



City Council

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Public Works Director
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Dallas City Council Agenda

Monday, April 5, 2010, 7:00 p.m.

Mayor Jim Fairchild, Presiding

Dallas City Hall
187 SE Court Street
Dallas, Oregon 97338

All persons addressing the Council will please use the table at the front of the Council. All testimony is electronically recorded. If you wish to speak on any agenda item, please sign in on the provided card.

ITEM

RECOMMENDED ACTION

1. ROLL CALL AND PLEDGE OF ALLEGIANCE

2. QUESTIONS OR COMMENTS FROM THE AUDIENCE

This time is provided for citizens to address the Council or introduce items for Council consideration on any matters other than those on the agenda.

3. PUBLIC HEARINGS

Public comment will be allowed on items appearing on this portion of the agenda following a brief staff report presenting the item and action requested. The Mayor may limit testimony.

a. Zone Change / Comprehensive Plan Map Amendment @
Jonathan Avenue **p. 3**

4. CONSENT AGENDA

The following items are considered routine and will be enacted by one motion. There will be no separate discussion of these items unless a Council member so requests, in which case the item will be removed from the Consent Agenda and considered separately.

a. Approval of March 15, 2010 City Council Minutes **p. 47**

b. Acknowledge report of March 22 Administrative Committee Meeting (action item addressed later on agenda) **p. 49**

c. Acknowledge report of March 22 Building and Grounds Committee Meeting (no action items) **p. 106**

d. Approve street closure request from Dallas Cruisers **p. 116**

e. Approve appointment to Budget Committee **p. 118**

f. Acknowledge February monthly report for Aquatic Center and Community Development **p. 121**

5. ITEMS REMOVED FROM CONSENT AGENDA

6. REPORTS OR COMMENTS FROM THE COUNCIL MEMBERS

Dallas City Council Agenda

Page 2

Our Vision

Our vision is to foster an environment in which Dallas residents can take advantage of a vital, growing, and diversified community that provides a high quality of life.

Our Mission

The mission of the City of Dallas is to maintain a safe, livable environment by providing open government with effective, efficient, and accountable service delivery.

Our Motto

*Commitment to the Community.
People Serving People.*

Dallas City Hall is accessible to persons with disabilities. A request for an interpreter for the hearing impaired or for other accommodations for persons with disabilities should be made at least 48 hours before the meeting to the City Manager's Office, 503-831-3502 or TDD 503-623-7355.

a. Action item from March 22 Administrative Committee: Discussion
RV Parking p. 123

b. Other

7. REPORTS FROM CITY MANAGER AND STAFF

a. OLCC application for new establishment Motion *p. 128*

b. Other

8. RESOLUTIONS

a. Resolution No. 3198 – A Resolution authorizing the transfer of budgetary funds Roll Call Vote *p. 135*

9. FIRST READING OF ORDINANCE

a. Ordinance No. 1720: An Ordinance amending Dallas City Code Sections 6.610 regarding recreational vehicle parking permits; and repealing conflicting provisions. First Reading *p. 139*

b. Ordinance No. 1721: An Ordinance amending the Dallas Comprehensive Plan map for a parcel of real property owned by Fowler Living Trust from Industrial to Residential. First Reading *p. 140*

c. Ordinance No. 1722: An Ordinance changing the zoning designation of a parcel of real property owned by Fowler Living Trust from Industrial to Residential Medium Density. First Reading *p. 144*

10. SECOND READING OF ORDINANCE

a. Ordinance No. 1717: An Ordinance changing the zoning designation of a parcel of real property from CN, Commercial Neighborhood to CG, Commercial General; and amending the Dallas Zoning Map. Roll call vote *p. 148*

b. Ordinance No. 1721: An Ordinance amending the Dallas Comprehensive Plan map for a parcel of real property owned by Fowler Living Trust from Industrial to Residential. Roll call vote *p. 140*

c. Ordinance No. 1722: An Ordinance changing the zoning designation of a parcel of real property owned by Fowler Living Trust from Industrial to Residential Medium Density. Roll call vote *p. 144*

11. OTHER BUSINESS

12. ADJOURNMENT

Note: Following the Council meeting, there will be an Executive Session to deliberate with persons designated by the governing body to negotiate real property transactions as authorized in ORS 192.660(2)(e).

CITY OF DALLAS
City Council

APPLICATION COMPLETE:
FEBRUARY 8, 2010

STAFF REPORT
DATE: MARCH 25, 2010

FILE NO.	ZC/CPA10-01
HEARING DATE	APRIL 5, 2010 7:00 P.M. CITY HALL COUNCIL CHAMBERS 187 SE COURT STREET DALLAS, OREGON 97338
OWNER	FOWLER LIVING TRUST
APPLICANT	THE FIFE GROUP, INC.
REQUEST	ZONE CHANGE AND COMPREHENSIVE PLAN MAP AMENDMENT FROM INDUSTRIAL TO RESIDENTIAL (MEDIUM DENSITY) FOR 3.22 AC
LOCATION	SOUTH SIDE OF SE JONATHAN AVE., NORTH OF THE RAILROAD TRACKS
RECOMMENDATION	APPROVAL

CITY OF DALLAS
PLANNING COMMISSION
COMMUNITY DEVELOPMENT
DEPARTMENT STAFF REPORT



PROPOSAL: The applicant is proposing to change the Comprehensive Plan Map Designation from Industrial to Residential, and change the zoning from Industrial (I) to Residential Medium Density (RM) in order to accommodate smaller lot housing types.

BACKGROUND INFORMATION: The subject property is located on the south side of SE Jonathan Ave and is comprised of 13 previously platted lots in the Applegate Landing Subdivision and are currently zoned Industrial (I). Prior to the adoption of the new Development Code and Zoning Map, the zoning was Light industrial (IL). The Comprehensive Plan designation is Industrial. The lots are of generally equal size and are 84'x120' (10,000+/- sq.ft.). The access to the subject property occurs via SE Greening Drive and SE Applesseed Drive. SE Jonathan Ave is a fully improved city street but lacks sidewalks on the south side.

The property to the east contains a church, is outside the City Limits and inside the Urban Growth Boundary and is designated as Industrial on the Comp Plan Map. The property to the south is zoned Industrial, is currently vacant, and is separated from the subject property by the railroad tracks and accompanying right-of-way. The property to the west is zoned Industrial and contains self-storage units. The property to the north is a residential subdivision that is fully built out and contains detached single-family dwellings and duplexes.

On January 20, 2010, the applicant held the required Neighborhood meeting that was noticed and carried out according to the requirements of the Dallas Development Code Section 4.1.080. The applicant states that no property owners attended the meeting. On March 9, 2010, the Planning Commission held a public hearing on the matter, and recommended approval to the City Council.

APPROVAL CRITERIA:

Type IV Legislative Criteria (4.1.040)

G. **Decision-Making Criteria.** The recommendation by the Planning Commission and the decision by the City Council shall be based on the following factors:

1. Approval of the request is consistent with the Statewide Planning Goals;

Goal 9: Economic Development

The Goal 9 Administrative Rule requires that conversion of 2 or more acres of Industrial land meet the requirements of OAR 660-009-0010

(4) For a post-acknowledgement plan amendment under OAR chapter 660, division 18, that changes the plan designation of land in excess of two acres within an existing urban growth boundary from an industrial use designation to a non-industrial use designation, or another employment use designation to any other use designation, a city or county must address all applicable planning requirements, and:

(a) Demonstrate that the proposed amendment is consistent with its most recent economic opportunities analysis and the parts of its acknowledged comprehensive plan which address the requirements of this division; or

(b) Amend its comprehensive plan to incorporate the proposed amendment, consistent with the requirements of this division; or

(c) Adopt a combination of the above, consistent with the requirements of this division.

Findings: The City of Dallas completed Periodic Review in 2006. A major component of that project was an Economic Opportunities Analysis that identified the need for large industrial sites. In fact, that same EOA indicated that there was a surplus of small industrial sites. While the proposal seeks to remove 3.3 acres of industrial land from the city supply, the configuration and location of the property does not lend itself to developing the type of employment opportunities outlined in the EOA. The property is composed of 13 subdivided lots, most of which are 84'x120', or 10,000 sq.ft+/- . They are located on the southern edge of an existing subdivision, can only be accessed through local residential streets that serve the subdivision, and are directly across the street from said residential uses. The ability to buffer the industrial uses would be difficult, and therefore the ability to minimize the adverse impacts associated with an industrial use on the adjacent residential uses would be virtually impossible. Such impacts would include lighting, truck traffic, noise and odor, and parking. The applicant has stated that their ability to market and/or develop the lots for industrial purposes has been unsuccessful, primarily due to the size and location of the lots and the potential negative impacts on the surrounding neighborhood. In addition, the city has numerous lots(8+) in the .5-5 acre size category that are appropriately located, fully serviced, and ready to go.

Conclusion: The conversion of this property from industrial to residential use is consistent with the city and state planning requirements, and is consistent with the city's most recently adopted EOA.

Goal 10: Housing

Goal 10 states that: Buildable lands for residential use shall be inventoried and plans shall encourage the availability of adequate numbers of needed 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.

Finding: The City of Dallas recently adopted a new Development Code that significantly changed the allowed housing types in various residential zones. The RM zone (Residential Medium Density) now allows more housing types beyond

just apartments, including row houses, zero lot line housing, and small lot housing types in order to encourage development of needed housing types within the city. There is currently very little vacant RM-zoned land outside of designated Mixed-Use Nodes.

Conclusion: The proposal would provide an additional 3.22 acres of RM zoned land to provide a much needed housing type, single family attached or detached small lot housing at a price level affordable for the citizens of Dallas.

2. Approval of the request is consistent with the Comprehensive Plan; and
Findings: The Dallas Comprehensive Plan designation for the subject property is Industrial. There are a number of Comprehensive Plan policies that are required to be addressed in order to change that designation.

ECONOMIC GOALS:

2.1 Industrial Development Policies

1. Encourage the future development of industrial facilities, primarily ones that would have a limited environmental effect upon the community and which do not place excessive demands on the City's infrastructure.
2. Require all existing and future industries to locate within the City Limits and to conform to existing federal and state environmental laws.
3. Encourage the diversification of industries in Dallas to reduce the chance of economic depression because of an economic slump in one industry.
4. Encourage the development of an industrial or business park within the Dallas City Limits.
5. Provide for a choice among suitable industrial and business park sites.
6. Encourage the development of agriculture-related industries.

Findings: The proposal removes 3.22 acres of unsuitable Industrial land from the City of Dallas industrial land inventory. This will not impact the provision of choice among suitable sites.

2.3 Industrial Land Use Policies

1. Preserve prime industrial sites and reserve suitable land to provide a choice among sites for new industrial development prior to actual demand.
2. Support the Ash Creek Water Control District in order to maximize use of the Ash Creek Industrial area.
3. Encourage the use of the industrial park concept by requiring master planning rather than piecemeal development of industrial sites and areas.

4. Where appropriately buffered, designate multi-family residential land near industrial sites to minimize travel distance from employment centers to housing.
5. Encourage the continued growth of the service-related industries.

Findings: The proposal removes 3.22 acres of unsuitable Industrial land from the City of Dallas industrial land inventory. This will not impact the provision of choice among suitable sites, will provide a buffer from Industrial land to the south, and will have no impact on the growth of service-related industries.

HOUSING GOALS

3.3 Phasing & Adequate Public Facilities

Residential development shall be phased and provided with adequate sanitary sewer, water, storm drainage, transportation and park and recreational facilities, as prescribed in Chapter 7, Public Facilities Plan. In addition:

1. Except in areas identified for more intensive development, existing high-quality residential areas and housing stock within the community shall be maintained and conserved.
2. The development of close-in vacant land, readily serviceable by a full range of urban services shall have a higher priority than development of peripheral land that cannot be provided, efficiently, with a full range of urban services.
3. Vacant land within the current City limits shall have a higher priority than unincorporated areas.

Except in documented health hazard situations, annexation shall occur in areas where services can be most easily extended, as prescribed in Chapter 7, the Public Facilities Plan.

Findings: The subject property is currently served by SE Jonathan Ave, City water, sanitary sewer, and storm drainage. The proposed use would utilize these existing services, which have adequate capacity to serve the uses allowed in the RM zone. Therefore, being land that is close-in and serviceable, is of a higher priority than land on the periphery.

Conclusion: The proposal is consistent with the Dallas Comprehensive Plan.

3. The property and affected area is presently provided with adequate public facilities and services, including transportation, sewer and water systems, to support the use, or such facilities and services are provided for in adopted City plans and can be provided concurrently with the development of the property.
Findings: The subject property is currently served by SE Jonathan Ave, City water, sanitary sewer, and storm drainage. The proposed use would utilize these existing services, which have adequate capacity to serve the uses allowed in the RM zone.
Conclusion: The subject property is presently provided with adequate public facilities and services.

Land Use Map and Text amendments 4.7.030(B)

B. **Criteria for Quasi-Judicial Amendments.** A recommendation or a decision to approve, approve with conditions or to deny an application for a quasi-judicial amendment shall be based on all of the following criteria:

1. Approval of the request is consistent with the Statewide Planning Goals;
Finding: See G1 above
2. Approval of the request is consistent with the Comprehensive Plan;
Finding: See G2 above
3. The property and affected area is presently provided with adequate public facilities, services and transportation networks to support the use, or such facilities, services and transportation networks are planned to be provided in the planning period; and
Finding: The subject property is currently served by SE Jonathan Ave, City water, sanitary sewer, and storm drainage. The proposed use would utilize these existing services, which have adequate capacity to serve the uses allowed in the RM zone.
4. The change is in the public interest with regard to neighborhood or community conditions, or corrects a mistake or inconsistency in the comprehensive plan map or zoning map regarding the property which is the subject of the application; and
Findings: The subject property is zoned Industrial, and is located in a residential neighborhood. The applicant states, and staff concurs, that this is an inconsistency on both the comprehensive plan map and zoning map, and that redesignating the property to residential with the proposed RM zoning will adequately correct the inconsistency and is, in fact, more in line with the Comprehensive Plan.
5. The amendment conforms to the Transportation Planning Rule provisions under Section 4.7.060.

4.7.060 TRANSPORTATION PLANNING RULE COMPLIANCE

A. **Review of Applications for Effect on Transportation Facilities.** When a development application includes a proposed comprehensive plan amendment or land use district change, the proposal shall be reviewed to determine whether it significantly affects a transportation facility, in accordance with Oregon Administrative Rule (OAR) 660-012-0060 (the Transportation Planning Rule - TPR) and the Traffic Impact Analysis provisions of Section 4.1.090. "Significant" means the proposal would:

1. Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors). This would occur, for example, when a proposal causes future traffic to exceed the levels associated with a “collector” street classification, requiring a change in the classification to an “arterial” street, as identified by the Dallas Transportation System Plan; or
Finding: The subject property is served by an existing local street, SE Jonathan Ave. There is no proposal or need to change the functional classification of SE Jonathan Ave. The nearest major collector is SE Miller Ave, which operates at acceptable performance levels.

2. Change the standards implementing a functional classification system; or
Finding: There is no change to the standards implementing the functional classification system.

3. As measured at the end of the planning period identified in the Dallas Transportation System Plan or the adopted plan of any other applicable roadway authority, allow types or levels of land use that would result in levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility; or
Finding: The proposal, as measured at the end of the planning period identified in the Dallas Transportation Plan, will not result in levels of travel or access that are inconsistent with the functional classification of the existing transportation facility.

4. Reduce the performance of an existing or planned transportation facility below the minimum acceptable performance standard identified in road authority’s adopted plan; or
Finding: The proposal, with the RM designation at full buildout, would generate 30-35 peak hour trips on to SE Miller Ave. SE Miller Ave. is a major collector with significant additional capacity. Therefore, the proposal would not fall below the minimum acceptable standard.

5. Worsen the performance of an existing or planned transportation facility that is otherwise projected to perform below the minimum acceptable performance standard identified in the road authority’s adopted plan.
Finding: SE Miller Ave. does not currently, nor is it projected to perform below minimum acceptable standards as a result of the proposal.

6. Where the City lacks specific transportation policies or standards, the City Council shall be consulted, as provided under Section 4.1.050 (Type IV Legislative Review).
Finding: Not applicable.

OVERALL TPR FINDING: *Based on the above findings, the proposal would not result in a significant effect on an existing or planned transportation facility.*

CONCLUSION: It can be found that this proposal meets all the applicable criteria.

RECOMMENDATION: Approve the zone change and Comprehensive Plan Map amendment.

RESPECTFULLY SUBMITTED,

Jason Locke



Community Development Department Director

Attachments:

Plat Map
Aerial photo
Planning Commission minutes
Notice
Application form and materials

IMPORTANT
This Map for Assessment
and Taxation Purposes
ONLY

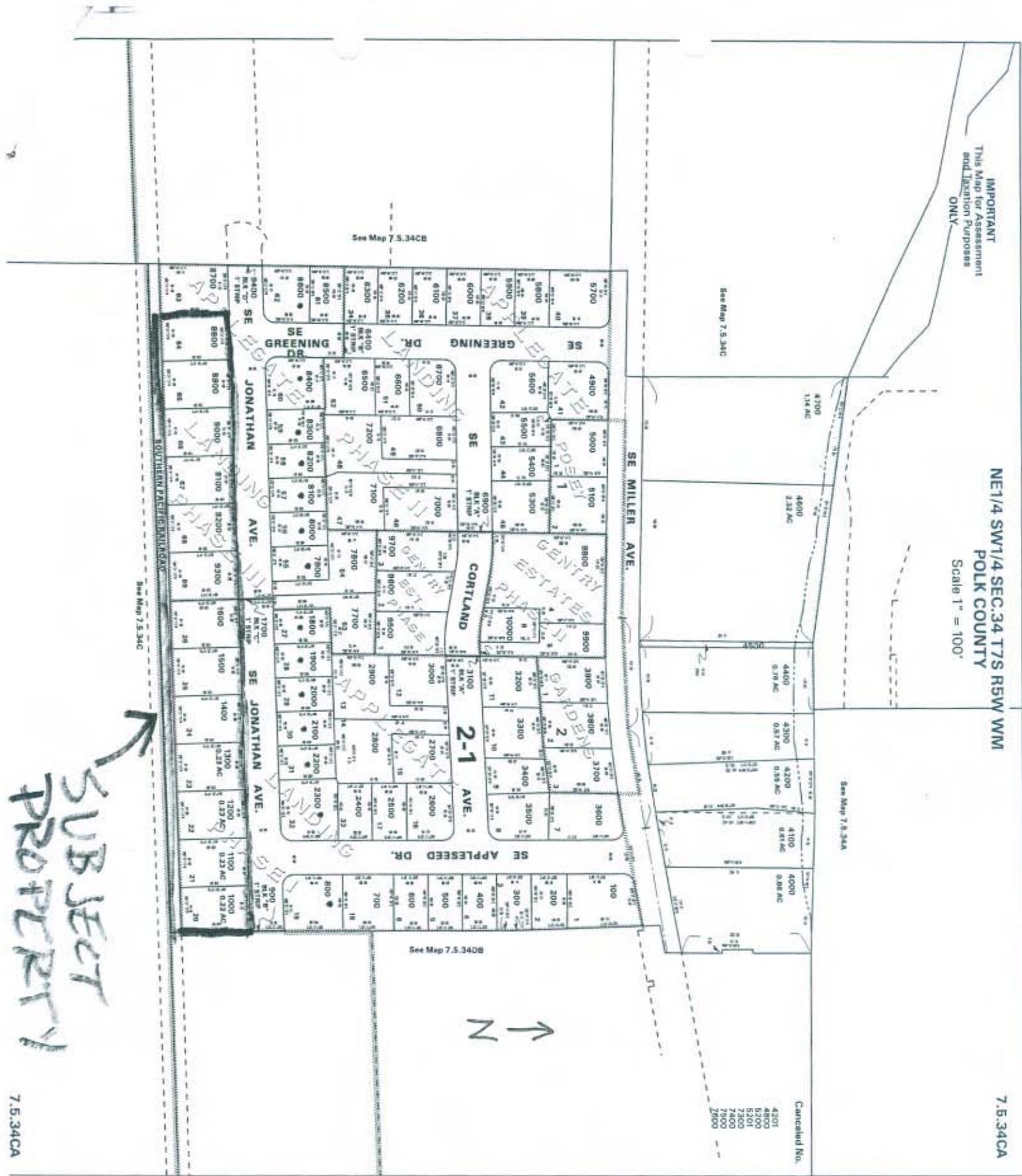
NE1/4 SW1/4 SEC.34 T7S R5W WM
POLK COUNTY
Scale 1" = 100'

7.5.34CA

See Map 7.5.34C

See Map 7.5.34A

Cancelled No.
4201
4800
5200
5201
5202
7400
7900
2600



SUBJECT
PROPERTY

7.5.34CA





March 16, 2010

Jason Locke
Community Development Director
City Of Dallas
187 S.E. Court St.
Dallas, OR 97338

RE: Request to Expedite Decision ZC/CP A10-01

Dear Jason:

I would like to request that the City Council consider expediting the reading of the ordinances pertaining to the above referenced application. The reason for this request is one of timing. In order for potential buyers of these homes to take advantage of the Tax Incentive program, they must have closed on their contract by June of this year. Assuming approval in April, that only gives us three months to complete the house, have it appraised and closing documents prepared.

It has been my experience that jurisdictions have held the first reading of an ordinance and if there is no opposition to the first reading, the Council moves to have the second reading of the ordinance immediately after the first reading.

Thank you in advance for considering this request.

Sincerely,

Paul K. Trahan
Vice President
Land Acquisition and Development



City of Dallas
Planning Commission
Council Chambers - City Hall
March 9, 2010 - 7:00 p.m.

MINUTES

CALL TO ORDER

President Chuck Lerwick called the meeting to order at 7:00 p.m.

ROLL CALL

Commissioners Present: Chuck Lerwick, Carol Kowash, Carrie Mendell, Dave Pederson
Doris Stefani, Murray Stewart and Robert Wilson

Staff present: City Attorney Lane Shetterly, Community Development Director Jason Locke,
and Recording Secretary Joanne Ballweber.

APPROVAL OF MINUTES

Chuck Lerwick presented the minutes of the regular meeting of January 12, 2010. Bob Wilson made a motion to approve the minutes as presented. Murray Stewart seconded the motion. The motion passed unanimously.

PUBLIC COMMENT – This is an opportunity for citizens to speak to items not on the agenda
(3 minutes per person please.)

NONE

PUBLIC HEARINGS

- A) ZC/CPA 10-01 Zone Change and Comprehensive Plan Map Amendment
from Industrial to Residential (Medium Density) for 3.22 ac located on the
South side of SE Jonathan Ave.
Applicant: The FIFE Group, Inc.

Public Hearing Opened at 7:02 p.m.

President Chuck Lerwick explained the hearing procedure.

Community Development Director Jason Locke presented the staff report for the Zone Change and Comprehensive Plan Map Amendment. Mr. Locke noted a correction in the first paragraph of the staff report should read 13 lots not 12. Mr. Locke reviewed a map of the area for the zone change through a Power-Point presentation. He commented the land to the East is vacant property that is currently in the Urban Growth Boundary and is slated to become Industrial at a future date. To the North is mixed residential including many duplexes. The property is served by a major collector which is Miller Avenue. Mr. Locke said directly South is the rail line. He noted the train is not running at this time but that may change in the future.

Mr. Locke advised the Commissioners that listed in the staff report are the approval criteria. Mr. Locke explained the Goal Nine Rule. He explained further that the Commission would need to make a finding that the application meets the Goal Nine Rule and that it is consistent with the comprehensive plan. The other statewide goal criteria is the housing goal which requires Cities to have a variety of housing types available for all citizens of the community.

Mr. Locke reported the subject property is currently served with all City utilities. He commented that since this property has been platted and has not developed into light industrial as was originally intended. Mr. Locke stated the other major issue to address is the State standard for the transportation planning rule. He added these standards are already adopted into our zoning code. Mr. Locke said the only access for the subject property is on residential streets. Mr. Locke advised future traffic would actually be lower with the new zone change. He also advised the Commission that current traffic ratio is low on Miller Avenue.

Mr. Locke reported he received one letter from the onsite manager of Victoria Place. The letter objects to the zone change based on there is enough housing already. In answer to that concern Mr. Locke said there is not a huge amount of medium density land that is available to provide the housing needs that will be met with this development.

City Attorney Lane Shetterly asked if the Fife group had the first neighborhood meeting. Mr. Locke answered they did and reported no one attended.

Mr. Locke stated he recommends approval along with the Planning Commission for the Zone Change to the Agency.

Paul Trahan, 12775 Westview Dr. Dallas, representing the Fife Group, reviewed their process for the neighborhood meeting. Mr. Trahan reported he received one call from a neighbor who did not identify herself proposing the City buy the land and develop a park. The Fife Group has reviewed the staff report and agreed with the findings. Mr. Trahan addressed the concern regarding the railroad track. Mr. Trahan stated they will build a secure type fence between the property and the tracks. He added they are still researching the options for the best fence. Mr. Trahan advised the four styles of houses to be built would all be priced under \$150,000. He advised pictures representing the houses are in the packet. Mr. Trahan stated they are entry level houses and does not believe there are any other houses in Dallas at this price range available.

There was no rebuttal.

The Public hearing closed at 7:16 p.m.

Bob Wilson made motion to move this application forward to the City Council. Carol Kowash seconded the motion. The motion passed unanimously.

OTHER BUSINESS

NONE

COMMISSIONER COMMENTS

NONE

STAFF COMMENTS

Mr. Locke advised he is in the finishing stages of writing a transportation growth management grant for planning for the 50 acres that was recently annexed on Kings Valley Highway. He pointed out on the map the 120 acres the Node Plan grant is for. If Dallas is awarded the grant the City will be able to start from the beginning and work through the process of developing a master plan following the steps in the new development code.

Mr. Locke reported there are some potential conditional use permit applications. He added that things are picking up some. Mr. Locke said the staff has issued more permits this calendar year than was issued last year in total. Mr. Locke commented the new code seems to be working well.

Carol Kowash said Oregon Housing is putting together the first bond sale they have had in over one year. If it is approved it will include six projects across the state.

The Meeting was adjourned at 7:24 p.m.

APPROVED:

President

Date

CITY OF DALLAS
CITY COUNCIL
NOTICE OF PUBLIC HEARING

The Dallas City Council will hold a public hearing on Monday, April 5, 2010, at 7:00 p.m., in the Council Chambers at City Hall, 187 SE Court Street, Dallas, Oregon, on the application of the Fife Group, Inc., applicant, to consider a zone change and Comprehensive Plan Amendment for 3.22 acres on the south side of SE Jonathan Ave from Industrial (I) to Residential Medium Density (RM). This is a Legislative matter, and the Planning Commission has made a recommendation for approval to the City Council on this proposal. The file # is ZC/CPA10- 01.

The City Council will consider testimony which addresses the applicable criteria listed below. Testimony may be submitted in writing to the Dallas Community Development Department, 187 SE Court St. Dallas, Oregon 97338, or in writing or orally at the public hearing. The public hearing will be conducted in a manner that permits testimony from all interested parties. All persons wishing to testify must sign in and be recognized by the Chair.

Written comments submitted to the Community Development Department by March 30, 2010, will be included with the staff report. Written comments submitted after that date will be forwarded to City Council at the public hearing. The staff report will be available for inspection at the Community Development Department at least seven days prior to the hearing. Copies of the staff report, the application, and all documents and evidence submitted by or on behalf of the applicant, and copies of the applicable criteria are available for inspection at the Community Development Department at no cost and copies will be provided at a reasonable cost.

Dallas City Hall is handicapped-accessible. Any requests for accommodation should be made at least 48 hours before the meeting to the Community Development Department, 503-831-3565 or TDD 503-623-7355.

PROPERTY LOCATION: South side of SE Jonathan Avenue
(Map ID 7.5.34 CA, taxlots 1000, 1100, 1200, 1300, 1400, 1500, 1600, 8800, 8900, 9000, 9100, 9200, and 9300)

NATURE OF REQUEST: Comprehensive Plan Amendment (from I to R) and zone change (from I to RM)

APPLICABLE CRITERIA: Chapters 4.1.040 and 4.1.050 (Dallas Development Code), the Comprehensive Plan and Statewide Planning Goals 9 and 10.

STAFF CONTACT FOR ADDITIONAL INFORMATION: Jason Locke, Community Development Director, 503.831.3565 or TDD phone 503.623.7355.

NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR, OR SELLER, ORS 215 REQUIRES THAT IF YOU RECEIVE THIS NOTICE IT MUST BE PROMPTLY FORWARDED TO THE PURCHASER. The recipient of this notice is hereby responsible promptly to forward a copy of this notice to every person with a documented interest, including a renter or lessee.

Dated: March 15, 2010
Mailed: March 15, 2010
Posted: March 15, 2010
Published: March 17, 2010

Jason Locke, Community Development Director
City of Dallas, Oregon



**VICTORIA PLACE
1250 SE GODSEY RD.
DALLAS, OR.97338
503-831-1680
FAX 503-623-8792**

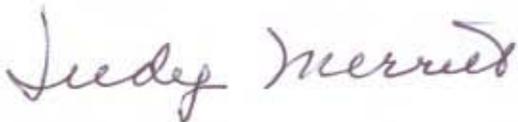
2/25/10

Dear Planning Commission:

On behalf of the owner of Victoria Place Apartments I would like state my objection to the zoning change from commercial to residential at the property location south side of SE Jonathan Ave.

Due to the abundance of housing in Dallas it doesn't appear necessary for the zoning change.

Sincerely,



Judy Merritt
On-Site Manager

03-02-10 A08:08 RCVD

LAND USE APPLICATION



City of Dallas 01-22-10A08:45 RCVD
187 SE Court Street
Dallas, OR 97338 • 503-831-3571

PLEASE TYPE OR PRINT IN INK ONLY

FOR STAFF USE ONLY

- | | | |
|--|--|--|
| <input type="checkbox"/> SITE PLAN REVIEW:
<input type="checkbox"/> PARKING
<input type="checkbox"/> SITE DEVELOPMENT | <input type="checkbox"/> CONDITIONAL USE (Type III)
<input type="checkbox"/> SUBDIVISION (Type III)
<input type="checkbox"/> PARTITION (Type III)
<input type="checkbox"/> VARIANCE (Type III)
<input type="checkbox"/> ANNEXATION (Type IV)
<input checked="" type="checkbox"/> COMP PLAN (Type IV)
<input checked="" type="checkbox"/> ZONE CHANGE (TYPE IV)
<input type="checkbox"/> UGB EXPANSION (TYPE IV) | File No: <u>ZC/CPA 10-01</u>
Date Received: <u>1/22/10</u>
Fee \$ <u>4500.00</u>
Hearing Date: <u>3/9/10</u>
Staff Member: <u>QF</u>
Zone: <u>1</u>
Comp. Plan: <u>1</u> |
| <input type="checkbox"/> LOT LINE ADJ (Type I)
<input type="checkbox"/> ADJUSTMENT (Type II)
<input type="checkbox"/> LIMITED LAND USE (Type II) | | |

APPLICANT INFORMATION

◆ Applicant-Please attach the following required information to this Land Use Application:

- Initial
- \$100 Pre-application Conference Fee, only as applicable. (DDC 1.3.30)
 - Completed Supplemental Application.
 - Supplemental Land Use fee.
 - Property deed with legal description. Land divisions also require a preliminary title search.
 - Plot Plan drawn to scale and a copy of any related information and/or maps. (No larger than 11"x17".)

Project Description Request is for a comp Amendment and Zone Change

Site Address South Side of Jonathan Street Total Land Area: Approx. 3.22 ac

Present Use of Property Bare Land (zoned IL)

OWNER(S):
Name(s) Fowler Living Trust
Mailing Address PO Box 968 City Dallas ST OR ZIP 97338
Owner Phone: Work 503-831-6136 Mobile _____ Fax: _____ Home _____

APPLICANT(S): (if not owner)
Name(s) The FIFE Group, Inc
Mailing Address PO Box 968 City Dallas ST OR ZIP 97338
Applicant Phone: Work 503-831-6136 Mobile _____ Fax: _____ Home _____
Applicant is: Legal Owner Contract Buyer Option Buyer Agent

I hereby certify the statements contained herein, along with the evidence submitted, are in all respects true and correct to the best of my knowledge.

Signatures (Required):
Owner(s) [Signature] Date 1/22/2010 Applicant(s) [Signature] Date 1/21/2010

SECTION I

Land Use District Map and Text – Amendment

Chapter 4.7 – Land Use District Map and Text Amendments

4.7.010 Amendments - Purpose

The purpose of this chapter is to provide standards and procedures for legislative and quasi-judicial amendments to this Code and the land use district map. These will be referred to as “map and text amendments.” Amendments may be necessary from time to time to reflect changing community conditions, needs and desires, to correct mistakes, or to address changes in the law.

Applicant’s Statement

As stated above, the Purpose of this chapter is to provide procedures by which a Text Amendment as well as a Map Change can be obtained. The Applicant is requesting 1) A Text Amendment to the City’s Comprehensive Plan, and 2) Change to the City’s Zoning Map to **RM (Residential Medium)**. The applicant believes the subject property was improperly zoned sometime ago and the net affect of that improper zoning has made the property virtually impossible to develop. The subject property is currently zoned “IL” (Industrial Light). Development across Jonathan Street consists of single family residential with some duplex homes contained within. The subject property is located within the residential subdivision know as Apple Gate Landing.

4.7.020 Legislative Amendments

Legislative amendments are policy decisions made by City Council. They are reviewed using Type IV procedure in Section 4.1.050 and shall conform to the Transportation Planning Rule provisions in Section 4.7.060, as applicable.

Applicant’s Statement

Within this application narrative, the applicant believes he has addressed all pertinent criteria identified within section 4.1.050 and because this application also requests a change in Zone, the applicant has also addressed the pertinent elements of Section 4.1.040 “Type III Procedure (Quasi-Judicial).

4.7.030 Quasi-Judicial Amendments

A. Applicability of Quasi-Judicial Amendments. *Quasi-judicial amendments are those that involve the application of adopted policy to a specific development application or Code revision, and not the adoption of new policy (i.e., through legislative decisions). Quasi-judicial district map amendments and application of master planned development overlay zones to individual properties shall follow the Type III procedure, as governed by Section 4.1.040, using standards of approval in Section 4.7.030.B. The approval authority shall be as follows:*

- 1. The Planning Commission shall review and recommend land use district map changes that do not involve comprehensive plan map amendments;*
- 2. The Planning Commission shall make a recommendation to the City Council on an application for a comprehensive plan map amendment. The City Council shall decide such applications; and*
- 3. The Planning Commission shall make a recommendation to the City Council on a land use district change application that also involves a comprehensive plan map amendment application. The City Council shall decide both applications.*

Applicant's Statement

The applicant understands that the standards in section 4.1.030 (B) shall apply to this application.

B. Criteria for Quasi-Judicial Amendments. *A recommendation or a decision to approve, approve with conditions or to deny an application for a quasi-judicial amendment shall be based on all of the following criteria:*

- 1. Approval of the request is consistent with the Statewide Planning Goals;*

Applicant's Statement

Included as **Section IV** of this application is the applicant's statement regarding the two Statewide Planning Goals that were discussed during the pre-application meeting of December 23rd. Goal 9 and Goal 10 refer to Economic Development and Housing goals respectively.

- 2. Approval of the request is consistent with the Comprehensive Plan;*

Applicant's Statement

Included as **Section V** of this application the applicant has discussed the relative sections of the Comprehensive Plan although the applicant realizes that the most current Comprehensive Plan is several years old and some of the criteria within the document may be out dated; therefore, the applicant has taken some liberties in utilizing more recent information available to him.

- 3. The property and affected area is presently provided with adequate public facilities, services and transportation networks to support the use, or such facilities, services and transportation networks are planned to be provided in the planning period; and*

Applicant's Statement

During the pre-application meeting public facilities were discussed in great detail with staff. It is the opinion that sufficient public facilities currently exist to support this request.

- 4. The change is in the public interest with regard to neighborhood or community conditions, or corrects a mistake or inconsistency in the comprehensive plan map or zoning map regarding the property which is the subject of the application; and*

Applicant's Statement

The property is zoned Industrial Light (IL) within a residential neighborhood and has been that way for several years. Despite the owner's attempts to plan a project that would "Fit" with the existing neighborhood, he remains unable to successfully develop the subject property because of a) cohesiveness with the existing uses across the street and b) traffic circulation. The Comprehensive Plan speaks to a buffer of Multi-Family between single family and industrial zones. The applicant believes a buffer of Multi-Family property should have been the proper zoning assigned to subject property. The new RM zone will provide a buffer that is more in concert with the Comprehensive Plan.

- 5. The amendment conforms to the Transportation Planning Rule provisions under Section 4.7.060.*

Applicant's Statement

Include within this application the applicant addresses section 4.7.060. In short the requested zone change will have less of an impact on the existing facilities than if the property were developed utilizing the current zoning.

4.7.060 Transportation Planning Rule Compliance

A. Review of Applications for Effect on Transportation Facilities. *When a development application includes a proposed comprehensive plan amendment or land use district change, the proposal shall be reviewed to determine whether it significantly affects a transportation facility, in accordance with Oregon Administrative Rule (OAR) 660-012-0060 (the Transportation Planning Rule - TPR) and the Traffic Impact Analysis provisions of Section 4.1.090. "Significant" means the proposal would:*

- 1. Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors). This would occur, for example, when a proposal causes future traffic to exceed the levels associated with a "collector" street classification, requiring a change in the classification to an "arterial" street, as identified by the Dallas Transportation System Plan; or*
- 2. Change the standards implementing a functional classification system; or*
- 3. As measured at the end of the planning period identified in the Dallas Transportation System Plan or the adopted plan of any other applicable roadway authority, allow types or levels of land use that would result in levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility; or*
- 4. Reduce the performance of an existing or planned transportation facility below the minimum acceptable performance standard identified in road authority's adopted plan; or*
- 5. Worsen the performance of an existing or planned transportation facility that is otherwise projected to perform below the minimum acceptable performance standard identified in the road authority's adopted plan.*
- 6. Where the City lacks specific transportation policies or standards, the City Council shall be consulted, as provided under Section 4.1.050 (Type IV Legislative Review).*

Applicant's Statement

Where an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation would significantly affect an existing or planned transportation facility, the local government shall put in place measures as provided in section (2) of this rule [OAR 660-012-0060 (1)] to assure that allowed land uses are consistent with the identified function, capacity, and performance standards (e.g. level of service, volume to capacity ratio, etc.) of the facility. The applicant represents the following:

- 1) That this application if approved does not change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);
- 2) That this application if approved does not change standards implementing a functional classification system; or
- 3) As measured at the end of the planning period identified in the adopted transportation system plan, the applicant further asserts that:

- a) This application if approved would not allow land uses or levels of development that would result in types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;
- b) This application if approved would not reduce the performance of an existing or planned transportation facility below the minimum acceptable performance standard identified in the TSP or comprehensive plan; or
- c) This application if approved would not worsen the performance of an existing or planned transportation facility that is otherwise projected to perform below the minimum acceptable performance standard identified in the TSP or comprehensive plan.

B. Amendments That Affect Transportation Facilities. *Except as provided in subsection C, amendments to the Comprehensive Plan and land use regulations which significantly affect a transportation facility shall assure that allowed land uses are consistent with the function, capacity, and level of service of the facility identified in the Transportation System Plan.*

Applicant's Statement

The applicant represents that this application if approved, the change in zoning will be consistent with the planned function of the Transportation Facility Plan.

SECTION II

4.1.040 Type III Procedure (Quasi-Judicial)

4.1.040 Type III Procedure (Quasi-Judicial)

- A. **Pre-application Conference.** *A pre-application conference is required for all Type III applications. The requirements and procedures for a pre-application conference are described in Section 4.1.060.*

Applicant's Statement

A Pre-Application Conference was held on December 23, 2009.

B. Application Requirements.

1. **Application forms.** *Type III applications shall be made on forms provided by the City Planning Official; if a Type II application is referred to a Type III hearing, either voluntarily by the applicant or staff, or upon appeal, no new application is required.*

Applicant's Statement

The Applicant has included the City Application Forms with this application.

2. **Submittal Information.** *When a Type III application is required, it shall:*
 - a. *Include the information requested on the application form;*
 - b. *Be filed with one copy of a narrative statement that explains how the application satisfies each and all of the relevant criteria and standards in sufficient detail for review and decision-making. Note: additional information may be required under the specific application requirements for each approval, e.g., Chapters 4.2 (Land Use Review and Site Design Review), 4.3 (Land Divisions), 4.6 (Modifications), 4.8 (Code Interpretations), and 4.9 (Miscellaneous Permits); and*
 - c. *Be accompanied by the required fee.*
 - d. *Be accompanied by a list of property owners of record within one hundred (100) feet of the subject site (by tax map and lot number) and mailing labels for the same.*

Applicant's Statement

Included with this Application as **Exhibit "A"** is a list of the owners with 100 feet of the subject property and mailing labels for those individuals, the applicant's narrative statement and the required fee.

4.1.080 Neighborhood Meetings.

- A. **Purpose.** *Developers are required to hold meetings with neighbors before submitting an application for a major development to the City. This ensures that affected neighbors are given an opportunity to preview a proposal and offer input to the developer before a plan is formally submitted to the City; thereby flagging any concerns about the project's compatibility with surrounding uses early in the design process when changes can be made relatively inexpensively.*
- C. **Requirements.** *Applicants are required to contact all property owners whose property abuts the subject site, and those whose property is located within 100 feet of the site, prior to submitting an application to the City in order to solicit input and exchange information about the proposed development. This requirement is met by mailing a letter describing the proposal to the adjacent property*

owners at least 14 days before said meeting and at least 21 days before submitting the application to the City. Owners of all properties within 100 feet of the subject site shall be notified. Where the parties are unable to agree on a meeting time, the applicant shall provide evidence that he or she made a good faith effort to accommodate the neighbor's meeting request (e.g., written correspondence) pursuant to this Section. Proof of having held the meeting, even if no one from the public attends, is required and must be submitted to the City with a land use application for the application to be deemed complete. Copies of the following information must accompany said land use application: letters mailed, certified mail receipts for neighbors who specifically request notification via certified mail, all addresses for which notice was mailed (e.g., copy of mailing labels), meeting summary with list of attendees, and copies of all materials mailed prior to or distributed at the meeting.

Applicant's Statement

On January 20th, the Applicant held the required neighborhood meeting in conformance with 4.1.080 above. None of the noticed adjacent property owners attended the informational meeting; however, the applicant did receive a phone query regarding the notice from one of the noticed property owners. Their comment was they "would like to see the property a park". **Exhibit "B"** is a copy of the package distributed at the meeting along with a copy of the mailing labels for those owners within 100 feet of the subject property.

SECTION III

4.1.050 Type IV Procedure (Legislative)

4.1.050 Type IV Procedure (Legislative)

A. Pre-Application Conference. *A pre-application conference is required for all Type IV applications initiated by a party other than the City of Dallas. The requirements and procedures for a pre-application conference are described in Section 4.1.060.C.*

Applicants Statement

A Pre-Application Conference was held on December 23, 2009.

B. Timing of Requests. *The City may establish a schedule for when it will accept legislative code amendment or plan amendment requests. The City Council may initiate its own legislative proposals at any time. Legislative requests are not subject to the 120-day review period under ORS 227.178.*

Applicants Statement

The applicant understands that this legislative request is not subject to the 120-day rule under ORS 227.178.

C. Application Requirements.

1. *Application forms. Type IV applications shall be made on forms provided by the City Planning Official.*
2. *Submittal Information. The application shall contain:*
 - a. *The information requested on the application form;*
 - b. *A map and/or plan addressing the appropriate criteria and standards in sufficient detail for review and decision (as applicable);*
 - c. *The required fee; and*
 - d. *One copy of a letter or narrative statement that explains how the application satisfies each and all of the relevant approval criteria and standards.*

Applicants Statement

The applicant has included with this application the following:

1. The information requested on the application form;
2. A map and/or plan addressing the appropriate criteria and standards in sufficient detail for review and decision (as applicable);
3. The required fee; and
4. One copy of a letter or narrative statement that explains how the application satisfies each and all of the relevant approval criteria and standards.

SECTION IV

Statewide Planning Goals

GOAL 9: ECONOMIC DEVELOPMENT

Purpose: *To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.*

Applicant's Response:

Every urban area evaluates its needs for land to serve commercial and industrial development. The community then must plan for enough land to meet those needs. As a result, every city in Oregon now has the supply of land it needs to sustain a healthy local economy. As such; the subject property, as currently zoned, does not provide adequate opportunities for economic development. Industrial development within a residential subdivision simply does not make for good planning practice. Conversely, by approving this application; construction of residential units will restore some of the jobs lost within our local economy.

GOAL 10: HOUSING

Purpose: *To provide for the housing needs of citizens of the state. Buildable lands for residential use shall be inventoried and plans shall encourage the availability of adequate numbers of needed housing units at price ranges and rent level which are commensurate with the financial capabilities of Oregon households and allow for flexibility of housing location, type and density.*

Applicant's Response:

Oregon has done away with the practice of banning certain kinds of housing in a community. Cities must allow a variety of housing locations, types, and densities. Cities shall also continue to keep adequate supplies of lands available and suitable for residential uses. With the approval of this application, the applicant can provide a product that is unique in appearance and yet affordable for those affected by today's down turn in our economy. Included within this application is Exhibit _____, that illustrates the typical types of homes that may be constructed as part of this development.

SECTION V

Elements of the Comprehensive Plan

Chapter 2: A Sustainable Dallas Economy (Volume 1)

Economic Goals

The City's overall economic goal is to continue as a sustainable community in order to enhance the quality of life for all Dallas citizens. This goal is best achieved by increasing economic opportunities without threatening environmental quality or eroding the region's natural resource base.

- A. Maintain the existing and encourage the future development of a sound economic base in Dallas by providing for adequate and diversified industries, retail and wholesale establishments and service related industries.*
- B. Encourage new industrial development that serves the needs of the Dallas Community and is designed to minimize impacts on Dallas residential neighborhoods, consistent with the policies of the Dallas Comprehensive Plan.*
- C. Maintain the Central Business District as the dominant commercial cultural center of the community.*
- D. Encourage a broad variety of commercial activities in the Dallas area in convenient and desirable locations to serve the public.*
- E. Provide for small-scale, neighborhood commercial centers that complement the Central Business District and which minimize routine travel from home to shopping.*

Economic Policies

2.1 Industrial Development Policies

- 1. Encourage the future development of industrial facilities, primarily ones that would have a limited environmental effect upon the community and which do not place excessive demands on the City's infrastructure.*
- 2. Require all existing and future industries to locate within the City Limits and to conform to existing federal and state environmental Laws.*
- 3. Encourage the diversification of industries in Dallas to reduce the chance of economic depression because of an economic slump in one industry.*
- 4. Encourage the development on an industrial or business park within the Dallas City Limits.*
- 5. Provide for a choice among suitable industrial and business park sites.*
- 6. Encourage the development of agriculture-related industries.*

Applicants Statement

The subject property as currently zoned Industrial Light (IL); simply fall short of obtaining the policies described above.

Policy 2.1 (1) - Owners of industrial business are reluctant to develop the subject property because (a) access to a major transportation route for delivery of products. Large trucks would need to navigate through a residential subdivision at all hours of the day and night to access Miller Avenue. (b) Obvious conflicts would arise with children playing in the streets and children waiting for school busses.

Policy 2.1 (2) – The applicant agrees with this policy; however there is more desirable industrial land within the city limits that would better fill the needs of potential industrial business owners. The second part of this policy requires industries to “conform to existing federal and state environmental Laws.” Currently an industrial business could locate on the subject property that is consistent with a “Permitted Use” as defined by the Dallas Development Code. Should this business use hazardous materials in its normal course of business, then concerns regarding storage of those hazardous materials will most certainly be a concern of the residents living directly across the street. The applicant believes that the safety of the residents is paramount and further believes that the city staff will find itself involved with a monitoring roll with respect to hazardous materials.

Policy 2.1 (3) – Recently the trend in Dallas for industrial business to either close or relocate from the city of Dallas because of our current economic down turn. If this application is approved it will start to “revive” the building industry within Dallas. Many of the contractors and sub-contractors that will be utilized to develop this property are located within the city limits of Dallas.

Policy 2.1 (4) – As previously stated, the applicant believes that there is better property within the city limits to develop an industrial park. Traffic circulation is essential to the successful development of an industrial park. The subject property lacks sufficient room to develop an acceptable traffic circulation pattern to include sufficient parking for employees. Jonathan Street would end up being utilized for the parking of employee's personal vehicles and possibility even the loading and unloading of large trucks.

Policy 2.1 (5) – The applicant believes that is property located within the city that is more suitable for the development of industrial sites.

Policy 2.1 (6) – The applicant believes this policy is outdated. Oregon land use laws preserve agriculture land. The purpose of establishing an Urban Growth Boundary (UGB) around the city is to allow planned development within the boundary. Currently there exists agriculture land within the city and as such there are agriculture related industries associated with that land; however as development occurs within the UGB industrial land and the industries associated with it will diminish.

2.3 Industrial land Use Policies

1. *Preserve prime industrial sites and reserve suitable land to provide a choice among sites for new industrial development prior to actual demand.*
2. *Support the Ash Creek Water Control District in order to maximize use of the Ash Creek Industrial area.*
3. *Encourage the use of the industrial park concept by requiring master planning rather than piecemeal development of industrial sites and areas.*
4. *Where appropriately buffered, designate multi-family residential land near industrial sites to minimize travel distance from employment centers to housing.*
5. *Encourage the continued growth of the service-related industries.*

Applicants Statement

Policy 2.3 (1) – The subject site is not “prime industrial” property for the reasons previously stated; traffic circulation, close proximity to a major transportation corridor, to close to residential neighborhood, and the possibility of nearby residents being exposed to hazardous materials.

Policy 2.3 (2) – The subject property has nothing to do with the “Ash Creek Water Control District”.

Policy 2.3 (3) – The applicant submits that as currently zoned, the property conflicts with policy 2.3 (3) in that this single strip of property located within a residential subdivision without a buffer is a piecemeal zoning and is unable to be developed as an industrial park in keeping with the plan and in it's policies.

Policy 2.3 (4) – The applicant acknowledges that the property is located close to multi-family residential land (apartments); however residents in apartments are typically not "long term" residents and will relocate as their respective employment changes. Multi-family units such as condominiums or attached housing that allow for ownership typically attract a more stable resident that will raise a family in the Dallas area. The subject property is more suited for multi-family, attached single family or higher density development thereby offering a buffer between the single family neighborhood across Jonathan Street and the industrial property to the south across the railroad tracks.

Policy 2.3 (5) – As currently zoned, the subject property does not "encourage the continued growth of the service-related industries". Because of its location away from a major traffic corridor, the property is not able to be developed successfully. The property remains undeveloped and becomes unsightly with weeds and "junk" dumped on the property. With the approval of this request, the property can be developed with homes offering a product that is unique and affordable.

Chapter 3: Livable Residential Neighborhood (Volume 1)

Residential Neighborhood Goals

To maintain and enhance the quality of existing residential neighborhoods and, through master planning, to ensure that new development is integrated into the community and results in new, high quality residential neighborhoods.

To encourage the development of a verity of housing types and densities to meet the needs and desires of the community and assure that existing and future residents of the community have the opportunity to acquire safe and sanitary housing at reasonable cost.

Residential Neighborhood Policies

*The following policies must be explicitly considered when reviewing annexation, **zone change** and Quasi-judicial development applications:*

3.1 Locational & Design Policies

Residential neighborhood areas shall be planned and developed consistent with the following design requirements:

- 1. Each residential neighborhood shall be located within 1.5 miles of planned general or neighborhood commercial development.*
- 2. Each residential neighborhood shall be served by a grid street system, which minimizes the use of cul-de-sacs, double-frontage lots and walled subdivisions.*
- 3. Each residential neighborhood shall provide its fair share of multi-family housing, consistent with residential Policy 3.2.*
- 4. Land planned for multi-family housing shall be located adjacent to planned commercial areas or along and arterial and collector streets, and shall be reserved exclusively for that purpose.*
- 5. Pedestrian and bicycle access shall be provided between commercial, open space and residential uses in all new development.*

6. *Public or private park land shall be provided in proportion to residential development and in accordance with Chapter 4.5 (Level of Service)*
7. *Identified river and stream corridors, wetlands, flood hazard, steep hillsides and slide hazard areas where building would be hazardous shall be considered unbuildable, and shall be used to define neighborhood boundaries.*
8. *High density residential zoning shall be limited to the area immediately adjacent to the Central Business District and neighborhood shopping centers.*
9. *Redevelopment of the second and third stories of buildings in the Central Business District for residential and commercial uses shall be encouraged.*

Applicants Statement

Policy 3.1 (1) – Does not apply to the subject property as this is an existing subdivision consisting of residential and industrial property.

Policy 3.1 (2) – The existing subdivision is not consistent with this policy, which is one of the major factors why the industrial portion has not been developed as industrial business. There simply is not enough property to develop a traffic circulation pattern needed for a successful industrial park that provides for parking of employees and the loading/unloading of trucks.

Policy 3.1 (3) – Currently the existing subdivision is not consistent with this policy. There is no "multi-family" zoned property within this subdivision.

Policy 3.1 (4) – It is not possible for this subdivision to comply with this policy; however, by approving this request, the property will be consistent with policies dealing with a buffer between residential and industrial properties.

Policy 3.1 (5) – The existing streets within the subdivision are of sufficient width to provide for bicycle travel to Miller Avenue which has portions striped for bicycle traffic lanes.

Policy 3.1 (6) – Located to the west and in close proximity are two schools Whitworth and Dallas High School, both of which have plentiful open space and playground amenities to support this request.

Policy 3.1 (7) – The subject property does not contain any known natural hazards such as those listed within this policy; however bordering the southerly boundary line is a rail road track. The applicant proposes when developed a fence will be constructed to protect residences from encroaching on the tracks.

Policy 3.1 (8) – This policy does not apply, as this is an existing subdivision and the request is to change the zone and amend the comprehensive plan.

Policy 3.1 (9) - This policy does not apply simply because the subject property is not located within the Central Business District.

Chapter 5: Multi-Modal Transportation (Volume I)

Transportation Goal

To develop a balanced and safe transportation system that minimizes community disruption and promotes the economic and energy-efficient movement of goods and people around and through the community.

5.1 Circulation System

1. *The City's transportation system should be fully integrated into the regional and state transportation system. To accomplish this, the City will coordinate and cooperate with the State Department of Transportation, Mid-Willamette Valley Council of Governments, and Polk County in their regional transportation planning efforts.*
2. *The City will cooperate with the affected transportation facility or service providers to review plans for concurrence with the Dallas Transportation System Plan, whenever a proposed comprehensive plan or land regulation amendment or development action affects a transportation facility (e.g., access to state highway)*
3. *The transportation system shall provide adequate access to all planned land uses and shall:*
 - *Focus on direct multi-modal access to business districts;*
 - *Achieve a balanced traffic flow through each section of the City; and*
 - *Reduce congestion on arterial streets by providing alternative transportation routes.*
4. *The major street network should function so that the livability of neighborhoods is preserved and enhanced. Street design should consider the need for landscaping and noise reduction.*
5. *The City shall adopt an arterial and collector street system plan to ensure that Dallas continues to develop in a grid system, in order to minimize out-of-direction travel and reliance on increasingly scarce state and federal subsidies.*
6. *Major arterial streets, especially major entrances to the city, should be landscaped.*
7. *A system of bicycle and pedestrian facilities should be fully integrated into the transportation system as prescribed in the City's adopted Bicycle and Pedestrian Plan.*
8. *The City will help provide for the needs of the transportation disadvantaged.*
9. *The City shall coordinate with the Oregon Department of Transportation in the implementation of the ODOT State Transportation Improvement Program (STIP).*
10. *The City will develop and use land use and land division regulations that set standards for needed transportation facilities and improvements and direct developments and direct development patterns that enhance opportunities for pedestrian, bicycle and transit travel.*
11. *The City shall develop and maintain a Transportation System Plan (TSP), as part of the Dallas Comprehensive Plan.*
12. *The TSP shall:*
 - *Encourage alternatives to, and reduce reliance upon, the automobile; and*
 - *Guide comprehensive planning and project development activities.*
13. *The City shall protect transportation facilities, corridors and sites for their intended functions as identified in this plan.*
14. *A bridge across Rickreall Creek at Mill Street will be required in the City to support better traffic circulation and an additional north-south traffic route, as shown on the Comprehensive Plan map#1.*

Applicants Statement

This application does not seek to:

Modify any system that is integrated into the regional or state transportation system.

Since this application is seeking a modification to the Comprehensive Plan, the City shall review the application for concurrence with the Dallas (TSP). This application does not propose to modify Jonathan Street. The applicant suggests that the requested residential use will significantly lower the impact to the traffic within the subdivision.

In particular Policy 4 states; "The major street network should function so that the livability of neighborhoods is preserved and enhanced. Street design should consider the need for landscaping and noise reduction." This application if approved will enhance the livability of the neighborhood and also provides for landscaping and noise reduction with less traffic. Jonathan Street as constructed does provide for bicycle traffic and as the homes are built, will provide for pedestrian traffic.

5.3 Bicycle and Pedestrian Transportation

1. *To accommodate the bicycle and pedestrian now and during the planning period, the City shall plan for bicycle and pedestrian facilities and integrate them into the street circulation system, as prescribed in the City's adopted Bicycle and Pedestrian Plan.*
2. *The facility needs and safety of individuals walking or using their bicycles as a means of transportation should be given priority over the needs of recreationalists. In other words, bike lanes and bike routes should be given first consideration over bike paths, except where the latter clearly provides for both.*
3. *Bikeways and pedestrian ways should connect residential neighborhoods to schools, parks, shopping areas, and places of work.*
4. *Bicycle parking facilities shall be required as part of new multi-family residential developments of four or more, new retail, office and institutional developments, and all transit transfer stations and park and ride lots.*
5. *Facilities providing safe and convenient pedestrian and bicycle access within and from new subdivisions, planned developments, shopping centers and industrial parks to nearby residential areas, transit stops and neighborhood activity centers, such as schools, parks and shopping shall be required. This shall include:*
 - *Sidewalks along arterial and collectors;*
 - *Bikeways as provided in the Bicycle and Pedestrian Plan; and*
 - *Areas and developments identified in this policy should be connected with separate bike or pedestrian ways, where appropriate to minimize travel distance.*
6. *Internal pedestrian circulation in new office parks and commercial developments shall be provided through the master planning, design review and planned development processes. To achieve this objective, methods such as clustering of buildings, construction of pedestrian ways or skywalks, and similar techniques shall be considered.*

Applicants Statement

Jonathan Street as existing already has sufficient width to accommodate bicycle traffic. Pedestrian traffic (sidewalks) already exists on the North side of Jonathan Street and as the homes are constructed on the South side of Jonathan sidewalks will be added.

Neighborhood Mar 49

Valley Life Center & Assemblies of God
PO Box 165
Dallas, OR 97338

Valley Life Center & Assemblies of God
PO Box 165
Dallas, OR 97338

Valley Life Center & Assemblies of God
PO Box 165
Dallas, OR 97338

✓ Valley Life Center & Assemblies of God
PO Box 165
Dallas, OR 97338

✓ Robert L, Rvc Praegitzer
1498 SE Tech Center Pl #110
Vancouver, WA 98683

Robert L, Rvc Praegitzer
1498 SE Tech Center Pl #110
Vancouver, WA 98683

✓ Dean & Beth Fitzwater
665 SE Walnut Ave
Dallas, OR 97338

✓ Robert Kean
1636 SE Jonathan Ave
Dallas, OR 97338

✓ Jessica Buchholz
1654 SE Jonathan Ave
Dallas, OR 97338

✓ David McLaughlin
1664 SE Jonathan Ave
Dallas, OR 97338

✓ Larry & Shelley Hillis
Susanna Hillis
1680 SE Jonathan Ave
Dallas, OR 97338

✓ Rebecca Biles
6431 Fairway Ave SE
Salem, OR 97306

✓ Rodney & Loretta Lent
7900 June Reid Pl NE
Keizer, OR 97303

✓ Kathy Cole
1614 SE Jonathan Ave
Dallas, OR 97338

✓ Floyd & Linda Tunnell
1612 SE Jonathan Ave
Dallas, OR 97338

✓ Taina Sturdivant
1610 SE Jonathan Ave
Dallas, OR 97338

✓ Bridger & Katie Hasbrouck
1606 SE Jonathan Ave
Dallas, OR 97338

✓ Sheri Bromley
1284 SE Greening Dr
Dallas, OR 97338

✓ Shelley Tognietti
1574 SE Jonathan Ave
Dallas, OR 97338

✓ Godsey Secure Storage, LLC
1497 SE Brookside St
Dallas, OR 97338

✓ Victoria Place General Partnership
40 Varda Landing Rd
Sausalito, CA 94965



January 5, 2010

Valley Life Center & Assemblies of God
PO Box 165
Dallas, OR 97338

Re: Required Notice under Section 4.1.080 – Dallas Development Code

To whom it may concern:

The FIFE Group, Inc., is applying for a Zone Change on the property depicted on the attached map. This Zone Change request also requires an amendment to the City's Comprehensive Plan. As a requirement of the application process, we are to hold a "Neighborhood Meeting" regarding the proposed application. We are to notify all property owners of the meeting within 100 feet from the subject property.

Currently the property is zoned IL or Industrial Light. We are proposing that the zone be changed to RM or Residential Medium. This informational meeting will be held at 7:00 PM Wednesday the 20, 2010 at the office of James W. Fowler Co., 12775 Westview Drive, Dallas, Oregon 97338.

If you are unable to attend the meeting, you will have another opportunity to attend a public hearing with the City notifying you of the time and place of the hearing.

Should you have any questions regarding this matter, please don't hesitate to contact me at (503) 831-6136 during normal business hours.

Regards,

Paul K. Trahan
Vice President
Land Acquisition and Development
Enc:



January 5, 2010

Victoria Place General Partnership
40 Varda Landing Rd
Sausalito, CA 94965

Re: Required Notice under Section 4.1.080 – Dallas Development Code

To Whom It May Concern:

The FIFE Group, Inc., is applying for a Zone Change on the property depicted on the attached map. This Zone Change request also requires an amendment to the City's Comprehensive Plan. As a requirement of the application process, we are to hold a "Neighborhood Meeting" regarding the proposed application. We are to notify all property owners of the meeting within 100 feet from the subject property.

Currently the property is zoned IL or Industrial Light. We are proposing that the zone be changed to RM or Residential Medium. This informational meeting will be held at 7:00 PM Wednesday the 20, 2010 at the office of James W. Fowler Co., 12775 Westview Drive, Dallas, Oregon 97338.

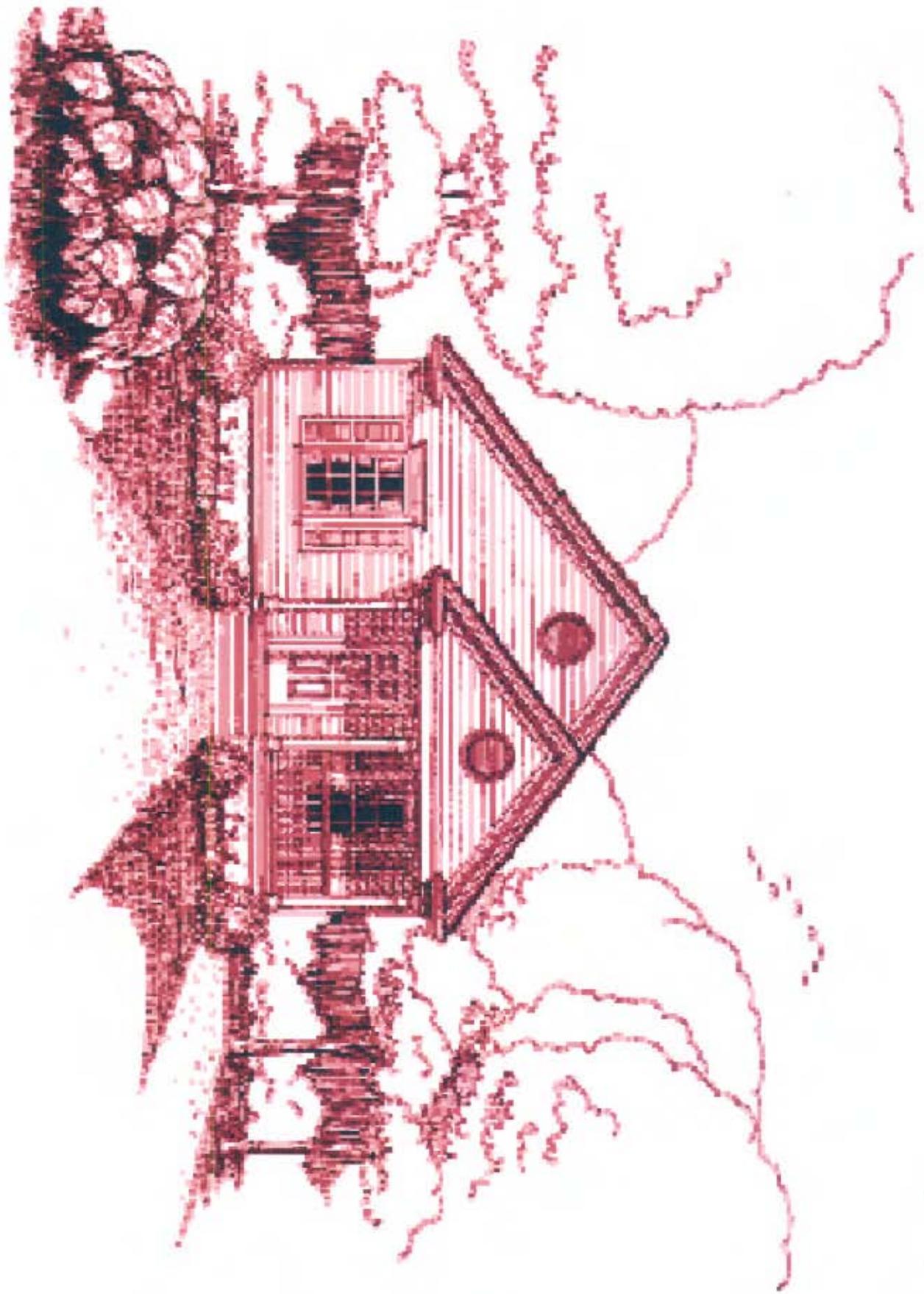
If you are unable to attend the meeting, you will have another opportunity to attend a public hearing with the City notifying you of the time and place of the hearing.

Should you have any questions regarding this matter, please don't hesitate to contact me at (503) 831-6136 during normal business hours.

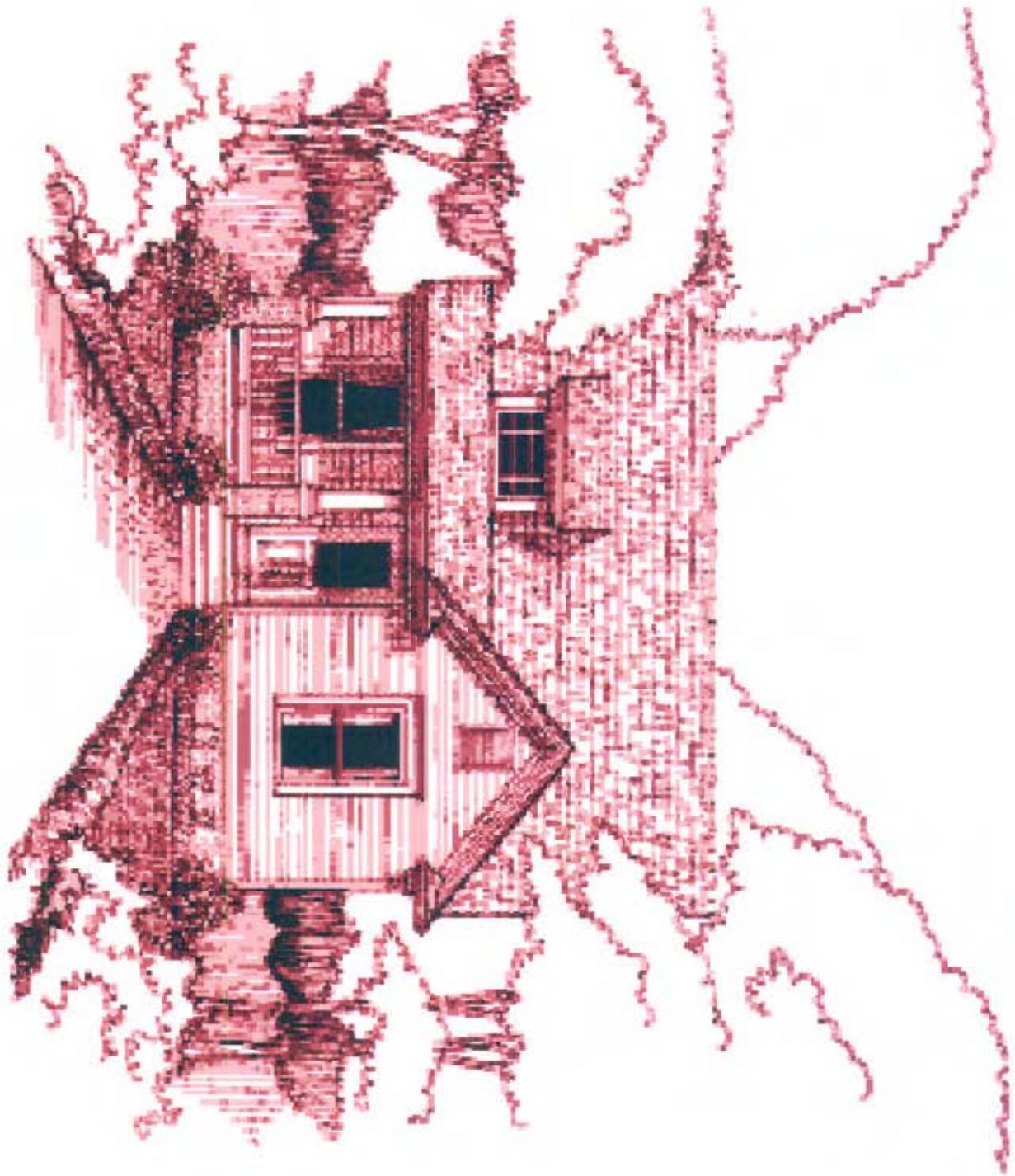
Regards,

A handwritten signature in blue ink, appearing to read 'Paul K. Trahan', is written over the typed name.

Paul K. Trahan
Vice President
Land Acquisition and Development
Enc:



Plan A



Plan B



Plan C



Plan D



January 21, 2010

Jason Locke
Community Development Director
City of Dallas
187 S.E. Court St.
Dallas, OR 97338

RE: Jonathan Street – Request for Comprehensive Plan and Zone Change

Dear Mr. Locke:

Attached please find our application and associated fees for the above land use request. With the application form and supporting documentation, I believe there is overwhelming evidence to support this request. Should you require any additional information regarding this application, please don't hesitate to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read "Paul K. Trahan", is written over the typed name.

Paul K. Trahan
Vice President
Land Acquisition and Development

DALLAS CITY COUNCIL
Monday, March 15, 2010
Council Chambers

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The Dallas City Council met in regular session on Monday, March 15, 2010, at 7:00 p.m. in the Council Chambers of City Hall with Council President Brian Dalton presiding.

ROLL CALL AND PLEDGE OF ALLEGIANCE

Council members present: Council President Brian Dalton, Councilor Warren Lamb, Councilor Jackie Lawson, Councilor Kevin Marshall, Councilor David Shein, Councilor Dave Voves, and Councilor Ken Woods, Jr. Excused: Mayor Jim Fairchild, Councilor Wes Scroggin, and Councilor LaVonne Wilson.

Also present were: City Manager Jerry Wyatt, City Attorney Lane Shetterly, Assistant City Manager Kim Marr, Fire Chief Bill Hahn, Community Development Director Jason Locke, Finance Director Cecilia Ward, and Recording Secretary Emily Gagner.

Council President Dalton led the Pledge of Allegiance.

QUESTIONS OR COMMENTS FROM THE AUDIENCE

Council President Dalton asked for comments or questions from the audience on items other than those on the agenda. There were none.

PUBLIC HEARINGS

CONSENT AGENDA

Councilor Shein asked to remove the minutes from the consent agenda.

It was moved by Councilor Voves to approve the Consent Agenda as presented. The motion was duly seconded and CARRIED UNANIMOUSLY with Council President Brian Dalton, Councilor Warren Lamb, Councilor Jackie Lawson, Councilor Kevin Marshall, Councilor David Shein, Councilor Dave Voves, and Councilor Ken Woods, Jr. voting YES.

Items approved by the Consent Agenda were: b) approval of Dallas Arts Association request for Art in the Park on August 1, 2010; c) adoption of Fiscal Policies; d) adoption of 2010-2011 City Action Plan; e) acknowledge report of March Planning Commission meeting; and f) acknowledge February department reports.

ITEMS REMOVED FROM CONSENT AGENDA

Approval of March 1, 2010 City Council Minutes

Councilor Shein asked if the City had been told the amount of the seismic rehabilitation grant for the fire station. Mr. Wyatt stated the amount had not yet been determined. It was moved by Councilor Shein and seconded by Councilor Lawson to approve the March 1, 2010 City Council minutes. The motion CARRIED UNANIMOUSLY with Council President Brian Dalton, Councilor Warren Lamb, Councilor Jackie Lawson, Councilor Kevin Marshall, Councilor David Shein, Councilor Dave Voves, and Councilor Ken Woods, Jr. voting YES.

REPORTS OR COMMENTS FROM COUNCIL MEMBERS

Councilor Lawson commended Mr. Wyatt on his talk at the Chamber of Commerce luncheon earlier in the day, noting he was very concise and very positive.

REPORTS FROM CITY MANAGER AND STAFF

OTHER

Mr. Wyatt reported that the next City Open House would be held on April 29 and be the same format as the previous open house, where each department will showcase what they do.

FIRST READING OF ORDINANCE

Ordinance No. 1717: An Ordinance changing the zoning designation of a parcel of real

1 property from CN, Commercial Neighborhood to CG, Commercial General; and amending the
2 Dallas Zoning Map.

3 Council President Dalton declared Ordinance No. 1717 to have passed its first reading.

4 **SECOND READING OF ORDINANCE**

5 **Ordinance No. 1719:** An Ordinance amending provisions of the Dallas City Code Section
6 4.458, relating to utility billing.

7 Council President Dalton declared Ordinance No. 1719 to have passed its second reading. A roll
8 call vote was taken and Council President Dalton declared Ordinance No. 1719 to have PASSED
9 BY A UNANIMOUS VOTE with Council President Brian Dalton, Councilor Warren Lamb,
10 Councilor Jackie Lawson, Councilor Kevin Marshall, Councilor David Shein, Councilor Dave
11 Voves, and Councilor Ken Woods, Jr. voting YES.

12 **RESOLUTIONS**

13 **Resolution No. 3197:** A Resolution establishing a late payment penalty for delinquent utility
14 charges.

15 A roll call vote was taken and Council President Dalton declared Resolution No. 3197 to have
16 PASSED BY A UNANIMOUS VOTE with Council President Brian Dalton, Councilor Warren
17 Lamb, Councilor Jackie Lawson, Councilor Kevin Marshall, Councilor David Shein, Councilor
18 Dave Voves, and Councilor Ken Woods, Jr. voting YES.

19 **OTHER BUSINESS**

20 There being no further business, the meeting adjourned at 7:07 p.m.

21 Read and approved this _____ day of _____ 2010.

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Mayor

ATTEST:

City Manager

Members Present: Chair Ken Woods, Jr., Kevin Marshall, and David Shein. Excused: Dave Voves

Also Present: City Manager Jerry Wyatt, Mayor Jim Fairchild, City Attorney Lane Shetterly, Community Development Director Jason Locke, and Recording Secretary Emily Gagner.

Chair Woods called the meeting to order at 4:18 p.m.

Franchise Agreement Update

Mr. Wyatt stated the franchise agreement with Pacific Power would expire this year, so he and Mr. Shetterly put together a draft agreement and met with representatives with Pacific Power. Mr. Wyatt noted they added a couple things to this new franchise, including insurance requirements and an attorney fee provision. He added they cut the term to ten years and increased the percentage of the franchise fee. Mr. Wyatt noted he and Mr. Shetterly would work with the Agent of Record on refining the insurance language.

Vacant Building Ordinance

Mr. Locke stated this did come up at a prior meeting, but the committee postponed the topic off until this meeting. He indicated staff did research to find out what issue this would address and assumed it was for vacant commercial buildings. He asked if the issue the Council was trying to address was the issue of making sure the premises were secured and the additional cost to law enforcement because vacant buildings create more problems, or if it was something punitive to spur the owners of vacant properties to fix up the property and lease it out. Councilor Shein stated his interest was precisely the latter, especially for properties like the Adolf building and the Stauss properties. He noted they almost always involve absentee owners. Councilor Woods commented this could be difficult because one of comments in the Everett ordinance mentions poorly maintained buildings, but does not define what poorly maintained means. He noted the standards could differ widely between people. He advised that many vacant buildings are poorly maintained, but some occupied buildings are in worse shape. Councilor Shein agreed that much is in the eye of the beholder and it could be hard to pin down in an objective way. Councilor Woods stated he would like the old sign removed and the windows covered in a vacant building, and require the owner to keep it clean and free of graffiti. Mr. Shetterly stated the graffiti issue is already addressed in the Code. Mr. Locke acknowledged he can certainly see the frustration in dealing with this issue, but he didn't know if adding a regulatory layer would help. Councilor Shein agreed he would not be comfortable setting up a bureaucratic layer of registrations, and stated the City should let this go for now to see how other initiatives might work. Councilor Woods asked if there was anything the Council could do to back Mr. Locke up. Mr. Wyatt indicated this was not necessarily a tool the City needed in the toolbox right now. The consensus of the committee was to wait. Mr. Woods asked that Mr. Locke keep on top of the issue and bring it back before the Council if it was determined later that an ordinance was needed.

Councilor Marshall joined the meeting at 4:31 p.m.

Special Business Licenses/Fees

Mr. Locke reviewed his staff report, noting this topic came about as over the years there has been confusion and issues related to the City's special business licenses in Chapter 7 of the City Code. He indicated staff had reviewed it, looking at what things the City does regulate and if we want to continue regulating

1 them. Mr. Shetterly pointed out that in the staff report, the section about state and other regulations for
2 each license came from him. Mr. Locke explained there is always a cost related to licenses, whether staff
3 time or investigation costs. Councilor Shein asked what happens if someone operates an activity and they
4 don't bother to get a license. Mr. Shetterly explained it would be a civil infraction, subject to a penalty of
5 up to \$500 per day. Mr. Locke noted many of the licenses under Miscellaneous Licenses already fall un-
6 der other state laws and City zoning restrictions as well as fire department inspections. Councilor Woods
7 asked if the itinerant merchant license would address Summerfest and the new farmers' market. Mr. Shet-
8 terly stated the ordinance could allow for a group license for events with large numbers of vendors where
9 the event sponsor would get the license.

10 Mr. Locke indicated he would like the committee to go through each section of the code and decide
11 whether each item needed to be regulated. Mr. Shetterly stated the Council could repeal the items that
12 weren't needed and update the items the Council would like to retain.

13 The committee reviewed the various miscellaneous licenses. In response to a question about the purpose
14 of these licenses, Mr. Locke thought it was rooted in the old fashioned "come to town and set up a tent"
15 operations and the City's desire to make sure they were above board. He stated between zoning and fire
16 and building regulations, the City wouldn't run into issues of legitimacy, adding these would fall under
17 itinerant merchant requirements as well. After some discussion, the committee agreed to remove the li-
18 cense requirements for carnivals, theaters, miscellaneous concessions, and occult arts.

19 Mr. Locke indicated bingo was already regulated by the state. The consensus of the committee was to
20 remove the section requiring a license for bingo.

21 Mr. Locke stated dance halls were also regulated by zoning, fire, and building codes. Mr. Shetterly indi-
22 cated the original intention of the Code was to be able to hold a license holder responsible for the conduct
23 of their patrons. The consensus of the committee was to remove the section requiring a license for dance
24 halls.

25 The committee discussed the Amusement Places and Games Code. Mr. Shetterly stated that Oregon law
26 prohibits social games unless it is specifically allowed by City ordinance. Councilor Woods asked if the
27 consensus was to leave this section alone. Mr. Shetterly reiterated the Council must leave this section in
28 for the card room that is currently operating in Dallas. Mr. Shetterly recommended amending the back-
29 ground check ordinance to include this license. He also recommended the Council amend all the license
30 requirements to say the license fees would be set by resolution.

31 Regarding DCC 7.350 – Secondhand Stores and Pawn Shops, Mr. Shetterly indicated pawn shops are al-
32 ready heavily regulated by the state. The consensus of the committee was to remove the section on se-
33 condhand stores and pawn shops.

34 Mr. Shetterly recommended the committee keep the section on vendors on public right-of-way and update
35 it. Mr. Locke stated he wanted to make sure the code was consistent with current practices and to make
36 sure the City gets what it wants from the licensing. He indicated staff is looking at the fees charged to
37 make sure the City is charging what it costs to do the necessary permitting. Mr. Shetterly commented that
38 this license is basically a lease expense for using public property. In response to discussion, Mr. Shetterly
39 stated he would draft revisions. Councilor Woods advised the City may not want to break even on this
40 license, as this could enhance the downtown, which is something the City should encourage. Mr. Locke

1 explained the City wanted to attach value to this, and noted when issuing a permit for this, the City could
2 determine where the vendor can set up. Mr. Wyatt noted this license gives the vendor a privilege.

3 Mr. Shetterly indicated his concern that the City's solicitation definition was over-broad. He stated the
4 question is whether the Council would like to repeal this section and leave everyone at the mercy of door-
5 to-door solicitors. He noted there is a police power interest in keeping tabs on who is going door-to-door.
6 Councilor Marshall asked if the ordinance would cover non-profit or educational organizations. Mr. Shet-
7 terly advised that religious and political purposes were protected under the Constitution. The consensus
8 was to have Mr. Shetterly draft revisions to bring back to the committee.

9 The committee discussed the itinerant merchant license requirements. Mr. Locke stated the Code needs to
10 reference a fee and require property owner consent and that the merchant be on improved commercial or
11 industrial property only. Mr. Locke discussed the issues with itinerant merchants, noting they don't pay
12 overhead costs that fixed businesses are required to provide so it isn't a level playing field. He recom-
13 mended limiting a license to three months in any calendar year, noting there should really be no reason for
14 anybody to want to allow them for more than one month. Mr. Shetterly explained this license would cov-
15 er firework and Christmas tree stands as well as things like flower stands. Mr. Locke advised a limit of 45
16 days would cover flower, Christmas tree, and firework stands.

17 Mr. Shetterly explained he would draft the code revisions as recommended by the committee and bring it
18 back to the Administrative Committee in May.

19 **RV Parking**

20 Mr. Locke indicated he would like to revise the City's RV parking ordinance. He stated it has to do with
21 people actually living in RVs, noting the current Code could certainly allow for abuse. Mr. Locke re-
22 ported that the way the Code reads now, someone could stay 14 days of every 30 days in an RV on some-
23 one's property. He explained that he would like to clarify the application requirements, implement a \$50
24 fee, and limit the time to fourteen consecutive days or a total of 21 days in any given one-year period.
25 Mr. Shetterly clarified that it would require an Ordinance to change the time limit, and a resolution to set
26 the amount of the application fee.

27 It was moved by Councilor Shein and seconded by Councilor Marshall to recommend to the Council to
28 establish a fee of \$50 by resolution and an ordinance to include the time limits recommended in the staff
29 report. The motion CARRIED UNANIMOUSLY.

30 **Land Use Fee Schedule**

31 Mr. Locke reviewed his staff report, noting he has been trying to get a better handle on the land use fees
32 with the adoption of the new Development Code. He indicated there are processes and items in the new
33 Development Code that are not covered under the current fee schedule. He noted the proposal is to ex-
34 pand the fee schedule to cover new processes not specified as well as to collect fees for things for which
35 the City isn't currently collecting, such as subdivision final plats. He stated staff is currently giving their
36 time away, so the way they calculated the fees for the proposal was to look at how much of what staff was
37 doing was being subsidized out of the general fund and how much they were actually recovering. He in-
38 dicated the proposals were generated by looking generally at the average cost for each process. He ad-
39 vised the more complex a process was and the more departments involved, the more expensive it is. Mr.
40 Locke pointed out the table in the packet that compared Dallas to other jurisdictions, noting that even with

1 the proposed fee schedule, Dallas is still at the middle or lower end of most application fees. He stated
2 that these fees should be a revenue generator and should help pay for a portion of the department's operat-
3 ing budget.

4 Councilor Woods commented that given the state of the economy, the City should be encouraging people
5 to move to and build in Dallas. He recommended waiting six or twelve months before thinking about in-
6 creasing fees. Mr. Locke stated that by undercharging, the City is not placing a value on that service. He
7 stated this is not only for cost recovery, but also to ensure the City is being more fiscally responsible and
8 attaching value to the work that goes into each service. Councilor Shein noted that the money has to
9 come from somewhere and if the City doesn't get it from these fees, it would have to come from some-
10 where else, or the City would have to cut services. Mr. Wyatt indicated developers are willing to pay the
11 fee if they can get professional service and staff doesn't waste their time. He acknowledged the Council
12 could implement these fees slowly.

13 There was discussion that many of these planning fees are for items that are variances from what is al-
14 lowed in the Development Code. Mr. Locke stated variances are issues that should be extremely difficult
15 to obtain unless the proposal meets all the criteria, noting if someone wants to do something that requires
16 a variance, they need to be prepared to do that. Mr. Shetterly commented that if they are too easy to ob-
17 tain, variances become the norm. Councilor Woods asked if staff had gotten any input from local builders
18 or realtors. Mr. Locke indicated he did tell them when they were meeting about the new Development
19 Code that more than likely the City would be changing the fees. Councilor Woods stated if the builders
20 didn't have a problem, then he didn't have a problem. He commented that he didn't want to scare people
21 away from our community.

22 Councilor Woods asked staff to review this further and bring back a proposal to the committee in May.
23 Mr. Locke asked for more specific direction, such as if he should aim for full cost recovery. Councilor
24 Woods stated he would rather do this incrementally. He also asked for feedback from local builders. The
25 committee agreed to have staff bring the topic back to the next Administrative Committee meeting.

26 **Other**

27 Mr. Wyatt indicated that the owner of Little Caesar's wanted to have a sign twirler in the right-of-way,
28 which is not allowed. He advised a sign twirler would be allowed on their property. Mr. Wyatt explained
29 the Code states the Council can allow this in the right-of-way, so he would recommend to the owner that
30 he can come to the Council to request permission. He noted it was just a heads up to the Council.

31 There was no other business and the meeting was adjourned at 6:00 p.m.

MEETING AGENDA

ADMINISTRATIVE COMMITTEE

Monday, March 22, 2010

4:00 p.m.

Ken Woods, Jr., Chair
Kevin Marshall
David Shein
Dave Voves

1. Franchise agreement update
2. Special business licenses / fees
3. RV parking
4. Land use fee schedule
5. Vacant building ordinance
6. Other
7. Adjourn

Memorandum

To: Administrative Subcommittee
From: Emily Gagner, Assistant to the City Manager
Date: 3/17/2010
Re: Franchise agreement update

Following is a red-lined PacifiCorp franchise ordinance that City Attorney Shetterly drafted. It is currently being reviewed by PacifiCorp, and once they give their okay, we will bring the ordinance to the full Council.

The most significant changes from the last franchise agreement to this one are:

- Increases franchise fee from 5% to 7% of gross revenues
- Adds insurance requirements
- Adds an attorney fees provision

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**AN ORDINANCE GRANTING AN ELECTRIC UTILITY FRANCHISE
AND GENERAL UTILITY EASEMENT
TO
PACIFICORP**

WHEREAS, PacifiCorp d.b.a. Pacific Power, is a regulated public utility that provides electric power and energy to the citizens of the City of Dallas, Oregon (the "City") and other surrounding areas;

WHEREAS, providing electrical power and energy requires the installation, operation and maintenance of power poles and other related facilities to be located within the public ways of the City;

WHEREAS, the City desires to set forth the terms and conditions by which PacifiCorp shall use the public ways of the City;

NOW, THEREFORE, be it ordained by the City:

SECTION 1. Grant of Franchise and General Utility Easement. The City hereby grants to PacifiCorp the right, privilege and authority to construct, maintain, operate, upgrade, and relocate its electrical distribution and transmission lines and related appurtenances, including underground conduits and structures, poles, towers, wires, guy anchors, vaults, transformers, transmission lines, and communication lines (collectively referred to herein as "Electric Facilities") in, under, along, over and across the present and future streets, alleys, bridges, public ways and public places (collectively referred to herein as "Public Ways") within the City, for the purpose of supplying and transmitting electric power and energy to the inhabitants of the City and persons and corporations beyond the limits thereof. The electric power and energy shall be continuous and adequate for the requirements of the City and its inhabitants, subject to accidents, interferences or interruptions beyond the reasonable control of PacifiCorp.

SECTION 2. Term. The term of this Franchise and General Utility Easement is for ten (10) years commencing on the date of acceptance by the Company as set forth in Section 3 below, subject to the City's right to increase the franchise fee as provided in Section 12.1, and the provisions for amendment during the term of this agreement as provided in Section 16.

SECTION 3. Acceptance by PacifiCorp. Within sixty (60) days after the passage of this ordinance by the City, PacifiCorp shall file an unqualified written acceptance thereof, with the City Recorder, otherwise the ordinance and the rights granted herein shall be null and void.

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SECTION 4. Non-Exclusive Franchise. The right to use and occupy the Public Ways of the City shall be nonexclusive and the City reserves the right to use the Public Ways for itself or any other entity that provides water or sewerage service to City residences; provided, however, that such use shall not unreasonably interfere with PacifiCorp's Electric Facilities or PacifiCorp's rights granted herein.

SECTION 5. City Regulatory Authority. In addition to the provision herein contained, the City reserves the right to adopt such additional ordinances and regulations as may be deemed necessary in the exercise of its police power for the protection of the health, safety and welfare of its citizens and their properties or exercise any other rights, powers, or duties required or authorized, under the Constitution of the State of Oregon, the laws of Oregon or City Ordinances.

SECTION 6. Indemnification and Insurance Requirements.

6.1 Indemnification. The City shall in no way be liable or responsible for any loss or damage to property or any injury to, or death, of any person that may occur in the construction, operation or maintenance by PacifiCorp of its Electric Facilities. PacifiCorp shall indemnify, defend and hold the City harmless from and against claims, demands, liens and all liability or damage of whatsoever kind on account of PacifiCorp's use of the Public Ways within the City, and shall pay the costs of defense plus reasonable attorneys' fees for any claim, demand or lien brought thereunder. The City shall: (a) give prompt written notice to PacifiCorp of any claim, demand or lien with respect to which the City seeks indemnification hereunder; and (b) permit PacifiCorp to assume the defense of such claim, demand, or lien. If such defense is not assumed by PacifiCorp, PacifiCorp shall not be subject to liability for any settlement made without its consent. Notwithstanding any provision hereof to the contrary, PacifiCorp shall not be obligated to indemnify, defend or hold the City harmless to the extent any claim, demand or lien arises out of or in connection with any negligent or willful act or failure to act of the City or any of its officers or employees.

6.2 Insurance. PacifiCorp shall maintain automobile, comprehensive general liability and property damage insurance that protects PacifiCorp and the City, as well as the City's officers, agents, and employees, from the claims referred to in Section 6.2. The insurance shall provide coverage in the amounts of the maximum limits of liability imposed on municipalities of the State of Oregon during the term of this franchise. The insurance policies may provide for self-retention or deductibles in reasonable amounts. The insurance shall be without prejudice to coverage otherwise existing and shall name as additional insureds the City and its officers, agents, and employees. Notwithstanding the naming of additional insureds, the insurance shall protect each insured in the same manner as though a separate policy had been issued to each, but nothing in this section shall operate to increase the insurer's liability as set forth elsewhere in the policy beyond the amount or amounts for which the insurer would have been liable if only one person or interest had been named as insured. The coverage must apply as to claims between insureds on the policy. The insurance policies shall provide that the insurance shall not be canceled or materially altered without thirty (30) days' prior written notice first being given to

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the City Manager. If the insurance is canceled or materially altered within the term of this franchise, PacifiCorp shall provide a replacement policy with the same terms. PacifiCorp shall maintain continuous uninterrupted coverage, in the terms and amounts required, upon and after the effective date of this franchise.

SECTION 7. Annexation.

7.1 **Extension of City Limits.** Upon the annexation of any territory to the City, the rights granted herein shall extend to the annexed territory to the extent the City has such authority. All Electrical Facilities owned, maintained, or operated by PacifiCorp located within any public ways of the annexed territory shall thereafter be subject to all of the terms hereof.

7.2 **Annexation.** When any territory is approved for annexation to the City, the City shall, not later than ten (10) working days after passage of an ordinance approving the proposed annexation, provide by certified mail to PacifiCorp: (a) each site address to be annexed as recorded on county assessment and tax rolls; (b) a legal description of the proposed boundary change; and (c) a copy of the City's ordinance approving the proposed annexation. The notice shall be mailed to:

PacifiCorp Customer Contact Center
Attn: Annexations
P.O. Box 400
Portland, Oregon 97207-0400

With a copy to:

PacifiCorp
Attn: Office of the General Counsel
825 N.E. Multnomah, Suite 2000
Portland, Oregon 97232

Additional or increased fees or taxes, other than ad valorem taxes, imposed on PacifiCorp as a result of an annexation of territory to the City shall become effective on the effective date of the annexation if notice is given to PacifiCorp by certified mail not later than ten (10) working days after the effective date of the annexation. However, if notification of the effective date of the annexation is provided to PacifiCorp later than the tenth (10th) working day after the effective date of the annexation, the additional or increased fees or taxes will become effective on the date of the notification. This provision shall be subject to any amendment of ORS 222.005.

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SECTION 8. Planning, Design, Construction and Installation of Company Facilities.

8.1 All Electrical Facilities installed or used under authority of this Franchise shall be used, constructed and maintained in accordance with applicable federal, state and city laws, codes and regulations.

8.2 Except in the case of an emergency, PacifiCorp shall, prior to commencing new construction or major reconstruction work in the public way or street or other public places, apply for a permit from the City which permit shall not be unreasonably withheld, conditioned, or delayed. PacifiCorp will abide by all applicable ordinances and all reasonable rules, regulations and requirements of the City, and the City may inspect the manner of such work and require remedies as may be reasonably necessary to assure compliance. Notwithstanding the foregoing, PacifiCorp shall not be obligated to obtain a permit to perform emergency repairs.

8.3 All Electric Facilities shall be located so as to cause minimum interference with the Public Ways of the City and shall be constructed, installed, maintained, cleared of vegetation, renovated or replaced in accordance with applicable rules, ordinances and regulations of the City.

8.4 If, during the course of work on its Electrical Facilities, PacifiCorp causes damage to or alters ~~the any~~ Public Way or public property, PacifiCorp shall (at its own cost and expense and in a manner reasonably approved by the City) replace and restore it to a condition comparable to that which existed before the work commenced.

8.5 In addition to the installation of underground electric distribution lines as provided by applicable state law and regulations, PacifiCorp shall, upon payment of all charges provided in its tariffs or their equivalent, place newly constructed electric distribution lines underground as may be required by City ordinance.

8.6 The City shall have the right without cost to use all poles and suitable overhead structures owned by PacifiCorp within Public Ways for City wires used in connection with its fire alarms, police signal systems, or other public safety communication lines used for governmental purposes; provided, however, any such uses shall be for activities owned, operated or used by the City for a public purpose and shall not include the provision of CATV, internet, or similar services to the public. Provided further, that PacifiCorp shall assume no liability nor shall it incur, directly or indirectly, any additional expense in connection therewith, and the use of said poles and structures by the City shall be in such a manner as to prevent safety hazards or interferences with PacifiCorp's use of same. Nothing herein shall be construed to require PacifiCorp to increase pole size, or alter the manner in which PacifiCorp attaches its equipment to poles, or alter the manner in which it operates and maintains its Electric Facilities. City attachments shall be installed and maintained in accordance with the reasonable requirements of PacifiCorp and the current edition of the National Electrical Safety Code pertaining to such construction. Further, City attachments shall be attached or installed only after written approval by PacifiCorp in conjunction with PacifiCorp's standard pole attachment application process.

4-17-07 ver

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PacifiCorp shall have the right to inspect, at the City's expense, such attachments to ensure compliance with this Section 8.6 and to require the City to remedy any defective attachments.

8.7 PacifiCorp shall have the right to excavate the Public Rights of Ways subject to reasonable conditions and requirements of the City. Before installing new underground conduits or replacing existing underground conduits, PacifiCorp shall first notify the City of such work by written notice and shall allow the City, at its own expense (to include a pro rata share of the trenching costs), to share the trench of PacifiCorp to lay its own conduit therein, provided that such action by the City will not unreasonably interfere with PacifiCorp's Electrical Facilities or delay project completion.

8.8 Before commencing any street improvements or other work within a Public Way that may affect PacifiCorp's Electric Facilities, the City shall give written notice to PacifiCorp.

8.9 No structures, buildings or signs shall be erected below PacifiCorp's facilities or in a location that prevents PacifiCorp from accessing or maintaining its facilities.

SECTION 9. Relocation of Electric Facilities.

9.1 The City reserves the right to require PacifiCorp to relocate overhead Electric Facilities within the Public Ways in the interest of public convenience, necessity, health, safety or welfare at no cost to the City. Within a reasonable period of time after written notice, PacifiCorp shall promptly commence the overhead relocation of its Electrical Facilities. Before requiring a relocation of Electric Facilities, the City shall, with the assistance and consent of PacifiCorp, identify a reasonable alignment for the relocated Electric Facilities within the Public Ways of the City. The City shall assign or otherwise transfer to Company all right it may have to recover the cost for the relocation work and shall support the efforts of PacifiCorp to obtain reimbursement. In cases of capital improvement projects undertaken by the City, PacifiCorp shall convert existing overhead distribution facilities to underground, so long as PacifiCorp is allowed to collect the costs associated with conversion from overhead to underground distribution facilities consistent with OAR 860-022-0046, the Oregon Public Utility Commission rule on forced conversions.

9.2 PacifiCorp shall not be obligated to pay the cost of any relocation that is required or made a condition of a private development. If the removal or relocation of facilities is caused directly or otherwise by an identifiable development of property in the area, or is made for the convenience of a customer, PacifiCorp may charge the expense of removal or relocation to the developer or customer. For example, PacifiCorp shall not be required to pay relocation costs in connection with a road widening or realignment where the road project is made a condition of or caused by a private development. In such event, the City shall require the developer to pay PacifiCorp for such relocation costs as part of its approval procedures.

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SECTION 10. Subdivision Plat Notification. Before the City approves any new subdivision and before recordation of the plat, the City shall mail notification of such approval and a copy of the plat to PacifiCorp:

PacifiCorp
Attn: Property Management / Right-of-Way Department
825 N.E. Multnomah, Suite 1700
Portland, Oregon 97232

SECTION 11. Vegetation Management. PacifiCorp or its contractor may prune all trees and vegetation which overhang the Public Ways, whether such trees or vegetation originate within or outside the Public Ways, to prevent the branches or limbs or other part of such trees or vegetation from interfering with PacifiCorp's Electrical Facilities. Such pruning shall comply with the *American National Standard for Tree Care Operation (ANSI A300)* and be conducted under the direction of an arborist certified with the International Society of Arboriculture. A growth inhibitor treatment may be used for trees and vegetation species that are fast-growing and problematic. Nothing contained in this Section shall prevent PacifiCorp, when necessary and with the approval of the owner of the property on which they may be located, from cutting down and removing any trees which overhang streets.

SECTION 12. Compensation.

12.1 In consideration of the rights, privileges, and franchise hereby granted, PacifiCorp shall pay to the City from and after the effective date of the acceptance of this franchise, seven percent (7%) of its gross revenues derived from within the corporate limits of City. The term "gross revenue" as used herein shall be construed to mean any revenue of PacifiCorp derived from the retail sale and use of electric power and energy within the municipal boundaries of the City after adjustment for the net write-off of uncollectible accounts and corrections of bills theretofore rendered. All amounts paid under this Section 12 shall be subject to review and audit by the City; provided that only payments which occurred during a period of thirty-six (36) months prior to the date the City notifies PacifiCorp of its intent to conduct a review shall be subject to such review and audit. Notwithstanding any provision to the contrary, at any time during the term of this Franchise, the City may elect to increase the franchise fee amount as may then be allowed by state law. The City shall provide PacifiCorp with prior written notice of such increase following adoption of the change in percentage by the City. The increase shall be effective sixty (60) days after City has provided such written notice to PacifiCorp.

12.2 The franchise fee shall not be in addition to any other license, occupation, franchise or excise taxes or charges which might otherwise be levied or collected by the City from PacifiCorp with respect to PacifiCorp's electric business or the exercise of this franchise within the corporate limits of the City and the amount due to the City under any such other license, occupation, franchise or excise taxes or other charges for corresponding periods shall be reduced by deducting there from the amount of said franchise fee paid hereunder.

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12.3 If direct access is implemented by Grantee in accordance with state law and regulations adopted by the PUC, if the City so directs, instead of calculating the franchise fee in accordance with Section 12.1, Grantee shall calculate the franchise fee using volume-based methodologies in accordance with PUC regulations.

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12.4 The franchise fee shall be due monthly on or before the 20th day of each month during the term of this agreement, and any renewal or extended term, and shall be computed based on the gross revenue from the previous month or portion thereof. PacifiCorp shall furnish to the City with each payment of compensation required by this section a statement showing the amount of gross revenue for the period covered by the payment.

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SECTION 13. Renewal. At least 120 days prior to the expiration of this Franchise, PacifiCorp and the City either shall agree to extend the term of this Franchise for a mutually acceptable period of time or the parties shall use best faith efforts to renegotiate a replacement Franchise. PacifiCorp shall have the continued right to use the Public Ways of the City as set forth herein in the event an extension or replacement Franchise is not entered into upon expiration of this Franchise.

SECTION 14. No Waiver. Neither the City nor PacifiCorp shall be excused from complying with any of the terms and conditions of this Franchise by any failure of the other, or any of its officers, employees, or agents, upon any one or more occasions to insist upon or to seek compliance with any such terms and conditions.

SECTION 15. Transfer of Franchise. PacifiCorp shall not transfer or assign any rights under this Franchise to another entity, except transfers and assignments by operation of law, or to affiliates, parents or subsidiaries of PacifiCorp which assume all of PacifiCorp's obligations hereunder, unless the City shall first give its approval in writing, which approval shall not be unreasonably withheld, conditioned or delayed; provided, however PacifiCorp may assign, mortgage, pledge, hypothecate or otherwise transfer without consent its interest in this Franchise to any financing entity, or agent on behalf of any financing entity to whom PacifiCorp (i) has obligations for borrowed money or in respect of guaranties thereof, (ii) has obligations evidenced by bonds, debentures, notes or similar instruments, or (iii) has obligations under or with respect to letters of credit, bankers acceptances and similar facilities or in respect of guaranties thereof.

SECTION 16. Amendment. At any time during the term of this Franchise, the City, through its City Council, or PacifiCorp may propose amendments to this Franchise by giving thirty (30) days written notice to the other party of the proposed amendment(s) desired, and both parties thereafter, through their designated representatives, will, within a reasonable time, negotiate in good faith in an effort to agree upon mutually satisfactory amendment(s). No amendment or amendments to this Franchise shall be effective until mutually agreed upon by the City and PacifiCorp and formally adopted as an ordinance amendment, which is accepted in writing by PacifiCorp.

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SECTION 17. Termination for cause. The City may terminate this franchise as provided in this section, subject to PacifiCorp's right to a court review of the reasonableness of such action, upon the willful failure of the PacifiCorp to perform promptly and completely any term, condition or obligation imposed upon it under or pursuant to this ordinance. The City shall provide PacifiCorp written notice of any such failure and PacifiCorp shall have sixty (60) days from receipt of notice to cure the failure, or if the failure cannot reasonably be cured within sixty (60) days, to commence and diligently pursue curing the failure. If PacifiCorp does not cure the failure within the sixty day period, or does not commence and diligently pursue curing the failure to the City's satisfaction within the 60 day period, then the City Council may declare the franchise terminated.

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SECTION 18. Non-Contestability--Breach of Contract.

18.1 Neither the City nor PacifiCorp will take any action for the purpose of securing modification of this Franchise before either the Oregon Public Utility Commission or any Court of competent jurisdiction; provided, however, that neither shall be precluded from taking any action it deems necessary to resolve difference in interpretation of the Franchise nor shall PacifiCorp be precluded from seeking relief from the Courts in the event Oregon Public Utility Commission orders, rules or regulations conflict with or make performance under the Franchise illegal.

18.2 In the event PacifiCorp or the City fails to fulfill any of their respective obligations under this Franchise, the City, or PacifiCorp, whichever the case may be, will have a breach of contract claim and remedy against the other in addition to any other remedy provided by law, provided that no remedy which would have the effect of amending the specific provisions of this Franchise shall become effective without such action which would be necessary to formally amend the Franchise.

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SECTION 19. Attorney Fees. In the event of suit or action between the parties arising under or relating to the terms of this franchise, including any action described in Sections 17 and 18, above, the prevailing party in such suit or action shall be entitled to recover such party's reasonable attorney fees, as may be awarded by the court in which such suit or action may be tried, heard or decided, and on any appeal therefrom.

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SECTION 20. Notices. Unless otherwise specified herein, all notices from PacifiCorp to the City pursuant to or concerning this Franchise shall be delivered to the City Recorder's Office. Unless otherwise specified herein, all notices from the City to PacifiCorp pursuant to or concerning this Franchise shall be delivered to the Customer and Community Affairs Vice President, Pacific Power, 825 NE Multnomah, Lloyd Center Tower Suite 2000, Portland, Oregon 97232, and such other office as PacifiCorp may advise the City of by written notice.

SECTION 21. Severability. If any section, sentence, paragraph, term or provision hereof is for any reason determined to be illegal, invalid, or superseded by other lawful authority including any state or federal regulatory authority having jurisdiction thereof or unconstitutional, illegal or invalid by any court of common jurisdiction, such portion shall be deemed a separate,

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distinct, and independent provision and such determination shall have no effect on the validity of any other section, sentence, paragraph, term or provision hereof, all of which will remain in full force and effect for the term of the Franchise or any renewal or renewals thereof.

SECTION 22. Repeal of Ordinance Nos. 1439 and 1568. Upon the effective date hereof, but not otherwise, Ordinance No. 1439, passed and approved July 16, 1990, and Ordinance No. 1568, passed and approved March 1, 1999, are hereby repealed.

SECTION 23. Effective Date. This ordinance shall take effect August 24, 2010, upon the condition that PacifiCorp shall have by then filed with the City its written unqualified acceptance of this ordinance.

PASSED by the City Council of the City of Dallas _____, Oregon this ____ day of _____, 2009, 10.

MAYOR

ATTEST:

CITY RECORDER

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Community Development Department

Memo

To: Admin Subcommittee
From: Jason Locke, Community Development Director
Date: March 16, 2010
Re: Special Business Licenses/Fees

Staff has undertaken a review of Chapter 7 of the Municipal Code regarding Special Business Licenses. We were focused on the current myriad of forms and processes, the need for some licenses at all, and the

Section 7.100 – 7.135 Miscellaneous Licenses- Tent show, carnival, theater, misc. concessions (boardwalk or carnival games), occult arts – access to restrooms required

Action Required: Approval by City Manager

Fee: various fees for each type of business per Code Section 7.100 thru 7.120

Background Check: No per Code

Proof of Insurance: No per Code

Other Requirements: Restrooms required

NOTE: City Code is vague regarding application requirements, approval process, and no application form has been developed.

State/Other Regulation: Amusement rides are subject to building code requirements and regulated (permits, inspections, insurance, safety standards, etc.) by the Department of Consumer and Business Services. Some concessions may require state or county licenses, such as a food handler's permit for food preparation or service.

Recommendation: determine which, if any, of these activities should require a City license, and set appropriate fees by resolution.

Section 7.140-7.146 Bingo – Unless a charitable, fraternal, or religious organization, bingo is licensed by City Manager

Action Required: Approval by City Manager

Fee: \$65 per year

Background Check: No

Proof of Insurance: No

Other Requirements: Per Code Section 7.142, charitable, fraternal, or religious organizations are exempt from license requirements.

State/Other Regulation: Bingo – including bingo operated by charitable, fraternal and religious organizations - is subject to licensing and regulation by the state.

Recommendation: If determined to be unnecessary, remove this section from the Municipal Code.

Section 7.150 – 7.175 Dance Halls – licensed by City Manager

Action Required: Approval by City Manager

Fee: \$5 per day; \$25 per month; \$100 per year. No fee if no admission charge

Background Check: No

Proof of Insurance: No

Other Requirements: None

NOTE: Should our "event centers" be licensed for weddings, reunions, etc.?

State/Other Regulation: The capacity of all dance halls, clubs, amusement halls auditoriums and every place of public assembly is governed by state law. ORS 479.195. ORS 471.164(1) also authorizes cities to adopt reasonable time, place and manner regulations of the nuisance aspect of establishments that offer entertainment or serve alcoholic beverages if the city makes specific findings that the establishment would cause adverse events to occur.

Recommendation: If determined to be unnecessary, remove this section from the Municipal Code.

Section 7.200-7.230 Amusement Places and Games-Pool hall, card room, bowling alley, shooting gallery, shuffleboard, skating rink, slot machines (coin – op pinball, video poker, pool table, shuffleboard – up to 5 without license; more than 6 license req.) – annual license currently administered by – Public Works

Action Required: City Manager approval

Fee: \$25 per year

Background Check: Yes

Proof of Insurance: No

Other Requirements: No per Code

State/Other Regulation: Gambling, games of chance, casino games (including "Chinese chuck-a-luck," gambling devices, "gray machines," lotteries, Monte Carlo events, numbers schemes, raffles and slot machines are regulated by state law. ORS 167.121 specifically allows cities to authorize, regulate and license, by ordinance, the playing of social games in a private business, club or place or public accommodation. "Social game" means a game (other than a lottery) between players (a) in a private home and (b) a private business, club or place of accommodation, if authorized by a local government under ORS 167.121, where no house player, house bank or house odds exist and there is no house income from the operation of the social game. (Unless authorized by a local government, a social game cannot be played at a private business, club or place of public accommodation.)

Recommendation: Further investigate and develop Ordinance language for Social gaming, update definitions.

Section 7.350-7.385 Second hand / Pawn shop – City Code – Any business re-selling previously owned merchandise.

Action Required: Approval by City Manager

Fee: \$50 annually

Background Check: Yes

Proof of Insurance: No

Other Requirements: Records required; Segregation of inventory for 7 days

NOTE: Change forms to include antique sales

State/Other Regulation: Pawn shops are licensed and regulated through the Department of Consumer and Business Services. ORS 98.110 requires a consignee (of a consignment sale) to record "in a book kept by the consignee" a description of the consigned property with the date of receipt.

Recommendation: Include Antique stores as a licensed entity, update definitions.

Section 7.400-7.430 Vendors on Public R-O-W. Ice cream truck, hot-dog cart, sidewalk service at café or restaurant. – Separate license required for each truck, cart, etc

Action Required: Approval by City Manager

Fee: \$25 per 6 months; \$50 per 1 year

Background Check: No

Proof of Insurance: Yes

Other Requirements: Approvals are site specific and each vehicle must have its' own license.

State/Other Regulation: State highways and state rights of way are subject to regulation by the Oregon Department of Transportation.

Recommendation: No changes, increase fees to \$250 for 1 year, \$150 for 6 months.

Section 7.600- 7.610 Solicitation Registration

Action Required: City Manager approval

Fee: No

Background Check: No, but must answer questions about legal history

Proof of Insurance: No

Other Requirements: Registration form must be signed and witnessed by a Notary
See the separate email regarding our solicitation ordinance.

You asked me to look at the Dallas City Code provisions regarding door-to-door solicitation (DCC 7.600 - .640) in light of concerns about the constitutionality of the provisions.

In Oregon, the issue of the constitutionality of regulation by cities of door-to-door solicitors goes back to City of Hillsboro vs. Purcell, an Oregon Supreme Court decision in 1988. In that case, the court struck down a city ordinance that prohibited door-to-door solicitation under Article 1, Section 8 (the free speech clause) of the Oregon Constitution. In that case, the court expressly noted that, while the city could not constitutionally prohibit door-to-door solicitation, "We do not suggest that the city could not place reasonable limitations on door-to-door solicitations. The city may yet choose to regulate, rather than totally proscribe, door-to-door solicitations."

No Oregon case since the Hillsboro case has expressly closed the door that the court left open in that case -- that a city may "regulate, rather than totally proscribe, door-to-door solicitations." (In fact, in a 1989 case, the Oregon Court of Appeals upheld regulations of the Department of Labor that limited the ability of minors to engage in door-to-door solicitation as a reasonable limitation that did not violate the constitution.)

Nevertheless, ever since the Hillsboro case in 1987, there has been some concern among some cities about just how enforceable their ordinances on door-to-door solicitation are. This is due in part to other Oregon cases that address Article 1, Section 8 of the Oregon constitution, but not directly with regard to solicitors, and Federal court cases that address free speech considerations under the US Constitution, but not consistently among the federal circuits. As a result, while the door that the court left open in the

Hillsboro case would still appear to leave cities the power to place reasonable time, manner and place regulations on door-to-door solicitation, some cities have opted not to.

For instance, Ashland and Tualatin do not license or regulate door-to-door solicitation, except to say that if a person solicits at a home that has a "No Solicitors" sign posted at the door, they are guilty of a municipal offense. That's one approach, which leaves it up to each home owner or renter to post his or her home or apartment if they do not want to be solicited, and gives the city the power to take action if a solicitor fails to comply with a posted notice.

Other cities, however, still have registration and regulation ordinances on their books. Albany and Hood River are examples of those.

In looking at the Dallas code, I have a few specific concerns about some of the sections governing solicitation, but I can't say that our registration and regulation provisions are absolutely unconstitutional and unenforceable.

As for my concerns, our definition of "solicitation" in DCC 7.605 is overbroad. It covers entry onto residential property "by a person for the purpose of verbally communicating with an occupant of the property, without the actual consent of the occupant to do so." This definition is probably unconstitutional on its face. (Technically, it makes any uninvited visitor for any reason a "solicitor" subject to the city code. I don't think that was ever the city's intent.) The U.S Supreme Court has held that door-to-door solicitation for religious and political purposes, for instance, is protected under the U.S. Constitution. I don't think we can even regulate or license door-to-door solicitation for those purposes, which our code section purports to do. If we are going to retain the basic registration and regulation provisions of our code, we should amend the definition of "solicitation" to make clear that it covers only commercial solicitation. Albany addresses this by defining "Peddler or Solicitor" to mean "any door-to-door salesperson who sells or offers for sale any merchandise or services by traveling about the city in residential districts." Hood River is more particular, covering "any person...who goes from house to house or from place to place within the city, taking orders [for goods, wares, merchandise or service]; provided, however, that this shall not be deemed to include regular commercial travelers employed by wholesale houses and selling goods, wares, merchandise and services to merchants of this city, nor to newspaper vendors."

If there is some interest in addressing our solicitation code provisions, it might be worth scheduling this for a conversation with one of the council committees to see how they would like to proceed, considering the risk (but not the certainty) that any regulation could be found to be unconstitutional. As I said, at a minimum, we should at least amend the definition of "solicit" and "solicitation" in section 7.605.

Section 7.850 – 7.860 Itinerant Merchants – City Code – any sales from a non-permanent business located on private property with property owner permission – Fireworks, Fruit Stand, Christmas trees, weekend carpet / velvet painting sales, etc.

Action Required: Approval by City Manager

Fee: None per Code

Background Check: *Registration* with Police Dept. required per Code

Proof of Insurance: No mention in Code – application form asks for it

Other Requirements: Time limit – 6 consecutive months in one location, must wait 2 months to restart at same location.

NOTE: Staff recommends that property owner permission be included as a signature line on application form.

State/Other Regulations: None specifically. Some businesses may require specific licenses or permits, depending on the nature of the business (food service, for instance). Fireworks, for instance, are subject to licensing and regulation by the State Fire Marshal. ORS 480.160 allows cities to regulate (and even prohibit) fireworks.

Recommendation: That this section be revised to include reference to a fee, which should be a minimum of \$100.00, that the property owner consents, that the activity must be conducted on an improved commercially or industrially zoned property, and that the time limitation for any itinerant merchant be reduced to no more than 3 months total in any calendar year.

**Chapter 7
BUSINESS**

GENERAL REGULATORY LICENSE PROVISIONS

- 7.000 Applicability and Definitions.
- 7.005 Purpose.
- 7.010 Licenses Required.
- 7.015 License Duration.
- 7.020 License Renewal and Late Penalty.
- 7.025 Review of Renewal.
- 7.030 Application Requirements.
- 7.035 Application Review.
- 7.040 Information From Application.
- 7.045 Criteria for Grant or Denial.
- 7.050 Issuance or Denial.
- 7.055 Revocation of License.
- 7.060 Suspension of License.
- 7.065 Appeal.
- 7.070 Posting of License.
- 7.075 Transfer or Assignment of License.

MISCELLANEOUS LICENSES

- 7.100 Tent Shows.
- 7.105 Carnivals.
- 7.110 Theaters.
- 7.115 Miscellaneous Concessions.
- 7.120 Occult Arts.
- 7.125 Restroom Facilities.
- 7.130 Fee Amendments.
- 7.135 Penalties.

BINGO

- 7.140 Definitions.
- 7.142 Bingo Permitted.
- 7.144 License Fee.
- 7.146 Penalty.

DANCE HALLS

- 7.150 Definitions.
- 7.155 License Required.
- 7.160 License Fees.
- 7.165 License Suspension.
- 7.170 Summary License Suspension.
- 7.175 Penalty.

AMUSEMENT PLACES AND GAMES

- 7.200 Definitions.
- 7.205 License Required.
- 7.210 Criteria for Grant or Denial of Application.
- 7.215 License Fees.
- 7.220 Gambling Prohibited.
- 7.225 Condition of Premises.
- 7.230 Penalties.

SECONDHAND STORES AND PAWN SHOPS

- 7.350 License Required.
- 7.355 Exceptions.
- 7.360 Records Required.
- 7.365 Segregation of Inventory.
- 7.370 Limitation on Sales.
- 7.375 License Application.
- 7.380 Criteria for Grant or Denial of Application.
- 7.385 Penalty.

VENDORS ON PUBLIC RIGHT-OF-WAY

- 7.400 Permit Required.
- 7.405 Permit Fee.
- 7.410 Application.
- 7.411 Insurance.
- 7.415 Location Review.
- 7.420 Form and Conditions of Permit.
- 7.425 Restrictions.
- 7.430 Penalty.

GARAGE SALES

- 7.500 Definition.
- 7.505 Exemption.
- 7.510 Permit Required.
- 7.515 Application.
- 7.520 Permit Issuance.
- 7.525 Duration of Permit.
- 7.530 Permit Fee.
- 7.535 Display of Permit Signs.
- 7.540 Penalty.

Dallas Code

SOLICITATION

- 7.600 Policy and Purpose.
- 7.605 Definition.
- 7.610 Prohibited Acts and Penalties.
- 7.615 Consent to Enter Onto Real Property, Exemptions.
- 7.620 Registration Statement.
- 7.625 Issuance of Certificate of Registration.
- 7.630 Revocation of Registration.
- 7.635 Form of Certificate of Registration, Term.
- 7.640 Evidentiary Matters.
- 7.645 Exception.

TAXICABS

- 7.700 Purpose.
- 7.705 Definitions.
- 7.710 License.
- 7.715 Application, Information, Requirement.
- 7.720 Action on Application.
- 7.725 Licensing Fees.
- 7.730 Transfer, Suspension, or Revocation of License.
- 7.735 Hearing on Rejection.
- 7.740 Display of License.
- 7.745 Insurance.
- 7.750 Approval of Drivers.
- 7.755 Conduct of Drivers.
- 7.760 Taxicab Equipment.
- 7.765 Taxicab Maintenance.
- 7.770 Rates.
- 7.775 Receipt for Fare.
- 7.780 Hours of Service.
- 7.785 Liquor Traffic.
- 7.790 Variances
- 7.795 Liability.
- 7.800 Penalty.

ITINERANT MERCHANTS

- 7.850 Definition.
- 7.855 License Required.
- 7.856 Time Limit.
- 7.857 Outside Storage Prohibited.
- 7.858 Premises to be Maintained.
- 7.860 Penalty.

TRANSIENT LODGING

- 7.870 Definitions.
- 7.872 Tax Imposed.
- 7.874 Time of Payment by Transient.
- 7.876 Operator's Duties.
- 7.878 Exemptions.
- 7.880 Registration of Operator.
- 7.882 Due Date of Operator Payments.
- 7.884 Returns.
- 7.886 Payment Extension.
- 7.888 Penalties and Interest.
- 7.890 Deficiency Determination.
- 7.892 Payment in Jeopardy.
- 7.894 Redeterminations.
- 7.896 Security for Collection of Tax.
- 7.898 Collection by City Attorney.
- 7.900 Lien for Amounts Owed.
- 7.902 Refunds to Operator or Transient.
- 7.904 Refunds by Operator to Tenant.
- 7.906 Operator Records.
- 7.908 Use of Transient Room Tax Proceeds.
- 7.910 Appeals to the City Council.
- 7.912 Attorney Fees.
- 7.914 Severability.
- 7.916 Notice.
- 7.918 Violations.
- 7.920 Penalty.
- 7.922 Enforcement.

GENERAL REGULATORY LICENSE PROVISIONS

7.000 Applicability and Definitions.

(1) The provisions of sections 7.005 to 7.080 apply to this chapter when not in conflict with specific provisions contained in other sections of this chapter.

(2) As used in sections 7.005 to 7.080, the term "license" also means "permit."

7.005 Purpose.

(1) The regulatory license provisions of sections 7.000 to 7.080 are intended to serve the purpose of regulation of the activities and not the purpose of taxation or revenue raising.

(2) Obtaining a regulatory license shall not exempt the licensee from other requirements.

7.010 Licenses Required. No person shall engage in an activity or operate a device regulated under sections 7.100 to 7.860 without first obtaining a license from the city as provided in those sections or without complying with conditions imposed by a license obtained under those sections.

7.015 License Duration. Unless a shorter term is specified, new licenses shall be valid from the date of issuance to the next following December 31, and shall be renewable annually for a term of one year, beginning on January 1.

7.020 License Renewal and Late Penalty.

(1) The license application for renewal of a license shall be made prior to the license expiration date. The effective date of a renewed license shall be January 1 if the application for renewal is made prior to the current expiration date.

(2) If a licensee fails to apply for and pay the required fee within 30 days after the expiration date of the license, and continues to operate without a valid license, a penalty fee of 25% of the license fee, in addition to the license renewal fee, must be paid prior to issuance of the license.

7.025 Review of Renewal. If the city has received complaints about the licensed activity or device, the application for renewal of the license may be reviewed under section 7.035.

7.030 Application Requirements. Application for all licenses required by sections 7.100 to 7.860 shall be made on forms prescribed by the city manager. Application shall be made at least 30 days prior to the date the license is requested to be effective. The application forms shall provide for information necessary to determine the identity and address of the applicant and of the owner of any business, activity, or device to be licensed and shall provide for other information as required by specific license provisions of this code or as necessary for review under section 7.035. The application shall be signed by the applicant and shall constitute the applicant's consent to conduct an investigation of the applicant's qualifications by the city.

7.035 Application Review. Each application shall be referred to the person, department, or agency designated by this code or the city manager to review the application.

7.040 Information From Application. A person, agency, or department designated to review a license application may require the applicant to supply information necessary to determine under section 7.035 the applicant's qualifications for the license. If the applicant fails to supply information so required or submits false or misleading information, the license shall be suspended, revoked, or denied.

7.045 Criteria for Grant, Renewal, or Denial.

(1) Approval or denial of the application shall be based on consideration of all available evidence indicating whether the applicant meets the requirements of this code for the license that the applicant seeks.

(2) The license shall not be granted if:

(a) The activity or device to be licensed would not comply with this code, city ordinances, or state or federal law; or

(b) The applicant has a criminal conviction relating to the subject matter of the license; or

(c) The applicant has had a license for the same activity revoked within the previous 12-month period, unless the approval of the license is authorized by the city council upon a determination that the reason for the previous revocation is not likely to recur; or

(d) The licensed activity or device would endanger property or the public health or safety; or

(e) Any false or misleading information is supplied in the application or any information requested is omitted from the application.

7.050 Issuance or Denial. For regulatory license applications required to be made to the manager, the following provisions apply:

(1) After receipt of reports from all persons, departments and agencies designated to review an application, the city manager shall determine whether the applicant qualifies for issuance or renewal of a license pursuant to section 7.045.

(2) If the applicant is qualified, the manager shall issue or renew the license.

(3) If, on the basis of the application review under section 7.035, the manager determines that the application does not qualify for issuance or renewal of the license applied for, the manager shall notify the applicant in writing that the application has been denied. The notice shall state the reason for denial and inform the applicant of the appeal provisions of section 7.065.

7.055 Revocation of License. The city manager, upon determining that a licensed activity, establishment or device is in violation of this code, city ordinances, or state or federal law, shall notify the licensee in writing that the license is to be revoked.

The notice shall be given at least 30 days before the revocation. If the violation ends within 30 days, the manager may discontinue the revocation proceedings. A notice of revocation shall state the reason for the revocation and inform the licensee of the appeal provisions of section 7.065.

7.060 Suspension of License. Upon determining that a licensed activity or device presents an immediate danger to persons or property, the city manager may suspend the license for the activity or device at once. The suspension shall take effect immediately upon notice of the suspension's being received by the licensee, or being delivered to the licensee's business address as stated on the licensee's application for the license that is being suspended. The notice shall be mailed to the licensee and state the reason for the suspension and inform the licensee of the appeal provisions of section 7.065. The manager may continue the suspension until a determination on appeal regarding the suspension is made under section 7.065.

7.065 Appeal.

(1) An applicant whose application for a license has been denied or a licensee whose license has been denied renewal, has been suspended, or is to be revoked, may, within 30 days after the notice of denial, suspension, or revocation is mailed, appeal in writing to the council. The appeal shall state:

(a) The name and address of the appellant;

(b) The nature of the determination being appealed;

(c) The reason the determination is incorrect; and

(d) What the correct determination of the appeal should be.

(2) An appellant who fails to file such a statement within the time permitted waives objections, and the appeal shall be dismissed. If a notice of revocation is appealed, the revocation does not take effect until final determination of the appeal. The council shall hear and determine the appeal on the basis of the written statement and such additional evidence as it considers

appropriate. The appellant shall be provided at least 14 days' written notice of a hearing on the appeal.

(3) At the hearing, the appellant may present testimony and oral argument, personally or by counsel, and any additional evidence. The rules of evidence used by courts of law do not apply, and the decision of the council after the hearing is final.

7.070 Posting of License.

(1) Except as provided in subsection (2), the license or permit shall be posted in a conspicuous place upon the business premises, available for inspection by the public, employees, and prospective employees of the business.

(2) If the licensee has no office, business premises, or other established place of business within the city, the license shall be at all times in the possession of the representative of the business present within the city while business is being transacted by an employee or representative within the city.

7.075 Transfer or Assignment of License.

Except as may be otherwise provided by sections 7.100 to 7.860, no person shall transfer or assign a license or a permit issued under this chapter.

MISCELLANEOUS LICENSES

7.100 Tent Shows. Every tent show or exhibition shall pay a license fee of \$15 per day. In addition, any tent show or exhibition desiring selling privileges shall pay a daily license fee of \$5 or a weekly license fee of \$10. However, no license shall be required of a tent show, exhibition, or entertainment conducted or sponsored by an educational, religious, or civic organization when not less than two-thirds of the net proceeds after expenses are deducted are retained by the educational, religious, or civic organization.

7.105 Carnivals. Every amusement enterprise consisting of sideshows, vaudeville, games of chance, mechanical rides, and confection stands, popularly known as a "car-

nival," shall pay a license fee of \$50 per day. However, no license shall be required of a carnival conducted or sponsored by an educational, religious, or civic organization when not less than two-thirds of the net proceeds after expenses are deducted are retained by the educational, religious, or civic organization.

7.110 Theaters. Every person operating a vaudeville, motion picture, or drive-in theater shall pay an annual license fee of \$25. However, no license shall be required of a vaudeville, motion picture, or drive-in theater conducted or sponsored by an educational, religious, or civic organization when not less than two-thirds of the net proceeds after expenses are deducted are retained by the educational, religious, or civic organization.

7.115 Miscellaneous Concessions. Every person operating a ball and bucket game, ball throwing game, cane rack, cat rack, country store, doll rack, spot-the-spot game, striking machine, or other similar concession, whether operating alone or in connection with another exhibition, shall pay a daily license fee of \$5 for each game so operated. However, no license shall be required of any such game conducted or sponsored by an educational, religious, or civic organization when not less than two-thirds of the net proceeds after expenses are deducted are retained by the educational, religious, or civic organization.

7.120 Occult Arts. Persons engaging in the business of telling fortunes or the practice of necromancy, conjuration, spiritualism, mesmerism, or any of the occult arts or sciences shall pay a license fee of \$15 per day or \$50 for six months.

7.125 Restroom Facilities. All places of public amusement and entertainment shall have access to restroom facilities for male and female participants and spectators near the premises where the amusement or entertainment is conducted.

7.130 Fee Amendments. The license fees required by sections 7.100 to 7.120 may be amended by resolution of the council.

7.135 Penalties. Violation of provision of sections 7.100 to 7.125 is a civil infraction.

BINGO

7.140 Definitions. For purposes of sections 7.140 to 7.146, the following mean:

Bingo. A game played with cards bearing lines of numbers in which a player covers or uncovers a number selected from a container, and which is won by a player who is present during the game and who first covers or uncovers the selected numbers in a designated combination, sequence, or pattern.

Charitable, fraternal, or religious organization. Any person organized and existing for charitable, benevolent, eleemosynary, humane, patriotic, religious, philanthropic, recreational, social, educational, civic, fraternal, or other nonprofit purposes, and who is also exempt from payment of federal income taxes because of its charitable, fraternal, or religious purposes. The fact that contributions to an organization profiting from the contest do not qualify for charitable deduction for tax purposes or that the organization is not otherwise exempt from payment of federal income taxes pursuant to the Internal Revenue Code of 1986, as amended, constitutes prima facie evidence that the organization is not a bona fide charitable, fraternal, or religious organization.

Social game. A game between players in a private business, private club, or place of public accommodation where no house player, house bank, or house odds exist and there is no house income from the operation of the social game.

7.142 Bingo Permitted. No person, except a charitable, fraternal, or religious organization, shall play or conduct a bingo game as a social game in the city without obtaining a license from the city manager.

7.144 License Fee. The license fee for playing or conducting a bingo game shall be \$65 per year. The license shall be issued on a calendar-year basis and, if paid after January 1, shall be prorated so that the amount paid shall be in the same proportion to the annual fee as the proportion of the year from the date of its issuance bears to the total calendar year.

7.146 Penalty. A person who conducts or permits the conducting of a bingo game as a social game without first having obtained a license as required by section 7.142 shall be guilty of a Class C misdemeanor.

DANCE HALLS

7.150 Definitions. For purposes of sections 7.150 to 7.175, "dance hall" means any hall, room, pavilion, or place in which a dance is held, and excludes private residences, premises licensed by the Oregon Liquor Control Commission, public school facilities, and regular events held by separate agreements with the city.

7.155 License Required.

(1) No person shall operate a dance hall without filing an application form and obtaining a license from the city manager.

(2) The application form shall include information prescribed by the city manager.

7.160 License Fees.

(1) License fees shall be \$5 per day, \$25 per month, or \$100 per year.

(2) No license fees are required for dances for which no admission is charged.

7.165 License Suspension. Licenses may be suspended if the license holder permits:

(1) An intoxicated person to remain on the premises; or

(2) Disorderly conduct by persons on the premises.

(3) Continuing violations of law.

7.170 Summary License Suspension. A dance hall license may be suspended, without hearing or appeal, by a police officer or fire marshal who is present at the dance hall if, in the opinion of the police officer or fire marshal, one of the prohibitions contained in section 7.165 is being violated and the violation poses an immediate threat or hazard to public peace, health, or safety.

7.175 Penalty. Violation of a provision of sections 7.150 to 7.170 is a civil infraction.

AMUSEMENT PLACES AND GAMES

7.200 Definitions. For purposes of sections 7.200 to 7.230, the following mean:
Billiard or pool room. A place open to the general public in which a pool or billiard table is maintained and a charge is made for the use of the table.

Bowling alley. A unit in a building or place where a single game is played at one time by rolling balls by hand at any one or more objects.

Cardroom. Any place open to the public in which games of cards are played.

Regulated game machine. A game machine that requires the insertion of coin, currency, slug, token, or similar object to activate the game, such as a pinball machine, video poker machine licensed by the State of Oregon, pool table, or shuffleboard, and which is located in a commercial establishment.

Shooting gallery. An enclosure in which guns are discharged at an object to display skill or marksmanship.

Skating rink. A place or premises maintained and open to the public for the purpose of roller skating or ice skating and a charge is made for such privilege.

[Section 7.200 amended by Ordinance No. 1620, passed November 19, 2001.]

7.205 License Required.

(1) No person shall maintain or operate a cardroom, billiard room, poolroom, bowling alley, skating rink, or shooting gallery in the city without first obtaining a license from the city manager.

(2) No person shall possess six or more regulated game machines for commercial use in the city without first obtaining a license from the city manager.

(3) No person shall furnish a regulated game machine to a commercial establishment and retain any ownership interest or right to receive proceeds therefrom without first obtaining a license from the city manager.

[Section 7.205 amended by Ordinance No. 1620, passed November 19, 2001.]

7.210 Criteria for Grant or Denial of Application. In addition to conforming to the requirements listed in section 7.045, the license shall not be granted if:

(1) Any person financially interested in the business has been previously convicted of a felony within the last 10 years;

(2) Any person financially interested in the business has been convicted of five or more misdemeanors, the last of which was within the last five years;

(3) Any person financially interested in the business has been convicted of any crimes involving gambling within the last five years or any person who has any financial interest in the business has forfeited bail for any crime involving gambling within the last five years;

(4) Any person financially interested in the business has been directly or indirectly involved in a forfeiture proceeding regarding a gambling device as defined in state law when such gambling device has been ordered destroyed within the last five years;

(5) Any person financially interested in the business has had a license in his/her name which has been revoked or suspended three or more times by the Oregon Liquor Control Commission, the last of which was in the last five years;

7.215 License Fees.

(1) The license fee under DCC 7.205(1) is \$25 per year.

(2) The license fee under DCC 7.205(2) is \$25 per year.

(3) The license fee under DCC 7.205(3) is \$25 per year.

(4) Future license fees may be set by council resolution.

[Section 7.215 amended by Ordinance No. 1620, passed November 19, 2001.]

7.220 Gambling Prohibited. No person operating or assisting in the operation of any business described in section 7.200 where a regulated game machines are available to the public shall permit a person to gamble or to play any game of chance upon the premises for a monetary benefit, except in regulated game machines licensed by the State of Oregon for gambling.

[Section 7.220 amended by Ordinance No. 1620, passed November 19, 2001.]

7.225 Condition of Premises. All places of business required to be licensed by section 7.205 shall at all times be kept in a clean and sanitary condition and shall be open at all reasonable times to inspection by the city for violations of this or any other city code provision.

[Section 7.225 amended by Ordinance No. 1620, passed November 19, 2001.]

7.230 Penalties. Violation of a provision of sections 7.200 to 7.225 is a civil infraction.

SECONDHAND STORES AND PAWN SHOPS

7.350 License Required. No person shall begin or continue as a substantial part of their business the collection, purchase, exchange, and sale of used articles, either as a "secondhand store" or "pawn shop" without having first obtained a license from the city manager.

7.355 Exceptions. Sections 7.350 to 7.385 shall not apply to persons dealing in new or used automobiles, new and used furniture, new and used farm implements and machinery, and similar businesses, but shall apply to only those places that devote a substantial portion of their business to buying, selling, exchanging, and lending used articles.

7.360 Records Required. The chief of police shall prepare forms for record keeping by licensed merchants. The forms shall include information necessary to the identification of goods purchased or acquired by the merchant. Each licensed merchant shall maintain a record of all purchases at the time purchased upon the forms provided. The records shall be available at all reasonable times for inspection by police officers.

7.365 Segregation of Inventory. All used articles purchased or acquired shall be segregated in a manner that permits them to be identified from the record and they shall be segregated from the remainder of the inventory for a period of seven days before resale. A police officer may require segregation for an additional seven days.

7.370 Limitation on Sales. No purchase or acquisition shall be made from any person under the age of 18 years of age unless accompanied by a parent or guardian, or from any person who is incapable of dealing intelligently or who is under the influence of narcotic drugs or intoxicating liquor.

7.375 License Application.

- (1) An application to operate a second-hand store or pawn shop shall be filed with the city manager.
- (2) The application shall be in a form prescribed by the city manager.
- (3) The license fee shall be \$50 annually.
- (4) Future fees may be increased by resolution of the council.

7.380 Criteria for Grant or Denial of Application. In addition to conforming to the requirements listed in section 7.045, the license shall not be granted if:

- (1) Any person financially interested in the business has been previously convicted of a felony within the last 10 years;
- (2) Any person financially interested in the business has been convicted of five or more misdemeanors, the last of which was within the last five years;

7.385 Penalty. Violation of a provision of sections 7.350 to 7.380 is a Class C misdemeanor.**VENDORS ON PUBLIC RIGHT-OF-WAY****7.400 Permit Required.** No person shall conduct business on any city public right-of-way without first obtaining a permit from the city manager. [Section 7.400 amended by Ordinance No. 1518, passed May 6, 1996.]**7.405 Permit Fee.** Each application for a permit to conduct business on a public right-of-way shall be accompanied by a fee established by council resolution. [Section 7.405 amended by Ordinance No. 1518, passed May 6, 1996.]**7.410 Application.**

- (1) Application for a permit to conduct business on a public right-of-way shall be made on a form prescribed by the city manager. [Section 7.410(1) amended by Ordinance No. 1518, passed May 6, 1996.]

- (2) A separate application shall be required for each mobile container or device to be used for transportation or display.

7.411 Insurance. The city manager may require the vendor to obtain and maintain a policy of liability insurance from an insurance

company licensed to issue insurance in the State of Oregon, with limits in an amount the city manager reasonably deems appropriate, and with the city named as an additional insured thereunder. Said insurance coverage, if required, shall be maintained for so long as the permit remains in effect. The insurance policy shall contain a provision that, for the period of time covered by the permit, it cannot lapse or be canceled without at least ten days advance notice to the city.

[Section 7.411 added by Ordinance No. 1603, passed January 2, 2001.]

7.415 Location Review.

- (1) Upon receipt of an application for a permit, the manager shall review each location applied for to determine whether the location is within a commercial area and the use of the location for public right-of-way vending is compatible with the public interest in use of street and sidewalk areas as public rights-of-way.

- (2) In making the determination, the manager may consider the width of the public right-of-way, the proximity and location of existing street furniture, including but not limited to, sign posts, lamp posts, parking meters, bus shelters, benches, phone booths, and newsstands, as well as the presence of bus stops, truck loading zones, or taxi stands, to determine whether the proposed use would result in pedestrian or street congestion.

- (3) If the manager determines the proposed location is unsuitable, he shall so inform the applicant who may appeal the decision to the council.

[Section 7.415 amended by Ordinance No. 1518, passed May 6, 1996.]

7.420 Form and Conditions of Permit.

Permits issued shall be in a form prescribed by the manager. Permits shall contain the following conditions:

- (1) The permit is valid only when used at the location(s) designated on the permit.

- (2) The permit as it applies to a given location may be suspended by the council for a period up to ten days when council action providing for a "community event" requires the suspension.

7.425 Restrictions.

- (1) A person conducting business on a public right-of-way must display prominently the permit issued by the city manager.

[Section 7.425(1) amended by Ordinance No. 1518, passed May 6, 1996.]

(2) No person shall conduct business at a location other than that designated on the permit.

(3) No permittee shall make any loud or unreasonable noise of any kind for the purpose of advertising or attracting attention to his wares.

(4) No permittee shall conduct business in violation of the council action providing for a community event.

7.430 Penalty. Violation of a provision of sections 7.400 to 7.425 is a civil infraction.

GARAGE SALES

7.500 Definition. For purposes of sections 7.500 to 7.545, "garage sale" means the public sale or offering for sale of new or used goods within the city by any individual or group of individuals from private or public property, including but not limited to garages, porches, carports and yards, when:

(1) The individual or group of individuals is not regularly engaged in the business of selling such goods; or

(2) When the property on which the sale is conducted is not regularly used for business purposes or is not in a zone permitting commercial use.

7.505 Exemption. The following are exempt from the provisions of sections 7.500 to 7.545:

(1) Offering for sale one item by public display with a sign indicating the item is for sale, and the sale of more than one individual item not offered for sale by public display or by signs concerning a sale or place of sale; and

(2) Sales commonly referred to as "rummage sales," conducted by members of fraternal, civic, patriotic, religious, service, charitable, educational, or eleemosynary organizations with a chapter, lodge, post, congregation, or other unit existing within the city.

7.510 Permit Required. No individual or group of individuals shall hold a garage sale without first obtaining a permit.

7.515 Application. In addition to the provisions of sections 7.000 to 7.080, the application shall include:

(1) A description of the place from which the sale is to be held.

(2) The dates and hours of the day during which the sale is to be conducted.

(3) Whether the person will be selling any upholstered furniture or bedding.

(4) Whether the owner of such goods is to pay any commission for the sale.

(5) Whether the owner or lessee in possession of the premises from which the sale is to be conducted is to receive any compensation for the use of the premises.

(6) Whether the individual or group of individuals conducting the sale have conducted a sale within the past 12 months.

(7) Whether other garage sales have been held upon the premises upon which the sale is to be held during the calendar year in which the proposed sale is to be held.

7.520 Permit Issuance. The city manager shall issue a permit for the sale if he finds that:

(1) The application is properly completed; and

(2) No commission is paid by the individual or individuals owing the goods to be sold and that no compensation is received by the owner or lessee of the premises from which the sale is to be conducted; and

(3) The individual or group of individuals conducting the sale have not conducted a like sale previously during the past 12 months; and

(4) No other such sale has been held upon the premises upon which the garage sale is to be held during that portion of the past 12 months in which the individual or individuals then occupying the premises have occupied the premises.

(5) Notwithstanding the provisions of this section, the city manager may issue a permit for a second sale within a 12-month period to the same person or to be held on the same premises.

7.525 Duration of Permit. The permit issued by the city manager shall be valid for a period not to exceed three consecutive days and shall permit the sale only between the hours of 8 a.m. and 9 p.m.

7.530 Permit Fee. No fee shall be required if the application is made prior to the commencement of the sale. If the application is made after the commencement of the sale, a fee of \$15 shall be charged.

[Section 7.530 amended by Ordinance No. 1561, passed August 3, 1998.]

7.535 Display of Permit. No garage sale shall be held without a permit being prominently displayed so that it can be seen readily from the street.

7.540 Signs.

(1) Only one sign shall be posted upon the premises on which the garage sale is to be held.

(2) One off premises sign for the purpose of directing people to the garage sale shall also be permitted but only a sign issued by the city shall be allowed. The city shall have available a reasonable supply of garage sale signs for use by individuals at no cost. The city may secure a deposit to cover the cost of replacing the sign in the event it is damaged or lost.

(3) Signs shall not be placed in the public right-of-way and shall be placed upon private property only with the consent of the property owner. Signs shall not be placed earlier than one hour before the garage sale starts and shall be removed by no later than one hour after the conclusion of the garage sale. [Section 7.540 added by Ordinance No. 1462, passed June 1, 1992.]

7.545 Penalty. Violation of a provision of sections 7.500 to 7.540 is a civil infraction.

SOLICITATION

7.600 Policy and Purpose. The council finds it necessary and desirable to regulate solicitation in order to provide an effective opportunity for the occupants of residential property to protect themselves from the unwanted disruption of the peaceful and quiet enjoyment of their property and right of privacy that is caused by solicitors, to protect the rights to free speech guaranteed by the Oregon and Federal Constitutions for lawful solicitors, and to provide a means by which those solicitors who choose to intrude upon and disrupt an occupant's quiet enjoyment of property can be held accountable for such violations. The council has also been advised that, based upon actual experiences in Dallas and in the opinion of crime prevention specialists nationwide, there is a direct connection between residential burglaries and unscrupulous solicitors. The creation of a registration requirement will enable city officials and citizens of the city to become informed

concerning the individuals and organizations who choose to solicit in the city. Sections 7.600 to 7.640 also provide a mechanism for discouraging those solicitors who avoid registration and provide a mechanism to identify and discourage those who would use solicitation as a front for criminal activity.

7.605 Definition. For purposes of sections 7.600 to 7.640, the terms "solicit" and "solicitation" mean the entry onto real property used for residential purposes by a person for the purpose of verbally communicating with an occupant of the property, without the actual consent of the occupant to do so.

7.610 Prohibited Acts and Penalties.

(1) No person shall:

(a) Solicit before 9 a.m. or after 9 p.m. when the local time is daylight savings time or after 8 p.m. when the local time is standard time.

(b) Solicit without first having obtained a registration certificate if required to do so by sections 7.600 to 7.640.

(c) Violate the terms of a registration certificate issued under sections 7.600 to 7.640.

(d) Solicit after a registration certificate has been revoked.

(e) Allow, suffer, or permit any person soliciting on their behalf or under their direction to commit any act prohibited by this section.

(f) Provide false or fraudulent information on a registration statement.

(g) Allow, suffer, or permit any person to solicit on their behalf after a registration certificate has been revoked.

(2) Violation of subsections (1)(a), (1)(c), (1)(e), and (1)(f) of this section is punishable by a fine of not more than \$500.

(3) Violation of subsection (1)(b) of this section is punishable by a fine of not more than \$500 unless the violation is intentional, in which case it is punishable by a

fine of not more than \$500 or imprisonment not to exceed 30 days, or by both fine and imprisonment.

(4) Violation of subsections (1)(d) and (1)(g) of this section is punishable by a fine of not more than \$500 or imprisonment not to exceed 30 days, or by both fine and imprisonment.

7.615 Consent to Enter Onto Real Property, Exemptions.

(1) It shall be an affirmative defense to an alleged violation of section (1)(a) that the person charged with the violation had received actual or constructive consent of the occupant prior to entering the real property. Constructive consent to enter the real property may be implied from the circumstances of each instance, the relationship of the parties, and actual or implied contractual relationships.

(2) Nothing in this section shall be construed to authorize the entry into a structure located on real property. The right to enter any structure must be otherwise provided for by law.

(3) Officers, employees, or agents of a governmental entity, while performing activities within the scope of their office, employment, or agency are exempt from the requirements of sections 7.600 to 7.640.

(4) No person may be charged with a violation of sections 7.600 to 7.640 in connection with an act committed between 4 p.m. and 10 p.m. on October 31.

7.620 Registration Statement.

(1) All persons intending to solicit at five or more dwelling units in the city during any eight-hour period shall file with the city manager a registration statement, on forms provided by the city manager, containing the following information:

(a) The name of the person registering and desiring to solicit.

(b) Whether the person registering is a natural person, partnership, corporation, or association, and

(i) If a natural person, the business or residence address and telephone number of the person.

(ii) If a partnership, the names of all partners and the principal business address and telephone number of each partner.

(iii) If a corporation, the person registering must state whether it is organized under the laws of Oregon or is a foreign corporation, and must show the mailing address, business location, telephone number, name of the individual in charge of the Willamette Valley area office of such corporation, and the registered agent of the corporation and the names of all officers and directors or trustees of the corporation, and, if a foreign corporation, the place of incorporation.

(iv) If an association, the registration statement shall show the association's principal business address and telephone number, if any, and shall show names and principal business or residence addresses and telephone numbers of all members of the association, unless they exceed ten in number, in which case the application shall so state and the person registering may alternatively list the names and principal business or residence addresses and telephone numbers of the officers and directors or trustees of the association. If the association is part of a multi-state organization or association, the mailing address and business location of its central office shall be given, in addition to the mailing address and business location of its local office.

(c) A brief description of the nature of the organization if the person registering is a partnership, association or corporation and an explanation of the intended purpose of the solicitation.

(d) The names, mailing address, and telephone number of all individuals who will be in direct charge or control of the solicitation and the names and addresses of all persons who will be actually involved in the solicitation activity. One of the named individuals shall be designated to receive any notice or communication from the city or the public concerning the solicitation activities.

(e) The time period within which the solicitation is to be made, giving the date of the beginning of solicitation and its projected conclusion.

(f) A description of the methods and means by which the solicitation is to be accomplished and the approximate locations and dates on which those locations will be visited.

(g) The names of any other cities in which the person registering has solicited within the past five years, but if the person registering has solicited in more than five other cities, the person registering may list the five cities located closest to Dallas.

(h) A statement that if a certificate of registration is granted, the certificate will not be used as or represented to be an endorsement by the city or any of its officers or employees.

(i) The names of any officer, director, trustee, partner, corporation, or any current agent or employee or any other person actually engaging in the solicitation who has signed a consent decree or order in the last five years or who has been convicted of a felony or a misdemeanor involving moral turpitude within the past five years, and the nature of the offense or consent decree or order, the state where the conviction or consent decree or order occurred, and the year of the

conviction or consent decree or order.

(j) An explanation of the reasons, if the person registering is unable to provide any of the foregoing information, why such information is not available.

(k) The registration statement must be signed by the applicant, if the person registering is an individual; if the person registering is a partnership, by a partner; if the person registering is a corporation or an association, by an officer. The individual signing the registration statement shall sign the statement and swear or affirm before an Oregon notary that he has carefully read the registration statement and that all the information contained therein is true and correct.

(2) The registration statement and information submitted with the registration statement are public records available for public inspection during normal city business hours.

7.625 Issuance of Certificate of Registration.

(1) After a review of the registration statement to determine its compliance with section 7.620, and within ten working days of the receipt of the registration statement, the city manager shall either issue a certificate of registration in the form provided by section 7.635, or notify the person registering that the registration statement does not comply with the requirements of section 7.620. The notice shall specifically point out what required information or explanation has not been furnished before a certificate of registration can be issued.

(2) If the person registering is engaged in an activity for which a business license is required by the city, proof of a valid business license shall be furnished prior to the issuance of the certificate.

7.630 Revocation of Registration.

(1) A certificate of registration shall be revoked by the city manager if a

registered person, or one or more solicitors engaged on behalf of that person, are convicted or plead guilty or no contest to a cumulative minimum of two violations of section 7.610 occurring within any 30 calendar day period in connection with or on behalf of the solicitation of the registered person. A certified copy of the municipal court record of plea or conviction is conclusive proof that a violation has occurred.

(2) The period of revocation shall be for six months, during which time the person may not receive a certificate of registration.

(3) Within five working days of receipt of notification that a registered person has been convicted or plead guilty or no contest to the second violation, the city manager shall notify the person designated in the registration statement to receive notice of the action to revoke, in writing, five days prior to the effective date of the revocation.

(4) The person may appeal the manager's decision to the council by filing a notice of appeal with the city manager within 10 days of the effective date of the revocation. During the pendency of the appeal, the order to revoke is stayed.

7.635 Form of Certificate of Registration, Term.

(1) The city manager shall prescribe the form of the certificate of registration. Each such certificate shall have the following printed prominently thereon: "The issuance of this certificate of registration is not an endorsement by the city of Dallas or any of its officers or employees." Each certificate of registration shall bear a registration number which is the same as the file containing the registration statement filed by the registrant.

(2) Every certificate of registration issued by the city manager shall contain a termination date upon which the certificate shall expire. The termination date shall be the termination of the solicitation period specified in the registration statement or one year from the date of issuance, whichever is less.

(3) The certificate of registration shall contain a list of the acts prohibited by section 7.610.

7.640 Evidentiary Matters. For the purposes of sections 7.610(1)(c) and 7.610(1)(g), if a person solicits on behalf of a person registered pursuant to sections 7.600 to 7.640, it is presumed that the person registered allowed, suffered, or permitted the solicitation.

7.645 Exception. The provisions of sections 7.000 to 7.080 are not applicable to sections 7.600 to 7.640.

TAXICABS

7.700 Purpose. It is the purpose of sections 7.700 to 7.800 to require that those persons, firms, or corporations operating taxicabs in the city do so in a safe, fair, and efficient manner. In the accomplishment of this purpose, the council considers it necessary to impose some regulations on the operation of taxicabs in the city to insure that the public safety and convenience is promoted.

7.705 Definitions. As used in sections 7.700 to 7.800, the following mean:

Driver. A person who operates a taxicab as an agent, employee, or otherwise, of the owner; as owner; or, under the direction of the owner.

Owner. The person licensed to conduct a taxicab business pursuant to sections 7.700 to 7.800.

Taxicab. A motor vehicle that is designed or constructed to accommodate and transport not less than three nor more than five passengers, exclusive of the driver, and which is used to transport persons for hire.

7.710 License. No person shall engage in the taxicab business within the city without having first obtained a license from the city manager.

7.715 Application, Information, Requirement. An application for a license to conduct a taxicab business within the city shall be filed with the city manager and shall be accompanied by a nonrefundable fee of

\$100. The application shall contain or be accompanied by the following information and documentation:

(1) The name, business address, residence address, and telephone number of the applicant;

(2) Previous experience, if any, of the applicant in conducting a taxicab business;

(3) The make, type, year of manufacture, and seating capacity of each vehicle the applicant intends to use in the taxicab business, together with proof of the safe operating condition of each such vehicle from a source acceptable to the chief of police;

(4) A statement as to whether the applicant, its principals (if a partnership or firm) or its officers (if a corporation) have been convicted of a felony, misdemeanor, or offense constituting a violation of municipal ordinance, code provision, or state law (other than minor traffic and parking offenses); the charge of which convicted; and the punishment or penalty assessed;

(5) A proposed schedule of charges for taxicab service; and

(6) Such other information the council may consider necessary for the proper protection of the public.

7.720 Action on Application. The city manager shall refer each application to the council for its approval or rejection. However, before submitting the application to the council, the manager shall direct the chief of police to investigate the applicant's background and the matters contained in the application form. The chief of police shall complete the investigation and make a report of his findings to the city manager within 60 days of the date he is requested to investigate.

7.725 Licensing Fees.

(1) If the council approves the application for a taxicab business license, the city manager shall issue a license to the applicant for a term of one year from its date of issue, after first collecting from the applicant a license fee as follows:

(a) For the operation of one taxicab, \$50; and

(b) For the operation of each additional taxicab, \$25.

(c) Future fees may be determined by council resolution.

(2) The license shall be subject to renewal annually upon payment of the license fee. The license fee shall not be prorated for any fraction of a year, except that if a second taxicab is placed in operation by the licensee after the current license is issued and within 60 days of the expiration date, the \$25 license fee for the second taxicab shall entitle the licensee to operate the second taxicab for the balance of the current year and the next succeeding year.

7.730 Transfer, Suspension, or Revocation of License.

(1) No taxicab license may be sold, assigned, or otherwise transferred without the consent of the council.

(2) A taxicab license may be suspended or revoked by the council after a hearing at which the certificate holder is given an opportunity to appear if any one or more of the following conditions exist:

(a) A false statement is made on an application.

(b) The owner ceases to operate a taxicab for a period of 15 consecutive days without obtaining permission for the cessation of operation from the council.

(c) The owner fails to operate the taxicab business in accordance with the provisions of sections 7.700 to 7.800.

(d) The taxicabs are operated at a rate of fare other than that filed with the city manager.

(e) The owner fails to pay the fees or payments required to be paid by him by the provisions of sections 7.700 to 7.800.

(f) The licensee is convicted of a felony, misdemeanor, or offense constituting a violation of a municipal ordinance, code provision, or state law, other than minor traffic and parking offenses, relating to the operation of a vehicle.

(3) The license may be summarily revoked by the city manager when, in the city manager's opinion, the continued operation poses a risk of immediate threat or hazard to the public safety. The revocation may be appealed as provided in section 7.735.

7.735 Hearing on Rejection.

(1) If the application for a taxicab business license is rejected or a license is suspended or revoked, notice shall be given promptly to the applicant and the applicant shall be furnished with a statement of the reasons for the rejection, revocation, or suspension.

(2) The applicant may request a hearing before the council for the purpose of rebutting the council's reason for the rejection if a request for a hearing is made by the applicant within 15 days after the date of the notice of rejection.

(3) If a hearing is held, the council may affirm its rejection of the application or may grant the application.

7.740 Display of License. The current license or a photocopy of it shall be displayed in the interior of each taxicab in a place which is readily visible to each passenger.

7.745 Insurance.

(1) No taxicab license shall be issued until the applicant has filed with the city manager evidence that the applicant has obtained public liability insurance covering the operation of the applicant's taxicab or taxicabs with limits of not less than \$200,000 for injuries sustained by one person, \$500,000 for injuries sustained by more than one person in a single accident, and \$50,000 for property damage, and that the city has been named as an additional insured on the policy.

(2) The applicant shall also file with the city manager evidence that the insurance carrier shall give the city not less than 30 days' notice of any change in the insurance coverage or of any cancellation of coverage.

7.750 Approval of Drivers.

(1) No person shall drive a taxicab in the city until the person has received a permit from the chief of police.

(2) The application for a permit shall contain the following information:

(a) The name, address, age, social security number, and Oregon motor vehicle operator's license number of the applicant.

(b) The number of motor vehicle accidents in which the applicant has been involved as a driver that resulted in injury to one or more persons, or property damage in excess of \$500.

(c) A statement as to whether the applicant has ever been convicted of a felony, misdemeanor, or offense constituting a violation of a municipal ordinance, code provision, or state law; the charge of which he was convicted; and the penalty or punishment assessed.

(d) The fingerprints of the applicant.

(3) The application shall be accompanied by an application fee of \$10.

(4) No permit shall be issued to a person below the age of 18 years.

(5) The chief of police shall review the application and issue or deny a driving permit within ten days after the filing of the application. If a permit is denied, the applicant may appeal to the council by giving notice to the chief of police within ten days after the date of denial.

(6) The driver's permit or a photocopy of it, with a picture of the driver, shall be displayed prominently in the interior of the taxicab.

7.755 Conduct of Drivers. No driver shall operate any taxicab in a careless or reckless manner, smoke tobacco without the consent of the passenger, consume alcoholic beverages or illegal drugs while on duty, or engage in conduct endangering the health or safety of persons or property.

7.760 Taxicab Equipment. In addition to the equipment required to be carried by all motor vehicles under state law, each taxicab operated under a license pursuant to sections 7.700 to 7.800 shall have:

(1) A taximeter that operates accurately at all times while the taxicab is engaged in the transportation of a fare-paying passenger and while waiting for a passenger. The face of the meter shall be at all times visible to the passenger and readable by him or her. However, if the fares charged by the licensee are based on concentric circles imposed upon a map of the city or some other similar method, no taximeter shall be required.

(2) A top light identifying it as a taxicab.

(3) A fire extinguisher approved by the chief of the fire department.

(4) The company name and telephone number where service can be requested displayed on the exterior of the vehicle.

(5) A "state of art" taxi radio on a clear coordinated taxicab frequency for customer comfort and rapid dispatching of calls for service.

7.765 Taxicab Maintenance. The licensee shall keep each taxicab in proper repair; in a clean and sanitary condition, equipped as required in section 7.760, and in a safe operating condition.

7.770 Rates.

(1) The rates charged passengers shall be based on the factors of mileage from the point of origin to the point of destination by the most direct route, the time involved, and the number of passengers.

(2) The rates charged passengers shall be approved by the council. Upon the council's approval, the rates shall be filed with the manager, and no person shall charge a sum other than allowed by the rate schedule.

(3) The approved rate schedule shall be posted in each taxicab in a place where it may be readily viewed by the passengers.

7.775 Receipt for Fare. Upon demand by a passenger, the taxicab driver shall issue the passenger a receipt for the fare, in legible printing or writing, containing the name of the passenger, the name of the driver, the date, and the amount of the fare paid.

7.780 Hours of Service. Licensees shall maintain and have available taxicab service for citizens in the city during each hour of every day of the year unless an exception or exceptions have been approved by the council.

7.785 Liquor Traffic. Neither the licensee, the driver, nor any agent or employee of either shall allow a taxicab to be used for the purpose of supplying intoxicating liquor to a person.

7.790 Variances.

(1) If the following conditions are met, the council may authorize variances from the requirements of sections 7.700 to 7.800:

(a) Because of special and unusual circumstances, strict application would cause an undue or necessary hardship; and

(b) The variance will not be materially detrimental to the purpose of sections 7.700 to 7.800; and

(c) The variance requested is the minimum variance necessary to alleviate the hardship.

(2) The council may attach conditions to the approval of the variance which it finds necessary to protect the public safety and convenience of the citizens.

(3) A request for a variance may be initiated by filing an application with the city manager on forms prescribed for that purpose. Before a variance is granted it shall be considered at a public hearing before the council. The public hearing shall be held within 40 days after the application is filed.

(4) Notice of the time and place of the public hearing and a summary of the proposed variance shall be given by the city manager by one publication in a newspaper

of general circulation in the city not less than four days nor more than ten days prior to the date of the hearing.

7.795 Liability. The city shall not be liable for any injuries occurring in, or by reason of the operation of, a taxicab.

7.800 Penalty. Violation of sections 7.700 to 7.800 is a civil infraction.

ITINERANT MERCHANTS

7.850 Definition. For purposes of sections 7.850 to 7.860, an "itinerant merchant" is a person who sells or offers for sale to the public at large, goods, wares, or merchandise, other than from door-to-door or from place-to-place, from a motor vehicle, trailer, cart, wagon, or stand, on a nonpermanent or noncontinuous basis.

7.855 License Required.

(1) No person shall engage in business as an itinerant merchant without first registering with the police department on registration forms furnished by the city.

(2) The registration form shall be adopted by resolution of the council and may be obtained in the city manager's office.

7.856 Time Limit. No itinerant merchant shall do business or leave any stand or structure associated with their business at the same location for more than 6 consecutive months and after 6 consecutive months shall not reestablish their business or place any stand or structure associated with their business at that location for an additional 2 months. If an itinerant merchant ceases to operate a business for 14 consecutive days, the registration for that itinerant merchant shall automatically terminate and all stands, signs, storage facilities and structures of any kind associated with the business shall be immediately removed. [Section 7.856 added by Ordinance No. 1437, passed June 4, 1990.]

7.857 Outside Storage Prohibited. No outside storage or display of supplies, equipment, stock, wares or other materials associated with the business shall occur except while the itinerant merchant is present and open for business. [Section 7.857 added by Ordinance No. 1437, passed June 4, 1990.]

7.858 Premises to be Maintained. The business premises and any adjacent areas used or under the control of the itinerant merchant shall at all times be kept neat, clean and free of debris. All stands, storage facilities or structures used shall be in good condition, be well maintained and be aesthetically appropriate to the surrounding area. [Section 7.858 added by Ordinance No. 1437, passed June 4, 1990.]

7.860 Penalty. Violation of a provision of Sections 7.855, 7.856, 7.857, or 7.858 is a civil infraction. [Section 7.860 amended by Ordinance No. 1437, passed June 4, 1990.]

TRANSIENT LODGING

7.870 Definitions. For the purposes of sections 7.870 through 7.924, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(1) **Accrual accounting.** The operator enters the rent due from a transient on the operator's records when the rent is earned, whether or not it is paid.

(2) **Cash accounting.** The operator does not enter the rent due from a transient on its records when the rent is earned, but rather when it is paid.

(3) **City Council.** The City Council of the City of Dallas, Oregon.

(4) **Collection reimbursement charge.** The amount a transient lodging operator may retain as reimbursement for the costs incurred by the provider in collecting and reporting the transient lodging tax and in maintaining transient lodging tax records.

(5) **Hotel.** Any structure, or any portion of any structure, not excluded herein, which is occupied or intended or designed for transient occupancy for 30 days or less for dwelling, lodging or sleeping purposes and includes any hotel, motel, inn, condominium, tourist home or house, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, public or private dormitory, public or private club and also means space in mobile home or trailer parks (including recreational vehicle, tent trailer and tent camping parks) or similar structures, space or portions thereof so occupied, provided the occupancy is for less than a 30-day period. "Hotel" does not include:

(a) A hospital, medical clinic, assisted living facility, health care facility, adult foster care facility or home for aged people licensed by the State of Oregon;



Community Development Department

Memo

To: Admin Subcommittee
From: Jason Locke, Community Development Director *JL*
Date: March 16, 2010
Re: Land Use Fees

With the adoption of the new development code, staff discovered that the existing land use fee schedule did not correlate with types of land actions contained in the new development code (such as site plan review, floodplain permits, and final plats). In addition, we determined that the fees being charged did not cover the costs of processing the applications. In many cases, the cost recovery is far less than 50%. That means that the city general fund is subsidizing the cost of new development applications.

As an example, the cost of processing a Conditional Use permit is approximately \$1200. We currently charge \$500. That leaves \$700 being subsidized. The proposed fee is \$1000, much closer to full cost recovery.

Another example is a Property Line Adjustment, which costs on average \$400. We are currently charging \$100. The proposed fee is \$300.

The factors involved in determining cost generally are as follows: Overhead, printing, staff time, and mailing/postage/publication. These things vary by application, and the proposed fees are based on that variation and represent an average cost.

In the city's current fiscal situation, staff is recommending that the new fee schedule be adopted in order to minimize impacts on the general fund.

**City Of Dallas
Land Use Fee Schedule (PROPOSED 3/10)**

Application	Review Procedure	Fee
Pre-application conference		\$150
Street or ROW Vacation		\$1000
Annexation	Type IV	1 acre or less \$2000, more than 1 acre \$3000
Code Interpretation	Type II	\$500
Code Text Amendment	Type IV	\$2500
Comprehensive Plan Amendment	Type IV	\$3500
Conditional Use Permit	Type III	\$1000
Home Occupation Permit Type I	Type I	\$200
Home Occupation Permit Type III	Type III	\$700
Master Planned Development	Type III	\$2000 + \$75/unit
Final Plat	Type I	\$500 + \$10/unit
Modification to Approval	Type II minor Type III major	\$500 ½ the cost of application fee
Land Use District Map Change		
Quasi-Judicial (does not require a plan amendment)	Type III	\$2500
Legislative (plan amendment)	Type IV	\$5000
Property Line Adjustments, including Lot Consolidations	Type I	\$300
Legal Lot Determination	Type I	\$200
Non-Conforming Use or Development Confirmation	Type I	\$200
Partition or Replat of 2-3 lots	Type II	\$400/lot
Land Use Review	Type I/II	Included in Building Permit fee
Site Design Review	Type II	\$500
Site Design Review w/ Adjustment	Type III	\$1000
Subdivision or Replat of >3 lots		
Preliminary Plat	Type III	\$300/lot for the first 20 lots and \$150 for each additional lot
Final Plat	Type I	\$500
Temporary Use Permit (includes Temporary Medical Hardship Dwelling)	Type II/III	\$500
Variance		
Class A (Adjustment)	Type II	\$300
Class B	Type III	\$700
UGB Amendment	Type IV	\$5000
Floodplain permit	Type I	\$100
Demolition Permit	Type I	\$200
Sign Permit		\$2.50/sq. ft. \$100 minimum + building permit fee (If required)
Outside City Water Application		\$200
Appeal	Type III	\$300 or 1/2 the original application fee, whichever is greater

DALLAS LAND USE APPLICATION FEES

Effective Date March 20, 2006 Res. 3093
 Amends May 1, 2001 Resolution 2972 & 2979

Land Use Action	
Annexation 1 acre or less	\$1,500.00
Annexation more than 1 acre	\$2,500.00
Appeal	\$250.00
Comp Plan Amendment	\$2,500.00
Conditional Use	\$500.00
Home Occupations (Type II)	\$100.00
Partitioning/Replat	\$600.00 minimum \$300.00 per parcel
PUD	
per lot for first 6	\$500.00
per lot for next 6	\$300.00
per lot for next 12	\$200.00
per lot for remaining	\$100.00
Subdivision	
per lot for first 6	\$500.00
per lot for next 6	\$300.00
per lot for next 12	\$200.00
per lot for remaining	\$100.00
Vacation of right-of-way	\$500.00
Variance	\$350.00
Zone Change	\$2,000.00
Plan/Zone Review – Development Review	\$100
Lot Line Adjustment	\$100.00
Type II Procedure	\$100.00
Urban Growth Boundary Amendment	\$2,500.00

Signs
 City Code 9.906

Ground signs and projection signs	\$1.50 square feet, \$75.00 Minimum
All others	\$1.50 square feet, \$50.00 Minimum

Sidewalks: \$25.00
Driveways: \$50.00
Demo Permits: \$200.00

LAND USE APPLICATION FEES

Land Use Action	Dallas	Canby	Central Point	Independence	Monmouth	Silverton	Happy Valley
Annexation	\$1,500 2<acres \$2,500 2>acres	\$2500-4,500	\$3,875	175+500	\$500	\$2750+\$55/per acre over 5	\$3,000-10,000
Appeal	\$250	\$1,600-\$1,920	\$1,011	\$200	\$250	\$500	\$500-2,500
Comp Plan	\$2,500	\$3,220	\$9,287	\$300	\$800	\$2,750	\$500-3,200
UGB	\$2,500		\$2,770	\$400			
Conditional Use	\$500	\$2,040	\$3,108	\$500+500	\$700	\$1,100	\$500-2,800
Partition /Replat	\$300/parcel \$600 minimum	\$1,280-\$1,360	\$3,128	\$1,000+65/lot	\$400-550	\$550-825	\$250+\$2,500+\$1,000
PUD	\$500/lot, first 6 \$300/lot, next 6 \$200/lot next 12 \$100/lot remainder	\$900+33/unit	\$7,942	\$1,000+65/lot	\$1,000+25/lot	\$2,750+27.50/lot w/o traffic analysis or \$6,000+w/traffic analysis + Final Plat \$660	\$2,500+\$300/lot 0-9 +\$200/lot 10-29 +traffic & \$1,000 final plat
Subdivision	\$500/lot, first 6 \$300/lot, next 6 \$200/lot next 12 \$100/lot remainder	\$1,700/first 4 lots \$95/lot 5 to 10 \$130/lot 11 & up	\$4,736	\$1,000+65/lot	\$1,000+25/lot	\$2,750+27.50/lot w/o traffic analysis or \$6,000+w/traffic analysis + Final Plat \$660	\$2500+\$300/lot 0-9 +\$200/lot 10-29
Variance	\$350	\$520-\$2,880	\$2,993	\$500+500	\$250-500	\$550	\$1400-2800
Zone Change	\$2,000	\$2,640	\$2,770	\$500+500	\$800		
Lot Line Adj	\$100	\$520	\$1,236	\$65/lot	\$250	\$550	\$500
Site/Plan Review	\$100	\$580	\$2,555-2,921	\$500	\$250	\$500-1,100	
Home Occupation	\$100	\$0	\$146	500+500	\$250		\$100-\$750 +\$50 annual fee

NOTE: In some locations:

Deposits are required up front, both refundable and non-refundable.
 Actual costs based on hourly staff rates.
 Plat reviews have additional fees.
 Actual publishing fees for public notices are charged to customer.



Community Development Department

Memo

To: Admin Subcommittee
From: Jason Locke, Community Development Director
Date: March 16, 2010
Re: Vacant Commercial Building Ordinance

Staff was directed to prepare information on a possible Vacant Commercial Building Ordinance. In doing the research, there appears to be one main approach that is taken by cities, which involves the creation of a registration for vacant street-level storefronts and payment of an annual registration fee based on the amount of time the building has been vacant. An ordinance may (Everett) or may not (Hagerstown) have standards for maintenance of the interior and exterior of the building.

If the subcommittee wants to proceed, staff would advise addressing these questions:

- 1) What is the problem we are trying to address?
- 2) Is a Vacant Commercial Building Ordinance the way to address it?
- 3) Is the benefit/cost ratio acceptable?
- 4) Are there other ways to address the problem, if in fact there is a problem?

ORDINANCE NO. 3127-09



An Ordinance Regulating Exterior Building Maintenance and Street-Level Vacant Commercial Space in the Central Business District, Adding a New Chapter to Title 16 of the Everett Municipal Code.

WHEREAS, the City Council of the City of Everett finds that the Central Business District (the "CBD") is an important center of retail commerce and that economic development should be encouraged in the CBD; and

WHEREAS, it is the purpose of this Ordinance to encourage commercial activity, including redeveloping rundown or unused property, promote a safe and vibrant streetscape, and protect the value of properties and businesses in the CBD; and

WHEREAS, poorly maintained buildings create the appearance of neglect, suggest that enforcement of codes and regulations is lax or non-existent, and foster blight and criminal activity, jeopardizing the health, safety and welfare of Everett's citizens; and

WHEREAS, street-level commercial space left vacant for long periods of time can diminish the value of neighboring properties and adversely affect nearby businesses and the character and vitality of the CBD and, if poorly maintained or not in a rentable condition, can become a cause of blight; and

WHEREAS, vacant commercial space causing blight in the CBD can attract nuisance and criminal activity that is a threat to the public health, safety and welfare; and

WHEREAS, these conditions discourage the development of retail commerce in the CBD; and

WHEREAS, well-maintained buildings suggest actively enforced codes and regulations and contribute to an environment that discourages criminal activity and protects property values; and

WHEREAS, it is the intent of the City Council that this Ordinance applies retroactively to commercial space that has been vacant for the 90 days preceding September 1, 2009, the effective date of this Ordinance;

NOW, THEREFORE, THE CITY OF EVERETT DOES ORDAIN:

Section 1. Scope

The provisions of this Ordinance apply to all structures in the Central Business District (B-3 zone), unless otherwise stated. All Responsible Persons (as defined in Section 3) shall comply with the requirements of this Ordinance.

Section 2. Administration

This Ordinance will be administered by the Building Official, who may adopt administrative rules and regulations consistent with its terms. The Building Official (and his designee), or Code Enforcement Officers, or both are authorized to enforce this Ordinance.

Section 3. Definitions

For the purposes of this Ordinance:

"City" means the City of Everett, its officers, employees, and agents.

"Central Business District" means the B-3 zone in the City of Everett as defined by the Everett Zoning Code, Everett Municipal Code Title 19.

"Commercial Space" means any portion of a structure in the Central Business District that is not intended for residential use.

"Occupied": A Commercial Space is considered occupied if a permitted, non-residential use is physically located and lawfully operating in the space for at least six consecutive months.

"Responsible Person" means any person, firm, association, corporation or any agent thereof, owning, leasing, renting or having lawful possession of a structure in the Central Business District.

"Vacant Commercial Space" means any portion of a street-level Commercial Space that, on or after September 1, 2009, is not occupied and has not been occupied during the preceding 90 days.

Section 4. General Minimum Maintenance Requirements

All Responsible Persons shall perform the following with respect to each structure they own, lease, rent or lawfully possess:

- A. Maintain all exterior surfaces, including but not limited to, doors, windows, door and window frames, cornices, porches, trim, balconies, decks, and fences, in good condition.

- B. Protect exterior wood surfaces, other than decay-resistant woods, from the elements and decay with paint or other protective covering or treatment. If protection of the surface is compromised, restore adequate protection within a reasonable time; for example, remove peeling, flaking or chipped paint and repaint the compromised surface.
- C. Cause all siding and masonry joints and joints between the building envelope and the perimeter of windows, doors, and skylights to be weather resistant and water tight.
- D. Coat all metal surfaces subject to rust or corrosion, except those designed to be stabilized by oxidation, to inhibit rust and corrosion, after first stabilizing any existing rust and corrosion. Remove oxidation stains from exterior surfaces.
- E. Maintain all exterior walls free from moss, algae, dirt, grime, holes, breaks, and loose or decaying materials. Weatherproof and properly coat the surface of all exterior walls when required to prevent deterioration.
- F. Maintain the roof and flashing of all structures so that they are sound, tight, free of moss, algae or defects that admit rain, attract pests or create a public nuisance. Maintain adequate roof drainage to prevent dampness and deterioration in the walls and inside the structure. Maintain roof drains, gutters, and downspouts in good repair and free from obstructions.

Section 5. Vacant commercial space registration

- A. At least one Responsible Person for each Vacant Commercial Space must register that space with the City within 10 calendar days of the date the space becomes "Vacant Commercial Space" as that term is defined in Section 3, unless:
 - 1. The space is the subject of a current, valid building permit for repair or rehabilitation and the responsible person provides proof, such as receipts, invoices or executed contracts, that the repair or rehabilitation is proceeding without significant delay; or
 - 2. The space meets all applicable codes and regulations that apply to a permitted non-residential use, and the responsible person is actively attempting to sell, lease, or rent the property (which is evidenced, in part, by appropriate signage); or
 - 3. The property the Commercial Space is located on is the subject of a land use application for redevelopment for which approval has been granted, but building permits have yet to be issued.

- B. A space will be considered to be registered on the date the City receives, on a form provided by the Building Official and properly completed and signed by a Responsible Person, the following information:
1. The street address and parcel number of the Vacant Commercial Space;
 2. The name, address, and daytime and evening telephone numbers of each Responsible Person for the Vacant Commercial Space, including any owner or tenant;
 3. The period of time the Vacant Commercial Space is expected to remain vacant;
 4. Any other information requested by the Building Official for the administration of this chapter.
- C. For every registered Vacant Commercial Space, a Responsible Person must record a notice that the space is registered with the City as a Vacant Commercial Space with the Snohomish County auditor. The notice must be approved by the Building Official, and a copy of the recorded notice must be received by the City no later than 30 days from the date the space is registered.
- D. A Responsible Person must post the following notice inside every Vacant Commercial Space so as to be clearly visible to all potential tenants, lessees, renters or buyers upon entering the space but not visible from outside the space:

This Vacant Commercial Space is registered
with the City of Everett

This Vacant Commercial Space may not meet
all applicable codes and regulations, which
may include codes and regulations required to
occupy the space for a permitted use in the
Central Business District.

The Vacant Commercial Space was registered
on [date]

- E. A Responsible Person must renew the registration of each Vacant Commercial Space on or before January 1 of each year that the space remains vacant. A Responsible Person must submit the renewal application to the City on forms provided by the Building Official.
- F. Upon satisfactory proof to the Building Official that the Vacant Commercial Space is occupied as defined in Section 3, the Vacant Commercial Space will be unregistered. Proof of physical occupation may include, but is not limited to, usable furniture, office equipment, retail inventory or other equipment and inventory in the space that are consistent with the unit's intended use, and persons regularly present at and using the space for its intended use. Proof of physical occupancy

must also include documentation, which may include, but is not limited to, a current, executed lease agreement, paid utility receipts reflecting payments for six consecutive months from the month the space is occupied, or valid state and local business licenses, federal income tax or City business and occupation tax statements indicating the subject space is the official business address of the person or business claiming occupancy.

- G. The determination of the number of Vacant Commercial Spaces a structure contains will be at the reasonable discretion of the Building Official.

Section 6. Window displays for commercial spaces not occupied for 30 days

When Commercial Space is unoccupied for more than 30 days, a Responsible Person must take steps to maintain a vibrant streetscape and avoid adverse impacts on neighborhood character by applying at least one of the following measures to all ground-floor windows that face sidewalks, streets, or public open space:

- a. Paint windows with visually appealing scenes depicting or suggesting business or cultural activities;
- b. Display works of art or provide other displays of cultural or educational value, using background panels or other methods to screen views from the street of the unoccupied space.
- c. Other measures consistent with these examples approved by the Building Official.

Section 7. Fees for vacant commercial space registration

- A. At least one Responsible Person shall pay an annual registration fee for each registered Vacant Commercial Space. At least one Responsible Person must pay the fee to the City at the time the space is registered and on January 1 of each year that the space remains vacant. The fee will be based on the duration of the vacancy as determined by the following scale:
 - 1. \$250 for each space vacant for less than one year;
 - 2. \$500 for each space vacant for at least one year but less than two years;
 - 3. \$750 for each space vacant for at least two years but less than three years;
 - 4. \$1000 for each space vacant for at least three years and for each year thereafter until the building is occupied.

- B. The fees are intended to defray the costs of administering sections 7 through 12 of this Ordinance and may be changed by resolution of the Council to meet these costs.

Section 8. Delinquent registration fees – collection

If a Responsible Person fails to pay the registration fee by the due date, the City is authorized to take action to collect the registration fee, including filing civil actions or turning the matter over to collection, in which case costs incurred by the City as a result of the collection process will be assessed to the Responsible Person or Responsible Persons in addition to the registration fee.

Section 9. Duty to amend registration statement

Responsible Persons for any registered Vacant Commercial Space shall advise the Building Official, in writing, of any changes to the information on the registration form within 30 days of the occurrence of the change.

Section 10. Inspections

The Building Official (and his designee), or Code Enforcement Officers, or both are authorized to conduct inspections to enforce the provisions of this Ordinance.

Section 11. Enforcement

- A. Enforcement of the provisions of this Ordinance will be performed in accordance with Chapter 1.20 of the Everett Municipal Code.
- B. No Responsible Person may violate or fail to comply with any provisions of this Ordinance. Each Responsible Person commits a separate offense for each and every day they commit, continue or permit a violation of any provision of this Ordinance.
- C. All Responsible Persons for a Commercial Space are jointly and severally responsible with respect to that Commercial Space for compliance with the provisions of this Ordinance and for any payments that they may be required to make to the City under this Ordinance. If the Commercial Space is subject to a lease, the City shall have discretion to determine whether to enforce this Ordinance against the Commercial Space owner, the tenant or both of them, but the City shall consider in this determination whether the lease provides that the compliance with this Ordinance is the responsibility of the Commercial Space owner or the tenant.

Section 12. Annual Report

The Building Official shall make a report to the City Council in January of every odd year on the status of the Vacant Commercial Space Registration program.

Section 13. Severability

Should any section, subsection, paragraph, sentence, clause or phrase of this Ordinance or its application to any person or situation, be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this Ordinance or its application to any other person or situation. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, clauses, phrases or portions be declared invalid or unconstitutional.

Section 14. General Duty

It is expressly the purpose of this Ordinance to provide for and promote the health, safety and welfare of the general public and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this Ordinance. It is the specific intent of this Ordinance that no provision or any term used in this Ordinance is intended to impose any duty whatsoever upon the City or any of its officers or employees. Nothing contained in this Ordinance is intended nor shall be construed to create or form the basis of any liability on the part of the City, or its officers, employees or agents, for any injury or damage resulting from any action or inaction on the part of the City related in any manner to the enforcement of this Ordinance by its officers, employees or agents.

Section 15. Savings

The enactment of this Ordinance shall not affect any case, proceeding, appeal or other matter currently pending in any court or in any way modify any right or liability, civil or criminal, which may be in existence on the effective date of this Ordinance.

Section 16. Corrections

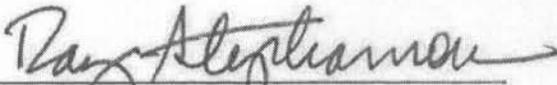
The City Clerk and the codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, Ordinance numbering, section/subsection numbers and any references thereto.

Section 17. Codification

Sections 1 through 12 of this Ordinance shall be codified as a new Chapter in Title 16 of the Everett Municipal Code.

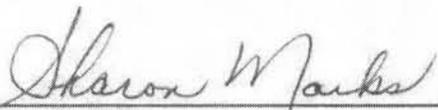
Section 18. Effective Date

This Ordinance will become effective September 1, 2009.



Ray Stephanson, Mayor

ATTEST:



CITY CLERK

Passed: 6-10-09

Valid: 6-15-09

Published: 6-18-09

Effective: 6-30-09

CITY OF HAGERSTOWN, MARYLAND

**AN ORDINANCE TO AMEND THE CODE OF THE CITY OF HAGERSTOWN,
BY ADDING A NEW CHAPTER 232, TO BE , ENTITLED
VACANT COMMERCIAL STRUCTURES,
WHICH CHAPTER PROVIDES FOR LICENSING AND INSPECTION OF VACANT
COMMERCIAL STRUCTURES AND PENALTIES FOR A VIOLATION THEREOF**

RECITALS

WHEREAS, the City of Hagerstown is charged with promoting and ensuring public safety, health and welfare, and

WHEREAS, the Mayor and Council have found that the existence of vacant structures within the corporate limits lend themselves to the deterioration of said structures, reduction in property values, and pose an increased opportunity and risk of crime, fire, and health and safety hazards; and

WHEREAS, in order to ensure the safety of first responders and emergency personnel, to ensure the health and safety of the public in general, and to support property values within the corporate limits of the City, the Mayor and Council find it to be in the best of interests of the citizens of the City of Hagerstown to enact the following legislation;

NOW THEREFORE, BE IT RESOLVED, ENACTED AND ORDAINED by the Mayor and Council of the City of Hagerstown, Maryland, as its duly constituted legislative body as follows:

SECTION 1. The Code of the City of Hagerstown is hereby amended by adding thereto a new Chapter, to be Chapter 232, *Vacant Commercial Structures*, to read as follows:

§232-1. Purpose.

The purpose of this chapter is to promote and assure public safety, health and welfare, to prevent deterioration of vacant commercial structures in the C3 Zoning Districts of the City of Hagerstown, to support property values, and to encourage responsible management and use of vacant commercial structures through licensing and inspections.

§232-2. Definitions.

- A. CITY – City of Hagerstown, Maryland.
- B. COMMERCIAL STRUCTURE – Any structure in a C3 Zoning District that contains one or more street level commercial spaces, including, any such structure that contains other space(s) on upper level(s) used for any purpose.
- C. DEPARTMENT – The Engineering and Inspections Department of the City.
- D. OWNER – Any person, partnership, association, company, corporation or other entity having a legal or equitable interest in or control of a vacant commercial structure, excluding a mortgagee or lien holder. Owner shall also mean any person who, alone,

0-06-34

jointly or severally, shall have the charge, care, or control of any vacant commercial structure as executor, administrator, trustee or guardian of the estate or person of the owner. Owner shall also mean any person having any interest in a partnership, association, company, corporation, or other entity which owns or has any ownership interest or control of a vacant commercial structure. Any person, firm, partnership, association, company, corporation or other entity whose name appears on the deed or property tax bill for the premises of a vacant commercial structure.

- E. PREMISES – Any single parcel or lot of real property in the City, including the land and all improvements or structures, upon which a vacant commercial structure is located.
- F. VACANT COMMERCIAL STRUCTURE – Any commercial structure that contains one or more vacant street level spaces that have not been occupied for a commercial purpose for a continuous six (6) month period. Vacant Commercial Structure shall also mean a structure with a vacant upper level as defined herein. For calculation of the continuous six (6) month period required to satisfy the definition of Vacant Commercial Structure, the following periods of time shall not be included: (i) the one (1) year period immediately following the issuance of a use and occupancy permit for new construction; and (ii) any period of time during which active work is being legally performed pursuant to a valid permit issued by the City.
- G. VACANT UPPER LEVEL – Any Commercial Structure that does not contain street level vacancies pursuant to §232.2.F., but in which at least 50% of the upper level spaces have been vacant for a continuous six (6) month period.

§232-3. Vacant Commercial Structure License Required.

It shall be unlawful for the owner(s) of any vacant commercial structure to fail to apply for and obtain a Vacant Commercial Structure License and abide by the inspection requirements contained in this Chapter.

§232-4. Application; License Fee.

In addition to the inspection requirements of Section 232-5 of this Chapter, an applicant for a Vacant Commercial Structure License shall provide the following information for each vacant commercial structure on the appropriate application form provided by the Department.

- A. The address of the vacant structure.
- B. The number and location of the spaces contained in the structure.
- C. The name, street, address, and telephone number of all owners of the vacant structure.
- D. If the owner of the vacant commercial structure is not an individual, the applicant shall provide the name, street address, resident agent, resident agent address and telephone number.
- E. The name, street address and telephone number of a designated contact person for the owner(s).
- F. Except for vacant commercial structures which are deemed so solely by virtue of having a vacant upper level, a non-refundable annual license fee pursuant to the following schedule for each vacant commercial structure:

0-06-34

<u>Period of Time Continuously Vacant</u>	<u>Annual License Fee</u>
6 months to 2 years	\$ 250.00
over 2 years to 4 years	\$ 500.00
over 4 years	\$1,000.00

§232-5. Inspection.

In connection with the application requirements contained in Section 232-4 of this Chapter, the exterior and interior of the vacant structure shall be inspected in accordance with the following schedule:

<u>Period of Time Continuously Vacant</u>	<u>No. of Annual Inspections</u>
6 months to 2 years	1
over 2 years to 4 years	2
over 4 years	4

All inspections conducted hereunder shall be conducted by the Department and shall be performed pursuant to the standards then currently adopted. Interior inspections shall be limited to the vacant portion(s) of the structure for compliance with all applicable property maintenance, fire and other City codes for vacant, unoccupied structures.

§232-6. Issuance of license; renewal.

Upon receipt of a completed application form, full payment of the appropriate fee and completed inspection revealing compliance with all applicable code sections, the Department shall issue a license for the subject vacant commercial structure. Said license shall expire on its anniversary date, and shall be renewable annually, with application for said renewal being made at least 60 days prior to the expiration date of the then current license. License renewal shall be made on the form provided by the Department.

§232-7. Denial; Revocation or Suspension.

A vacant commercial structure license may be denied, revoked or suspended at any time by the Department if, after receipt of a notice of violation, the owner fails to eliminate violations of the applicable code sections identified during any inspection within the time ordered in the notice. Denial, revocation or suspension of a vacant commercial structure license shall be in addition to, and not in substitution of the penalties provided for in Section 232-9 of this Chapter.

§232-8. Severability.

The provisions of this Chapter are severable. If any provision of this Chapter or its application to any person or circumstance is held to be invalid, such invalidity shall not effect the other provisions or applications of this Chapter which can be given effect without the invalid provision or application.

0-06-34

§232-9. Violations and Penalties.

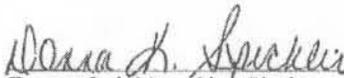
In addition to the sanctions outlined in §232-7 hereof, any owner violating the provisions of this Chapter shall be guilty of a municipal infraction and subject to a fine of up to one thousand dollars (\$1,000.00). Each day a structure is not in compliance with this Chapter shall be deemed a separate and distinct violation.

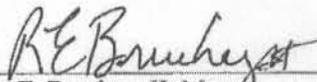
SECTION 2. Effective Date. This Chapter shall become effective immediately upon the effective date of this enacting Ordinance.

BE IT FURTHER RESOLVED, ENACTED AND ORDAINED that this enacting Ordinance shall become effective at the expiration of thirty calendar days following its approval.

WITNESS AND ATTEST
AS TO CORPORATE SEAL

MAYOR AND COUNCIL OF THE CITY
OF HAGERSTOWN, MARYLAND


Donna Spickler, City Clerk

By: 
Robert E. Bruchey, II, Mayor

Date of Introduction: November 28, 2006
Date of Passage: December 19, 2006
Effective Date: January 19, 2007

PREPARED BY:
Urner, Nairn & Boyer, LLC, City Attorneys

0-06-34



CITY OF DEARBORN, ECD - COMMERCIAL SERVICES DIVISION, 4500 Maple Suite 1, Dearborn, MI 48126 - Phone: 313-943-2133 - Fax: 313-943-3023

COMMERCIAL VACANT PROPERTY REGISTRATION FORM

The purpose of this ordinance is to enhance the economic viability of business districts, promote their marketability, build neighborhood integrity, avoiding the creation and maintenance of nuisances and identifying unsafe and unsanitary maintenance issues of commercial and industrial buildings.

- A building or structure that is considered vacant when it is not currently occupied, or not legally occupied (No C of O).
- Commercial property must be registered within 90 days of vacancy.
- Registration fee is \$150.00 annually, payable to "City of Dearborn." **CR Code: VR**
- The above fee includes 1 full year of Field inspection monitoring for property maintenance & safety issues.
- If a property maintenance issue or safety issue is identified, you will be contacted by a Field Inspector for resolution.

First Notification

Revised Information

PROPERTY ADDRESS			
Dearborn, MI <input type="checkbox"/> 48120 <input type="checkbox"/> 48124 <input type="checkbox"/> 48126 <input type="checkbox"/> 48128			
PROPERTY OWNER			
NAME _____			
ADDRESS _____			
CITY _____	STATE _____	ZIP _____	
PHONE NUMBER _____	E-MAIL ADDRESS _____		
PROPERTY MANAGER			
NAME _____			
ADDRESS _____			
CITY _____	STATE _____	ZIP _____	
PHONE NUMBER _____	E-MAIL ADDRESS _____		
EMERGENCY CONTACT			
<input type="checkbox"/> Property Owner <input type="checkbox"/> Property Manager <input type="checkbox"/> Other -- Name _____ <div style="text-align: right;">Phone Number _____</div>			
UTILITY STATUS			
Gas: <input type="checkbox"/> Disconnected <input type="checkbox"/> In Proper Working Order <input type="checkbox"/> Other-Explain _____			
Electric: <input type="checkbox"/> Disconnected <input type="checkbox"/> In Proper Working Order <input type="checkbox"/> Other-Explain _____			
Water: <input type="checkbox"/> Disconnected <input type="checkbox"/> In Proper Working Order <input type="checkbox"/> Other-Explain _____			
AUTHORIZATION			
By signing and submitting this document, I am authorizing the City of Dearborn to utilize this information, certifying that I have the legal authority to do so. I affirm the information provided is accurate. I am granting permission to the City of Dearborn Authorized Staff to access all exterior areas of the property for inspection purposes.			
SIGNATURE _____			
PRINT NAME _____			
DRIVER'S LICENSE # OR MI STATE ID# _____			DATE _____

OFFICE USE ONLY: Case# _____ Receipt# _____ II date _____ Scanned _____

Please visit the ECD Commercial Services Department at cityofdearborn.org to submit a comment or suggestion.
 ECD-CS-100-09-R1-092809

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Members Present: Chair David Shein and Ken Woods, Jr. Excused: Kevin Marshall and Dave Voves.

Also Present: City Manager Jerry Wyatt, Mayor Jim Fairchild, City Attorney Lane Shetterly, Community Development Director Jason Locke, and Recording Secretary Emily Gagner.

Chair Shein called the meeting to order at 4:02 p.m.

City Hall Roof

Mr. Locke reviewed his staff report. Mr. Wyatt indicated the City had recently fixed the roof on the Library and Carnegie Building and noted there is money budgeted for repairs. Councilor Shein asked how long the 60 mil membrane would be good. Mr. Locke stated the warranty period was 15 years, but the roof would last significantly longer than that. He explained the quotes varied a great deal, noting the low bidder, Interstate, is currently working on the Academy building, so they are already mobilized. There was discussion about the length of the warranty. In response to a question, Mr. Wyatt stated the money for this was in the Improvement Trust. Councilor Woods asked why this was brought to the committee. Mr. Wyatt explained it was to inform the Council of what was happening.

Council Chambers Completion

Mr. Wyatt commented that the City had started remodeling the Council Chambers with the installation of new lights and the removal of the old wallpaper. He noted the ceiling would be painted soon, once the roof was repaired. Mr. Wyatt stated new carpet and new dais are the only items left to complete. He explained staff met with Oregon Corrections Enterprises and got a bid from them for construction and installation of new furniture. He indicated we got a second bid which came in much higher. Councilor Woods asked if the desks would be stationary. Mr. Locke stated they would be moveable, noting the Council Chambers are currently a multi-purpose room that is not working well for anyone. He indicated it takes considerable staff time to switch the room from the Council setup to Court setup and back again. Mr. Wyatt stated the platform currently used for the judge makes our insurance people nervous and they always ask when we will remove it. Councilor Shein commented that the real problem is that the room is used for two things and it doesn't work well for either use.

City Attorney Lane Shetterly joined the meeting at 4:13 p.m.

Mr. Locke stated the proposal from Oregon Corrections Enterprises includes detailing that allows for all electrical and future wiring needs. There was discussion about moving the projector screen so it was more easily viewed by all the Councilors. In response to a question, Mr. Locke indicated he would be getting multiple bids on the carpeting.

Other

There was no other business and the meeting was adjourned at 4:20 p.m.

MEETING AGENDA

BUILDING AND GROUNDS COMMITTEE

Monday, March 22, 2010

4:00 p.m.

David Shein, Chair
Kevin Marshall
Dave Voves
Ken Woods, Jr.

1. City Hall roof
2. Council Chambers completion
3. Other
4. Adjourn



Community Development Department

Memo

To: Buildings and Grounds Subcommittee
From: Jason Locke, Community Development Director 
Date: March 16, 2010
Re: City Hall Roof

We are experiencing numerous leaks in the roof at City hall. The leaks are creating water stains and are probably doing damage to the underlying structure. The current roof has been dated at more than 20 years old.

Staff has solicited quotes for a membrane roof, and is recommending that the city have a 60 mil membrane installed, which is a balance between longevity and cost.

The lowest cost for a 60 mil membrane is \$19,534, plus permit.

Roofing Bids

Slate and Slate
Terry Slate

Moser
Braulio Sanchez

Interstate
Brad Satran

McGilchrist & Sons

45 mil				
10 year			\$ 17,590.00	
15 year				\$ 20,165.00
50 mil				
15year	\$ 23,800.00	\$ 41,000.00		
60 mil				
15 year			\$ 19,534.00	\$ 21,105.00
20 year	\$ 27,300.00			
80 mil				
25 year	\$ 30,800.00	\$ 45,000.00		
Covers	1/4" densdeck	vapor barrier	FR-10 Fire retardant underlayment	1/4" densdeck
	IB PVC membrane	IB single membrane	GAF TPO single membrane	TPO heat weld all seams
	Membrane on walls up under flashing		Reuse Existing Cap and Wall Material	
	Pipe Flashings	Pipe flashings	Flash all Roof Penetrations	Pipe Flashings
	5"anti condensation vents			
	8" vents	Additional vents as needed by code		
	New Drains and Overflows		Attach to existing drains	
	Walk pad at door			
	Reuse metal cap		Reuse metal cap	
	Provide permit	Permits	Permits not included \$390	
Excluded		roofing debris removed	cleanup and removal of debris	cleanup and removal of debris
		Dry rot	Roof vents \$100 each	
			Electrical, gas lines, HVAC and Duct	
			work removal, repair and replacement	
Ad. Mn Hrs	\$ 45.00		\$ 65.00	
Plywood	\$ 45.00		\$ 45.00	
Walk Pads				\$ 395.00
Permits			\$ 390.00	
TOTALS				
10 YEAR			17590	
15 YEAR	23800	41000	19534	\$ 20,165.00
				\$ 21,105.00
20 YEAR	27300			
25 YEAR	30800	45000		

Memorandum

To: Building and Grounds Subcommittee
From: Emily Gagner, Assistant to the City Manager
Date: 3/17/2010
Re: Council Chambers Completion

At Jerry's request, Jason Locke and I researched the cost to complete renovations to the Council Chambers. As you are aware, we have already updated the lighting, removed the dated wallpaper from the south wall of the Chambers, and replaced the mismatched chairs.

We have gotten quotes to replace the carpeting and to install a new dais and tables. The new dais will eliminate the need for staff to move anything to switch between court and Council setup, including the removal of the hazardous platform that the judge currently uses.

The quote for the furniture is from Oregon Corrections Enterprises, which has a state contract under which we can purchase.

There is money in the budget for these proposed updates, which would be installed in June, 2010.

Cost for the proposed carpet replacement:	\$3,574
Cost for new dais and tables:	<u>8,932</u>
Total Cost:	\$12,506

HOUSE OF FLOORS INC

643 SE JEFFERSON ST
DALLAS, OR 97338

Estimate

Date	Estimate #
10/28/2009	281

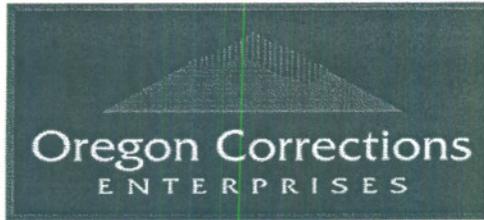
Name / Address
CITY OF DALLAS COURTROOM COURT ST DALLAS OR 97338 JASON 503 831-3565 Fax 623-2339

Rep

Description	Qty	Rate	Total
INSTALL GLUE DOWN CARPET	149.67	6.00	898.02
TAKE UP GLUE DOWN CARPET	149.67	3.49288	522.78
R/R OR NEW BASEBOARDS	140	2.00	280.00
MOHAWK VIRTUAL COLOR 848 CLOVES 12X112.25	149.67	11.25002	1,683.79
4 GAL FLOOR ADHESIVE	2	44.50	89.00
Total			\$3,473.59

QUOTE

OREGON CORRECTIONS
ENTERPRISES
PO BOX 12849
SALEM, OR 97309
(503) 378-2449



ORDER NUMBER: 0065296
ORDER DATE: 10/27/2009

SALESPERSON: 1010
CUSTOMER NO: 0005481

SOLD TO:
CITY OF DALLAS
187 SE COURT ST
DALLAS, OR 97338

SHIP TO:
CITY OF DALLAS
187 SE COURT ST
DALLAS, OR 97338

CONFIRM TO:
JASON LOCKE 503-831-3536

Fax# 503-623-7352

Comments:

CUSTOMER P.O.	SHIP VIA	F.O.B.	TERMS	Ship Week of:		
NET 30 DAYS						
ITEM NUMBER	UNIT	ORDERED	SHIPPED	BACK ORDER	PRICE	AMOUNT
MAPLE WOOD SOAPSTONE LAMINATE CLEAR LACQUER STAIN						
/301.02	EA	1.00	0.00	0.00	7,254.00	7,254.00
(A) COUNCIL CHAMBER BENCH W/ POWER/DATA ACCESS, GROMMET, 22" PENCIL DRAWER						
/301.02	EA	1.00	0.00	0.00	682.00	682.00
(B COURT REPORTERS WORKSURFACE						
/301.02	EA	1.00	0.00	0.00	280.00	280.00
(C) WORKSURFACE 48" X 30"						
/301.02	EA	1.00	0.00	0.00	616.00	616.00
(D) MOBILE WORKSURFACE						
/300.52		1.00	0.00	0.00	100.00	100.00
SHIPPING & HANDLING						

CHAIRS NOT INCLUDED IN QUOTE

Admin. Approval *Sanjiv* Date 10/27/09

Customer Approval _____
Your signature above authorizes Oregon Corrections
Enterprise to produce the above products for you.
You have committed to pay OCE for the above items.

Net Order: 8,932.00
Less Discount: 0.00
Freight: 0.00
Sales Tax: 0.00
Order Total: 8,932.00

City of Dallas, Oregon

Council Chambers Remodel



Chairs not included in package.

Package includes:

- (1) Custom Council Chamber Bench (A)
- (1) Custom Court Reporters Work Surface (B)
- (1) Custom Work Surface 48"x30" (C)
- (1) Custom Mobile Work Surface 120"x 30" (D)

Materials include:

Maple Lumber

Oiled Soapstone Laminate

Clear Sealer and Lacquer Finish.

Features: Custom Council Chambers Bench features built in power and data access grommets. (Mockett PCS8).

(13) 22" pencil drawers for each individual seat.



Oregon Corrections Enterprises

Customer: City of Dallas

Project: City Council Chambers

Sheet: 1 of 7

Date 10/27/09

Trvl #: Pending

Rev. #:

Please provide any comment on conceptual drawing, mark appropriate box below, provide authorized signature and fax to 503-378-3871

X

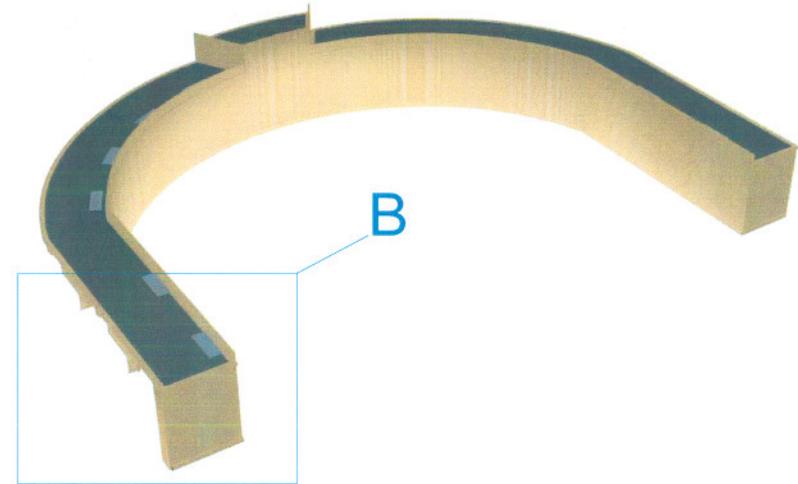
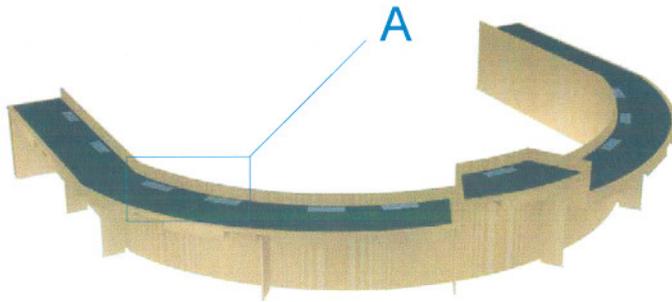
Authorized Signature

No Exceptions Noted

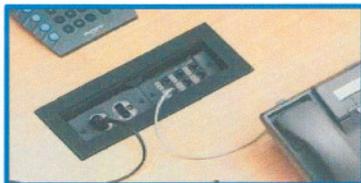
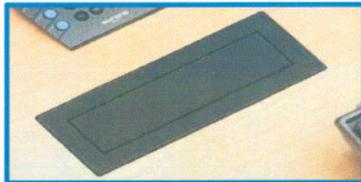
Revise and Re-submit

5

Custom Council Chamber Bench



Power/Data Access Grommet



A



Each of the 13 individual council member seating areas feature a power/data access grommet and a 22" pencil drawer.

B



Oregon Corrections Enterprises

Customer: City of Dallas

Project: City Council Chambers

Sheet: 3 of 7

Date 10/27/09

Trvl #: Pending

Rev. #:

Please provide any comment on conceptual drawing, mark appropriate box below, provide authorized signature and fax to 503-378-3871

X

Authorized Signature

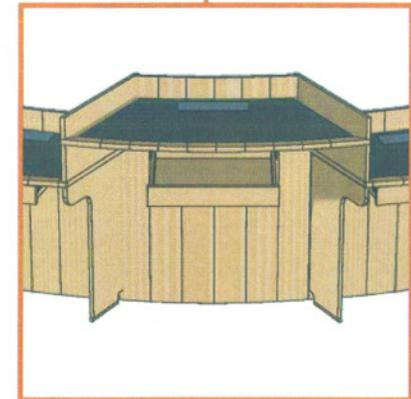
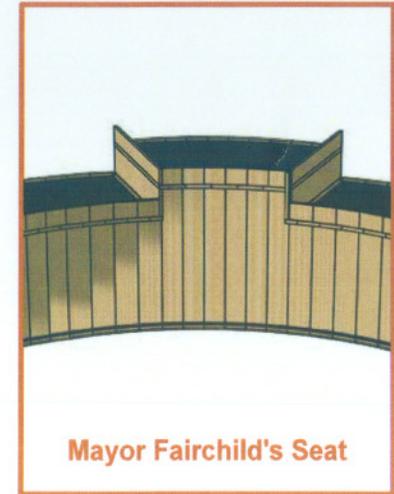
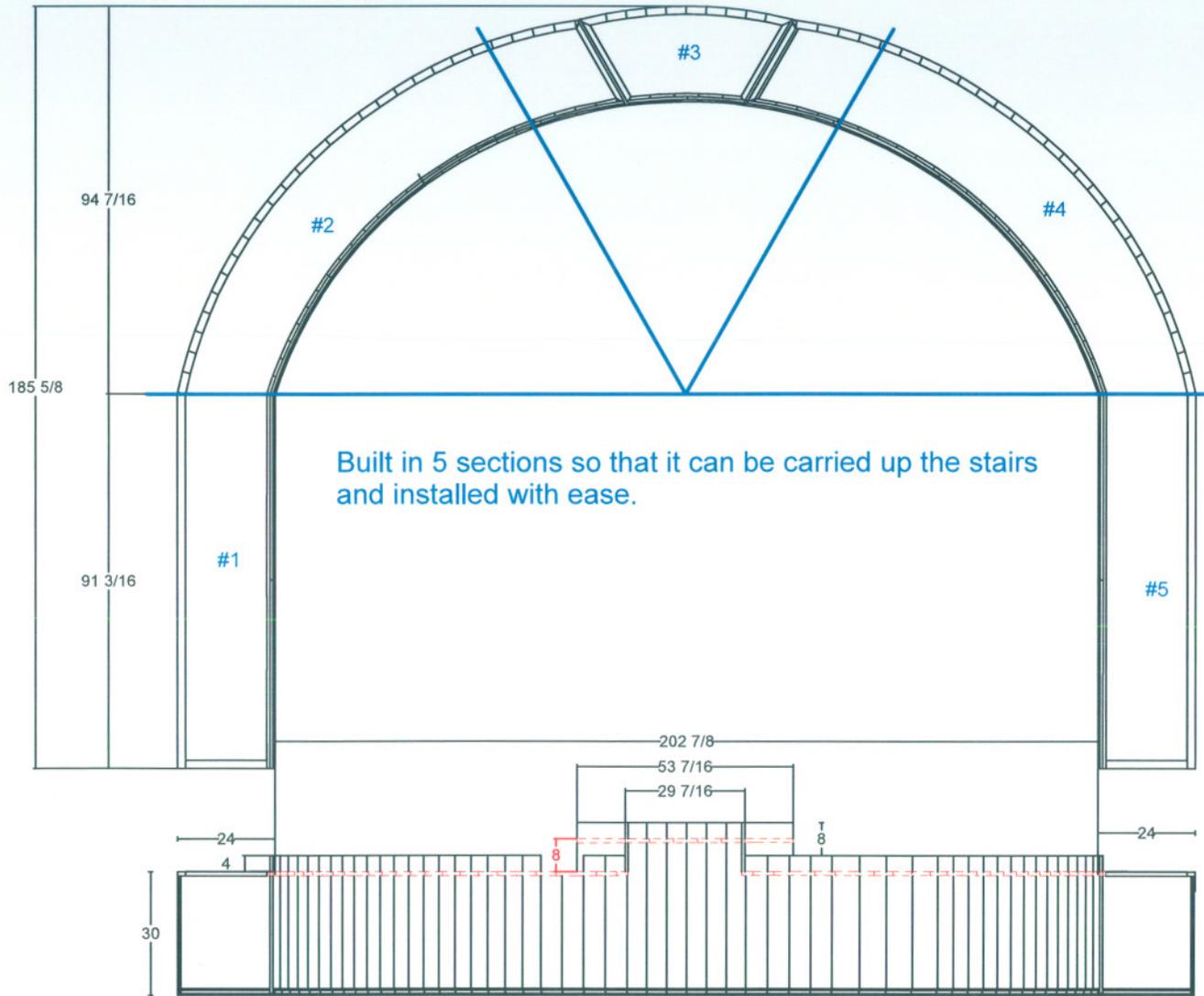
No Exceptions Noted

Revise and Re-submit

5



Front View



Oregon Corrections Enterprises

Customer: City of Dallas

Project: City Council Chambers

Sheet: 4 of 7

Date 10/27/09

Trvl #: Pending

Rev. #:

Please provide any comment on conceptual drawing, mark appropriate box below, provide authorized signature and fax to 503-378-3871

X

Authorized Signature

No Exceptions Noted

Revise and Re-submit

6

DALLAS CITY COUNCIL REPORT

TO: MAYOR JIM FAIRCHILD AND CITY COUNCIL

<i>City of Dallas</i>	Agenda Item No. 4 d	Topic: Dallas Cruisers Request
Prepared By: Emily Gagner	Meeting Date: April 5, 2010	Attachments: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Approved By: Jerry Wyatt		

RECOMMENDED MOTION:

Approval of consent agenda would include approval of the Dallas Cruisers request for closure of Academy Street from Main Street to Church Street on Saturday, June 19 from 7 a.m. to 5 p.m., provision of electricity at the stage, and placement of directional signage at Ellendale and Main, Washington and Jefferson, and Jefferson and Academy.

BACKGROUND:

For the past few years, the Dallas Cruisers have held a car show in June and requested Council approval to close Academy Street from Main to Church. Last year they also requested electricity at the Rotary Stage and to be allowed to place directional signage. The Council has in the past unanimously approved their requests. Staff has no concerns regarding the request and recommend approval.

FISCAL IMPACT:

None

ATTACHMENTS:

Request letter from Dallas Cruisers



Dallas Cruisers

Glen Harmison
1296 Westbrook Dr, NW
Salem, OR 97304

Phone: 503-586-3537
Fax: 775-459-3750
Email: glen@vehicleappraisers.com

<http://www.dallascruisers.org>

City of Dallas
City council
187 SE Court Street
Dallas, OR 97338-3159

03-17-10P03:18 RCVD

03/15/2010

City Council,

The Dallas Cruisers have a car show scheduled for June 19th. We are having the show in the parking lot of The Academy. We received permission from Greg Hanson of the County to use the parking lot.

We have received permission from First Federal Savings & Loan and Steve Mannenbach to use their lots for registration and vending across the street from The Academy.

We are requesting Academy Street to be closed from S Main to Church Street from 7:00AM to 5:00 PM.

We would also like to have electricity at the stage available at 7:00AM – 5:00PM. We are not using the stage but one of our sponsors has a blow up NAPA Hat that needs electricity to run the fan and electricity for the announcers booth. We would like to use the electricity at the stage rather than run an extension cord across the whole parking lot from the Academy building.

We are also asking permission to locate a few direction signs along the city route. Ellendale & Main (2 signs) NE corner & SW corner / Washington & Jefferson / Jefferson & Academy.

Thank you for your time

Glen Harmison
Dallas Cruisers

DALLAS CITY COUNCIL REPORT

TO: MAYOR JIM FAIRCHILD AND CITY COUNCIL

<i>City of Dallas</i>	Agenda Item No. 4 e	Topic: Appointment to Budget Committee
Prepared By: Emily Gagner	Meeting Date: April 5, 2010	Attachments: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Approved By: Jerry Wyatt		

RECOMMENDED MOTION:

Approval of consent agenda would include appointment of Jim Brown to the Budget Committee

BACKGROUND:

Jim Brown previously served on the Dallas Budget Committee, until he was required to resign when he became a City employee. Rosemary Stein just resigned from the Budget Committee, and Mr. Brown has agreed to serve on the Budget Committee once again, as he is no longer a City employee.

FISCAL IMPACT:

None

ATTACHMENTS:

Jim Brown's Citizen Committee Interest Form

CITY OF DALLAS
CITIZEN COMMITTEE INTEREST FORM

Name: JAMES C. BROWN

Address: [REDACTED] Dallas 77338

Mailing Address: (If different) _____

Phone: Work 503-623-[REDACTED] Home SAME

E-mail Address: [REDACTED] Years as a Dallas Resident: 6 yrs

Occupation and Employer: retired

Employer's address and Telephone _____

May we contact you at work? yes no N/A

I am interested in serving on the following Committee(s)

- | | |
|--|--|
| <input checked="" type="checkbox"/> Aquatic Center Advisory Committee | <input type="checkbox"/> Park and Recreation Board; |
| <input checked="" type="checkbox"/> Budget Committee | <input type="checkbox"/> Planning Commission |
| <input checked="" type="checkbox"/> Citizens Advisory Committee for the Comprehensive Plan | <input checked="" type="checkbox"/> Urban Renewal District Advisory Committee) |
| <input type="checkbox"/> Economic Development Commission | <input type="checkbox"/> Other |
| <input type="checkbox"/> Library Board | _____ |

I am interested in being on a waiting list if there are no current vacancies.

Please write a brief narrative describing your interest, qualifications and what you hope to accomplish in this position. Please include your skills, experience, and knowledge that you would contribute in this position. (Please feel free to attach a cover letter, resume, or other helpful information.)

I previously served on the budget committee

Education Background

High School Garden City H.S. Graduated GED
College Universite de Geneve, Switz. Degree MA Semiotics + Linguistics
Have you ever been convicted of a felony? Yes No

Previous Volunteer/Committee Experience:

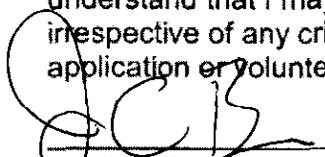
Volunteer Agency Budget Committee

Address _____ Telephone _____

Duties _____

AUTHORIZATION WAIVER

I have completed the above questions and to the best of my knowledge, what has been stated is true. If appointed, I agree to serve without reimbursement of any kind. I understand that I may be subject to a criminal records check. I further understand that irrespective of any criminal records check, the City of Dallas may decline my volunteer application or volunteer services at any time.


Applicant's Signature

April 1, 2010
Date

Please return completed application to:
City Manager's Office
City of Dallas
187 SE Court St.
Dallas, OR 97338
503-831-3502

Date Received at City Hall _____ Date Appointed: _____

Board, Commission or Committee: _____

COMMUNITY DEVELOPMENT

City Manager	Jerry Wyatt	Building Official	Ted Cuno
Director	Jason Locke	Building Inspector	Troy Skinner
Assistant	Joanne Ballweber	Planner	John Swanson
Building & Grounds	Ken Stoller	Code Enforcement	Ed Totten

FEBRUARY 2010 Monthly Report - Planning, Building, Code Enforcement

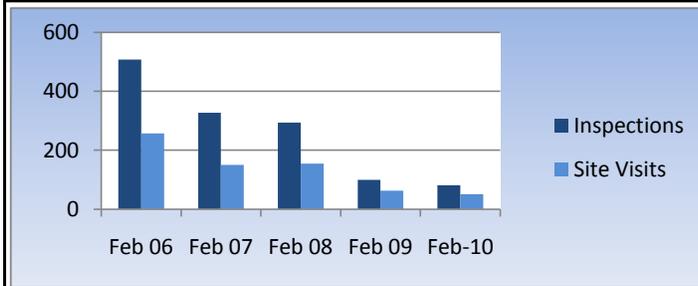
REVENUES		Month	Fiscal YTD
Planning	Feb-10	\$ 1,302	\$ 10,952
Building	Feb-10	\$ 11,579	\$ 56,171

LAND USE APPLICATIONS

	Sign	Home Occupation	Conditional Use	Variance	Partition / Replat	Subdivision	Annexation	Zone Change
Feb-10	0	0	0	0	1	0	0	0
YTD 2010	1	1	1	0	1	0	0	1
Feb-09	2	0	0	0	0	0	0	0
YTD 2009	2	0	0	0	0	0	0	0

INSPECTIONS AND SITE VISITS

Monthly: Inspections - 81 Site Visits - 51
Year to Date: Inspections - 178 Site Visits - 100



CODE ENFORCEMENT

Current Open Cases: 0

New Cases processed in January

6.505 Abandoned Vehicles	7
6.32 Vehicles Stored on Street	17
5.584 Vehicles Stored on Prop	7
5.582 Junk	1
5.556 Scattering Rubbish	12
5.588 Graffiti	2
Other Ordinances	2
Number of Followups	117

BUILDING PERMIT SUMMARY

Permit Use	Feb-10	Feb-09	YTD Total 2010	Annual Total 2009	YTD Valuation 2010	Annual Valuation 2009
New Single Family	3	0	4	1	\$851,511	\$ 83,661
New Duplexes	0	0	0	0	0	0
New Multifamily	0	0	0	1	0	3,759,944
Residential Remodel	4	3	12	5	166,055	93,393
Residential Accessory Building	3	2	3	2	39,617	30,040
New Commercial	0	0	1	0	2,000	0
Commercial Remodel	2	5	6	5	52,700	49,800
New Industrial	0	0	0	0	0	0
Industrial Remodel	0	0	0	0	0	0
Public Building	0	0	0	1	0	1,200
Mobile Home Accessory	0	0	0	0	0	0
Misc./No Fee Permits	0	0	0	0	0	0
Total All Categories	12	10	26	15	1,111,883.00	\$ 4,018,039

DALLAS AQUATIC CENTER



Director - Jason Locke
 Supervisor - Tina Paul

February 2010 MONTHLY REPORT

REVENUE	Month	Fiscal YTD
	Feb-10	\$25,038
	Feb-09	\$32,262
		\$265,950
		\$299,917

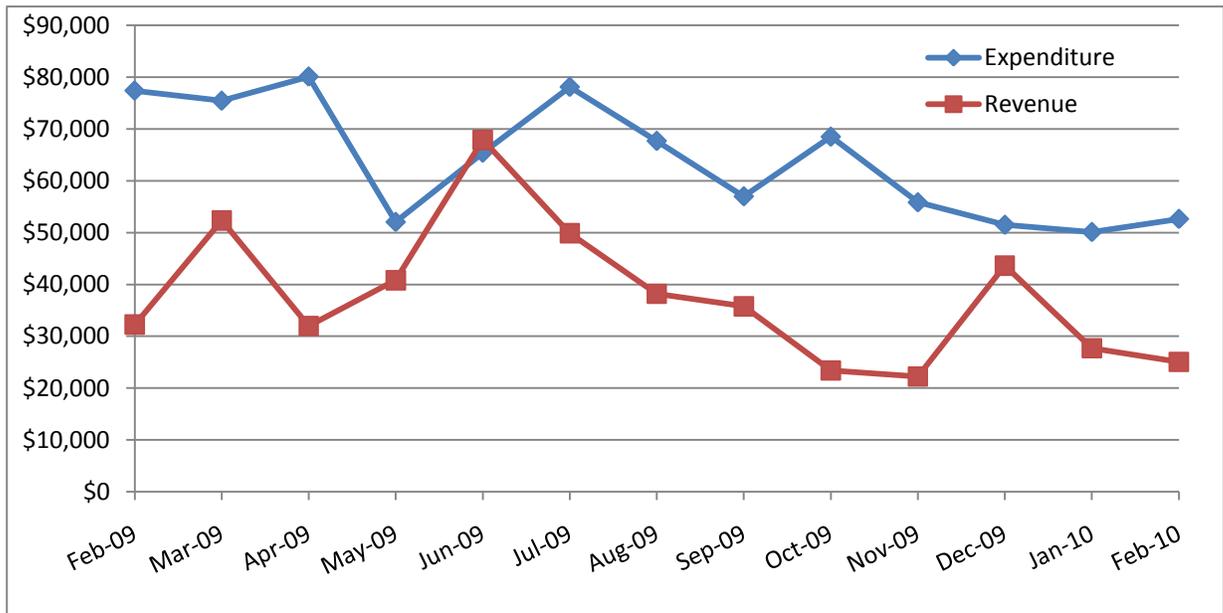
Current Members:	
Annual	776
3-month Water Aerobics	24

EXPENDITURES	Month	Fiscal YTD
	Feb-10	\$52,654
	Feb-09	\$77,406
		\$481,514
		\$650,385

Monthly Attendance:	
February	6,931
Year to Date	63,518

Utility Costs:	Feb-10	Fiscal YTD
Natural Gas	\$5,823	\$49,633
Electricity	\$5,407	\$43,378

R/E Ratio = 56.1%
 (Revenue/Expenditure)



DALLAS CITY COUNCIL REPORT

TO: MAYOR JIM FAIRCHILD AND CITY COUNCIL

<i>City of Dallas</i>	Agenda Item No. 6 a	Topic: RV Parking
Prepared By: Emily Gagner	Meeting Date: April 5, 2010	Attachments: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Approved By: Jerry Wyatt		

RECOMMENDED MOTION:

None needed – the Ordinance to enact these changes is up for a first reading later in the agenda.

BACKGROUND:

After reviewing the current Code regarding RV parking in the City, staff became concerned about the potential for abuse. The issue was brought before the Administrative Committee, which voted unanimously to recommend the Council change the Code to charge a \$50 fee for the permit to park an RV and that the period of occupancy shall not exceed 14 consecutive days, or a total of 21 days in any given one year period.

FISCAL IMPACT:

None

ATTACHMENTS:

Staff report from Administrative Committee agenda packet
Red-lined version of Code changes



Community Development Department

Memo

To: Admin Subcommittee
From: Jason Locke, Community Development Director 
Date: March 16, 2010
Re: RV Parking (Municipal Code 6.600)

Staff is recommending that the fee described in 6.610(1) be set at \$50.00 and that the time limitation in 6.610(3) be amended to read:

"The period of occupancy granted under the permit shall not exceed 14 consecutive days, or a total of 21 days in any given 1 year period".

owner and persons entitled to possession of the vehicle so that notice may be mailed, if reasonably possible, within the time period outlined in this section.

(4) If a hearing is desired, the owner must request a hearing within five days after receipt of the notice. The request may be made in person or in writing, and failure to appear in person or to mail a letter within five days after receipt of the notice shall act as a waiver of the right to a hearing.

6.535 Hearing.

(1) On request of the legal owner or the person entitled to possession of the vehicle, a hearing shall be held before the municipal judge.

(2) The hearing shall be set and conducted within 48 hours of receipt of the request, holidays, Saturdays and Sundays not to be included. The hearing may be set for a later date if requested by the owner or the person entitled to possession. At the hearing, the owner may contest:

(a) The validity of the action of the law enforcement officer in taking the vehicle into custody; and

(b) The creation and amount of the lien attached to the vehicle.

(3) The city shall have the burden of showing the validity of taking of the vehicle.

(4) At any time prior to the requested hearing, the owner or the person entitled to possession of the vehicle may regain possession of the vehicle by posting security with the city in the form of cash in an amount sufficient to cover costs of removal and storage.

6.540 Decision. If the municipal judge finds that:

(1) The action of the law enforcement officer in taking the vehicle into custody was proper, the municipal judge shall enter an order supporting the removal.

(2) The action of the law enforcement officer in taking the vehicle into custody was invalid, the judge shall:

(a) Order the vehicle released to the owner;

(b) Find that the owner is not liable for towing or storage charges occasioned by the taking; and

(c) Order the city to satisfy the towing and storage lien.

(3) The action of the municipal judge is final.

6.545 Failure to Appear. If the person requesting the hearing does not appear at the scheduled hearing, the judge may enter an order supporting the removal and assessment of towing and storage costs and apply any security posted against such costs.

RECREATIONAL VEHICLE PARKING

6.600 Definitions. As used in sections 6.600 to 6.610 the following mean:

Camper. A structure containing a floor and that:

(1) Is designed to be mounted upon a motor vehicle and is not permanently attached to it;

(2) Is designed to provide facilities for human habitation or for camping; and

(3) Has no more than one axle designed to support a portion of its weight.

Motor home. A motor vehicle that:

(1) Is originally designed, reconstructed, or permanently altered to provide facilities for human habitation; or

(2) Has a camper permanently attached to it.

Travel trailer (including a tent trailer). A trailer that:

(1) Is of a type designed to be used on the highways;

(2) Is capable of being used for human habitation;

(3) Is not more than eight feet wide and is six feet or more in height from floor to ceiling. If a trailer telescopes for travel, or has expansion sides or "tip outs," for the purpose of determining the height,

the size shall apply to the trailer as fully extended. For the purposes of determining the width, the size shall apply to the trailer in the usual travel position; and

(4) Except in the case of tent trailer, has four permanent walls when it is in the usual travel position.

Self-contained. Possessing or containing built-in or internal systems or facilities for the supply of electrical power and sanitary water, and the sanitary collection or disposal of garbage, human waste, and waste water.

6.605 Parking Regulations.

(1) Except as otherwise provided by this code and subsection (2) of this section, no person shall park or place any presently occupied camper, motor home, or travel trailer at any place within the city for a period exceeding three hours.

(2) If the camper, motor home, or travel trailer is self-contained or the occupant or occupants have access to suitable facilities for the supply of sanitary water and the sanitary collection or disposal of garbage, human waste, and waste water, the camper, motor home, or travel trailer may be parked or placed at any place within the city for a period not exceeding 72 hours, unless a greater period is expressly provided by this code or by a permit issued by the city manager.

6.610 Parking Permit.

(1) A permit may be obtained by filing an application at the office of the city manager, accompanied by a fee in an amount set by the council by resolution. The application shall include the location and description of the camper, motor home, or travel trailer, the character and duration of occupancy, the character of water and sanitary facilities available, and any other information which the city manager considers necessary to carry out the purpose of sections 6.600 to 6.615.

(2) If the city manager determines that the issuance of a permit will not contravene the purpose of sections 6.600 to 6.615 or of any applicable code provision, the manager may issue a permit authorizing the applicant to park or place and occupy the described camper, motor home, or travel trailer, and may attach conditions necessary to carry out the purpose of sections 6.600 to 6.615.

(3) The period of occupancy granted under the permit shall not exceed 14 consecutive days, or 14 days during any 30-day period.

6.615 Penalties. Violation of a provision of sections 6.600 to 6.610 is a civil infraction.

NON-MOTORIZED VEHICLES

6.700 Definitions. As used in sections 6.700 to 6.710, the following mean:

Bicycle. A non-motorized vehicle that is designed to operate on the ground with not more than three wheels and has a seat for use of the rider, excluding tricycles ridden by children under the age of 6 years while accompanied by a person not less than 12 years old.

Roller skates. Shoes with wheels attached for skating over a flat surface, or a metal frame, with wheels attached, that can be fitted onto a shoe.

Scooter. A non-motorized vehicle consisting of a narrow board mounted between two or more wheels with an upright steering handle attached to the front wheel.

Skateboard. A board of any material (natural or synthetic) with wheels affixed to the underside, designed to be ridden by a person. [Section 6.700 added by Ordinance No. 1529, passed October 7, 1996.]

6.705 Prohibited Riding Area. No person, except a police officer engaged in official duties, shall ride a bicycle, roller skates, scooter, or skateboard on any sidewalk immediately adjacent to the following portions of city streets:

(1) Main Street between its intersection with the north line of Washington Street and its intersection with the south line of Academy Street.

(2) The north side of Washington Street from its intersection with the west line of Jefferson Street to its intersection with the east line of Church Street.

(3) Court Street, from its intersection with the west line of Jefferson Street to its intersection with the east line of Church Street.

6.610 Parking Permit.

(1) A permit may be obtained by filing an application at the office of the city manager, accompanied by a fee in an amount set by the council by resolution. The application shall include the location and description of the camper, motor home, or travel trailer, the character and duration of occupancy, the character of water and sanitary facilities available, and any other information which the city manager considers necessary to carry out the purpose of sections [6.600](#) to [6.615](#).

(2) If the city manager determines that the issuance of a permit will not contravene the purpose of sections [6.600](#) to [6.615](#) or of any applicable code provision, the manager may issue a permit authorizing the applicant to park or place and occupy the described camper, motor home, or travel trailer, and may attach conditions necessary to carry out the purpose of sections [6.600](#) to [6.615](#).

(3) The period of occupancy granted under the permit shall not exceed 14 consecutive days, or ~~14~~21 days during any ~~30-day period~~calendar year.

DALLAS CITY COUNCIL REPORT

TO: MAYOR JIM FAIRCHILD AND CITY COUNCIL

<i>City of Dallas</i>	Agenda Item No. 7 a	Topic: OLCC Liquor License Application for New Outlet
Prepared By: Emily Gagner	Meeting Date: April 5, 2010	Attachments: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Approved By: Jerry Wyatt		

RECOMMENDED MOTION:

Motion to recommend to the OLCC that the license granted or denied.

BACKGROUND:

The City received an OLCC application for a new outlet at 125 SW Washington Street for Olympic Taverna.

The Police Chief has reviewed the application. His memo is attached.

FISCAL IMPACT:

None

ATTACHMENTS:

OLCC License Application for Olympic Taverna

Memo

TO: JERRY WYATT
CITY MANAGER

FROM: JOHN TEAGUE 
CHIEF OF POLICE

RE: OLCC APPLICATION (**new establishment**)
Applicants: Peter & Angelos Liakpoulos
Olympic Taverna ~ 125 SW Washington St.

DATE: MARCH 17, 2010

This agency is in receipt of an OLCC Liquor License Application for On & Off-Premises Sales. The applicant provided information in his application revealing past criminal conduct, which resulted in one or more criminal convictions. The conduct, however, occurred out of state. The OLCC has reviewed the information provided, and it will be considered in determining the issuance of a license.



OREGON LIQUOR CONTROL COMMISSION LIQUOR LICENSE APPLICATION

PLEASE PRINT OR TYPE

Application is being made for:

LICENSE TYPES

- Full On-Premises Sales (\$402.60/yr)
 - Commercial Establishment
 - Caterer
 - Passenger Carrier
 - Other Public Location
 - Private Club
- Limited On-Premises Sales (\$202.60/yr)
- Off-Premises Sales (\$100/yr)
 - with Fuel Pumps
- Brewery Public House (\$252.60)
- Winery (\$250/yr)
- Other: _____

ACTIONS

- Change Ownership
- New Outlet
- Greater Privilege
- Additional Privilege
- Other _____

Applying as:

- Limited Partnership
- Corporation
- Limited Liability Company
- Individuals

FOR CITY AND COUNTY USE ONLY

The city council or county commission:

(name of city or county)

recommends that this license be:

Granted Denied

By: _____
(signature) (date)

Name: _____

Title: _____

OLCC USE ONLY

Application Rec'd by: C. B. Kandy

Date: 1-26-10

90-day authority: Yes No

1. Entity or Individuals applying for the license: [See SECTION 1 of the Guide]

① Peter G. Liakopoulos ③ _____

② Angelos Liakopoulos ④ _____

2. Trade Name (dba): Olympic Taverna

3. Business Location: 125 SW Washington St Dallas OR 97338
(number, street, rural route) (city) (county) (state) (ZIP code)

4. Business Mailing Address: 125 SW Washington St Dallas OR 97338
(PO box, number, street, rural route) (city) (state) (ZIP code)

5. Business Numbers: _____
(phone) (fax)

6. Is the business at this location currently licensed by OLCC? Yes No

7. If yes to whom: _____ Type of License: _____

8. Former Business Name: Shell Gas Station

9. Will you have a manager? Yes No Name: _____
(manager must fill out an individual history form)

10. What is the local governing body where your business is located? Dallas
(name of city or county)

11. Contact person for this application: Peter Liakopoulos 541-964-3155
(name) (phone number(s))
14625 Hwy 36 541-964-3155 petersa@pd@peak.org
(address) (fax number) (e-mail address)

I understand that if my answers are not true and complete, the OLCC may deny my license application.

Applicant(s) Signature(s) and Date:

① [Signature] Date 1/15/10 ③ _____

② [Signature] Date 1/15/10 ④ _____

RECEIVED
OREGON LIQUOR CONTROL COMMISSION

JAN 26 2010 Date

1-800-452-OLCC (6522)
www.oregon.gov/olcc

SALEM REGIONAL OFFICE (rev. 12/07)



OREGON LIQUOR CONTROL COMMISSION BUSINESS INFORMATION

Please Print or Type

Applicant Name: Esteban Angelos Lihopoulos Phone: 541-964-3155

Trade Name (dba): Olympic Taverna

Business Location Address: 125 SW Washington St Dallas OR

City: Dallas ZIP Code: 97338

DAYS AND HOURS OF OPERATION

Business Hours:

Sunday Closed to _____

Monday Closed to _____

Tuesday 4 AM to 7 PM

Wednesday " to "

Thursday " to "

Friday " to "

Saturday 12 noon to 6 PM

Outdoor Area Hours:

Sunday Closed to _____

Monday Closed to _____

Tuesday 2:00 AM to 7 PM

Wednesday " to "

Thursday " to "

Friday " to "

Saturday 12 noon to 6 PM

The outdoor area is used for:

Food service Hours: 4 AM to 7 PM

Alcohol service Hours: 11 AM to 7 PM

Enclosed, how gazebo

The exterior area is adequately viewed and/or supervised by Service Permittees.

(Investigator's Initials)

Seasonal Variations: Yes No If yes, explain: gazebo + football season
we will be open on Sunday + Monday's

ENTERTAINMENT

- Check all that apply:
- Live Music
 - Recorded Music
 - DJ Music
 - Dancing
 - Nude Entertainers
 - Karaoke
 - Coin-operated Games
 - Video Lottery Machines
 - Social Gaming
 - Pool Tables
 - Other: _____

DAYS & HOURS OF LIVE OR DJ MUSIC

Sunday _____ to _____

Monday _____ to _____

Tuesday 4 AM to 7 PM

Wednesday " to "

Thursday " to "

Friday " to "

Saturday 12 to 4 PM

SEATING COUNT

Restaurant: 180 Outdoor: 48

Lounge: 8 Other (explain): _____

Banquet: — Total Seating: 714

OLCC USE ONLY

Investigator Verified Seating: (M) (N)

Investigator Initials: _____

Date: _____

I understand if my answers are not true and complete, the OLCC may deny my license application.

Applicant Signature: [Signature] Date: 1/15/10



OREGON LIQUOR CONTROL COMMISSION INDIVIDUAL HISTORY

PLEASE PRINT OR TYPE

YOU MUST ANSWER ALL QUESTIONS ON THIS FORM. IF THE QUESTION DOES NOT APPLY, WRITE N/A IN THE SPACE. ATTACH ADDITIONAL SHEETS IF NECESSARY.

Trade Name (d.b.a.): Olympic Taverna City: Dallas

1. Name: Lia Kopoulas Peter Geast
(last) (first) (middle)

2. Other names used (maiden, other): None

3. Residence Address: [Redacted] Deadwood OR 97430
(number and street) (city) (state) (ZIP code)

4. Home Phone: [Redacted] Business Phone: [Redacted] same

5. *SSN: [Redacted] Place of Birth: [Redacted] DOB: [Redacted] Sex: M X F
(State/Country) (mm) (dd) (yyyy)

6. Driver License or State ID #: [Redacted] State: [Redacted] Spouse's name: Angelos

7. List all states, other than Oregon, where you have lived during the past ten years:
Nevada

8. Do you currently hold, or have you ever held a liquor license in this or any other state? X Yes No
If yes, when, where and name of premises? Olympic Hot Dogs Mykolas OR 10/2/09 - 1/1/10

9. In the past twelve years, have you been convicted of any violation, misdemeanor or felony? X Yes No
If yes, what, when and where? A Felony For Bribery + Coact IN Nevada, 2009

10. Have you ever entered into a diversion agreement? Yes X No
If yes, when and where?

11. Do you have any arrests or citations that have not been resolved? Yes X No
If yes, arrested/cited for: Date: County/City/State/

12. If you are applying for a retail liquor license:
a. Do you have any financial interest, direct or indirect, in any manufacturer or distributor of alcohol? Yes X No If yes, what and where:
b. Does any person having a financial or ownership interest in a manufacturer or distributor have an interest in, or potential claim upon your business or premises, for instance through investment, a loan, lease or contract? Yes X No If yes, who?

13. Have you ever had a warning, violation, suspension, fine, cancellation or refusal as a licensee or service permittee, in Oregon or any other state? Yes X No If yes, when: where:

I UNDERSTAND THE OLCC WILL USE THE ABOVE INFORMATION TO CHECK FOR CRIMINAL RECORDS. I UNDERSTAND IF MY ANSWERS ARE NOT TRUE AND COMPLETE, THE OLCC MAY DENY MY LICENSE APPLICATION.

Applicant Signature: [Signature] Date: 1/15/10

***SOCIAL SECURITY NUMBER DISCLOSURE** As part of your application for an initial or renewal license, Federal and State laws require you to provide your Social Security Number (SSN) to the Oregon Liquor Control Commission (OLCC) for child support enforcement purposes (42 USC § 686(a)(13) & ORS 25.785). The OLCC will refuse a license to any applicant or licensee who fails to provide his/her SSN. Your SSN will be used only for child support enforcement purposes unless you sign below.
Based on our authority under ORS 471.311 and OAR 845-005-0312(6), we are requesting your voluntary consent to use your SSN for the following administrative purposes only: to match your license application to your Alcohol Server Education records (where applicable), and to ensure your identity for criminal records checks. OLCC will not deny you any rights, benefits or privileges otherwise provided by law if you do not consent to use of your SSN for these administrative purposes (5 USC § 552(a)). If you consent to these uses, please sign here:
Applicant Signature: [Signature] Date: 1/15/10



1-800-452-OLCC (6522)
www.oregon.gov/olcc

(rev. 12/07)

4 5 1 0 0 1 A 1



OREGON LIQUOR CONTROL COMMISSION INDIVIDUAL HISTORY

PLEASE PRINT OR TYPE

YOU MUST ANSWER ALL QUESTIONS ON THIS FORM. IF THE QUESTION DOES NOT APPLY, WRITE N/A IN THE SPACE. ATTACH ADDITIONAL SHEETS IF NECESSARY.

Trade Name (d.b.a.): Olympic Taverna City: Dallas

1. Name: Ligkopoulas Angelos Sophia
(last) (first) (middle)

2. Other names used (maiden, other): Jenny Davanta, Jenny Ligkopoulas

3. Residence Address: [REDACTED] Deadwood OR 97430
(number and street) (city) (state) (ZIP code)

4. Home Phone: [REDACTED] Business Phone: (541) 964-3155

5. *SSN: [REDACTED] Place of Birth: [REDACTED] DOB: [REDACTED] Sex: M F
(State/Country) (mm) (dd) (yyyy)

6. Driver License or State ID #: [REDACTED] State: [REDACTED] Spouse's name: Cathy

7. List all states, other than Oregon, where you have lived during the past ten years:
Nevada

8. Do you currently hold, or have you ever held a liquor license in this or any other state? Yes No
If yes, when, where and name of premises? Olympic Hat Dogg's Poplitas OR 10/2/09 - 11/2/10

9. In the past twelve years, have you been convicted of any violation, misdemeanor or felony? Yes No
If yes, what, when and where? _____

10. Have you ever entered into a diversion agreement? Yes No
If yes, when and where? _____

11. Do you have any arrests or citations that have not been resolved? Yes No
If yes, arrested/cited for: _____ Date _____ County/City/State/ _____

12. If you are applying for a retail liquor license:
a. Do you have any financial interest, direct or indirect, in any manufacturer or distributor of alcohol? Yes No If yes, what and where: _____
b. Does any person having a financial or ownership interest in a manufacturer or distributor have an interest in, or potential claim upon your business or premises, for instance through investment, a loan, lease or contract? Yes No If yes, who? _____

13. Have you ever had a warning, violation, suspension, fine, cancellation or refusal as a licensee or service permittee, in Oregon or any other state? Yes No If yes, when: _____ where: _____

I UNDERSTAND THE OLCC WILL USE THE ABOVE INFORMATION TO CHECK FOR CRIMINAL RECORDS. I UNDERSTAND IF MY ANSWERS ARE NOT TRUE AND COMPLETE, THE OLCC MAY DENY MY LICENSE APPLICATION.

Applicant Signature: Angelos S. Ligkopoulas Date: 1/15/10

***SOCIAL SECURITY NUMBER DISCLOSURE** As part of your application for an initial or renewal license, Federal and State laws require you to provide your Social Security Number (SSN) to the Oregon Liquor Control Commission (OLCC) for child support enforcement purposes (42 USC § 666(a)(13) & ORS 25.785). The OLCC will refuse a license to any applicant or licensee who fails to provide his/her SSN. Your SSN will be used only for child support enforcement purposes unless you sign below.

Based on our authority under ORS 471.311 and OAR 845-005-0312(6), we are requesting your voluntary consent to use your SSN for the following administrative purposes only: to match your license application to your Alcohol Server Education records (where applicable), and to ensure your identity for criminal records checks. OLCC will not deny you any rights, benefits or privileges otherwise provided by law if you do not consent to use of your SSN for these administrative purposes (5 USC § 552(a)). If you consent to these uses, please sign here:

Applicant Signature: Angelos S. Ligkopoulas Date: 1/15/10



1-800-452-OLCC (6522)
www.oregon.gov/olcc

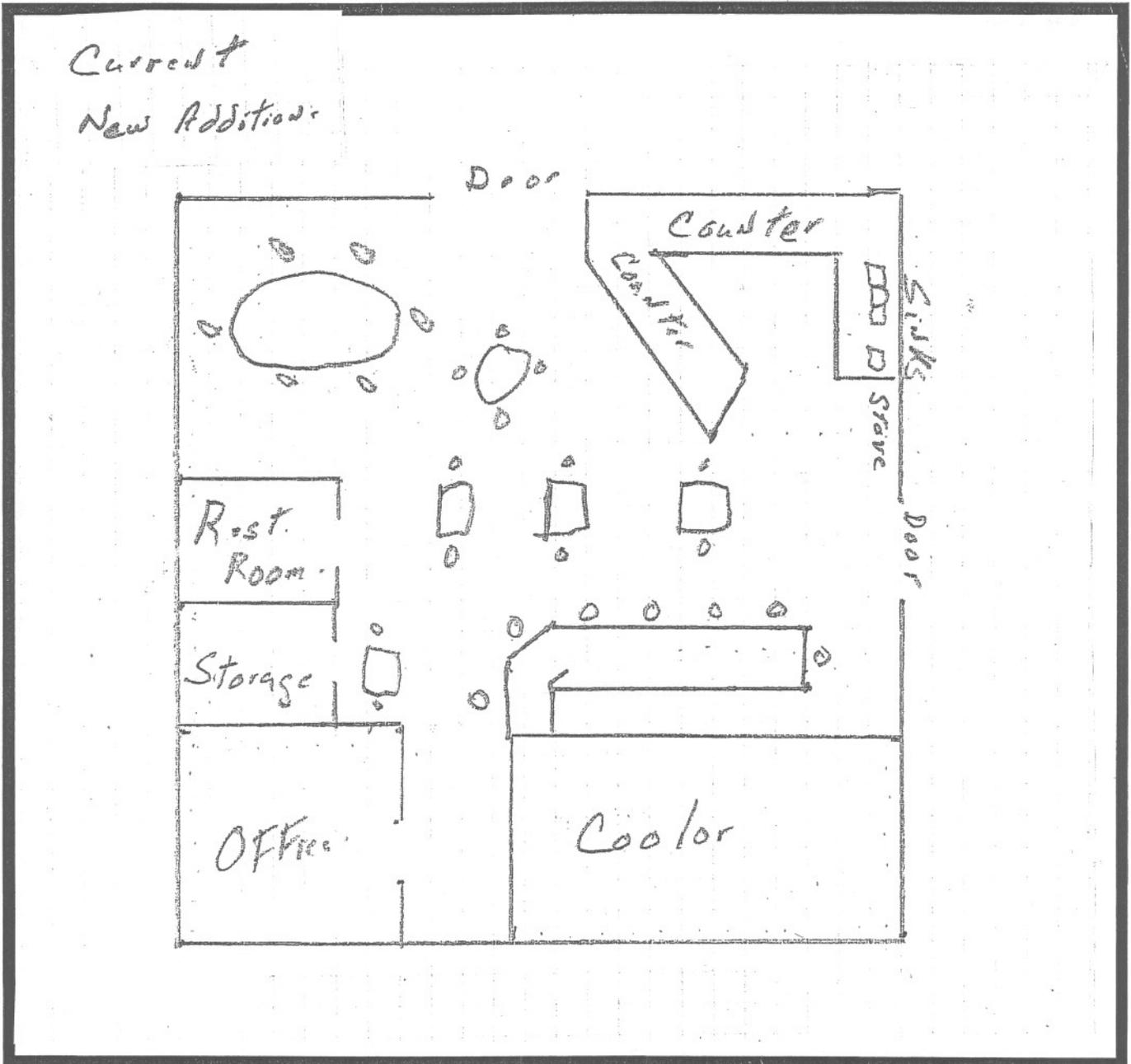
(rev. 12/07)

451001A1



OREGON LIQUOR CONTROL COMMISSION FLOOR PLAN

- **Your floor plan must be submitted on this form.**
- Use a separate Floor Plan Form for each level or floor of the building.
- Applicants must provide a sketch that shows the specific area of the premises (e.g. dining area, bar, lounge, kitchen and restrooms). Full On-Premises (commercial establishments) applicants must also show dining tables. See example on back.



Applicant Name _____

Trade Name (dba): _____

City and ZIP Code _____

.....OLCC USE ONLY.....
MINOR POSTING ASSIGNMENT(S)

Date: _____ Initials: _____

DALLAS CITY COUNCIL REPORT

TO: MAYOR JIM FAIRCHILD AND CITY COUNCIL

<i>City of Dallas</i>	Agenda Item No. 8 a	Topic: Transfer of Budgetary Funds
Prepared By: Cecilia Ward	Meeting Date: April 5, 2010	Attachments: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Approved By: Jerry Wyatt		

RECOMMENDED MOTION:

Approval of Resolution authorizing the transfer of budgetary funds.

BACKGROUND:

After the beginning of the fiscal year, when a local government is operating with the adopted budget, changes in appropriated expenditures sometimes become necessary. Appropriations may be increased or decreased, or transferred from one appropriation category to another. The adopted budget may include budgeted transfers of resources between funds (effective Jan 1, 2010 – ORS 294.450(3) appropriations and resources can be transferred between any two funds by resolution or ordinance). A transfer of appropriation authority is a decrease of one existing appropriation and a corresponding increase of another existing appropriation, with no net change in the total amount of all appropriations [OAR 150-294.450(3)(1)].

This Resolution addresses some “clean-up” for FY 09-10 suggested by the auditor and allows for some unanticipated donations and grants.

FISCAL IMPACT:

NA

ATTACHMENTS:

Resolution

RESOLUTION NO. 3198

A Resolution authorizing the transfer of budgetary funds.

WHEREAS, it is necessary to transfer the appropriation authority of \$45,000 from the General Fund, Police Department, Equipment to General Fund, Police Department, Debt Service, for lease payments of police vehicles; and

WHEREAS, it is necessary to transfer the appropriation authority of \$22,850 from the General Fund, Ambulance Department, Equipment to General Fund, Ambulance Department, Debt Service, for lease payments of defibrillators; and

WHEREAS, it is necessary to transfer the appropriation authority of \$1,120,000 from the Sewer Fund, Contingency, to the Sewer Fund, DEQ Loan Reserve, for reserve requirements; and

WHEREAS, it is necessary to transfer the appropriation authority of \$26,000 from the Grant Fund, Community Development Block Grant, to the Grant Fund, Police Grant, for an unanticipated grant; and

WHEREAS, it is necessary to transfer the appropriation authority of \$25,000 from the Grant Fund, Community Development Block Grant, to the Grant Fund, Ambulance Grant, for an unanticipated grant; and

WHEREAS, it is necessary to transfer the appropriation authority of \$55,410 from the Grant Fund, Community Development Block Grant, to the General Fund, Finance Proceeds/Equipment, for a new police vehicle; and

WHEREAS, it is necessary to transfer the appropriation authority of \$7,000 from the Grant Fund, Community Development Block Grant, to the Trust Fund, Police Trust, for unanticipated donations to the Police Department; and

WHEREAS, it is necessary to transfer the appropriation authority of \$500 from the Grant Fund, Community Development Block Grant, to the Trust Fund, Police Reserves, for unanticipated donations to the Police Reserve program; and

WHEREAS, it is necessary to transfer the appropriation authority of \$100 from the Grant Fund, Community Development Block Grant, to the Trust Fund, Ambulance, for unanticipated donations to the Ambulance Department; and

WHEREAS, it is necessary to transfer the appropriation authority of \$3,000 from the Grant Fund, Community Development Block Grant, to the Trust Fund, Firing Range Improvements, for intergovernmental agreements for use of firing range; and

WHEREAS, it is necessary to transfer the appropriation authority of \$18,000 from the Grant Fund, Community Development Block Grant, to the Trust Fund, Library Trust, for donations, memorials and Friends of the Library grant; and

WHEREAS, it is necessary to transfer the appropriation authority of \$800 from the Grant Fund, Community Development Block Grant, to the Trust Fund, Community Dinner Trust, for unanticipated donations;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

Section 1. That the City Manager be, and he hereby is, authorized and directed to transfer the appropriation authority of \$45,000 from the General Fund, Police Department, Equipment to General Fund, Police Department, Debt Service.

Section 2. That the City Manager be, and he hereby is, authorized and directed to transfer the appropriation authority of \$22,850 from the General Fund, Ambulance Department, Equipment to General Fund, Ambulance Department, Debt Service.

Section 3. That the City Manager be, and he hereby is, authorized and directed to transfer the appropriation authority of \$1,120,000 from the Sewer Fund, Contingency, to the Sewer Fund, DEQ Loan Reserve.

Section 4. That the City Manager be, and he hereby is, authorized and directed to transfer the appropriation authority of \$26,000 from the Grant Fund, Community Development Block Grant, to the Grant Fund, Police Grant.

Section 5. That the City Manager be, and he hereby is, authorized and directed to transfer the appropriation authority of \$25,000 from the Grant Fund, Community Development Block Grant, to the Grant Fund, Ambulance Grant.

Section 6. That the City Manager be, and he hereby is, authorized and directed to transfer the appropriation authority of \$55,410 from the Grant Fund, Community Development Block Grant, to the General Fund, Finance Proceeds/Equipment.

Section 7. That the City Manager be, and he hereby is, authorized and directed to transfer the appropriation authority of \$7,000 from the Grant Fund, Community Development Block Grant, to the Trust Fund, Police Trust.

Section 8. That the City Manager be, and he hereby is, authorized and directed to transfer the appropriation authority of \$500 from the Grant Fund, Community Development Block Grant, to the Trust Fund, Police Reserves.

Section 9. That the City Manager be, and he hereby is, authorized and directed to transfer the appropriation authority of \$100 from the Grant Fund, Community Development Block Grant, to the Trust Fund, Ambulance.

Section 10. That the City Manager be, and he hereby is, authorized and directed to transfer the appropriation authority of \$3,000 from the Grant Fund, Community Development Block Grant, to the Trust Fund, Firing Range Improvements.

Section 11. That the City Manager be, and he hereby is, authorized and directed to transfer the appropriation authority of \$18,000 from the Grant Fund, Community Development Block Grant, to the Trust Fund, Library Trust.

Section 12. That the City Manager be, and he hereby is, authorized and directed to transfer the appropriation authority of \$800 from the Grant Fund, Community Development Block Grant, to the Trust Fund, Community Dinner Trust.

Section 13. This Resolution shall be effective upon its passage.

Adopted: April 5, 2010
Approved: April 5, 2010

JAMES B. FAIRCHILD, MAYOR

ATTEST:

JERRY WYATT, CITY MANAGER

ORDINANCE NO. 1720

An Ordinance Amending Dallas City Code Sections 6.610 regarding recreational vehicle parking permits; and repealing conflicting provisions.

THE CITY OF DALLAS DOES ORDAIN AS FOLLOWS:

Section 1. DCC 6.610, entitled "Parking Permit," is amended to read as follows:

6.610 Parking Permit.

(1) A permit may be obtained by filing an application at the office of the city manager, accompanied by a fee in an amount set by the council by resolution. The application shall include the location and description of the camper, motor home, or travel trailer, the character and duration of occupancy, the character of water and sanitary facilities available, and any other information which the city manager considers necessary to carry out the purpose of sections 6.600 to 6.615.

(2) If the city manager determines that the issuance of a permit will not contravene the purpose of sections 6.600 to 6.615 or of any applicable code provision, the manager may issue a permit authorizing the applicant to park or place and occupy the described camper, motor home, or travel trailer, and may attach conditions necessary to carry out the purpose of sections 6.600 to 6.615.

(3) The period of occupancy granted under the permit shall not exceed 14 consecutive days, or 21 days during any calendar year.

Section 2. All prior and conflicting ordinances are hereby repealed.

Read for the first time:	April 5, 2010
Read for the second time:	April 19, 2010
Passed by the City Council:	April 19, 2010
Approved by the Mayor:	April 19, 2010

JAMES B. FAIRCHILD, MAYOR

ATTEST:

JERRY WYATT, CITY MANAGER

ORDINANCE NO. 1721

An Ordinance amending the Dallas Comprehensive Plan Map for a parcel of real property owned by Fowler Living Trust from Industrial to Residential.

WHEREAS, the FIFE Group, Inc. and the above-named owner, Fowler Living Trust, submitted an application to amend the Comprehensive Plan Map for the real property which is described generally as 3.22 acres located on the south side of SE Jonathan Avenue, as more particularly described on Exhibit A, attached hereto and by reference incorporated herein, from Industrial to Residential; and

WHEREAS, after due notice, on March 9, 2010, the Dallas Planning Commission held a public hearing on the application and at the conclusion thereof recommended to the City Council that the application be granted; and

WHEREAS, after due notice, on April 5, 2010, the City Council held a public hearing on the application and at the conclusion thereof found that there was substantial evidence that the application met the requirements of the Dallas Comprehensive Plan, and that the application should be granted; NOW, THEREFORE,

THE CITY OF DALLAS DOES ORDAIN AS FOLLOWS:

Section 1. The Comprehensive Plan designation of the real property described on Exhibit A attached hereto, and as shown on the map attached hereto as Exhibit B, is hereby changed from Industrial to Residential.

Section 2. The map attached hereto and marked Exhibit B is hereby adopted as the amended Comprehensive Plan Map for said property.

Section 2. The Findings and Conclusions set forth in the staff report on this matter, submitted into the record herein on April 5, 2010, a copy of which is attached hereto as Exhibit C and by this reference incorporated herein, are hereby adopted and approved as the Findings and Conclusions in support of this zone change.

Section 3. Pursuant to Dallas Charter Section 23, this ordinance, upon being read first in full and then by title, shall be enacted at a single meeting on the date set forth below, by unanimous vote of all the council members present.

Read for the first time: April 5, 2010
Read for the second time: April 5, 2010
Passed by the City Council: April 5, 2010
Approved by the Mayor: April 5, 2010

JAMES B. FAIRCHILD, MAYOR

ATTEST:

JERRY WYATT, CITY MANAGER

EXHIBIT A

Lots 20-26 of Applegate Landing Subdivision, Phase 1, and lots 64-69 of Applegate landing,
Phase III.

EXHIBIT B

MILLER AVE

SE GREENING DR

SE CORTLAND AVE

SE APPELESED DR

SE JONATHAN AVE

I to R

**COMPREHENSIVE PLAN MAP
JONATHAN AVE SE**

- Jonathan Zone Change
- Creek

Designations

- Public Open Space
- Creek Trail
- Residential
- Commercial
- Central Bus. Dist.
- Industrial

CITY OF DALLAS
JANUARY 2010
ORD. # 1712

100 Feet

ORDINANCE NO. 1722

An Ordinance changing the zoning designation of a parcel of real property owned by Fowler Living Trust from Industrial to Residential Medium Density.

WHEREAS, the FIFE Group, Inc. and the above-named owner, Fowler Living Trust, submitted a zone change application to the City requesting that the zoning designation of the real property which is described generally as 3.22 acres located on the south side of SE Jonathan Avenue, as more particularly described on Exhibit A, attached hereto and by reference incorporated herein, and as shown on the map attached hereto as Exhibit B and by this reference incorporated herein, be changed from Industrial to Residential Medium Density; and

WHEREAS, after due notice, on March 9, 2010, the Dallas Planning Commission held a public hearing on the application and at the conclusion thereof recommended to the City Council that the application be granted; and

WHEREAS, after due notice, on April 5, 2010, the City Council held a public hearing on the application and at the conclusion thereof found that there was substantial evidence that the application met the requirements of the Dallas Development Code and that the application should be granted; NOW, THEREFORE,

THE CITY OF DALLAS DOES ORDAIN AS FOLLOWS:

Section 1. The zoning designation of the real property described on Exhibit A attached hereto, and as shown on the map attached hereto as Exhibit B, is hereby changed from Industrial to Residential Medium Density.

Section 2. The Findings and Conclusions set forth in the staff report on this matter, submitted into the record herein on April 5, 2010, a copy of which is attached hereto as Exhibit C and by this reference incorporated herein, are hereby adopted and approved as the Findings and Conclusions in support of this zone change.

Section 3. Pursuant to Dallas Charter Section 23, this ordinance, upon being read first in full and then by title, shall be enacted at a single meeting on the date set forth below, by unanimous vote of all the council members present.

Read for the first time: April 5, 2010
Read for the second time: April 5, 2010
Passed by the City Council: April 5, 2010
Approved by the Mayor: April 5, 2010

JAMES B. FAIRCHILD, MAYOR

ATTEST:

JERRY WYATT, CITY MANAGER

EXHIBIT A

Lots 20-26 of Applegate Landing Subdivision, Phase 1, and lots 64-69 of Applegate landing,
Phase III.

EXHIBIT 2

RL

MILLER AVE

SE GREENING DR

SE CORTLAND AVE

RL

SE APPELSEED DR

SE JONATHAN AVE

I to RM

**ZONING MAP
JONATHAN AVE SE**

Jonathan Zone Change
Creek

Designations
RL Residential Low Density
RM Residential Medium Density
RH Residential High Density
POS Park and Open Space
CN Commercial Neighborhood
CG Commercial General
CBD Central Business District
I Industrial

CITY OF DALLAS
JANUARY 2010
ORD. # 1711
100 Feet

Page 147 of 151

ORDINANCE NO. 1717

An Ordinance changing the zoning designation of a parcel of real property from CN, Commercial Neighborhood to CG, Commercial General; and amending the Dallas Zoning Map.

WHEREAS, by Resolution No. 2207, adopted by the City Council and approved by the Mayor on February 4, 1980, the City Council expressed its intent to change the zone applicable to that certain real property described on Exhibit 1, and shown on the map on Exhibit 2, attached hereto and by reference incorporated herein, from CR, Commercial Restricted and RA, Residential Agriculture, to CR, Commercial General, upon the fulfillment of certain conditions as set forth in said Resolution No. 2207; and

WHEREAS, the conditions set forth in said Resolution have been fulfilled with respect to the real property described on Exhibit 1; and

WHEREAS, Ordinance No. 1583, adopted by the City Council in 1999, erroneously designated said real property CN, Commercial Neighborhood; and

WHEREAS, after due public notice, on March 1, 2009, the City Council held a public hearing on the change of zone of the property herein; and

WHEREAS, after said public hearing the Council determined that the proposed zone change is in keeping with the intent of the City Council as expressed in said Resolution No. 2207, and appropriate to effect the change in the zone of the real property that is the subject of this Ordinance and to amend the zoning map of the City accordingly; NOW, THEREFORE,

THE CITY OF DALLAS DOES ORDAIN AS FOLLOWS:

Section 1. The Findings and Conclusions set forth in the staff report on this matter, submitted into the record herein at the hearing on March 1, 2010, are hereby adopted and approved as the Findings and Conclusions in support of this zone change.

Section 2. The zoning designation of the real property described on Exhibit 1 hereto is hereby changed from CN, Commercial Neighborhood, to CR, Commercial General.

Section 3. The Dallas Zoning Map shall be, and is hereby declared

amended in accordance with the zone change effected by this ordinance.

Read for the first time: March 15, 2010
Read for the second time: April 5, 2010
Passed by the City Council: April 5, 2010
Approved by the Mayor: April 5, 2010

JAMES B. FAIRCHILD, MAYOR

ATTEST:

JERRY WYATT, CITY MANAGER

EXHIBIT 1
Store #2315, Dallas, OR

A parcel of land situated in Section 28, Township 7 South, Range 5 West of the Willamette Meridian in Polk County, Oregon, being more particularly described as follows:

PARCEL 1

Beginning at a 3/4" iron pipe marking the Northeast corner of Block 9, GERMANTOWN in the City of Dallas, Polk County, Oregon; thence North 00°06'41" East along the East boundary line of said GERMANTOWN a distance of 378.41 feet to a 5/8" iron rod with a yellow plastic cap marked "PLS 1678" marking a point on the southeasterly Right-of-way line of Kings Valley Highway (state Highway No. 223); thence North 54°27'20" East along said right-of-way line, a distance of 333.85 feet to a 5/8" iron rod with a yellow plastic cap marked "PLS 1678" marking a point 60 feet left of Engineers Station P.T. 124+22.50; thence northeasterly continuing along said right-of-way line along the arc of a offset spiral curve to the left (the chord of which bears North 53°06'57" East 404.10 feet) an arc distance of 404.19 feet to a 5/8" iron rod with a yellow plastic cap marked "PLS 1678" marking a point 60 feet left of Engineers Station P.C.S.120+22.50; thence North 44°59'11" East along said right-of-way line, a distance of 123.22 feet to a 5/8" iron rod with a yellow plastic cap marked "PLS 1678" marking the Northwest corner of Lot 1, Block 1, NORTH DALLAS TRADE CENTER – Phase 1 as recorded in Volume 9, Page 8, Book of Town Plats for Polk County, Oregon; thence South 00°17'24" East along the West line of said subdivision and the southerly extension thereof, a distance of 981.97 feet to a point on the northerly right-of-way line of East Ellendale Avenue (from said point a 5/8" iron rod with a red plastic cap marked "PLS 1658" bears North 00°17'24" West 0.26 feet); thence South 81°18'21" West along said right-of-way line a distance of 60.63 feet to a point marking the Southeast corner of that tract of land conveyed to James B. Faulkner and Billie H. Faulkner, by instrument recorded in Volume 72, page 37, Book of Records (from said southeast corner a 5/8" iron rod bears South 00°14'30" East 0.15 feet); thence North 00°16'22" West along the East line of said Faulkner tract, a distance of 221.83 feet to the Northeast corner thereof; thence South 81°32'37" West along the North line of said Faulkner tract, a distance of 216.02 feet to a point which bears North 08°47'28" West 20.08 feet from the Northeast corner of that tract of land conveyed to Ellendale Professional Building, a Co-partnership by instrument recorded in Volume 133, Page 1214, Book of Records; thence South 08°47'28" East 20.08 feet to said Northeast corner of said Ellendale Professional Building Co-partnership tract; thence South 79°54'38" West along the Northerly line of said Ellendale Professional Building Co-partnership tract, a distance of 117.78 feet to the northwest corner of that tract of land described in Volume 142, Page 1623, Book of Records; thence following the northerly line of said tract South 79°51'23" West a distance of 99.63 feet to the northwest corner of said tract; thence following the west line of said tract South 00°12'04" West a distance of 206.21 feet to a 5/8" iron rod with a yellow plastic cap marked "PLS 1678" marking a point on the northerly right-of-way line of said East Ellendale Avenue; thence South 79°56'12" West along said northerly right-of-way a distance of 117.18 feet to the Southeast corner of that tract of land described in Volume 169, Page 1505, Book of Records; thence North 00°06'40" East along the East line of said tract, a distance of 153.45 feet; thence leaving the east line of said tract South 89°42'31" West 98.43 feet to a point on the West line of said tract described in Volume 169, Page 1505; thence North 00°06'40" East along said West line a distance of 30.65 feet to a point on the North boundary line of Block 9 of said GERMANTOWN; thence South 89°52'58" East along said boundary line a distance of 11.81 feet to the point of beginning. Parcel 1 contains 419,448 Square Feet (9.629 Acres), more or less.

EXCEPT:

Beginning at a point on the East line of that tract of land described in Volume 169, Page 1505, Deed Records which point bears North 89°52'58" West 11.81 feet and South 00°06'40" West 30.65 feet and North 89°42'50" East 98.43 feet from an iron pipe marking the Northeast corner of Block 9, GERMANTOWN in the City of Dallas, and being situated in Section 28, Township 7 South, Range 5 West of the Willamette Meridian in Polk County, Oregon; thence North 89°42'50" East 54.91 feet; thence South 00°06'40" West 145.48 feet to a point on the Northerly line of East Ellendale Avenue; thence South 79°56'12" West along said right-of-way line, a distance of 48.02 feet to the Southeast corner of said tract described in Volume 169, Page 1505, Deed Records; thence North 00°06'40" East along the East line of said tract, a distance of 153.65 feet to the place of beginning.

Briefly, the subject is described as a portion of the southeast 1/4 of the southwest 1/4 of section 28 in Township 7 South, Range 5 West in the Willamette Meridian in Polk County, Oregon. The property is also identified as Tax Lots 7S-5W-28CD: 200 and 202.

