



City Council

Mayor
Brian Dalton

Council President
Wes Scroggin

Councilor
Jim Fairchild

Councilor
Beth Jones

Councilor
Jackie Lawson

Councilor
Kevin Marshall

Councilor
Murray Stewart

Councilor
LaVonne Wilson

Councilor
Ken Woods, Jr.

Vacant Seat

Staff

City Manager
Jerry Wyatt

City Attorney
Lane Shetterly

Admin Svc Director
Robert Spivey

Community Development/
Operations Director
Jason Locke

Finance Director
Cecilia Ward

Fire Chief
Bill Hahn

Chief of Police
John Teague

Engineering Director
Fred Braun

City Recorder
Emily Gagner

Dallas City Council Agenda

Monday, April 16, 2012, 7:00 p.m.

Mayor Brian Dalton, 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.

<u>ITEM</u>	<u>RECOMMENDED ACTION</u>
1. ROLL CALL	
2. PLEDGE OF ALLEGIANCE	
3. COMMENTS FROM THE AUDIENCE <i>This time is provided for citizens to address the Council on any matters other than public hearings.</i>	
4. PUBLIC HEARINGS <i>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.</i> APPEAL OF PLANNING COMMISSION DECISION PTN 11-04 p. 3	
5. SELECTION PROCESS TO FILL COUNCIL VACANCY	
6. CONSENT AGENDA <i>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.</i> a. Approval of March 19, 2012, City Council Minutes p. 8	
7. ITEMS REMOVED FROM CONSENT AGENDA	
8. REPORTS OR COMMENTS FROM THE COUNCIL MEMBERS a. National Volunteer Week Proclamation p. 12	Presentation
9. REPORTS FROM CITY MANAGER AND STAFF a. SPR11-01 Walmart Decision Appeal p. 13 b. OLCC Special Event Application for Bounty Market p. 18 c. ODOT/City Partnership p. 22 d. Other	Motion Motion Information

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.

10. RESOLUTIONS

- a. Resolution No. 3244: A Resolution authorizing a grant application under the Oregon Parks and Recreation Department Local Government Grant Program for park improvement son the Rickreall Creek Trail System. **p. 23**

Roll Call Vote

11. FIRST READING OF ORDINANCE

12. SECOND READING OF ORDINANCE

13. OTHER BUSINESS

14. ADJOURNMENT

Note: Following the Council meeting, there will be meetings of the Budget Committee and Urban Renewal District Budget Committee.

**City Council Appeal Staff Report
DATE: APRIL 9, 2012**

FILE NO.	APPEAL PTN 11-04
HEARING DATE	APRIL 16, 2012 7:00 P.M. CITY HALL COUNCIL CHAMBERS 187 SE COURT STREET DALLAS, OREGON 97338
OWNER	ANTHONY AND ANNE NUNES
APPELLANT	PRISM MANOR, LLC
REQUEST	APPEAL OF A PLANNING COMMISSION DECISION APPROVING A PARTITION OF 1 LOT INTO 2
LOCATION	1463 SE MILLER AVENUE
RECOMMENDATION	<i>DENY THE APPEAL AND AFFIRM THE PLANNING COMMISSION DECISION (APPROVAL WITH CONDITIONS)</i>

The full record may be viewed at the City Manager's office in Dallas City Hall, 187 SE Court Street, Dallas, OR 97338. Due to the size of the file, it cannot be included in the agenda packet.

**CITY OF DALLAS
 PLANNING COMMISSION
 COMMUNITY DEVELOPMENT
 DEPARTMENT SUPPLEMENTAL
 STAFF REPORT**



HEARING DATE: APRIL 16, 2012
APPLICATION TYPE: APPEAL OF TYPE II LAND USE DECISION TO PARTION 1 LOT INTO 2 LOTS. APPROVED AUGUST 24, 2012 AND FEBRUARY 24, 2012
OWNER: ANTHONY AND ANNE NUNES
APPELLANT: PRISM MANOR, LLC
APPLICATION: LETTER OF APPEAL SUBMITTED MARCH 12, 2012
LOCATION: 1463 SE MILLER AVENUE

Zoning:	RL – Residential Low Density and RM – Residential Medium Density
Comprehensive Plan Map No. 1 Land Use Designation:	Residential
Floodplain:	The subject property is not located in or adjacent to a designated floodway or floodplain area.
Adjacent Land Uses:	Residential
Size:	1.81 Acres total area

BACKGROUND: On August 24, 2011 the City of Dallas Community Development Department granted administrative approval of a Type II Land Use application for a two-lot partition of 1.81 acres of property located at 1463 SE Miller Avenue. The partition creates a lot of 0.18 acres with the existing house and frontage on Miller Avenue, and a vacant flag lot of 1.63 acres located to the south of the existing house. The partition application sought to legally divide the two parcels, which are already recognized as separate tax lots by the Polk County Assessors Office. The Type II Partition application cites ORS 92.177, Creation of a parcel by less than all owners of lawfully established unit of land. According to this ORS, a lot that was not lawfully established, but was sold before January 1, 2007, may be validated without all the legal owners of record participating in the application for approval. Based on review of the documents submitted with the partition application and other documents in the record that were obtained by the Community Development Department, it was determined that the subject parcel of land was sold in May 2006, therefore qualifying under the above referenced ORS 92.177 to validate the parcel without all legal owners participating. The application to validate the subject property by partition was approved on August 24, 2011. An appeal was received by appellant Prism on September 28, 2011. On January 10, 2012 the City of Dallas Planning Commission held a Public Hearing to consider an appeal of the August 24, 2011 administrative approval of a Type II Land Use application for a two-lot partition of 1.81 acres of property located at 1463 SE Miller Avenue, to create a parcel pursuant to ORS 92.176 without the approval of all the owners of the existing unit of land pursuant to ORS 92.177. At the request of one of the hearing’s participants, the record

was left open for 7 days for submittal of additional written testimony. Three letters of testimony were submitted during the comment period. On February 14, after the record was closed on this matter, the Planning Commission denied the appeal and approved the application with conditions. The Final Order was signed on February 24, 2012. A timely and proper notice of appeal was filed on March 12, 2012. This appeal follows. (*Note: The 120-day period within which the city is required to make its final decision on this matter expired March 20, 2012*)

PROCEDURE:

Dallas Development Code Section 4.1.040.G. governs the procedure for an appeal of a Type III decision to the City Council.

Appeals to the City Council are *de novo* on the record, and the City Council will consider argument on the record, only -- *not new evidence* -- directed to the issues raised in the Notice of Appeal. The City Council need only consider those matters specifically raised by the appellant; it *may* consider other matters if it so desires. In addition, only those people who participated before the Planning Commission and received the Notice of Decision can present argument in this appeal hearing.

The City Council shall make its decision based upon the record after first granting the right to present argument, but not to introduce additional evidence, to the parties to the hearing before the Planning Commission.

The burden of proof to demonstrate that the applicable criteria for this application have been met is on the applicant. The appellant has the burden under the city code and state law to articulate reasons why the decision of the Planning Commission, as to the issues raised on appeal, was in error.

HISTORY OF THE PROPERTY

That the original "parent" parcel at 1463 SE Miller Avenue was divided into two tax lots (2100 and 2101) in 1997 but no land use action was initiated or taken to formalize the division of the parcel.

That Nunes's Tax Lot 2101 was established as a unit of land when they and Kirbys purchased it by land sales contract entered into on May 6, 2006, as one of two separately described parcels (the other being Tax Lot 2100). (Notice of Contract for Sale of Real Property, Document 2006-007684)

That Nuneses and Kirbys sold Tax Lot 2100 to Prism by deed recorded April 8, 2008. (Document No. 2008-004351.)

That Nuneses and Kirbys acquired fee title to the property described in the land sales contract by deed recorded April 10, 2008. (Document No. 2008-004454.)

PARTITION APPROVAL CRITERIA: THE APPLICABLE CRITERIA ARE CONTAINED IN DDC Article 4, Section 4.3.070, Approval Criteria: Preliminary Plat

- (1) All applicable development standards of the City of Dallas Development Code Section 2.2.030, General Development Standards are met.

Finding: The underlying RL Residential Low Density zoning district standards for newly created lots are adequately addressed in the application

- (2) All applicable Community Design Standards of Article 3 are met.

Finding: All applicable standards of the City of Dallas Development Code, Article 3, Community Design Standards have been or can be met regarding access and street design standards. Additional design standards for any individual new lots will be reviewed at the time new construction is proposed.

- (3) All public facilities projects identified by the Development Official or by Chapter VI of the Dallas Comprehensive Plan as needed to serve the proposed land division have been constructed; or the applicant can demonstrate that the required public facilities improvements will be constructed and operational:

(a) Prior to the issuance of building permits; or

(b) In conjunction with construction of the approved lots or parcels pursuant to financial assurance for the improvements or a written agreement with the City prior to final plat approval.

Finding: All applicable standards of the city of Dallas Development Code have been met regarding the requirement to install public facilities and/or make public facility improvements including streets, curbs, sidewalks, storm and sewer lines.

- (4) Sanitary sewer, water and storm drainage collection and distribution systems are or will be adequate to handle the increased loads required by each phase of the proposed land division, based on master facilities plans and as determined by the Development Official.

Finding: All applicable standards of the city of Dallas Development Code have been met regarding the requirement to install public facilities and/or make public facility improvements including streets, curbs, sidewalks, storm and sewer lines.

APPEAL FILING PROCEDURE: THE APPLICABLE CRITERIA ARE CONTAINED IN DDC Article 4, Section 4.1.030, Type II Procedure (Administrative), Subsection G. – Appeal

The arguments made by Prism (appellant) in its notice of appeal to the City Council are similar to those made at the Planning Commission. Appellant argues that the applicant's unit of land, or parcel, was not "separated" until 2008, and therefore ORS 92.177 was

incorrectly applied to the decision. **Response:** The subject property was created as a unit of land "by a sale that did not comply with the applicable criteria for creation of a unit of land" as described in ORS 92.176(1), and it "(a) Is not a lawfully established unit of land; and (b) Could have complied with the applicable criteria for the creation of a lawfully established unit of land when the unit of land was sold," ORS 92.176(1)(a) and (b), so that the city may validate it under the statute. Further, since the sale occurred when the land sales contract was entered into on May 6, 2006, it occurred before January 1, 2007, so may be validated "notwithstanding that less than all of the owners of the existing lawfully established unit of land have applied for the approval." ORS 92.177.

The appellant also argues that, while ORS 92.176 and 92.177 *may* authorize the validation of applicant's parcel, the statutes do not authorize a partition of the parent property, the result of which would also validate appellant's parcel. **Response:** While these statutes, read in isolation, may be susceptible to such an interpretation, in the context of other state and local laws governing the creation of parcels and partition of property, and in view of the practical considerations such an interpretation raises, staff finds that appellant's argument is not persuasive or tenable. Furthermore, the actual execution of the partition is not the concern of the City, whether it is tenable or not, as argued by the appellant.

RECOMMENDATION: STAFF RECOMMENDS THAT THE COUNCIL DENY THE APPEAL AND DIRECT STAFF TO DRAFT AN ORDER UPHOLDING THE PLANNING COMMISSION FINAL ORDER IN THIS MATTER WITH THE FOLLOWING CONDITIONS:

1. Any structures, including the existing concrete pad, must be removed so as not to encroach upon the new property boundary line.
2. The new and existing boundary lines shall be surveyed and monumented and a survey shall be filed with the Polk County Surveyor in compliance with ORS.92.060.
3. The survey required shall be filed or recorded within 180 days of final approval of the lot partition or the approval shall be null and void. The Development Official may grant one extension of up to 180 days.
4. Provide copies of all recorded documents and maps to the City of Dallas Community Development Department.

RESPECTFULLY SUBMITTED,

Jason Locke, Director

Community Development Department

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The Dallas City Council met in regular session on Monday, March 19, 2012, at 7:00 p.m. in the Civic Center with Mayor Brian Dalton presiding.

ROLL CALL AND PLEDGE OF ALLEGIANCE

Council members present: Councilor Jim Fairchild, Councilor Beth Jones, Councilor Jackie Lawson, Councilor Kevin Marshall, Councilor Murray Stewart, Councilor LaVonne Wilson, and Councilor Ken Woods, Jr. Absent: Council President Wes Scroggin.

Also present were: City Manager Jerry Wyatt, City Attorney Lane Shetterly, Chief of Police John Teague, Fire Chief Bill Hahn, Finance Director Cecilia Ward, Administrative Services Director Robert Spivey, Sports Coordination Specialist David Brautigam, and Recording Secretary Emily Gagner.

Mayor Brian Dalton led the Pledge of Allegiance.

QUESTIONS OR COMMENTS FROM THE AUDIENCE

Jenn Gaddis introduced herself and indicated she was running for District Attorney in Polk County.

PUBLIC HEARING

CONSENT AGENDA

Councilor Woods declared an actual conflict of interest on items b and c because he sold liquor liability insurance for those businesses. Councilor Lawson declared an actual conflict of interest on item c as she owed the property where Tony's was located.

It was moved by Councilor Marshall and seconded by Councilor Wilson to approve the Consent Agenda as presented. The motion CARRIED UNANIMOUSLY with Councilor Lawson and Councilor Woods not voting due to their actual conflict of interest.

Items approved by the Consent Agenda: a) the March 5, 2012, City Council minutes; b) recommend approval of OLCC application for Change of Ownership for Sweeney's Pub and c) recommend approval of OLCC application for Change of Ownership for Tony's Place.

ITEMS REMOVED FROM CONSENT AGENDA

There were no items removed from the Consent Agenda.

REPORTS OR COMMENTS FROM COUNCIL

Councilor Woods reported he and Councilor Wilson had attended a reception with Pacific Power at Independence City Hall recently where they talked about the power needs of the area. He stated he had the opportunity to meet face to face with Pat Eagan, one of the Vice Presidents of Pacific Power and the Chair of the Transportation Commission.

Councilor Lawson stated she and Councilor Jones attended a League of Oregon Cities meeting in Independence and noted that they had a nice City Hall. She commented that they were both pleased with what the Dallas staff had done on a small budget to improve the condition of the City Hall building and grounds.

Councilor Fairchild indicated he had attended the National League of Cities Congressional Conference in Washington DC and they looked at a number of things. He noted he would get a full report to the Council soon and stated that the trip was at no expense to the City.

Councilor Stewart commended the school for keeping their sign current near the Academy Building. He stated it was nice to see Central Bark being kept up and liked seeing the addition of a small dog area.

Heather Enderle, student body liaison, reported the Dallas High School Dance Team went to State and won first place in the 5A small division. She explained they recently held the annual Mr. Dallas event, which helped raise money for the American Cancer Society through the Polk County Relay for Life. She noted they raised almost \$3,000. Councilor Lawson said she was

1 proud of the Dragon Fire Dancers for their state win.

2 **REPORTS FROM CITY MANAGER AND STAFF**

3 **POLK COMMUNITY CONNECT**

4 Mr. Wyatt introduced Michelle Bornfleth from Polk Children and Families and Herm Boes. He
5 explained they had held a Polk Community Connect event in January and were going to share
6 their success.

7 Herm Boes stated he was the Co-Chair of Polk Community Connect. He explained how the event
8 came about. He explained that their event was for homeless or at danger of being homeless
9 people in Polk County, noting it wasn't just for folks living in parks, but also for those who lived
10 with relatives or were couch surfing or living in a car or trailer. He indicated during the homeless
11 count last year in Polk County, they counted 552 homeless in one day. He added of those, 105
12 were considered homeless within the Dallas School District boundary and half of that figure was
13 youth.

14 Michelle Bornfleth indicated the purpose of the Polk Community Connect event was to connect
15 those in need with resources and services. She stated the Dallas Living Hope City Church hosted
16 the event. She reviewed the resources provided, including medical and dental services, clothing,
17 haircuts, and even pet services. She reported they served 475 guests total with 230 from Dallas,
18 including 75 children despite it being a school day.

19 Ms. Bornfleth stated the total value of the event was over \$79,979, which included cash and in-
20 kind value. She noted that did not include the value of the food provided by James2 Kitchen
21 throughout the day.

22 Councilor Marshall congratulated them on the success of a great program and asked when they
23 planned to do it again. Ms. Bornfleth stated they hoped to do it annually or even twice per year.

24 Councilor Jones asked if the planning committee was comprised of volunteers or if it was
25 government funded. Ms. Bornfleth explained it was a mix of volunteers and members of the
26 Commission on Children and Families.

27 In response to a question, Ms. Bornfleth stated they had vans running almost every hour to areas
28 in Polk County, noting they didn't want a lack of transportation to be a barrier to people who
29 needed services.

30 **FIRE/EMS REGIONAL PARTNERSHIP UPDATE**

31 Chief Hahn reported that they had two meetings with twelve members of the community to assess
32 the idea of creating a fire district. He indicated they had determined it would not be a short-term
33 discussion. He noted the group proposed having each entity involved contribute \$10,000 in order
34 to hire a qualified consultant to evaluate all the entities involved and make suggestion to pursue.

35 In response to a question, Chief Hahn explained the consultant would work under a contract for
36 completion of a project regardless of the hours they worked.

37 Mr. Wyatt explained the \$10,000 would be budgeted in the next fiscal year, but the whole
38 discussion would be run through the Public Safety Committee. He advised this was just to give
39 the Council a heads-up.

40 Chief Hahn stated the Fire Station work was completed by the contractor and they were putting
41 themselves back together.

42 **RECREATION PROGRAM REVIEW**

43 Mr. Brautigam provided an update on youth sports. He indicated the change with basketball had
44 gone well, with Dallas Basketball Association (DBA) taking over the K-8 level. He noted DBA
45 provided good organization, communication, and a streamlined program.

46 Mr. Brautigam reported that the change to Pop Warner for grades 5-8 football had gone really
47 well, noting the youth and coaches saw the benefit of being part of that organization. Mr.
48 Brautigam stated he had spent the past six months meeting with the President of Pop Warner to
49 discuss creating a Dallas Pop Warner Association, which would free us up to provide what was

1 needed regarding scholarships. He indicated he had talked with community members and
2 businesses about scholarships for the program and there were funds available for that. He
3 anticipated that any child who needed it would be able to get a scholarship for 50% off the
4 registration fee. Mr. Brautigam acknowledged that it was a big issue during the last season that
5 the Dallas teams were called the Ravens. He explained that with a Dallas Association, the players
6 would be able to have black and orange uniforms and the Dallas decals on their helmets.

7 Mr. Brautigam stated other youth sports, such as softball and soccer, were evaluating themselves
8 and getting together to streamline the programs and provide things like coaches clinics.

9 Mr. Brautigam reported that track had been cut in the Middle School due to the budget so he got
10 together with the coaches to organize the Dallas Track Club to fill that void. He noted there were
11 127 kids out for track.

12 Mr. Brautigam indicated youth football did not have a weights program, so he was working with
13 the coaches to provide a program next fall for kids to lift weights.

14 Mr. Brautigam introduced the new Dallas High School (DHS) football coach, Tracy Jackson.

15 Mr. Jackson stated he was excited and proud to be part of DHS. He indicated that he had gone in
16 to many losing programs and turned them around, noting it was nice to see the passion here in
17 Dallas. He explained he was encouraged that Dallas was involved in Pop Warner, adding that
18 program provided great continuity from fifth grade up to help kids be successful in the high
19 school. He indicated though it may not be a one year proposition, he would work to make DHS
20 football something people could be proud of.

21 PROCEDURE FOR FILLING COUNCIL VACANCY

22 Mr. Wyatt reviewed the recommended procedure to fill Mark McDonald's vacant Council seat.
23 He acknowledged the process moved quickly, but he felt it was important to have someone in
24 place prior to the budget process.

25 After discussion, it was the consensus of the Council to interview all the qualified applicants,
26 regardless of the number.

27 There was discussion about interviewing the candidates individually without everyone else
28 listening. Mr. Shetterly explained it had to be done in a public meeting and the Council could not
29 exclude people from a public meeting. He noted one distinction was that this was more like an
30 election to an office than a job interview so a forum type of interview would be appropriate.

31 It was moved by Councilor Wilson and seconded by Councilor Fairchild to adopt the form and
32 procedure as presented to fill the Council vacancy with item #5 struck from the first page of the
33 procedure. The motion CARRIED UNANIMOUSLY.

34 UPCOMING MEETINGS DISCUSSION

35 Mr. Wyatt reviewed the staff report.

36 It was moved by Councilor Wilson and seconded by Councilor Stewart to cancel the March 26
37 Administrative and Building and Grounds Committee meetings and the April 2 City Council
38 meeting. The motion CARRIED UNANIMOUSLY.

39 OTHER

40 Mr. Wyatt reminded the Councilors to fill out their Statement of Economic Interest and return it
41 to the state.

42 Mr. Wyatt stated the consultants recently talked to the Council about the rate study and
43 recommended putting together a citizen committee. He explained he would be forming a Utility
44 Rate Advisory Committee and asked the Councilors to let him know if they had someone in mind
45 for the committee.

1 **RESOLUTIONS**

2 **Resolution No. 3243:** A resolution authorizing the transfer of budgetary funds.

3 Mr. Wyatt explained the transfers included in the resolution. Mr. Shetterly noted the transfers
4 were compliant with budget law.

5 A roll call vote was taken and Mayor Dalton declared Resolution No. 3243 to have PASSED BY
6 A UNANIMOUS VOTE with Councilor Jim Fairchild, Councilor Beth Jones, Councilor Jackie
7 Lawson, Councilor Kevin Marshall, Councilor Murray Stewart, Councilor LaVonne Wilson, and
8 Councilor Ken Woods, Jr. voting YES.

9 **FIRST READING OF ORDINANCE**

10 **SECOND READING OF ORDINANCE**

11 **Ordinance No. 1744:** An Ordinance regulating the display for sale of drug paraphernalia; and
12 declaring an emergency.

13 Mayor Dalton declared Ordinance No. 1744 to have passed its second reading. A roll call vote
14 was taken and Mayor Dalton declared Ordinance No. 1744 to have PASSED BY A
15 UNANIMOUS VOTE with Councilor Jim Fairchild, Councilor Beth Jones, Councilor Jackie
16 Lawson, Councilor Kevin Marshall, Councilor Murray Stewart, Councilor LaVonne Wilson, and
17 Councilor Ken Woods, Jr. voting YES

18 **OTHER BUSINESS**

19 Mr. Shetterly reported the final order in the Walmart appeal was signed earlier in the day and the
20 appellants had 21 days to file a notice of appeal to LUBA.

21 Mr. Wyatt explained there would be an appeal on a partition coming before the Council at the
22 April 16 Council meeting.

23 Councilor Fairchild reported he was appointed by Salem Hospital to the Community Benefits
24 Committee. He explained the purpose of the committee was to examine and recommend changes
25 as to how Salem Hospital could provide medical services to the communities it served and those
26 individuals with no insurance. He asked for those with ideas to talk to him.

27 There being no further business, the meeting adjourned at 8:15 p.m.

28 Read and approved this _____ day of _____ 2012.

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ATTEST:

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City Manager

Mayor

PROCLAMATION
The City of Dallas, Oregon
NATIONAL VOLUNTEER WEEK 2012
April 15-21, 2012

WHEREAS, the City of Dallas encourages citizens to engage in volunteer activities to make Dallas a better place to live and work; and

WHEREAS, the City of Dallas is committed to encouraging volunteerism among its employees, businesses, and citizens; and

WHEREAS, the City of Dallas recognizes volunteering improves our quality of life and increases community participation and awareness; and

WHEREAS, volunteers are vital to our future as a caring and productive city; and

WHEREAS, dozens of volunteers working in their community utilize their time and talent daily to make a real difference in the lives of children, adults, and the elderly; and

WHEREAS, volunteers save the City hundreds of thousands of dollars each year and the goodwill value of our citizen and employee volunteers is immeasurable;

NOW THEREFORE, I, Brian Dalton, Mayor of Dallas, do hereby proclaim the week of April 15-21, 2012, as “National Volunteer Week 2012,” in Dallas, Oregon, and encourage citizens to celebrate our volunteers throughout the community not just during this week, but at every opportunity throughout the year.

IN WITNESS THEREOF, I have unto set my hand and caused the seal of the City of Dallas to be affixed this 16th day of April, 2012.

Mayor Brian W. Dalton

DALLAS CITY COUNCIL

REPORT

TO: MAYOR BRIAN DALTON AND CITY COUNCIL

<i>City of Dallas</i>	Agenda Item No. 9 a	Topic: SPR11-01 Walmart Decision Appeal
Prepared By: Jason Locke, Com Dev/ Operations Director	Meeting Date: April 16, 2012	Attachments: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Approved By: Jerry Wyatt		

RECOMMENDED ACTION:

Authorize the City Attorney to participate in the Land Use Board of Appeals (LUBA) proceeding to defend the City's decision on SPR11-01, the approval of the Walmart expansion.

BACKGROUND:

The City Council denied the appeal of the Walmart expansion and approved the application, with the Final Order signed on March 19, 2012. The appellants in this matter have appealed the decision to LUBA. The city is the Respondent in this matter, and has an interest in defending the decision. That being said, the applicant, Walmart, through their attorney, will be intervening in this appeal, and will in all likelihood be preparing the bulk of the response. City Attorney Lane Shetterly would work with the applicant in preparing a response and potentially participate in oral arguments in front of LUBA. This is outside the scope of his employment agreement, and would therefore need to be funded through the Planning Department. Funds are available for this purpose.

FISCAL IMPACT:

Unknown at this time, could cost up to \$5,000.00

ATTACHMENTS:

Notice of Intent to Appeal filed by Sean Malone

BEFORE THE LAND USE BOARD OF APPEALS
OF THE STATE OF OREGON

NEIGHBORS FOR DALLAS,)	
JEREMIAH MULDER, RANDALL)	
HOUSER, and LYDIA GRABER)	
)	
Petitioners,)	
)	
v.)	
)	
THE CITY OF DALLAS, a political)	LUBA No. _____
subdivision the state of Oregon,)	
)	
Respondent)	

NOTICE OF INTENT TO APPEAL

I.

Notice is hereby given that petitioners intend to appeal the Final Order Denying the Appeal and Upholding the Planning Commission Decision for the Site Plan Review Approval for Expansion of the Existing Building, Landscaping, and Parking Revisions for the Applicant/Owner Walmart Real Estate Business Trust, which became final on March 19, 2012, and which involves the expansion of the existing Wal-Mart store with associated revisions in Dallas, Oregon. *See Exhibit A.*

II.

Petitioners are represented by Counsel, and his mailing address and telephone number is as follows:

Sean T. Malone, OSB No. 084060
Attorney at Law
259 E. 5th Ave., Suite 200-G
Eugene, OR 97401
(303) 859-0403
seanmalone8@hotmail.com

III.

Respondent, City of Dallas, has its mailing address and telephone number at:

The City of Dallas
City Hall
187 SE Court Street
Dallas OR 97338
(503) 623-2338

Respondent, City of Dallas, has as its legal counsel:

Lane P. Shetterly
Shetterly, Irick & Ozias
189 SW Academy St.
PO Box 105
Dallas, OR 97338
lane@siso-law.com
(503) 623-6695

IV.

Applicant, Walmart Real Estate Business Trust, was represented in the proceeding below by:

Gregory S. Hathaway
Hathaway Koback Connors LLP
520 SW Yamhill St. Ste 235
Portland OR 97204

V.

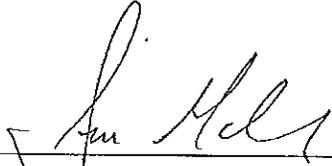
The names and addresses of all persons to whom written notice of the land use decision was mailed, as shown by the governing body's records, are set out in Exhibit B, which is attached hereto and by this reference made a part hereof.

NOTICE:

Anyone described in Paragraph IV and V of this Notice, including any person named in Exhibit B hereof, who desires to participate as a party in this case before the Land Use

Board of Appeals must file with the Land Use Board of Appeals a motion to intervene in this proceeding as required by Oregon Administrative rule 661-10-050.

Dated: April 7, 2012

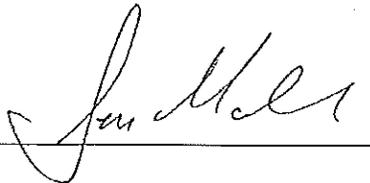
A handwritten signature in cursive script, appearing to read "Sean Malone", is written over a horizontal line.

Sean Malone OSB No. 084060
Attorney at Law
259 E. 5th Ave., Suite 200-G
Eugene, OR 97401
(303) 859-0403
seanmalone8@hotmail.com

CERTIFICATE OF FILING AND SERVICE

I certify that on April 7, 2012, I filed the original of petitioners' Notice of Intent to Appeal together with two (2) copies with the Land Use Board of Appeals, Public Utility Commission Building, 550 Capitol Street, N.E., Suite 235, Salem, OR 97301-2552 by Certified First Class Mail.

I also certify that on April 7, 2012, I served a true and correct copy of this Notice of Intent to Appeal on all persons listed in paragraphs III, IV, and V of this Notice (including Exhibits A and B hereof) by First Class Mail with proper postage affixed.



Dated: April 7, 2012

Sean Malone OSB No. 084060
Attorney at Law
259 E. 5th Ave., Suite 200-G
Eugene, OR 97401
(303) 859-0403
seanmalone8@hotmail.com

April 10, 2012

City of Dallas
187 SE Court Street
Dallas, OR 97338

Dear Mayor Dalton and City Councilors,

The Mid-Valley Wine Trail has committed to being a vendor at the market every week rotating 7 wineries/vineyards throughout the season for wine tasting & unopened bottle sales.

Here are the wineries/vineyards who have committed to participating:

- Johan Vineyards,
- Left Coast Cellars,
- Firesteed Cellars,
- Eola Hills Wine Cellars,
- Van Duzer Vineyards,
- Namaste Vineyards &
- Chateau Bianca.

However, in order for the wine group to be present at our market they need to submit a Special Event Winery Application to OLCC. On this application there is a section for city or county to sign-off. With our market being held within the city limits but held on county property we are seeking support from both.

Thank you for your continued support of the Polk County Bounty Market.

Sincerely,



Steve Segal
Board Vice President

cc: Jerry Wyatt, City Manager
Chelsea Pope, Executive Director
Bonnie Dreier, Program Manager
Dallas Area Visitors Center Board of Directors



OREGON LIQUOR CONTROL COMMISSION

SPECIAL EVENT WINERY/SPECIAL EVENT GROWER APPLICATION

SPECIAL EVENT WINERY (SEW) APPLICATION

This license allows an Oregon Winery Licensee to sell wine, cider, and malt beverages for drinking on the special event licensed premises or in sealed containers for taking off of the special event licensed premises.

SPECIAL EVENT GROWER (SEG) APPLICATION

This license allows an Oregon Grower Sales Privilege Licensee to sell wine and cider for drinking on the special event licensed premises or in sealed containers for taking off of the special event licensed premises. All of the fruit or grapes used to make the wine or cider must have been grown in Oregon under the control of the licensee.

Process Time: OLCC needs your completed application to us in sufficient time to approve it. Sufficient time is typically 1 to 3 weeks before the first event date listed in #9 below (some events may need extra processing time).

License Fee: \$10 per license day or any part of a license day. Make payment by check or money order, payable to OLCC. A license day is from 7:00 am to 2:30 am on the succeeding calendar day

License Days: In #9 below, you can apply for a maximum of 5 license days per application form.

1. This application is for: [X] SPECIAL EVENT WINERY [] SPECIAL EVENT GROWER
2. Licensee Name (please print): Johan Vineyards LLC E-mail: stacy@johanvineyards.com
3. Trade Name of Business: Johan Vineyards 4. Fax: 503-623-9663
5. Address of Annual Business: 4285 N Pacific Hwy W 6. City/ZIP: Rickreall 97371
7. Contact Person: Stacy McGinnis 8. Contact Phone: 866-379-6029
9. Date(s) of event: 5/3,6/14,7/19,9/6 10. Start/End hours of alcohol service: 2pm to 6pm

LICENSED AREA BOUNDARIES: ORS 471.159 prohibits the OLCC from licensing an area that does not have defined boundaries. OLCC may require the licensed area to be enclosed and may require you to submit a drawing showing the licensed area and how the boundaries of the licensed area will be identified.

11. Address of Special Event Licensed Area: 850 Main St, Dallas 97338
(Street) (City)

12. Identify the licensed area (for example: entire premises; a room within the premises; an area in a park; etc.):

10x10 booth space on courthouse lawn

13. List the primary activities within the licensed area (like: dinner; auction; beer festival; wine festival; food fair; art show; music; patron dancing; sports event; etc.). If entertainment will be offered in the areas where alcohol will be sold or consumed, please describe the entertainment, the times it will be offered, and list the targeted age of attendees:

Farmer's Market, Live music will be offered at various times from 4-6pm, targeted age-all ages

14. Will minors and alcohol be allowed together in the same area? [X] Yes [] No

15. What is the expected attendance per day in the licensed area (where alcohol will be sold or consumed)? 415

PLAN TO MANAGE THE SPECIAL EVENT LICENSED AREA: If your answer to #15 is 501 or more, in addition to your answers to questions 16, 17, and 18, you will need to complete the OLCC's Plan to Manage Special Events form (available on www.oregon.gov/OLCC), unless the OLCC exempts you from this requirement.

16. Describe your plan to prevent problems and violations.

No over serving, checking all id's, monitoring all bottles at all times, not accessible to anyone

17. Describe your plan to prevent minors from gaining access to alcoholic beverages and from gaining access to any portion of the licensed premises prohibited to minors.

Monitor all bottles at all times, check all id's

18. Describe your plan to manage alcohol consumption by adults.

No over serving, no opening of bottles during market

MANAGER AND SERVICE PERMITS: You must name a manager or managers who will be at the special event.

19. List name(s) of on-site manager(s): Stacy McGinnis 20. Contact Phone: 866-379-6029

21. Service permit number of manager(s): 293908 expires 11/22/2012

LIQUOR LIABILITY INSURANCE: If the licensed area is open to the public and expected attendance is 301 or more per day in the licensed area, you must have at least \$300,000 of liquor liability insurance coverage as required by ORS 471.168.

22. Insurance Company: Huggins Insurance 23. Policy #: WIN800029201 24. Expiration Date: 2/3/2013

FOOD SERVICE: You must provide at all times and in all areas where alcohol service is available at least two different substantial food items (see the attached sheet for an explanation of this requirement).

25. Name at least two different substantial food items that you will provide:

① Panini Sandwiches ② soup & salad

26. Licensee Name (please print): Stacy McGinnis

27. LICENSEE SIGNATURE: Stacy McGinnis 28. Date: 3/27/2012

GOVERNMENT RECOMMENDATION: Once you've completed this form to this point, you must obtain a recommendation from the local city or county named in #29 below before submitting this application to the OLCC.

29. Name the city if the event address is within a city's limits or name the county if the event address is outside the city's limits: Dallas & Polk County

CITY OR COUNTY USE ONLY

The city/county named in #29 above recommends:

Grant Acknowledge Deny (attach written explanation of deny recommendation)

City/County Signature: _____ Date: _____

FORM TO OLCC: This license is valid only when signed by an OLCC representative. Submit this form to the OLCC office regulating the county in which your special event will happen.

OLCC USE ONLY

Fee Paid: _____ Date: _____ Receipt #: _____

License is: Approved Denied

Restrictions: _____

OLCC Signature: _____ Date: _____

FOOD REQUIREMENTS FOR A SPECIAL EVENT WINERY/SPECIAL EVENT GROWER LICENSE

WHAT AMOUNT OF FOOD MUST I PROVIDE?

- **TWO:** You must provide at all times and in all areas where alcohol service is available at least two different substantial food items.

WHAT IS A SUBSTANTIAL FOOD ITEM?

This is a food item that is typically served as a main course or entrée. Some examples are fish, steak, chicken, pasta, pizza, and sandwiches. Side dishes, appetizer items, dessert items, and snack items such as popcorn, peanuts, chips and crackers do not qualify as substantial food items.

WHAT DOES DIFFERENT MEAN?

Different means substantial food items that the OLCC determines differ in their primary ingredients or method of preparation. For example, a turkey sandwich differs from a salami sandwich, a beef burger differs from a turkey burger, and fried chicken differs from baked chicken. Different sizes of the same item are not considered different.

IS THERE AN EXCEPTION TO PROVIDING THE TWO DIFFERENT SUBSTANTIAL FOOD ITEMS?

The OLCC must determine that the clearly dominant emphasis is food service at all times in the area where alcohol service is available in order for you to provide only one substantial food item. The OLCC will work with you to make this determination prior to approving your application.

WHAT DOES IT MEAN TO PROVIDE FOOD SERVICE AT ALL TIMES AND IN ALL AREAS WHERE ALCOHOL SERVICE IS AVAILABLE?

Patrons must be able to obtain food service inside the special event licensed area. You may use either of the following two methods to provide food service:

- Within all areas where alcohol service is available, have the minimum required food items available for patrons at all times; or
- Within all areas where alcohol service is available, have a menu of the minimum required food items (plus any other items you may choose to include) available for patrons at all times and be able to provide the food items in the area if a patron chooses to order food. The food items could be kept at a location other than the area where the alcohol is served; however, you must be able to provide the food items to the patron in the area where alcohol service is available.

IS PROVIDING TASTINGS OF ALCOHOL CONSIDERED PROVIDING ALCOHOL SERVICE?

Yes, providing tastings of alcohol is considered providing alcohol service; therefore, the food requirements must be met.

CAN I USE FOOD PROVIDED BY A CONTRACTOR OR CONTRACTORS TO MEET THE FOOD REQUIREMENT?

Yes, the food service may be provided by someone other than you; however, even if food service is provided by a contractor, you are fully responsible for compliance with the food requirements. You may sell or serve alcohol only when food service that meets the requirement is provided to patrons at all times and in all areas where alcohol service is available.

WHO CAN THE CONTRACT FOR THE FOOD SERVICE BE WITH?

The contract can be between:

- You (the OLCC licensee) and the food service contractor; or
- The organizer of the event and the food service contractor.

DOES THE FOOD SERVICE CONTRACT NEED TO BE IN WRITING?

No, the food service contract does not need to be in writing; however, you may sell or serve alcohol only when food service that meets the requirement is provided to patrons at all times and in all areas where alcohol service is available.

DALLAS CITY COUNCIL REPORT

TO: MAYOR BRIAN DALTON AND CITY COUNCIL

<i>City of Dallas</i>	Agenda Item No. 9 c	Topic: ODOT/City Partnership
Prepared By: Emily Gagner	Meeting Date: April 16, 2012	Attachments: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Approved By: Jerry Wyatt		

RECOMMENDED MOTION:

None

BACKGROUND:

Once again, the City has an opportunity to leverage our available funding and take advantage of our relationship with ODOT to get some much needed paving work done on SW Washington Street. This work will be completed on SW Washington Street from Main Street to approximately SW Hayter Street. The City and ODOT will split the cost of the overlay (just as we did with the work on Jefferson Street last year), and there are funds available in the budget for the project.

Don Jordan of ODOT said, "As always we appreciate the partnership we have with the city of Dallas..."

FISCAL IMPACT:

\$40,000 (to complete an \$80,000 overlay project)

ATTACHMENTS:

None

RESOLUTION NO. 3244

A Resolution of the City of Dallas authorizing a grant application under the Oregon Parks and Recreation Department Local Government Grant Program for park improvements on the Rickreall Creek Trail System.

WHEREAS, the Oregon Parks and Recreation Department is accepting applications for the Local Government Grant Program; and

WHEREAS, the City of Dallas desires to participate in this grant program to the greatest extent possible as a means of providing needed park and recreation acquisitions, improvements and enhancements; and

WHEREAS, the Dallas City Council has identified improvements to the Rickreall Creek Trail System as a high priority need in the City of Dallas; and

WHEREAS, the proposed improvements identified by the Dallas City Council include a paved pathway, landscaping, interpretive signs, and play equipment; and

WHEREAS, the City of Dallas has determined that the matching share required for its application to the Local Government Grant Program is readily available, NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

Section 1. The City Manager is hereby authorized and directed to prepare, sign, and submit an application for a Local Government Grant to the Oregon Parks and Recreation Department to seek funding for park improvements on the Rickreall Creek Trail System as set forth in the foregoing recitals.

Section 2. This Resolution shall take effect upon its passage and approval.

Adopted: April 16, 2012
Approved: April 16, 2012

BRIAN W. DALTON, MAYOR

ATTEST:

JERRY WYATT, CITY MANAGER