does not increase the density allowed in the RL Zoning District.

The appellants and other opponents argued the Planning Commission erred in granting approval of the requested adjustment, citing the provisions of Section 10.3.080.020(B)(6) which provides that adjustments are prohibited for items which would increase the density in the RL Zoning District. The appellants and opponents rely upon the definition of density, which is "the number of dwelling units per acre", and argue that the proposed application would increase the number of dwelling units per acre on the property, thereby resulting in an increase in density in the underlying Zoning District. The appellants' and opponents arguments ignore the clear language in Section 10.5.010.060 which sets forth the development standards for the RL Low Density Residential Zoning District. The language is contained in a footnote to the Minimum Density standards which states "This standard is applicable to new subdivisions and planned developments, but does not apply to infill development approved through the minor partition process."

CONCLUSION: The criteria in Section 10.3.080.020(B)(6) have been satisfied.

Section 10.3.080.040 Applications

A. Review Criteria

An adjustment will be approved if the review body finds that the applicant has shown that either approval criteria 1 through 5 or 6 through 8 below, has been met.

- 1. If in a residential zone, the proposal will not significantly detract from the livability or appearance of the residential area.***

As a preliminary note, Section 10.3.080.040(A)(6) provides that one of the review criteria is that "Application of the regulation in question would preclude all reasonable economic use of the site". The site is capable of being developed with a single family residential dwelling; therefore it appears that application of the regulation would not preclude all reasonable economic use of the site.

FINDING #11: The terms "livability" and "appearance" are not included in Section 10.2.030 which provides the meanings of specific words and terms in the City's Land Use and Development Ordinance. Section 10.2.010 entitled "Meaning of Words Generally" provides as follows:

“All words and terms used in this Title have their commonly accepted, dictionary meaning unless they are specifically defined in this Title, or the context in which they are used clearly indicates to the contrary.”

According to Webster’s New World Dictionary of the American Language, Second College Edition, the term “livability” is a form of the term “livable”, which means “fit or pleasant to live in; habitable; said of a house, room, etc.”. The term “appearance” is defined as “the look or outward aspect of a person or thing”.

During the Council hearing, the appellants cited a reference to a study posted on the Realtor.com website in March 2016, which purportedly showed that an increase in concentration of rental homes resulted in a reduction in property values of surrounding real properties. The appellants did not provide an actual copy of the study during the Council hearing, so the Council had no opportunity to determine whether the results of the study were relevant to proposed application which is the subject of the appeal. The appellants asserted that higher density equaled a reduction in property values, citing an example of a sale of property on East 19th Street which sold for \$217,000, in comparison to sales of similar homes in the RM and RH Zoning Districts which yielded sale prices of \$175,000, \$187,000, and \$205,000.

The appellants appear to argue that property values are an element of livability. The City Council finds that property values do not fit within the definition of livability as set forth previously. The appellants provided no information concerning the details of the cited real property transactions, which would have allowed the Council the opportunity to determine if increased density was the primary factor for the reduction in the sales prices, or whether there were other factors that would have accounted for the reduction in property values. The City Council disagrees with the appellants’ assertion that increased density automatically results in a reduction in property values.

At the Planning Commission hearing, the applicant submitted drawings of the proposed single family dwelling to be constructed on one of the proposed lots. The conceptual drawings showed architectural features of the proposed dwelling, as well as the placement of the dwelling and detached garage on the lot. The proposed dwelling meets the required setbacks of the RL Zoning District. As proposed, the garage will be shared with the adjoining lot and a single driveway access onto East 19th Street. The applicant also noted that on-site mature landscaping will be preserved whenever possible. All of these factors contribute to the livability of the proposed dwelling units and do not detract from the overall appearance of the neighborhood.

CONCLUSION: The criteria in Section 10.3.080.040(A)(1) have been satisfied.

2. *If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project which is still consistent with the overall purpose of the zone.*

FINDING #12: The “RL” Residential Low Density Zone implements the RL – Low Density Residential Comprehensive Plan designation, which allows for a range of zero to six single family dwelling units per gross acre. Section 10.5.010.010 concerning the

purpose of the RL Zoning District, states that “The RL District is intended to provide low density family residential areas for present and future needs, together with a full range of urban services”. Sections 10.5.010.020 and 0.30 establish the permitted and conditionally permitted uses in the “RL” Residential Low Density Zone. Among the residential uses permitted are single-family, duplex, 2-unit condominiums and accessory dwelling units. Permitted non-residential uses include public parks, bed and breakfast inns, family day care, residential care facilities, and wireless communication facilities.

The requested adjustments to the District’s 5,000 square foot minimum lot size and minimum lot frontage requirement of 50 feet are permitted through the adjustment procedures provided in Article 10.3.080 of the Municipal Code. The lot size adjustment request of 12% (4,389 square feet resulting lot size), is within the maximum adjustment of 20% provided for in Section 10.3.080.020 (D)(3). The requested lot width reduction from 50 feet to 46 feet (7.6%) is within the 20% maximum adjustment provided for in Section 10.3.080.020(D)(2). The applicant’s testimony at the Planning Commission hearing included conceptual drawings that illustrated that the future dwellings to be constructed on the lots would meet setback and lot coverage requirements for the RL District Zone. The proposed application would allow for the placement of low density family dwelling units consistent with the City’s Land Use and Development Ordinance.

CONCLUSION: The criteria in Section 10.3.080.040(A)(2) have been satisfied.

3. *City-designated scenic resources and historic resources are preserved.*

FINDING #13: Staff has not identified any scenic resources or historic resources which could be potentially impacted by the proposed application. The proposed application does not have any negative impact upon any City-designated scenic resource or historic resource.

CONCLUSION: The criteria in Section 10.3.080.040(A)(3) have been satisfied.

4. *Any impacts resulting from the adjustment are mitigated to the extent practical.*

FINDING #14: Staff has not identified any known impacts due to the requested lot size reduction which would require mitigation. On Exhibit B of the Notice of Appeal, it appears the following impacts were cited by the appellant:

1. Promises made to purchasers of lots next to the lots under consideration. This would include the evidence of the covenants, conditions and restrictions of the subdivision homeowner association, the newspaper ad stating “The subdivision is developed as enclave, appealing particularly to people who want a well-located, secure living environment near the hospital”, and testimony that neighbors had made significant financial investments to construct “high-end homes”. The City’s Land Use and Development Ordinance does not contain any provisions for enforcement of private covenants, restrictions or conditions imposed as part of a private subdivision development, nor does the ordinance contain any provisions related to protecting the investment interests or expectations of persons purchasing real property. Testimony relating to these issues does not address any relevant review criteria.

2. Easements. Staff noted at the Planning Commission hearing that all the public utility easements were within the appropriate setbacks.
3. Nature of the neighborhood (high-end homes). This does not address relevant review criteria; the term “high-end home” is not defined and is very subjective in nature, and as previously noted the City’s LUDO does not include provisions protecting private investment interests or expectations as to how real property in a subdivision may be developed.
4. Traffic considerations. There was no specific testimony, such as a traffic study or traffic counts, that would support a conclusion that the proposal would significantly impact traffic in the neighborhood. This segment of East 19th Street is designated as a Network Residential Street and a Major Collector Street in the 2017 Transportation System Plan. The proposed shared driveway for the two lots would result in a single driveway access onto the street.
5. Property value considerations. Much of the testimony submitted by the appellants and opponents related to the issue of property values was conclusory in nature; for example the following statement from the Notice of Appeal:

“Affected citizens who were party of the public notice, indicated how the size and probable valuation of the proposed dwellings severely detracted from the appearance of the area, and would also impact livability by reduction of adjacent property values”.

As noted in Finding #11, the Council concluded that testimony claiming the proposed application would increase density and thereby reduce the value of surrounding properties, lacked specific detail and failed to address any relevant review criteria.

6. Aesthetic considerations. This does not address relevant review criteria and is subjective.
7. Information about the developer. This does not address relevant review criteria.

At the Council hearing, the appellants and Dan Hammel expressed concerns that the proposed minor partition and adjustments would increase density, thereby creating the risk of potential fire and life/safety issues. It should be noted this issue was not raised in the Notice of Appeal, and therefore should not be considered by the Council as grounds to uphold the appeal. It should also be noted there was no direct testimony offered to support the assertion that the conditions which contributed to fire damage to adjacent residential properties, would exist in the location where the dwellings proposed to be constructed by the applicant are located, increasing the probability that the proposed dwellings would actually present a risk of fire to surrounding properties.

The proposed application satisfies the intent of this review criteria to ensure that any identified negative impact resulting from a requested reduction in the size of the lot be

addressed to the extent practical.

CONCLUSION: The criteria in Section 10.3.080.040(A)(4) have been satisfied.

5. *If in an environmental sensitive area, the proposal has as few detrimental environmental impacts on the resource and resource values as is practicable.*

FINDING #15: The subject site proposed for development of the dwellings is not located within any environmentally sensitive area. The proposed application satisfies the intent of this review criteria to ensure that any environmentally sensitive area would be protected.

CONCLUSION: The criteria in Section 10.3.080.040(A)(5) have been satisfied.

B. Additional Criteria. If the applicant meets the approval criteria of subsection A above, then the approving authority may also take into consideration, when applicable, whether the proposal will:

4. *Result in a structure that conforms to the general character of the neighborhood or zone district.*

FINDING #16: The term “character” is not defined in the City’s Land Use and Development Ordinance. Using the dictionary source cited in Finding #10, the term character can be defined as follows: “essential quality, nature; kind or sort”.

Included in the Notice of Appeal is the following statement, “As stated by all citizens at the hearing, the planned structures do NOT conform with the general character of the neighborhood zone”. The arguments presented at the Planning Commission hearing were lacking any specific detail as to why the proposal was not consistent with the “general character of the neighborhood”. During the Council hearing, the appellants cited a statement from the American Planning Association that “a large minimum building size requirement may be supported because it preserves the character of the neighborhood.” (emphasis added). The appellants offered no specific testimony as to how such requirements would preserve or enhance the character of the East 19th Street neighborhood. Citing a study posted on the Realtor.com website in October, 2017, the appellants submitted the following assertion: “Home Owner Associations (HOAs) often have a minimum building size requirement because they say it preserves the character of the neighborhood, the property values, and the tax base of the community, according to a report from the American Planning Association”. The appellants offered no direct testimony to establish how minimum building lot size requirements preserve the character of a neighborhood. As noted in Finding #11, the City’s Land Use and Development Ordinance does not contain any provisions concerning the enforcement of private covenants concerning the construction of residences on real property. The primary arguments offered by the appellants and the opponents was that the “character” of the neighborhood was reflected in large lot sizes and homes larger in size compared to the size of the applicant’s proposed structures.

The neighborhood surrounding the site of the proposed development includes single family dwellings, an elementary school, a church, and to the east the Mid-Columbia

Medical Center and associated medical offices. The presence of single family dwellings can be considered a characteristic of the neighborhood on East 19th Street. As noted in Finding #12, the proposed single family dwellings would meet the development standards (setbacks, lot coverage, and building height) of the RL Zone. Although the City's LUDO did not require the applicant to provide drawings as to the type or design of the structures that would be constructed on the property, the Council notes the applicant submitted conceptual drawings which showed architectural features of the proposed dwelling units which are similar to those of a single family dwelling. In approving Resolution No. 574-18, the Planning Commission added a condition which would require that any future land use development review of the building permit application be processed as an Administrative Action. An Administrative Action requires a publicly noticed Administrative Hearing which will allow for public comment upon the type of features to be included in the structures to be placed upon the property.

These factors support a finding that the proposal is in conformance with the general character of the neighborhood.

CONCLUSION: The criteria in Section 10.3.080.040(B)(4) have been satisfied.

FINDING #17: The Notice of Appeal cited two other provisions of the City's LUDO which the appellants claimed had not been properly addressed. The appellants asserted the application did not comply with the provisions of Section 10.9.030.030(A)(6) which requires that the tentative plat show the "Number and type of dwelling units proposed for where known and appropriate". The application was approved without this information, which is consistent with the language in Section 10.9.030.030(B) which allows the Planning Director to waive such a requirement where it is determined that the information is unnecessary to properly evaluate the proposed minor partition. The adjustment application mentioned there would be two homes built upon the property, and the site plan submitted during the Planning Commission hearing clearly showed the presence of two structures. The appellants also asserted the application did not comply with Section 10.9.010.010 which sets forth the purpose for land divisions. The Council finds this section contains aspirational language which is not intended to be review criteria for an adjustment, as evidenced by the fact that this language is not included in Section 10.3.080.040 which contains the review criteria for adjustments, or in Article 9.030 which contains the review criteria for minor partitions.

CONCLUSION: The additional provisions cited above which the appellants argue were not satisfied do not present relevant review criteria for the application.

COMPREHENSIVE PLAN GOAL #10 – HOUSING, AND ORS 197.303 (NEEDED HOUSING

Goal #10 of the City's Comprehensive Plan is "To provide for the housing needs of citizens of the state". The Background section for Goal #10 includes the following statement:

"All local jurisdictions in the State must develop plans which "shall encourage the availability of adequate numbers of housing units at price ranges and rent levels which are commensurate with the financial capabilities of Oregon households and

allow for flexibility of housing location, type, and density.”

The Housing Strategies Report dated April 21, 2017, prepared by Angelo Planning Group for the City, included the following statement outlining the interplay between Statewide Planning Goal #10 and the Housing Needs Analysis (HNA) conducted by Angelo Planning Group:

“Having affordable, quality housing in safe neighborhoods with access to community services is essential for all Oregonians. Like other cities in Oregon, the City of The Dalles is responsible for helping to ensure that its residents have access to a variety of housing types that meet the housing needs of households and residents of all incomes, ages and specific needs. Towards that end the City is conducting a Housing Needs Analysis and Buildable Lands Inventory to update the Housing Element of its Comprehensive Plan; complete an updated, realistic assessment of future land needs and supply; and comply with Oregon Statewide Goal 10 (Housing)”. Page 2 of Housing Strategies Report.

On pages 3 to 5 of the Housing Strategies Report, Angelo Planning Group summarized data and findings from the HNA, including the following:

Demographic Trends

- The Dalles’ estimated median household income was \$47,000 in 2016...Median income has grown an estimated 33% between 2000 and 2006, in real dollars. Inflation was an estimated 36% over this period, so as is the case regionally and nationwide, the local median income has not kept pace with inflation.
- According to the U.S. Census, the official poverty rate in The Dalles has been increasing over time from 9% of individuals in 2000, to an estimated 13.8% over the most recent period reported (2014 5-year estimates).
- One measure of poverty, as it relates to housing, is the share of income local households are spending on their housing costs. The Census estimates that over 42% of all households spend more than 30% of their income on housing costs. Among renters, nearly 62% of households spend more than 30% of their income on housing costs, while 39% of renter households spend more than 50% of their income.
- Communities like The Dalles which face a future of growing within limited boundaries are likely to see increased pressure to generate denser housing than they have historically experienced in some parts of the community.
- Many of these (younger family) households will seek good first-time home buying opportunities, meaning a stock of existing and new homes in low-to-middle price ranges. The younger and lower income members of this generation will need a sufficient stock of multi-family rentals.
- The Dalles, like many communities, currently has a persistent shortage of

housing available to the lowest-income households, particularly rental units.

Projected Housing Needs

- There is a projected need for 1,769 new housing units by 2036.
- Of the new units needed, roughly 59% are projected to be ownership units, while 41% are projected to be rental units.
- The greatest need for rental units is found at the lowest price points. This reflects the finding that many of The Dalles renter households currently pay more than 30% of their income towards housing costs. There is still a strong need for affordable housing. At the same time, there is also support for some new, more expensive rental supply.

Comparison of Projected Need and Buildable Land Supply

- There is a total forecasted need for 1,769 units over the next 20 years. This is well below the capacity of 3,689 units. After projected need is accommodated, there is an estimated remaining capacity of over 1,900 additional units, mostly in the high-density residential zone.
- There is currently sufficient buildable capacity within The Dalles to accommodate projected need. Much of this capacity is in the form of parcels for development or infill with future multi-family units. The size of the available remaining capacity assumes that some high density and medium density zoned lands are built out at higher averaged densities than these areas have traditionally achieved in the past.

ORS 197.303 defines “needed housing” in the following manner:

(1) As used in ORS 197.307, “needed housing” means housing types determined to meet the need shown for housing within an urban growth boundary at particular price ranges and rent levels, including at least the following household types:

- (a) Attached and detached single-family housing and multiple family housing for both owner and renter occupancy;
- (b) Government assisted housing;
- (c) Mobile home or manufactured dwelling parks as provided in ORS 197.475 to 197.490;
- (d) Manufactured homes on individual lots planned and zoned for single-family residential use that are in addition to lots within designated manufactured dwelling subdivisions; and
- (e) Housing for farmworkers.

- (2) Subsection 1(a) and (d) of this section shall not apply to:
 - (a) A city with a population of less than 2,500.
 - (b) A county with a population of less than 15,000.
- (3) A local government may take an exception under ORS 197.732 to the definition of “needed housing” in subsection (1) of this section in the same manner that an exception may be taken under the goals.

FINDING #18: At the Planning Commission hearing, the applicant testified as to the shortage of rental housing units in The Dalles. The findings set forth above from the April 21, 2017 Housing Strategies Report prepared by Angelo Planning Group clearly establish there is a housing need for rental units in the city of The Dalles. The applicant presented testimony during the Planning Commission hearing that he is planning to construct two single family dwellings upon the development site. As the Housing Strategies Report prepared by Angelo Planning Group noted, many of the renter households in the city of The Dalles currently pay more than 30% of their income towards housing costs. The Housing Strategies Report also established there is a strong need to provide rental housing, for younger family households and low-income households. The type of housing proposed by the applicant can assist in meeting this need. The Housing Strategies Report established there is a need for rental housing at price ranges and rental levels for renter occupancy, particularly for low-income households, which comes within the definition of “needed housing” under ORS 197.303. The City Council finds that the type of housing represented by the applicant’s proposal fits within the definition of “needed housing” under ORS 197.303. Approval of rental housing such as the type proposed by the applicant will encourage the availability of housing at a price range and rent level which is commensurate with the financial capabilities of many households in The Dalles, including low-income households, and encourage flexibility in the location, type, and density of housing, consistent with Goal #10 of the City’s Comprehensive Plan.

CONCLUSION: The provisions of Goal #10 Housing of the City’s Comprehensive Plan, and ORS 197.303 Needed Housing, have been satisfied.



AGENDA STAFF REPORT

AGENDA LOCATION: Action Item #11-B

MEETING DATE: July 23, 2018

TO: Honorable Mayor and City Council

FROM: Julie Krueger, City Manager

ISSUE: Identify the City's Legislative Priorities for the 2019 Legislative Session.

BACKGROUND: The League of Oregon Cities requests input from all member cities as to what their top four priorities are for the upcoming legislative session. The League provides a ballot and asks that we submit our priorities no later than August 3. The City's leadership team has reviewed the ballot and explanations provided by the League and provide the top staff priorities below. This will include the top four, plus four additional items that ranked highly. The ballot and descriptions are attached for Council's review.

Staff's Top 4 Priorities

Mental Health Investment: The League of Oregon Cities will seek to protect and enhance investments made to Oregon's treatment of the mentally ill.

This is the highest ranked item by staff. Mental illness impacts every sector of our community, and places a very large burden on our resources. We would like to see the League lobby for facilities in rural Oregon to allow for better treatment. It is vital to have training opportunities and funding for our local police to address mental illness. Access to treatment should be well funded and managed.

911 Tax: The League of Oregon Cities would support legislation to enhance the effectiveness of the State emergency communications system by increasing 911 tax and/or seek other sources of revenue and prohibit legislative sweeps from the emergency management operations.

We would encourage the League to support legislation that will provide increased 911 taxes to the local operations. Currently, 911 operations in Wasco County are funded by Wasco County, City of The Dalles, and Mid-Columbia Fire and Rescue. Costs are increasing sharply, and while all partners are currently meeting and discussing how we can control costs, the 911 taxes have not increased in many years and are inadequate to support this crucial service.

Infrastructure Financing and Resilience: The League will advocate to increase the state's investment in key infrastructure funding source, including Special Public Works Fund, Brownfield Redevelopment Fund and Regionally Significant Industrial Site loan program. They will seek an investment within the Special Public Works fund for seismic resilience planning and infrastructure improvements to make water and wastewater systems more resilient.

Infrastructure is continuing to age and the cost to maintain, repair, and upgrade is rising. Smaller, rural communities, such as The Dalles, rely on State funding assistance to complete large infrastructure projects, and this funding helps us control utility rates for our citizens. Funding for seismic upgrades (facilities such as water and wastewater systems), would help the City be better prepared for a catastrophic event, such as an earthquake.

Safe Routes to School Match: The League is proposing to introduce legislation to lower the grant match requirements (from 40% to 20% and from 20% to 10% for areas that qualify for exceptions). A reduced grant match would allow the City to do much larger projects; however there may only be \$2 million in grants available for the entire central region, so a very large grant is unlikely. An added benefit for these projects is providing the most up-to-date ADA improvements in high traffic areas. It also matches well with the Blue Zones initiative in our community.

Other High Priorities

Staff also identified the following items as priorities:

- Lodging tax definition broadening
- Permanent supportive housing investment
- Third party building inspection
- City comparability for compensation

BUDGET IMPLICATIONS: None at this time.

COUNCIL ALTERNATIVES:

1. *Staff recommendation:* No recommendation: The League of Oregon Cities asks that the City Council reach consensus on their top four priorities. The information above is presented to assist the Council, but the decision is for the City Council to reach.



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www.orcities.org

June 6, 2018

Dear Chief Administrative Official:

For the past three months, eight policy committees have been working to identify and propose specific actions as part of the League's effort to develop a pro-active legislative agenda for the 2019 session. They have identified legislative objectives as set forth in the enclosed ballot and legislative recommendation materials. These objectives span a variety of issues and differ in the potential resources required to seek their achievement. Therefore, it is desirable to prioritize them in order to ensure that efforts are focused where they are most needed.

While the attached ballot reflects the top policies developed in each of the policy committees, each undertook a broad look at a range of issues impacting cities. Many issues reflect the League's ongoing mission to support cities' work and their home rule authority to develop and use a variety of tools to meet the needs of residents but were not included in the ballot. Additional issues, such as addressing the housing shortage and the opioid crisis, are multifaceted and did not fit concisely into policy priorities. However, they remain as work the League intends to accomplish as it works with large groups of stakeholders in search of solutions.

Each city is being asked to review the recommendations of the policy committees and provide input to the LOC Board of Directors as it prepares to adopt the League's 2019 legislative agenda. After your city council has had the opportunity to review the proposals and discuss them with your staff, please return the enclosed ballot indicating the top four issues that your city council would like to see the League focus on during the 2019 session. **The deadline for response is August 3, 2018.** The board of directors will then review the results of this survey of member cities, along with the recommendations of the policy committees, and determine the League's 2019 legislative agenda.

Your city's participation and input will assist the board in creating a focused set of specific legislative targets that reflect the issues of greatest importance to cities. Thank you for your involvement, and thanks to those among you who gave many hours of time and expertise in developing these proposals.

Do not hesitate to contact me or Craig Honeyman, Legislative Director, with questions.

Sincerely,

Mike Cully
Executive Director

Craig Honeyman
Legislative Director

P.S. If you are reviewing the hard copy of this ballot and would like to view the linked material please visit the following web address and click on the links there:

<http://www.orcities.org/Portals/17/Legislative/2019PolicyBallotInformation.pdf>

INSTRUCTIONS

1. Each city should submit one form that reflects the consensus opinion of its city council on the **top four** legislative priorities for 2018.
2. Simply place an **X or a check mark** in the space to the left of the city's top four legislative proposals (last pages of the packet).
3. The top four do not need to be prioritized.
4. Return by **August 3rd** via mail, fax or e-mail to:

Jenna Jones
League of Oregon Cities
1201 Court St. NE, Suite 200
Salem, OR 97301
Fax – (503) 399-4863
jjones@orcities.org

Thank you for your participation.

City of: _____

Please check or mark 4 boxes with an X that reflects the top 4 issues that your city recommends be added to the priorities for the League's 2019 legislative agenda.

Legislation

A. 9-1-1 Tax	
B. Annexation Flexibility	
C. Auto Theft	
D. Beer and Cider Tax Increase	
E. Broadband Infrastructure	
F. Carbon Cap-and-Invest Program Adoption	
G. City Comparability for Compensation	
H. Green Energy Technology Requirement Changes	
I. Infrastructure Financing and Resilience	
J. Least Cost Public Contracting	
K. Local Control Over Speed Limits on City Streets	
L. Lodging Tax Definition Broadening	
M. Mental Health Investment	
N. Permanent Supportive Housing Investment	
O. PERS Reform	
P. PERS Unfunded Liability Revenue Stream Dedication	
Q. Place-Based, Water Resource Planning (Program Support)	
R. Property Tax Reform	
S. Qualification Based Selection (QBS)	
T. Right-of-Way and Franchise Fee Authority	
U. Safe Routes to School Match	
V. Small Area Cell Deployment	
W. Speed Cameras	
X. Speed Limit Methodology	
Y. Third Party Building Inspection	
Z. Tobacco Taxes Share Increase	
AA. Waste Water Technical Assistance Program	
BB. Wetland Development Permitting	
CC. Wood Smoke Reduction Program Support	

In addition to your ranking of the priorities shown above, please use this space to provide us with any comments (supportive or critical) you may have on these issues, or thoughts on issues or potential legislative initiatives that have been overlooked during the committee process.):

<div></div>

A. 9-1-1 Tax

Legislation:

Support legislation enhancing the effectiveness of the state's emergency communications system by increasing the 9-1-1 tax and/or seeking other sources of revenue and prohibiting legislative "sweeps" from emergency communications accounts managed by the Oregon Office of Emergency Management.

Background:

The League worked with other stakeholder groups in 2013 to extend the sunset date on the statewide 9-1-1 emergency communications tax to January 1, 2022 ([HB 3317](#)). In 2014, the League also worked to pass legislation including prepaid cellular devices and services under the 9-1-1 tax ([HB 4055](#)). As concerns mount with regard to disaster preparedness and recovery and as upgrades to communications technology become available, it is apparent that state and local governments do not have the resources necessary to address challenges or take advantage of opportunities (see an analysis in the League's 2018 State Shared Revenue Report, [here](#), and the Oregon Office of Emergency Management's "Emergency Communications Tax" webpage, [here](#)). Additional funding is needed and the practice of periodically sweeping funds out of the state's emergency management account for other uses must cease. It is worthy of note that the practice of "sweeps" disqualifies the state from receiving federal funds for emergency communications. It is unknown how many federal dollars have been foregone as a result of this policy.

Presented by the Telecom, Broadband & Cable Committee and endorsed by the Finance & Taxation Committee

B. Annexation Flexibility

Legislation:

The League will work to increase the flexibility for cities to annex residential areas and to encourage voluntary annexations, with a primary focus on improving the island annexation process.

Background:

There is a significant disconnect between the state's land use process and the [process of annexation](#), which has created issues for a variety of cities. The annexation process requirements are particularly difficult for areas known as "islands". Even though cities can involuntarily annex islands, most cities have adopted a policy to only engage in voluntary annexation. This has left significant islands un-annexed. In addition, waiting for surrounding properties to voluntarily annex often means the process and order of annexation does not necessarily match the plans for infrastructure development. Unannexed lands remain on the buildable land supply but much of it will contain some level of development that was approved by the county, but is often underdeveloped when compared to the comprehensive plan.

However, there have been bills that have been introduced over the last few sessions that aim to make non-voluntary annexation more difficult (see e.g., [HB 2039](#) and [HB 2040](#)). As these bills have gotten hearings, the League has taken the opportunity to discuss how annexation and land use are very disconnected. This is particularly of interest as interest in housing development remains at the top of the list of legislative priorities. If local governments have greater control over the annexation process and can better incentivize voluntary annexation, they can better meet the development expectations of the land use system and their comprehensive plans. It also assists in the orderly development of infrastructure.

Tools that were recommended to consider included partial island annexation in residential areas, relaxation of the limit of 10 years to bring a property fully onto the city's property tax level, changing the boundary requirements for islands, and looking at how the withdrawal of special district territory can be better regulated.

Presented by the Community Development Committee

C. Auto Theft

Legislation:

Address the deficiencies in the Unauthorized Use of a Motor Vehicle statute that were created after an adverse court ruling.

Background:

A 2014 Oregon Court of Appeals ruling requires that prosecutors prove beyond a reasonable doubt that a person driving a stolen car knew they were in violation of the law prohibiting the unauthorized use of a motor vehicle. Because of this ruling, unless confesses to the crime, obtaining a conviction for stealing a car is near impossible. The National Insurance Crime Bureau's 2017 "Hot Spots" report stated that Oregon experienced a 19 percent increase in auto theft over 2016. News stories on this issue may be found [here](#), [here](#) and [here](#).

Because of the ruling, auto theft has increased exponentially across rural and urban Oregon. A legislative fix was proposed in 2018 and was generally agreed to but was never voted on by either chambers due to the fiscal impact it would have on the state. A copy of the legislation can be found [here](#). This issue was brought to the Committee by a representative of the Oregon Association of Chiefs of Police and they have requested the League's supported in seeking to fix this issue. Of particular concern to the General Government Committee was the fact that vehicles being stolen tend to be older cars and trucks that are more likely to be owned by people of more modest means who would be unable to readily replace their vehicles without considerable impact.

Presented by the General Government Committee

D. Beer and Cider Tax Increase

Legislation:

The League proposes increasing the state taxes on malt beverages and cider to assist with rising public safety costs, improve public health, reduce alcohol consumption by minors, and provide alcohol tax equity with wine and liquor.

Background:

Oregon's tax has not been increased since 1978 and is currently \$2.60 per barrel which equates to about 8 cents on a gallon of beer. The tax is by volume and not on the sales price. (Yes, the bottle deposit is 60 cents and the tax is only about 4 cents on a six-pack!) Oregon is tied with Kentucky for the lowest beer taxes of all [states](#) (see page 98 in link). To get to the middle, Oregon would need to raise the tax to 80 cents per gallon (10-fold increase). Cities are [preempted](#) from imposing alcohol taxes. In exchange, cities receive approximately [34% of the state alcohol revenues](#) (see page 9 in link)(beer and wine taxes, license fees, and liquor profit sharing) as state shared revenues. However, because the tax is so small on beer, the share is also small. The beer tax brings in only about \$7 million per year state-wide; thus, the city share is about \$2.3 million of the total shared revenues. The total share for cities for all alcohol-based state shared revenues is estimated at over \$86 million. The League anticipates that excise tax increases including those on alcohol will be a part of revenue package discussions in 2019, and the League sees this concept as an important leveraging tool.

Presented by the Finance and Tax Committee and endorsed by the General Government Committee

E. Broadband Infrastructure

Legislation:

Seek additional state support and funding for increased and equitable broadband infrastructure deployment, especially in rural areas. Oppose legislative efforts to restrict existing municipal authority to provide broadband services.

Background:

The deployment of broadband and telecommunications networks and services (public and/or private) throughout Oregon is critical to economic development, education, health and safety and the ability of residents to be linked to their governments. Mapping research shows large areas of the state either not served or underserved by competitive broadband technology. A significant barrier to the deployment of broadband infrastructure is funding. Cities need additional funding and support from various sources, including the state and federal government, allocated for increased or new broadband infrastructure, especially for fiber connections to schools, community libraries, and public safety buildings. Also, oppose efforts by private internet service providers to restrict local efforts to make broadband technology available within their jurisdiction.

Presented by the Telecom, Broadband & Cable Committee

F. Carbon Cap-and-Invest Program Adoption

Legislation:

The League's Energy & Environment Policy Committee has recommended support, if specific principles are recognized and codified, of legislation that would implement a statewide cap on carbon emissions over time and that would generate revenues for strategic investments that further Oregon's greenhouse gas reduction goals. The cap on emissions would apply to certain "regulated entities" with carbon emissions over 25,000 metric tons annually. Regulated entities would receive allowances, or would generate offset credits, to emit carbon. The revenue from the purchase of allowances would be invested in specified programs aimed at furthering GHG reductions and mitigating program impacts. It is anticipated that funds generated from a cap on the transportation fuel industry may be subject to use per state Constitutional requirements related to the state highway fund. The statewide cap on carbon would be reduced over time to meet updated greenhouse gas reduction goals for Oregon.

For the League to support a statewide cap on carbon, the following principles would need to be recognized and codified in any legislation:

- The legislation and subsequent rulemaking processes would need to establish a forum to generate meaningful dialogue with rural Oregon communities and those with energy-intensive, trade-exposed industries. Equity considerations should be considered throughout this process by including cities and counties representing a variety of populations, regions of the state, and community demographics (e.g. low-income and underserved populations). Specific action should be taken to have representation from cities with populations of less than 1,500.
- The cap would need to apply to all sectors including utilities, industry and the transportation fuels sector (e.g. fuel producers) if annual carbon emissions exceed 25,000 metric tons.
- The program should be designed to link to the Western Climate Initiative which has a multi-jurisdictional carbon market (linking with programs in California, Ontario and Quebec)
- The revenue from the purchase of allowances would be invested in evidence-based technologies to reduce emissions from regulated sectors with excess revenues being invested in statewide programs to support climate resilience and rural Oregon economies. Requiring the reinvestment of allowance revenue will help regulated sectors become more efficient over time and less carbon intensive.

- In addition, LOC will advocate that additional revenues generated be dedicated to support programs including:
 - Technical assistance grants that local governments could access to help fund the adoption and implementation of local climate action/sustainability plans.
 - Funding for local woodstove smoke reduction programs to help communities in, or at risk of, non-attainment from woodstove smoke.
 - Funding to study and incentivize an expanded, yet sustainable, cross-laminated timber industry in Oregon with the intent of stimulating job creation in rural Oregon communities.
 - Funding for drought mitigation planning and resilience for Oregon water systems.

Background:

The League anticipates that the Legislature is very likely to pass legislation during the 2019 session that would implement a “cap-and-invest” program in Oregon, similar to the program adopted by California. Similar legislation has been considered by the Oregon Legislature during previous legislative sessions, but has failed to be brought for a vote. The political will to pass such a policy/program for Oregon appears to be incredibly strong; the Speaker of the House and President of the Senate are co-chairing the Joint Interim Committee on Carbon Reduction and the Governor’s team is staffing a new Carbon Policy Office to assist in the Committee’s efforts. The League’s Energy & Environment Committee has spent considerable time discussing this policy, including how best to craft a policy recommendation that makes both environmental and economic sense for the state and cities.

Presented by the Energy & Environment Committee

G. City Comparability for Compensation

Legislation:

The League will seek legislation to ensure that cities are compared only with cities of a similar cost of living when negotiating with strike prohibited bargaining units.

Background:

Oregon labor law doesn’t allow police officers, firefighters, emergency communicators and other public safety critical employees to strike. Instead when an impasse is reached when bargaining with labor unions that represent those workers, the state proscribes a set procedure involving an outside arbitrator to resolve those contract disputes. In that process the arbitrator will compare the city to other cities of similar size. As a result, the cities in rural areas are being compared with cities in metropolitan areas that have different economic circumstances. Klamath Falls with 20,000 people in it and a median home value of \$160,000 could be compared to Tualatin with a similar population and a median home value of \$355,000. This is not a reasonable comparison.

The Human Resources Committee notes that the Legislature created a variable minimum wage in Oregon in recognition of the different costs of living across the state. Each Oregon county is assigned to one of three wage zones with one being the Portland Metropolitan area, that second are less populous regions and the third are rural counties. The Committee recommends that cities only be compared to cities in the same wage zones. A detailed explanation and graphics of the proposal may be found [here](#).

Presented by the Human Resources Committee

H. Green Energy Technology Requirement Changes

Legislation:

Advance legislation to statutorily modify the existing “1.5 percent green energy technology for public buildings” requirement to allow for alternative investment options such as offsite solar or energy efficiency projects.

Background:

Oregon statute currently requires public contracting agencies to invest 1.5% of the total contract price for new construction or major renovation of certain public buildings on solar or geothermal technology. The requirement allows for offsite technology, but only if the energy is directly transmitted back to the public building site and is more cost-effective than onsite installation. Removing the requirement that an offsite project be directly connected to the public building project could result in increased flexibility for local governments to invest in solar projects that are more cost-effective and provide for increased solar energy generation. In addition, the League will advocate to allow 1.5 percent funds to be invested in alternative projects that provide a greater economic or social return on investment including energy efficiency.

Presented by the Energy & Environment Committee

I. Infrastructure Financing and Resilience

Legislation:

The League will advocate for an increase in the state’s investment in key infrastructure funding sources, including, but not limited to, the Special Public Works Fund (SPWF), Brownfield Redevelopment Fund, and Regionally Significant Industrial Site loan program. The advocacy will include seeking an investment and set aside through the SPWF for seismic resilience planning and related infrastructure improvements to make Oregon water and wastewater systems more resilient.

Background:

A key issue that most cities are facing is how to fund infrastructure improvements (both to maintain current and to build new). Increasing state resources in programs that provide access to lower rate loans and grants will assist cities in investing in vital infrastructure. Infrastructure development impacts economic development, housing, and livability. The level of funding for these programs has been inadequate compared to the needs over the last few biennia and the funds are depleting and unsustainable without significant program modifications and reinvestments.

The funds are insufficient to cover the long-term needs across the state. While past legislative sessions have focused on finding resources for transportation infrastructure, the needs for water, wastewater, and storm water have not been given the same attention. A LOC survey of cities in 2016 identified a need of \$7.6 billion dollars over the next 20 years to cover water and wastewater infrastructure projects for the 120 cities who responded. This shows a significant reinvestment in the Special Public Works Fund (SPWF) is needed to help meet the needs of local governments. Without infrastructure financing options, cities cannot meet the needs of new housing or new business – high priorities for cities across the state.

In addition, there is a critical need to improve upon the seismic resilience of public drinking water and wastewater systems. The Oregon Resilience Plan (2013) identified Oregon’s water and wastewater systems as especially vulnerable to damage resulting from a Cascadia subduction zone earthquake. The plan recommended all public water and wastewater systems complete a seismic risk assessment and mitigation plan for their system. This plan would help communities identify and plan for a backbone water system that would be capable of supplying critical community water needs after a significant seismic event.

However, there is currently no dedicated funding to assist communities with this planning effort and the funding needed to repair/retrofit water infrastructure is significantly inadequate. Investments have been made in Oregon to seismically retrofit public safety facilities and schools, but without planning for infrastructure resilience, communities may not have access to water for critical needs, including drinking water and water for fire suppression, in the immediate aftermath of a seismic event.

This priority will focus on maximizing both the amount of funding and the flexibility of the funds to meet the needs of more cities across the state to ensure long-term infrastructure investment.

Presented by the Community Development Committee and endorsed by the Finance & Taxation and Water/Wastewater committees

J. Least Cost Public Contracting

Legislation:

Introduce and/or support legislation repealing Section [45\(2\)\(a\)\(G\)](#) and Section [45\(3\)\(a\)\(G\)](#) of HB 2017 (enacted in 2017) relating to compliance with least cost public contracting requirements as a condition for fuel tax increases after 2020.

Background:

As a matter of public policy, the League fundamentally disagrees with this linkage of transportation projects funding with public contracting standards applicable to specific local projects. Under HB 2017 (enacted in 2017) cities must comply with least cost public contracting standards set forth by [ORS 279C.305](#) for subsequent the two-cent increases in the state gas tax to occur in 2020, 2022 and 2024. Literally interpreted, one recalcitrant city *might* be able to stop the next gas tax increase by its failure to comply with this statute.

Presented by the Transportation Committee and endorsed by Finance and Taxation Policy Committee

K. Local Control Over Speed Limits on City Streets

Legislation:

Introduce legislation that allows Oregon cities to opt-in (voluntarily) to adjust their speed limits on residential streets 5 mph lower than the statutory speed limit.

Background:

[HB 2682](#) (enacted in 2017) allows the city of Portland to establish by ordinance a designated speed for a residential street under the jurisdiction of the city that is five miles per hour lower than the statutory speed provided the street is not an arterial highway. This authority should be extended to all cities and be considered permissive (not required). Cities should be able to determine speeds that are adequate and safe for their communities.

Presented by the Transportation Committee

L. Lodging Tax Definition Broadening

Legislation:

The League proposes adjusting and broadening the definitions of tourist, tourism promotion, and tourism-related facility as those terms are defined in the lodging tax statutes to ensure state-wide continued tourism and related [economic](#) (see page 17 of link) and [tax growth](#) (see page 223 of link), assist with city tourist costs, and provide local choice and revenue flexibility.

Background:

In 2003, when the state imposed a state lodging tax, the Legislature preempted cities by imposing restrictions on the use of local lodging tax revenues. (The percentage of restricted revenues varies by city.) Restricted tax revenues must be used for tourism promotion or tourism-related facilities. While the League will support all legislation that provides more flexibility on local tax usage, the League will advocate for lodging tax legislation that broadens those terms to clearly cover city costs of tourist events, tourism-related facility maintenance, tourist amenities, tourist attraction enhancement and public safety costs for special tourist events. Language from Section 3 of the [dash 1 amendment to HB 2064](#) (2017) and [Section 1 of HB 2064 \(2017\)](#) will likely serve as a starting place. See also this [power point presentation](#) and this [LOC testimony](#) (supporting HB 2064) for further information.

Presented by the Finance and Tax Committee

M. Mental Health Investment**Legislation:**

The League will seek to protect and enhance the investments made to Oregon's treatment of the mentally ill.

Background:

In 2015, the Legislature funded rental and housing assistance for persons suffering from mental illness, specialized training for police officers to assist people in mental health crisis, multi-disciplinary crisis intervention teams and expanded access to treatment. While providing direct mental health services is not a standard city service, the state of care for persons in crisis had deteriorated to the point city police officers were regularly the primary public employee to provide interventions. The December, issue of Local Focus was devoted to cities and mental health, those articles may be found [here](#).

Because of the anticipated budget shortfalls in 2019, the General Government Committee would like the League to ensure that services established in 2015 are not cut and to capitalize on any opportunities that may exist or be created to enhance those investments.

Presented by the General Government Committee

N. Permanent Supportive Housing Investment**Legislation:**

The League will support increased investments in the services that are provided to people who are living in permanent supportive housing.

Background:

[Permanent supportive housing](#) serves specific populations that traditionally face difficulty in remaining in housing due to additional, complex needs by providing housing and other services at the same time. A [variety of populations](#), such as seniors, veterans, families, and those with mental health conditions, have different services that accompany their housing support. Permanent supportive housing models that use a Housing First approach have been proven to be highly effective for ending homelessness, particularly for people experiencing chronic homelessness who have higher service needs. Investment in the services is as important as the housing because residents that do not receive these additional supports often end up returning to homelessness based on issues related to their other issues.

However, in many areas the funding for housing is not well matched with the funding for the services. The state is the primary funding source for these services. However, there is some disconnect between the housing support provided by the [Oregon Housing and Community Services Department \(OHCS\)](#) and the [Oregon Health Authority \(OHA\)](#).

To help communities that are working to provide opportunities for permanent supportive housing and those seeking to find long-term solutions to local homelessness issues, better investment in the services is vital to success of these programs. By supporting appropriations to OHCS and OHA for these services, more support services can be provided to those that are in permanent supportive housing and lead to better outcomes.

Presented by the Community Development Committee

O. PERS Reform

Legislation:

The League will seek legislation to modernize the PERS investment pool, ensure proper financial controls are adhered to, and give cities a greater voice in how their monies are invested. The League will also seek legislation that shares the risk and costs of the pension benefit with employees but does so in a manner that impacts employees based on the generosity of the benefit plan they will retire under.

Background:

Oregon's Public Employee Retirement System (PERS) is a three-tiered program that provides a defined benefit pension (a pension that pays a retiree and their beneficiary a set amount for the length of their retirement) and a deferred compensation program that is funded through employee contributions. Each of the three tiers pays a different benefit and an employee's placement in a given tier is based on the date they were hired. Tier I is the most generous benefit and has an option for an annuity based retirement that has been incredibly expensive to maintain. Tier I was replaced by Tier II in 1996. Tier II costs, though reduced, were also unsustainable and were replaced with a third tier, known as the Oregon Public Service Retirement Plan (OPSRP) which is designed to provide a 45 percent salary replacement after a full career. A primer on the PERS system may be found [here](#).

The cost to employers for this system has risen steadily since the market crash of 2008, and will increase again on July 1, 2019 (projected individual employer rates may be found [here](#)) and then again in 2021 and possibly again in 2023. Rates are anticipated to remain at a system wide average of around 29 percent of payroll and remain at that level until 2035 without reforms.

Adverse court rulings to previous attempts at reforms have limited our options to addressing benefits not yet earned. With that in mind the Human Resources Committee recommends reforms in the three following areas:

- Ensure that investments into the PERS system are achieving the maximum possible return in the most efficient manner possible while safeguarding the funds with proper financial controls.
- Requiring that employees absorb some of the costs for the pension system but ensure that OPSRP employees are impacted more favorably than Tier I and Tier II employees who will receive more generous retirement benefits.
- Establishing a fourth tier that provides similar benefits to employees but is funded in a more sustainable manner. Providing incentives to retirees and current employees in the other tiers to switch to the fourth tiers should be explored as well.

Presented by the Human Resources Committee

P. PERS Unfunded Liability Revenue Stream Dedication

Legislation:

The League proposes that a new state revenue stream be dedicated to paying down the unfunded liability over a period of years to sustain the Public Employees Retirement System (PERS).

Background:

The present unfunded liability has grown extraordinarily large and is causing rate increases for most local governments and schools that are not sustainable. The League would support all reasonable revenue stream ideas. Ideas include but are not limited to a new temporary limited sales tax, a new payroll tax, and a new temporary state property tax. The League will advocate that PERS cost-containment measures be pursued along-side revenue raising efforts to pay down the liability; both seem necessary to address the state-created problem.

Presented the Finance and Tax Committee and endorsed by the Human Resources Committee

Q. Place-Based, Water Resource Planning (Program Support)**Legislation:**

The League will advocate for the funding needed to complete existing place-based planning efforts across the state.

Background:

Oregon's water supply management issues have become exceedingly complex. Lack of adequate water supply and storage capacity to meet existing and future needs is an ongoing concern for many cities in Oregon and is a shared concern for other types of water users including agricultural, environmental and industrial. Most of the surface water in Oregon (during peak season months) is fully allocated with no new water available. As a result, the ability to meet existing and future demand for various water uses will require collaboration, improved management and coordinated conservation among a variety of stakeholders, including municipalities. For this reason, the Legislature passed legislation to create a place-based planning pilot program in Oregon. This program, administered through the Oregon Water Resources Department, is providing a framework and funding for local stakeholders to collaborate and develop solutions to address water needs within a watershed, basin or groundwater area. Place-based planning is intended to provide an opportunity for coordinated efforts and the creation/implementation of a shared vision to address water supply challenges. Four place-based planning efforts are currently underway across the state in the Malheur Lake Basin, Lower John Day sub-basin, Upper Grande Ronde sub-basin and mid-coast region. Without continued funding, these efforts will not be able to complete their work. The LOC Water & Wastewater Policy Committee recognized that while this funding is limited to specific geographic areas, they also recognize the importance of successfully completing these pilot efforts and conducting a detailed cost/benefit analysis. It is a critical step in order to demonstrate the benefits of this type of planning. If these local planning efforts prove to be successful, there will likely be future efforts to secure additional funding for other place-based planning projects across the state.

R. Property Tax Reform**Legislation:**

The League of Oregon Cities proposes that the property tax system should be constitutionally and statutorily reformed as part of the 2019 session work on state and local tax reform and improving funding for [schools](#) (see pages 69-72 of link; property taxes make up 1/3 of school funding).

Background:

The property tax system is [broken and in need of repair](#) due to [Measures 5 and 50](#), which are both now over 20 years old. All local governments and schools rely heavily on property tax revenues to pay for services and capital expenses. Therefore, the League will participate in coalitions to help draft and advocate for both comprehensive and incremental property tax reform option packages. The League will remain flexible to support all legislation that improves the system, with a focus on a property tax package with these elements:

- To achieve equity, a system that transitions to a market-based property tax valuation system (RMV) rather than the present complex valuation system from Measure 50 (requires constitutional referral).
- To enhance fairness and adequacy, a system that makes various statutory changes, some of which would adjust the impact of a return to RMV. For example, the League supports a new reasonable homestead exemption (percentage of RMV with a cap) but also supports limiting or repealing various property tax exemptions that do not have a reasonable return on investment.
- To restore choice, a system that allows voters to adopt tax levies and establish tax rates outside of current limits (requires constitutional referral).

[SJR 3](#) (see page 50 of link)(constitutional referral with return to real market value system) and [SB 151](#) (see page 48 of link) (homestead exemption bill) from the 2017 session will likely serve as starting points. City property tax data including real market values and assessed values can be accessed [here](#).

Presented by the Finance and Tax Committee

S. Qualification Based Selection (QBS)

Legislation:

The League will seek to reform the Qualification Based Selection (QBS) requirements to allow for the consideration of price in the initial selection of architects, engineers, photogrammetrists and surveyors.

Background:

The state currently prohibits the consideration of price when making an initial selection when awarding contracts for certain design professionals when conducting public improvements. Instead of issuing a request for proposals as is done with most public improvement projects, contracting agencies issue “requests for qualifications” on a project. Cities may negotiate price only after the initial selection of a contractor is made. Under this system a city or other contracting agency will never know the price of other qualified and responsible bidders on a project.

The League’s General Government Committee concluded that this process is not in the interests of cities or tax payers as it precludes the use of competitive bids. There is no other area in which a consumer, public or private, would procure a service or product without considering the price.

Presented by the General Government Committee

T. Right-of-Way and Franchise Fee Authority

Legislation:

Oppose legislation that, in any way, preempts local authority to manage public rights-of-way and cities’ ability to set the rate of compensation for the use of such rights-of-way.

Background:

In its commitment to the protection of Home Rule and local control, the League consistently opposes restrictions on the rights of cities to manage their own affairs. From time to time, in the context of public rights-of-way management authority discussions, proposals to restrict to this authority arise. Such was the case during the 2017 legislative session with [SB 202](#) and [SB 840](#). These efforts to restrict local authority often include proposals for a statewide right-of-way access policy and compensation system as well as limiting the ability of cities to charge fees of other government entities. This is contrary to local government management authority; the ability to enter into agreements with users of the right-of-way either by agreement/contract or ordinance; and to set the rate of compensation.

Presented by the Telecom, Broadband & Cable Committee

U. Safe Routes to School Match

Legislation:

Introduce legislation lowering the local Safe Routes to Schools matching grant requirement to 20 percent from 40 percent and lowering the matching grant requirement for areas qualifying for exceptions to 10 percent from 20 percent.

Background:

[Section 123 of HB 2017](#) (enacted in 2017) authorizes the Oregon Transportation Commission to provide matching grants for safety improvement projects near schools. To receive the grant cities must provide a 40 percent cash match unless the school is located in a city with a population of less than 5,000; is within a safety corridor; or qualifies as a Title I school in which case the cash match requirement is reduced to 20 percent. While cities support the availability of matching grant funds provided by the state, the current cash match requirements are too high for most cities to participate in the program.

Presented by the Transportation Committee

V. Small Area Cell Deployment (also known as “Small Cell Deployment”)

Legislation:

Oppose legislation that preempts local authority to manage public property while supporting deployment of wireless technology, including small area cell and 5G.

Background:

Legislative efforts involving the deployment of small area cell facilities are increasing around the nation. Currently 20 states ([Arizona](#), [Colorado](#), [Delaware](#), [Florida](#), [Hawaii](#), [Illinois](#), [Indiana](#), [Iowa](#), [Kansas](#), [Minnesota](#), [North Carolina](#), [New Mexico](#), [Ohio](#), [Oklahoma](#), [Rhode Island](#), [Tennessee](#), [Texas](#), [Utah](#), [Virginia](#), and [Washington](#)) have passed bills that limit cities ability to collect appropriate and fair rights-of-way, permitting, and lease fees on municipal property; to control their own design and aesthetics; or otherwise manage wireless technology deployment within their jurisdictions. This type of legislation is not going away. In fact, it is just beginning.

During the 2017 session, the League was approached independently by representatives of two wireless companies with draft concepts that could have resulted in legislation compromising local authority to manage the deployment of small area cell and 5G technology. Issues raised included “shot clock” (time allowed for cities to rule on applications), fee structures and limits, contract terms and duration, land use issues etc. These efforts are expected to continue in 2019 and with greater urgency as the technology approaches deployment status. While cities in Oregon support the advent of new wireless technology including small cell and 5G, authority to ensure their deployment complies with local laws and policies must be maintained.

Presented by the Telecom, Broadband & Cable Committee

W. Speed Cameras

Legislation:

Introduce and/or support legislation authorizing cities to use fixed speed cameras at locations other than intersections.

Background:

Speeding is a public safety issue. The Oregon Transportation Safety Action Plan envisions no deaths or life-changing injuries on Oregon's transportation system by 2035. Currently, cities have the authority as a result of [HB 2409](#) (enacted in 2017) to issue a speeding citation from the same camera and sensor system used to enforce red light compliance at intersections.

Further, speeding does not only occur at intersections. Additional automated enforcement, outside of intersections, would be a valuable tool allowing cities to mitigate dangerous behaviors and speeding. In 2015, the Oregon Legislature granted the city of Portland the authority to implement a fixed speed safety camera program ([HB 2621](#)). The fixed speed camera systems have been operating on "urban high crash corridors" that are also part of the city of Portland's High Crash Network. While this program has not been in place long, the comparison of before and after speeds near the fixed photo radar system is indicating that the automated enforcement is positively influencing speed reduction (see [PBOT report](#)). This legislation would extend the authority to all Oregon cities to implement fixed speed safety camera programs to help reduce the number of deaths and serious injuries that occur as a result of speeding.

Presented by the Transportation Committee

X. Speed Limit Methodology

Legislation:

Introduce legislation that directs the Oregon Department of Transportation to develop a new speed setting methodology for cities and other urban areas that uses a safe systems approach validated by expert system tools as recommended by [NTSB Safety Study SS-17/01](#).

Background:

The NTSB safety recommendations represent current data-driven best practices to determine speed limits. Currently, Oregon speed limits are set based on the guidance that speed limits in speed zones within cities should be within 10 mph of the 85th percentile speed as determined by [The NTSB Safety Study SS-17/01](#), "Reducing Speeding-Related Crashes Involving Passenger Vehicles" concludes,

- "Speed increases the injury severity of a crash;"
- "...that unintended consequences of the reliance on using the 85th percentile speed for changing speed limits in speed zones include higher operating speeds and new, higher 85th percentile speeds in the speed zones, and an increase in operating speeds outside the speed zones;"
- "...that the safe system approach to setting speed limits in urban areas is an improvement over conventional approaches because it considers the vulnerability of all road users."

Presented by the Transportation Committee

Y. Third Party Building Inspection

Legislation:

The League will clarify the ability for local government programs to have private party building officials and building inspectors provide services for local building inspection programs, including recognizing that privately employed specialized inspectors can to perform specialized inspections.

Background:

Beginning in 2017, the League has been working to defend local building inspection programs that contract with third-party companies to provide building official and inspectors to run the local program. However, the Oregon Building Codes Division (BCD) has stated that the Oregon Department of Justice (DOJ) [has informed BCD](#) that programs that are structured this way violate the constitutional prohibition on delegating government authority. The League has repeatedly asserted that we disagree with that legal assessment. There was a bill introduced in 2018, [HB 4086](#), that would have adopted new requirements for

local governments running programs. The League worked with other stakeholders to prevent passage of the bill, but we committed to working on a legally defensible solution that does not prevent these locally run programs from continuing.

After the session, the BCD determined that it would implement new rules for locally run inspection programs to meet the asserted legal opinion on delegation. On April 23, the BCD enacted [emergency, temporary rules](#) that added significant requirements for local building inspection programs. The new rules required local programs to designate a government employee as a city's building official. The rules also required the city to have a government-employed, certified electrical inspector. Both positions could be filled by hiring the person directly or by an agreement between municipalities to share the employee(s). The rules further stated that a shared employee could only service three jurisdictions.

In May, the Director of the Consumer and Business Services, who oversees the BCD, informed the League that the temporary rules were rescinded. The Department's decision to rescind the rules included a statement that they would seek a formal opinion from the DOJ to clarify the issue of delegation. However, the BCD did replace the rescinded rules with [another temporary, emergency rule](#). This new rule was enacted on May 18 and states that a local government must appoint a government-employed building official.

In addition to the concerns about using third-party building officials, there is currently statutory prohibition on specialized inspectors that are employed in the private sector to complete specialized inspections. There are a limited number of these inspectors, and, without removal of this prohibition, larger scale projects will not be able to move forward because they cannot be inspected and permitted. This issue was the catalyst for the overall discussion related to third-party building officials, but is not related to the asserted legal claims.

There is a commitment to work on this issue in the 2019 session, but it remains an issue of high concern as it directly impacts the flexibility of local government choice on how to provide services at the local level. Using third-party providers allows smaller jurisdictions to have local, efficient programs that provide clarity for the local development community. It also allows a base of business for these companies, which also serve to provide over-flow capacity to programs that primarily staff these programs with government staff. Therefore, this issue is vital to the long-term success of locally run building inspection programs.

Presented by the Community Development Committee

Z. Tobacco Taxes Share Increase

Legislation:

The League proposes seeking a share of all state tobacco product tax revenues to assist with rising public safety costs and provide state shared revenue equity.

Background:

Only cigarette tax revenues are included in the [state-shared revenue](#) distribution to cities and those revenues are decreasing; cities receive about 2% of the cigarette tax revenues or \$3.6 million a year under the formula. [Other tobacco](#) (chew, snuff, cigars, pipe tobacco, etc.) is also taxed by the state and those revenues have been increasing ([now over \\$60 million a year](#)), but those revenues are distributed only to the state. Cities are preempted from taxing cigarettes and other tobacco products. However, cities are often left to enforce tobacco laws and handle sales and use complaints. The League proposes that cities should receive a fair share of all the tobacco tax revenues. The League anticipates that excise tax increases to cigarettes and other tobacco products, and a new vaping tax will be a part of revenue package discussions in 2019, and the League sees this concept as an important leveraging tool.

Presented by the Finance and Tax Committee

AA. Waste Water Technical Assistance Program

Legislation:

The League will advocate for the creation of a circuit rider program, within the Department of Environmental Quality, to provide needed technical assistance for communities on water quality issues, including wastewater treatment and permit compliance options. Staffing for the circuit rider program would be provided through a third-party contract (or contracts). The League will work to identify funding resources to support this program, including a possible set aside of Oregon's federal Clean Water State Revolving funds.

Background:

As Clean Water Act requirements for public wastewater systems continue to evolve, with new and more stringent requirements being placed on a number of Oregon communities; cities have expressed concern over how best to comply with those requirements, especially with the limited technical and financial resources that many face. The League's Water & Wastewater Committee discussed the need for technical assistance for communities experiencing these challenges and looked to an existing program within the Oregon Health Authority's (OHA) Drinking Water Services division as a template for addressing this need. The OHA funds a circuit rider program through a third-party contract. The program is funded through federal Drinking Water State Revolving Loan Funds. The program is intended to help more communities be successful in complying with state and federal requirements. The services provided through the program are free for communities with populations of less than 10,000.

Presented by the Water/Wastewater Committee

BB. Wetland Development Permitting

Legislation:

The League shall work to establish legislative authority for the Department of State Lands to assume the federal program from the U.S. Army Corps of Engineers under section 404 of the Clean Water Act.

Background:

In many communities looking to develop in the wetlands creates regulatory uncertainty, particularly where development is occurring in previously un-identified wetlands, because there are two agencies that must provide permits, the Oregon Department of State Lands (DSL) and the U.S. Army Corps of Engineers (USACE). The state's process has set deadlines which provides certainty for developers. However, the USACE process is much less consistent or timely. This uncertainty increases risk related to development that can cause projects to stop before they start. In a time where cities are trying to encourage development to meet the housing shortages and economic development goals to support citizens, any increased barriers can impact success.

There is a process in place at the federal level that would allow for the state to assume the USACE permitting process increasing the efficiency and certainty in the process. The [state has taken steps](#) in the past to ensure alignment of the state program to the requirements for federal approval. However, there were concerns raised at the time that the process related to the Endangered Species Act and cultural resource protections. The DSL has continued to work on these conflicts and believes it is positioned to work with the federal government to assume the federal permitting process if so authorized by the state legislature. For further information, the DLS provided a presentation for the committee, available [here](#).

Presented by the Community Development Committee

CC. Wood Smoke Reduction Program Support

Legislation: Support increased funding to support local wood smoke reduction programs and efforts. The League will advocate the need for an additional \$3-5 million, recognizing that any additional funding to assist communities is helpful.

Background: Woodstove smoke is one of the most significant sources of fine particulate and toxic air pollution in Oregon, often jeopardizing public health and putting communities at risk of violating federal air quality standards. Woodstove smoke is a problem for many Oregon communities that struggle with both the public health impacts and economic threat of being designated as nonattainment under the federal Clean Air Act. To address this challenge, local governments need access to funding for wood smoke reduction programs. Such programs have proven effective at reducing wood smoke in communities and include public education, enforcement, incentives for woodstove change-outs (to ductless heat pumps or certified stoves, weatherization assistance for low-income households and providing residents with dry, seasoned fire wood which burns cleaner. A 2016 taskforce report that was submitted to the Legislature indicated that there are approximately 150,000 uncertified stoves in the state, and that while Oregon has a long and successful history of replacing woodstoves in certain communities, money is sporadic and limited. The report went on to suggest that “an allocation in the range of \$3-5 million per biennium could target high-risk communities and would support a meaningful level of effort to replace old, dirty woodstoves.”

In 2017, the Legislature provided \$250,000 in funding for community wood smoke reduction programs. The need for local communities, including a number of small cities, is much greater.

Presented by the Energy & Environment Committee



AGENDA STAFF REPORT

AGENDA LOCATION: Action Item #11-C

MEETING DATE: July 9, 2018

TO: Mayor and City Council

FROM: Gene E. Parker, City Attorney
Chuck Covert, Airport Manager

ISSUE: Approval of Lease with Federal Aviation Administration for ASOS Weather Station

BACKGROUND: The City and Klickitat County have a lease agreement with the Federal Aviation Administration for the lease of space for an ASOS weather station at the Columbia Gorge Regional Airport. Under this lease, the FAA has been paying annual rent in the amount of 1,504. The current lease expires on September 30, 2018.

The FAA provided a proposed lease which contains many of the same provisions of the current lease (some of which have been updated by the FAA to match their standard lease format). The proposed lease is for a 15-year term beginning on October 1, 2018 and continuing to September 30, 2033, and for the annual rent to remain at \$1,504. On April 20, the Regional Airport Board reviewed the proposed lease and voted to recommend the City and Klickitat County approve the lease. The Airport Board recommended approval of the lease for two primary reasons. First, if the lease was not renewed, the City and County would have to provide the capital equipment to operate the weather station, which is estimated to cost \$20,000. Secondly, the existence of the weather station at the Airport is critical to the efficient and effective operation of the Airport, and extending the term of the lease will ensure that this service continues to be provided. The Klickitat County Prosecuting Attorney's Officer has also reviewed and approved the proposed lease.

BUDGET IMPLICATIONS: The City and Klickitat County will receive annual rent of \$1,504 under the proposed lease.

COUNCIL ALTERNATIVES:

1. **Staff recommendation:** *The Council move to approve the Lease with the Federal Aviation Administration for the ASOS weather station, and authorize the Mayor to sign the lease.*
2. Identify any provision which the Council desires to amend, and submit the proposed amendments to the Federal Aviation Administration and Klickitat County for their review.

ANTENNA AND EQUIPMENT SPACE LEASE

Between

**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION**

And

City of the Dalles, Oregon and Klickitat County, Washington

Lease No. 690EG4-18-L-00045

**ASOS Facility – Dallesport, WA
SECTION 1 - OPENING**

6.1.1 Preamble (JAN 2017)

This Lease is hereby entered into by and between City of the Dalles, Oregon and Klickitat County, Washington, hereinafter referred to as the Lessor and the United States of America, acting by and through the Federal Aviation Administration, hereinafter referred to as the Government. The terms and provisions of this Lease, and the conditions herein, bind the Lessor and the Lessor's heirs, executors, administrators, successors, and assigns.

For purposes of this Lease, the terms Contractor and Lessor are interchangeable with each other.

6.1.2 Superseding Lease (JAN 2015)

This Lease supersedes Lease No. DTFAWN-13-L-00049 and all other previous agreements between the parties for the leased property described in this document.

6.1.3 Witnesseth (JAN 2015)

Witnesseth: The parties hereto, for the consideration hereinafter mentioned covenant and agree as follows:

6.1.4 Description (JAN 2017) - Alternate I (OCT 1996)

The Lessor hereby leases to the Government the following described premises, which shall be related to the FAA's activities in support of Air Traffic Operations: 100 square feet of space on the second floor of The Dalles Municipal Airport Building located at 135 Airport Way, Dallesport, WA 98617 for the purpose of operating a weather station (ASOS).

SECTION 2 - TERMS

6.2.5 Term (AUG 2002)

To have and to hold, for the term commencing on October 1, 2018 and continuing through September 30, 2033 inclusive, provided that adequate appropriations are available from year to year for the consideration herein.

6.2.6 Consideration (JAN 2017) - Alternate II (JUL 2017)

The Government shall pay the Lessor rent for the premises in the amount of \$ 1504.00 per annum, payable to the City of The Dalles. Payment shall be made in arrears, without the submission of invoices or vouchers. Payments are due on the first business day following the end of the payment period and are subject to available appropriations. The payments shall be directly deposited in accordance with the "Payment by Electronic Funds Transfer" clause in this Lease. Payments shall be considered paid on the day an electronic funds transfer is made.

6.2.7 Cancellation (JAN 2017)

The Government may terminate this Lease at any time, in whole or in part, if the Real Estate Contracting Officer (RECO) determines that a termination is in the best interest of the Government. The RECO shall terminate by delivering to the [Enter Lessor or Grantor] a written notice specifying the effective date of the termination. The termination notice shall be delivered by certified mail return receipt requested and mailed at least 60 days before the effective termination date.

6.2.14 Holdover (JUL 2017)

If after the expiration of the Lease, the Government shall retain possession of the premises, the Lease shall continue in full force and effect on a month-to-month basis. Payment shall be made in accordance with the Consideration clause of the Lease, in arrears on a prorated basis, at the rate paid during the Lease term. This period shall continue until the Government shall have signed a new lease with the Lessor, acquired the property in fee, or vacated the premises.

6.2.16 Lessor's Successors (JUL 2017)

The terms and provisions of this Lease and the conditions herein bind the Lessor and the Lessor's heirs, executors, administrators, successors, and assigns.

SECTION 3 - GENERAL CLAUSES

3.2.5-1-RE Officials Not to Benefit (OCT 1996)

No member of or delegate to Congress, or resident commissioner, shall be admitted to any share or part of this lease, or to any benefit arising from it. However, this clause does not apply to this lease to the extent that this lease is made with a corporation for the corporation's general benefit.

3.3.1-15-RE Assignment of Claims (OCT 1996)

Pursuant to the Assignment of Claims Act, as amended, 31 U.S.C. § 3727, 41 U.S.C. § 6305 the Lessor may assign its rights to be paid under this lease.

6.3.10 Maintenance of Premises (JAN 2017)

The Lessor will maintain the demised premises, including the building, grounds, all equipment, fixtures and appurtenances furnished by the Lessor under this Lease, in good repair and tenantable condition. The Lessor shall ensure that all hazards associated with electrical equipment are marked in accordance with the Occupational Safety and Health Administration (OSHA) requirements and National Fire Protection Association (NFPA) 70 electrical code.

6.3.16 Failure in Performance (OCT 1996)

In the event the Lessor fails to perform any service, to provide any item, or meet any requirement of this Lease, the Government may perform the service, provide the item, or meet the requirement, either directly or through a contract. The Government may deduct any costs incurred for the service or item, including administrative costs,

from the rental payments. No deduction of rent pursuant to this clause will constitute default by the Government on this Lease.

6.3.17 No Waiver (OCT 1996)

No failure by the Government to insist upon strict performance of any provision of this Lease, or failure to exercise any right, or remedy consequent to a breach thereof, will constitute a waiver of any such breach in the future.

6.3.18 Non-Restoration (JUL 2017)

It is hereby agreed between the parties that, upon termination of its occupancy (due to termination or expiration of the Lease, the Government shall have no obligation to restore and/or rehabilitate, either wholly or partially, the property that is the subject of this lease, including any holdover period. It is further agreed that the Government may abandon in place any or all of the structures and equipment installed in or located upon said property by the Government during its tenure. Such abandoned equipment shall become the property of the Lessor.

6.3.26 Damage by Fire or Other Casualty (OCT 1996)

If the building or structure is partially or totally destroyed or damaged by fire or other casualty or if environmentally hazardous conditions are found to exist so that the leased premises is untenantable as determined by the Government, the Government may terminate the Lease, in whole or in part, immediately by giving written notice to the Lessor and no further rental will be due.

6.3.28 Interference (OCT 2008)

Should there be interference with the Lessor's facility due to the FAA operations, the FAA shall correct the problem immediately. If the Lessor's facility interferes with FAA's equipment, then the Lessor will correct the problem immediately.

6.3.29 Alterations (JAN 2017)

The Government shall have the right during the term of this Lease, including any extensions thereof, to make alterations, attach fixtures, and erect structures or signs in or upon the premises hereby leased, which fixtures, alterations or structures so placed in, on, upon, or attached to the said premises shall be and remain the property of the Government and may be removed or otherwise disposed of by the Government. The parties hereto mutually agree and understand, that no restoration rights shall accrue to the Lessor for any alterations or removal of alterations to the leased premises under this Lease, and that the Government shall have the option of abandoning alterations in place, when terminating the Lease, at no additional cost.

6.3.30 Hold Harmless (OCT 1996)

In accordance with and subject to the conditions, limitations and exceptions set forth in the Federal Tort Claims Act of 1948, as amended (28 USC 2671 et. seq.), hereafter termed "the Act" the Government will be liable to persons damaged by any personal injury, death or injury to or loss of property, which is caused by a negligent or wrongful act or omission of an employee of the Government while acting within the scope of his office or employment under circumstances where a private person would be liable in accordance with the law of the place where the act or omission occurred. The foregoing shall not be deemed to extend the Government's liability beyond that existing under the Act at the time of such act or omission or to preclude the Government from using any defense available in law or equity.

6.3.31 Default by Lessor (OCT 1996)

Each of the following shall constitute a default by Lessor under this Lease:

A. If the Lessor fails to perform the work required to deliver the leased premises ready for occupancy by the Government with such diligence as will ensure delivery of the leased premises within the time required by the lease agreement, or any extension of the specified time.

B. Failure to maintain, repair, operate or service the premises as and when specified in this Lease, or failure to perform any other requirement of this Lease as and when required, provided such failure which shall remain uncured for a period of time as specified by the RECO, following Lessor's receipt of written notice thereof from the RECO.

C. Repeated failure by the Lessor to comply with one or more requirements of this Lease shall constitute a default notwithstanding that one or all failures shall have been timely cured pursuant to this clause.

If default occurs, the Government may, by written notice to the Lessor, terminate the lease in whole or in part.

6.3.32 Compliance with Applicable Laws (OCT 1996)

The Lessor shall comply with all federal, state and local laws applicable to the Lessor as owner or Lessor, or both, of building or premises, including, without limitation, laws applicable to the construction, ownership, alteration or operation of both or either thereof, and will obtain all necessary permits, licenses and similar items at Lessor's expense. This Lease shall be governed by federal law.

6.3.33 Covenant Against Contingent Fees (AUG 2002)

The Lessor warrants that no person or agency has been employed or retained to solicit or obtain this contract upon an agreement or understanding for a contingent fee, except a bona fide employee or agency. For breach or violation of this warranty, the Government shall have the right to annul this contract without liability or, in its discretion, to deduct from the contract price or consideration, or otherwise recover the full amount of the contingent fee.

6.3.34 Anti-Kickback - Real Property by Reference (JAN 2017)

The Anti-Kickback Act of 1986 (41 U.S.C. 51-58) (the Act), prohibits any person from (1) Providing or attempting to provide or offering to provide any kickback; (2) Soliciting, accepting, or attempting to accept any kickback; or (3) Including, directly or indirectly, the amount of any kickback in the contract price charged by a prime Contractor to the United States or in the contract price charged by a subcontractor to a prime Contractor or higher tier subcontractor.

6.3.35 Examination of Records (AUG 2002)

The Comptroller General of the United States, the Administrator of FAA or a duly authorized representative from either shall, until three (3) years after final payment under this contract have access to and the right to examine any of the Lessor's directly pertinent books, documents, paper, or other records involving transactions related to this contract.

6.3.36 Subordination, Nondisturbance and Attornment (JAN 2017)

A. The Government agrees, in consideration of the warranties and conditions set forth in this clause, that this Lease is subject and subordinate to any and all recorded mortgages, deeds of trust and other liens now or hereafter existing or imposed upon the premises, and to any renewal, modification or extension thereof. It is the intention of the parties that this provision shall be self-operative and that no further instrument shall be required to effect the present or subsequent subordination of this Lease. Based on a written demand received by the RECO, the Government will review and, if acceptable, execute such instruments as Lessor may reasonably request to evidence further the subordination of this Lease to any existing or future mortgage, deed of trust or other security interest pertaining to the premises, and to any water, sewer or access easement necessary or desirable to serve the premises or adjoining property owned in whole or in part by Lessor if such easement does not interfere with the full enjoyment of any right granted the Government under this Lease.

B. No such subordination, to either existing or future mortgages, deeds of trust or other lien or security instrument shall operate to affect adversely any right of the Government under this Lease so long as the Government is not in default under this Lease. Lessor will include in any future mortgage, deed of trust or other security instrument to which this Lease becomes subordinate, or in a separate non-disturbance agreement, a provision to the foregoing effect. Lessor warrants that the holders of all notes or other obligations secured by existing mortgages, deeds of trust or other security instruments have consented to the provisions of this clause, and agrees to provide true copies of all such consents to the RECO promptly upon demand.

C. In the event of any sale of the premises or any portion thereof by foreclosure of the lien of any such mortgage, deed of trust or other security instrument, or the giving of a deed in lieu of foreclosure, the Government will be deemed to have attorned to any purchaser, purchasers, transferee or transferees of the premises or any portion thereof and its or their successors and assigns, and any such purchasers and transferees will be deemed to have assumed all obligations of the Lessor under this Lease, so as to establish direct privity of estate and contract between Government and such purchasers or transferees, with the same force, effect and relative priority in time and right as if the lease had initially been entered into between such purchasers or transferees and the Government; provided, further, that the RECO and such purchasers or transferees shall, with reasonable promptness following any such sale or deed delivery in lieu of foreclosure, execute all such revisions to this Lease, or other writings, as shall be necessary to document the foregoing relationship.

D. None of the foregoing provisions may be deemed or construed to imply a waiver of the Government's rights as a sovereign.

6.3.39 Integrated Agreement (OCT 1996)

This Lease, upon execution, contains the entire agreement of the parties, and no prior written or oral agreement, express or implied shall be admissible to contradict the provisions of this Lease.

6.3.44 Inspection (OCT 1996)

The Government reserves the right, at any time after the Lease is signed and during the term of the Lease, to inspect the leased premises and all other areas of the building to which access is necessary, to ensure a safe and healthy work environment for the Government tenants and the Lessor's performance under this Lease. The Government shall have the right to perform sampling of suspected hazardous conditions.

6.3.45 Contract Disputes - Real Property by Reference (JAN 2017)

All contract disputes arising under or related to this Lease will be resolved through the FAA dispute resolution system at the Office of Dispute Resolution for Acquisition (ODRA) and will be governed by the procedures set forth in 14 C.F.R. Parts 14 and 17, which are hereby incorporated by reference. Judicial review, where available, will be in accordance with 49 U.S.C. 46110 and will apply only to final agency decisions. A Lessor may seek review of a final Government decision only after its administrative remedies have been exhausted.

All contract disputes will be in writing and will be filed at the following address:

Office of Dispute Resolution for Acquisition, AGC-70
Federal Aviation Administration
800 Independence Avenue, S.W., Room 323,
Washington, DC 20591
Telephone: (202) 267-3290

A contract dispute against the FAA will be filed with the ODRA within two (2) years of the accrual of the lease claim involved. A contract dispute is considered to be filed on the date it is received by the ODRA.

The full text of the Contract Disputes clause is incorporated by reference. Upon request the full text will be provided by the RECO.

SECTION 4 - FINANCIAL CLAUSES

6.4.1 System for Award Management - Real Property - SAM Waiver (JAN 2017)

The System for Award Management (SAM) is the Government's required method to receive vendor information. However, you have been granted an exception to SAM and therefore must provide your initial payment information and any future changes to your payment information to the RECO on a completed and signed "Vendor Miscellaneous Payment Information" form, together with any other required notice under this lease.

6.4.2 Payment by Electronic Funds Transfer (JAN 2017)

All payments by the Government under this Lease will be made by electronic funds transfer (EFT). The Government will make payment by EFT through the Automated Clearing House (ACH) network, subject to the rules of the National Automated Clearing House Association. The rules governing federal payments through the ACH are contained in 31 CFR Part 210. The Lessor is responsible for maintaining correct payment information with the Government. If the Lessor's EFT information is incorrect or outdated, the Government is not required to make payments to the Lessor until correct/current EFT information is submitted to the Government for payment distribution.

SECTION 5 - DESIGN AND CONSTRUCTION CLAUSE

6.5.22 Installation of Antennas, Cables & Other Appurtenances (JAN 2017)

The FAA shall have the right to install, operate and maintain antennas, wires and their supporting structures, including any linking wires, connecting cables and conduits atop and within buildings and structures, or at other locations, as deemed necessary by the Government. The Government will coordinate with the Lessor when installing antennas, cables, and other appurtenances.

SECTION 7 - SERVICES, UTILITIES, AND MAINTENANCE CLAUSES

6.7.1-2 Services and Utilities (JAN 2017)

Services supplied to technical equipment will be supplied 24 hours a day, and seven days a week. The Government will have access to the leased premises at all times, including the use of electrical services without additional payment.

- A. ELECTRICITY
- B. SNOW REMOVAL
- C. GROUND MAINTENANCE

SECTION 10 - CLOSING

6.10.1 Notices (JUL 2017)

All notices/correspondence shall be in writing, referencing to the Lease number, and be addressed as follows:

TO THE LESSOR:
City of The Dalles
Julie Krueger, City Manager
313 Court St
City of The Dalles, Oregon 97058

TO THE GOVERNMENT
Federal Aviation Administration
Real Estate & Utilities Group, ALO-820
2200 S 216th St
Des Moines, WA 98198

6.10.3 Signature Block (JUL 2017)

This Lease shall become effective when it is fully executed by all parties.

In witness whereof, the parties hereto have signed their names.

By: _____

Print Name: Rex Johnson

Title: Klickitat County Commissioner

Date: _____

By: _____

Print Name: Jim Sizemore

Title: Klickitat County Commissioner

Date: _____

By: _____

Print Name: David Sauter

Title: Klickitat County Commissioner

Date: _____

By: _____

Print Name: Stephen E. Lawrence

Title: City Mayor, City of the Dalles

Date: _____

UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION

By: _____

Print Name: _____

Title: Real Estate Contracting Officer

Date: _____

NOTARY ACKNOWLEDGMENT

STATE OF _____)
)
COUNTY OF _____)

On this _____ day of _____, _____, before me
_____, a Notary Public in and for the said County of
_____, State of _____, duly commissioned
and sworn, personally appeared _____, known to me to be
the person(s) whose name(s) is/are subscribed to the within instrument and that
he/she duly acknowledged to me that he/she executed the same.

IN WITNESS WHEREOF, I hereunto set my hand and official seal, at my office in the
County of _____, State of _____, the day and year in
this certificate first above written.

(Signed) _____

Notary Public in and for the County of

_____, State of

My Commission Expires: _____

SEAL

CERTIFICATION OF SIGNATURE AUTHORITY

I, _____, certify that I am the
_____ of the _____,

I further certify that _____, who signed said
agreement on behalf of the _____
was then _____ of said
_____, and that said agreement was
duly signed for and in behalf of the _____
by authority of its governing body, and is within the scope of its powers.

Done this _____ day of _____, 20_____.

By: _____

Title: _____