

AGENDA**REGULAR CITY COUNCIL MEETING****July 22, 2024****5:30 p.m.****CITY HALL COUNCIL CHAMBER****313 COURT STREET****and****LIVE STREAMED****[https://www.thedalles.org/Live Streaming](https://www.thedalles.org/Live_Streaming)****CHANGES TO ONLINE PARTICIPATION**

To speak online, register with the City Clerk no later than noon the day of the council meeting.

Email amell@ci.the-dalles.or.us Phone (541) 296-5481 ext. 1119

When registering include: your first & last name, city of residence, and the topic you will address.

1. CALL TO ORDER
2. ROLL CALL OF COUNCIL
3. PLEDGE OF ALLEGIANCE
4. APPROVAL OF AGENDA
5. PRESENTATIONS/PROCLAMATIONS
 - A. Early Childhood Learning Center
6. AUDIENCE PARTICIPATION

During this portion of the meeting, anyone may speak on any subject which does not later appear on the agenda. Up to three minutes per person will be allowed. Citizens are encouraged to ask questions with the understanding that the City can either answer the question tonight or refer that question to the appropriate staff member who will get back to you within a reasonable amount of time. If a response by the City is requested, the speaker will be referred to the City Manager for further action. The issue may appear on a future meeting agenda for City Council consideration.

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

CITY OF THE DALLES

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

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

- A. Approval of the July 8, 2024 Regular City Council Meeting Minutes
- B. A Resolution Concurring with the Mayor's Appointments to the Beautification & Tree Committee
- C. Vehicle Surplus

10. PUBLIC HEARINGS

- A. APL 36-24, An Appeal of Planning Commission Resolution No. P.C. 622-24, Approving Conditional Use Permit No. 212-24 (Chris Hodney) For A Mixed-Use, Multi-Family Development in the CBC Zone District with A Maximum Building Height Of 60 Ft

11. ACTION ITEMS

- A. Change Order #1 for FAA/AIP Grant 3-41-0059-020-2023
Change Order #2 is for FAA/BIL Grant 3-41-0059-021-2023
- B. CGRA Hangars, LLC (Planecave LLC) Ground Lease
- C. A Resolution Authorizing Transfers of Budgeted Amounts Between Categories of The General Fund of The City of The Dalles Adopted Budget, Making Appropriations and Authorizing Expenditures for the Fiscal Year Ending June 30, 2025

12. DISCUSSION ITEMS

- A. Short Term Rentals – 2024 Code Amendment Discussion

13. EXECUTIVE SESSION

In accordance with ORS 192.660(2)(h) to consult with counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed.

- A. Recess Open Session
- B. Reconvene Open Session

CITY OF THE DALLES

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

C. Decision, if any

14. ADJOURNMENT

This meeting conducted VIA Zoom

Prepared by/
Amie Ell
City Clerk

CITY OF THE DALLES

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



Columbia Gorge Early Learning Center

The Dalles / Wasco County

Agenda

Project Definition Phase

**Project
Vision**

**Program
Approach**

**Site
Approach**



project **vision**

A young child wearing a knitted hat with pom-poms, looking down in a natural setting. The image is dark and moody, with the child's face and hands being the primary focus. The background consists of out-of-focus foliage.

Oregon's childcare system is in **crisis**, with acute shortages of supply across the state and over 72% of Oregon counties identified as **childcare deserts**.



Welcome to the future
Columbia Gorge Early Learning Center

Vision

*Where do we
want to go?*

Principles

*How do we stay
on course?*

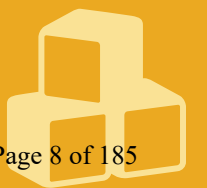
Goals

*How do we
achieve
success?*

Project Vision

Where do we want to go?

the Columbia Gorge Early Learning Center is a **community-centered initiative** that is paving the way for a **thriving childcare landscape** in the mid-Columbia Gorge and creating a **collaborative center** for the Educational Service District to **amplify their impact** at a **regional level**



Steering Committee Guiding Principles

How do we stay on course? Define Values

Child Focused

What is best for early learners drives our approach; they deserve a space designed just for them

Amplify Impact

It may be a little project, but it has a big influence through design, construction, and operation

Community-Centered, Equity Driven

Reflect the diverse perspectives of our community and focus on addressing their needs

Synergistic Partnerships

Flexible and open to unexpected opportunities along the way

Be Good Stewards

High-quality, functional, and fiscally sustainable

Do No Harm

Minimize risk to people, community, and place

Project Goals

What does success look like?



inclusive and culturally relevant experiences to welcome children, families, staff, and community



reinvigorate Chenoweth MS to connect community to the unique environment of the Columbia Gorge



integrate resilience and demonstrate a sustainable future



allow for evolution through adaptable and flexible spaces



foster collaborative interaction and individual reflection



retain and grow a qualified regional workforce

program approach



welcoming
community



thriving early
learning



centralized
workplace

Area Overview

Program Definition

EARLY LEARNING CLASSROOMS, INTERVENTION SUPPORT, PRACTICUM AREAS, & ADMINISTRATION

- > over 200 Children
- > Administrative Staff
- > Community College Practicum



EDUCATION SERVICE DISTRICT WORKPLACE

- > 75(ish) Staff
- > 12 Departments



SCHOOL DISTRICT & COMMUNITY



BUILDING SUPPORT & UNASSIGNABLE

Program Definition	Square Footage
Early Learning Center	21,140 SF
Education Service District Workplace	9,995 SF
School Use Gym and Support Spaces	9,420 SF
Building Services, Circulation, Grossing Factor(s)	13,409 SF
53,964 GSF*	

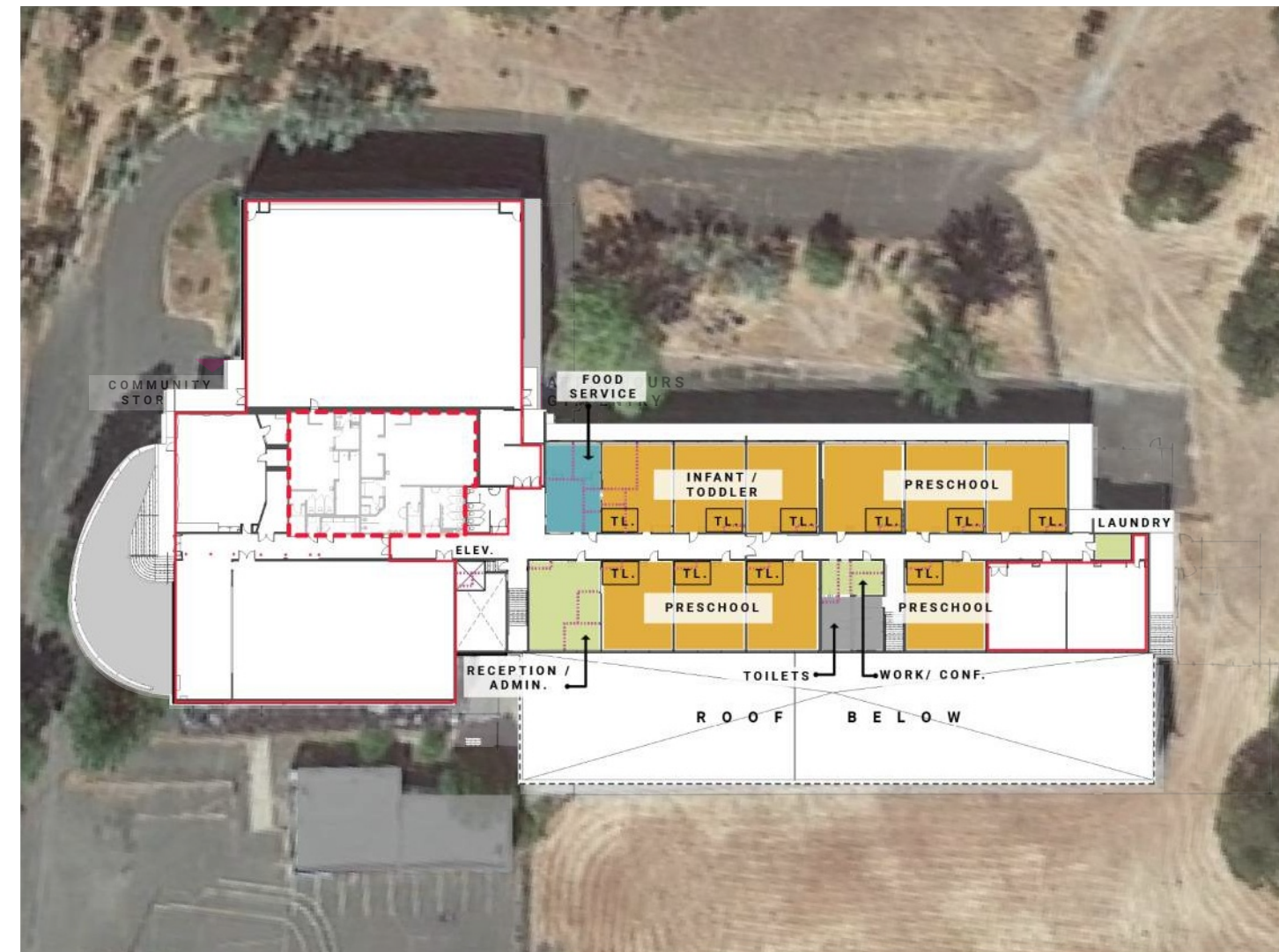
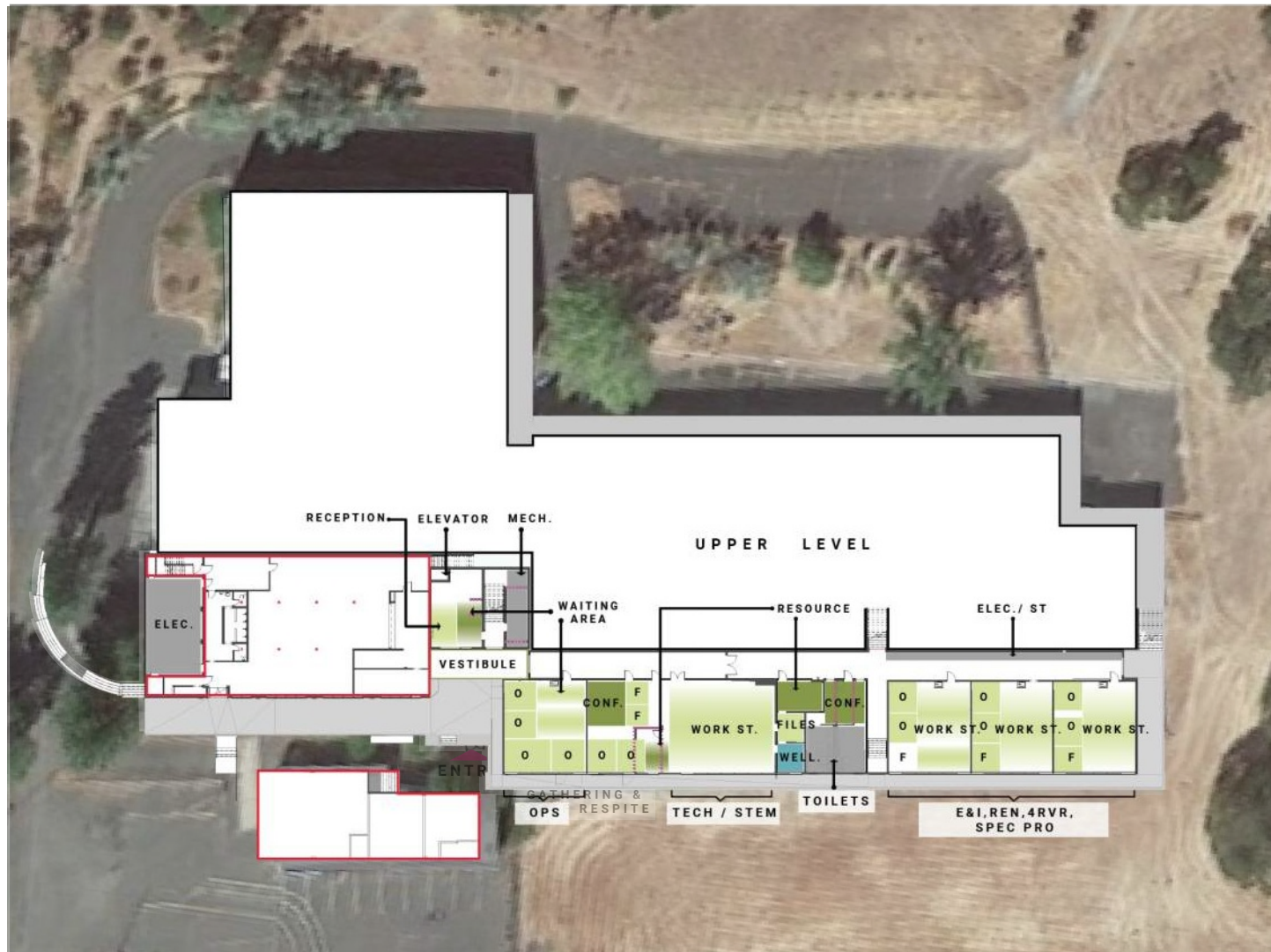
*Program Note: GSF includes 800 SF addition at entry**

Project Definition Approach

Shared front door welcoming community to centralized gathering spaces



- Vertical Connection
- Existing Gym / Gross Motor Room
- Early Learning
- Specialist
- Family Support
- ESD / ELC
- Food Services
- Bldg. Services/Storage
- Elevator
- Stairs







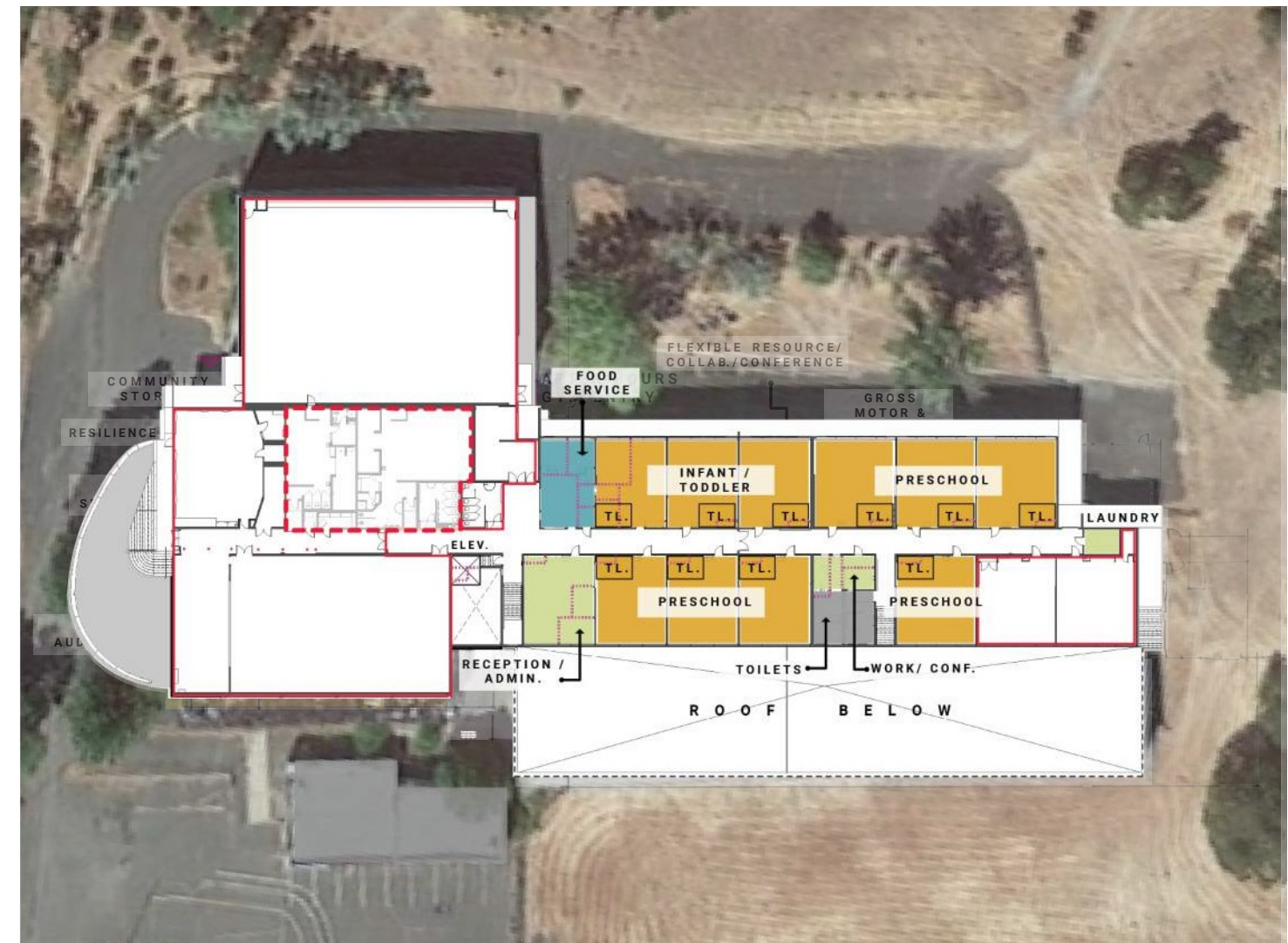
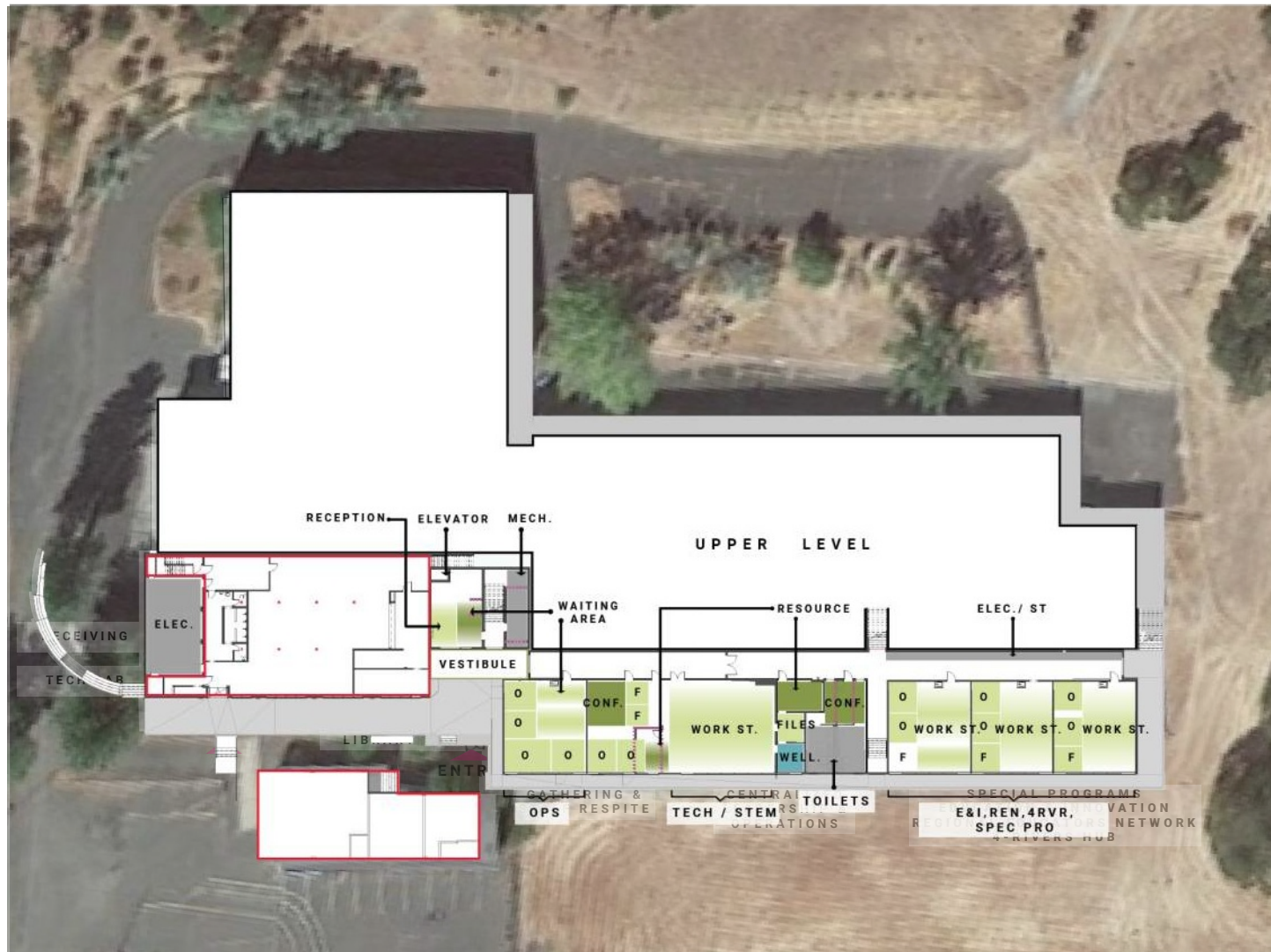
Project Definition Approach

Shared front door welcoming community to centralized gathering spaces
 8 Preschool Classrooms / 4 Infant-Toddler Classrooms
 Multiple Flexible Resource Spaces (Gross Motor/ Intervention)
 Resources distributed with open work/collaboration
 Centralized leadership and operations



centralized
workplace

- Vertical Connection
- Existing Gym / Gross Motor Room
- Early Learning
- Specialist
- Family Support
- ESD / ELC
- Food Services
- Bldg. Services/ Storage
- Elevator
- Stairs





site approach

Project Definition Approach









AGENDA STAFF REPORT

AGENDA LOCATION: Item #9A-C

MEETING DATE: July 22, 2024

TO: Honorable Mayor and City Council

FROM: Amie Ell, City Clerk

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

- A. **ITEM:** Approval of the July 8, 2024 Regular City Council meeting minutes.

BUDGET IMPLICATIONS: None.

SYNOPSIS: The minutes of the July 8, 2024 Regular City Council meeting have been prepared and are submitted for review and approval.

RECOMMENDATION: City Council review and approve the minutes of the July 8, 2024 Regular City Council meeting minutes.

- B. **ITEM:** A Resolution Concurring with the Mayor's Appointments to the Beautification & Tree Committee

BUDGET IMPLICATIONS: None

SYNOPSIS: The Mayor has met with the applicants and recommends appointments.

RECOMMENDATION: City Council concurs with the Mayor's Appointments to The Beautification & Tree Committee; and approves Resolution No. 24-019.

C. **ITEM:** Vehicle Surplus

BUDGET IMPLICATIONS: The intent of the surplus is to trade in the vehicles on purchase of new vehicles and thereby reduce the overall expenditure needed for the replacement. Funds for the purchase of the new vehicles are in the adopted FY24/25 Budget.

SYNOPSIS: 1985 Bobcat Loader, Serial Number 5019M20275
2021 Ford Explorer, VIN 1FM5K8AW5MNA07273

The Bobcat is a General Services vehicle and the Explorer is a Police Department vehicle. Both will be traded in.

RECOMMENDATION: Approve surplus of vehicles.

MINUTES

CITY COUNCIL MEETNG
COUNCIL CHAMBER, CITY HALL
JULY 8, 2024
5:30 p.m.

VIA ZOOM/ IN PERSON

PRESIDING: Mayor Richard Mays

COUNCIL PRESENT: Darcy Long, Tim McGlothlin, Rod Runyon, Scott Randall, Dan Richardson

STAFF PRESENT: City Manager Matthew Klebes, City Attorney Jonathan Kara, City Clerk Amie Ell, Public Works Director Dave Anderson, Police Chief Tom Worthy, Finance Director Angie Wilson, Community Development Director Joshua Chandler, Human Resources Director Daniel Hunter, Executive Assistant Abby Jara

CALL TO ORDER

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

ROLL CALL OF COUNCIL

Roll Call was conducted by Executive Assistant Abby Jara. Long, McGlothlin, Runyon, Randall, Richardson, Mays present.

PLEDGE OF ALLEGIANCE

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

APPROVAL OF AGENDA

City Attorney Jonathan Kara noted the removal of the Executive Session item from the agenda.

It was moved by Randall and seconded by Long to approve the agenda as amended. The motion carried 5 to 0, Randall, Long, McGlothlin, Richardson, Runyon voting in favor; none opposed

AUDIENCE PARTICIPATION

There was none.

CITY MANAGER REPORT

City Manager Matthew Klebes reported;

- Community survey for input on Tourism & Transient Room Tax (TRT) funds was open.
- Strategic Investment Plan (SIP) survey closed on July 5th will report data at SIP work session.
- Local Government Academy (LGA) for Fall 2024 will be live on the City's website on July 15th. Applications due August 9th.
- Security Camera Registration program allowed citizens to register personal security cameras with the Police Department to help officers locate cameras after an incident has occurred. Business cards available at the City Manager's office.
- The Dalles Disposal would be shifting their schedule to 5:00 am due to the heat wave; if a constituent missed, they would provide additional pick up at no charge.
- Cooling Shelter operations at the Gloria Center, would operate through Wednesday; with day by day assessments as the weather changes. They would also provide water snacks, hygiene, and first aid items. Updated emergency shelter and other updates could be found on their website and Facebook page.

CITY COUNCIL REPORTS

Councilor Runyon reported;

- Met with City Attorney
- Met with City Manager
- Citizen concern on proposed Wi-Fi project, referred him to the City Manager

Councilor Richardson reported;

- Nothing to report

Councilor Randall reported;

- Attended Historic Landmarks Commission meeting on June 26th where Ann Moorhead presented on the Waldron Drugstore Light Projector project completion and Tony's building site public survey results.
- Participated on the 4th of July parade

Councilor Long reported;

- Attended Community Outreach Team (COT) meeting where she gave update on the Wi-Fi project. COT will be going to Washington DC in September Long would attend to represent the City.
- Met with the City Manager.

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Councilor McGlothlin reported;

- Attended State Eagle Convention.
- Airport System Development meeting; they discussed creating plans to ensure fair development of water, sewer, and internet connectivity services. They will abandon the term SDC (System Development Charge) and instead implement a usage-based fee structure to share the expenses.
- Houselessness meeting.
- Airbnb issues on Scenic Drive, no incident. Nothing to report.
- Attended the 4th of July parade.

Mayor Mays reported;

- Attended Wildfire Open House at the Readiness Center.
- Visited the new Farmstand Grocery Store and encouraged everyone to stop by.
- Thanked Councilor McGlothlin for stepping in for him while he was in Japan.

CONSENT AGENDA

McGlothlin requested a clerical correction on the June 24th minutes.

It was moved by McGlothlin and seconded by Randall to approve the Consent Agenda as amended. The motion carried 5 to 0, McGlothlin, Randall, Long, Runyon, Richardson voting in favor; none opposed;

Items approved on the consent agenda were: 1) The minutes of the June 24, 2024 Regular City Council Meeting.

CONTRACT REVIEW BOARD

Authorization to Award Annual Water Treatment Chemical Supply Contract

Public Works Director Dave Anderson reviewed the staff report.

Richardson asked how long the city has been using ACH as a main coagulant, ballpark.

Anderson responded since about 2008-09.

Runyon asked if down the line it would put them in trouble because of the amount of funds taken.

Anderson responded funds were budgeted for this purchase. The only question was what bids would come in at.

McGlothlin asked what happened to the aluminum chlorohydrate after it was clumped together and filtered out.

Anderson responds it becomes part of the particle that gets filtered out.

It was moved by McGlothlin and seconded by Richardson to authorize the award of Contract No. 2024-007 for the purchase of aluminum chlorohydrate (ACH) to Brentagg Pacific Inc. in an amount not to exceed \$120,000.00. The motion carried 5 to 0, McGlothlin, Richardson, Randall, Runyon, Long, voting in favor; none opposed;

ACTION ITEMS

Authorizing the City Manager to Execute Participation Form and All Other Necessary Documentation for the Kroger Co. National Opioid Settlement

City Attorney Jonathan Kara presented the staff report.

McGlothlin asked what the basis of the settlement was.

Kara responded the basis of the settlement with Kroger and all other pharmaceutical distributors (i.e., Rite Aid, Walmart, Teva) were all the same. The argument the State Attorney General had made was the pharmacies did not do enough to prevent the opioid crisis and they played a role by taking lax measures in ensuring the prescriptions they filled were valid. He gave the example that if somebody had come in on a Monday and filled a prescription for 20 Oxycontin pills produced by Purdue Pharma, then they came in again on Tuesday and filled the same prescription but by a different doctor, instead of flagging it for authorities the pharmacies thought they needed to fill the prescription or one of their competitors would.

Mays said if Kroger was expected to pay 1.2 billion and it was said earlier the more cities and counties participate the more, they'll get. It seemed to him it would be the opposite, as more cities and counties would be dividing up a finite number.

Kara responded the 1.2 billion mentioned in the staff report was a theoretical maximum assuming full participation of the Oregon jurisdictions. It would be less than the amount if fewer than the maximum number of Oregon jurisdiction participated.

Mays asked if the 1.2 billion just went to Oregon.

Kara said no, it was the total. Previous settlements with Johnson & Johnson, were by far the largest at 17 billion dollars. This one was 1.2 billion, smaller, but a ludicrous number. The toll of the opioid epidemic in the United States had been a ludicrous toll.

It was moved by Long and seconded by Randall to authorize the City Manager to execute the Participation Form and all other necessary documentation for the Kroger national opioid settlement. The motion carried 5 to 0, Long, Randall, McGlothlin, Runyon, Richardson voting in favor; none opposed;

Adopting Resolution No. 24-016, A Resolution Prescribing the Updated City Council Rules and Code of Conduct Policy

City Attorney Jonathan Kara presented the staff report.

Runyon said they should not approve this tonight, it should be delayed for another meeting. The items he asked to review for changes were;

- On page 3 section C the approval and vote of council for approval of vacation of 30 days or more should be reviewed.
- On page 47, relating to serving as Mayor pro tem, it stated they ‘may vote’ and it should be changed to reflect that council president shall vote.

Klebes said on page 47, 2.A.5 (Council President Powers and Duties) in the last sentence they could strike out the word ‘may’ as a fix.

Long said she missed the City Attorney’s email regarding the deadline to return comments on council rules and asked if they could not vote on this tonight. She would like more time to review the changes.

Kara said one of the council alternatives, alternative number 3, was to decline action and provide staff additional direction. He asked Runyon if he would rather have it say “shall” still vote as opposed “may” still vote on page 47.

Runyon responded “still” votes, would be more effective. He asked to leave out the word ‘may’ and add the letter ‘s’ to word ‘vote.’

Kara said sure. He then said on the ‘vacancy’ issue, he clarified when Runyon said “it wasn’t a charter issue,” but it was fact in the charter under section 18.2b. This was copied directly from the charter. Council consent was required based on the charter.

Kara also stated about councilors taking vacations, they could take a vacation but there were also consequences, and this was what the people of the city of The Dalles wanted when they had adopted the charter. He also said it did not mean anything arduous, it said ‘without council’s consent’, council gave its consent handily on the consent agenda at every meeting; this could be one way to go about the vacation issue. Or during a meeting, when the mayor asked the presiding officers if there was any business to come before the city council, this would be another way to inform the council and ask for consent on vacation being taken.

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Mays said since it was going to be delayed, council should give staff direction on what they would like to see changed.

Richardson asked for clarity on the vacancies. He asked if it was currently enshrined in the charter. If it was not something they could take action on, could they strike it out of their rules and it would still remain in effect in the charter.

Kara said that was correct. Everything that was in section 2 of the council rules, page 2-4, could not be changed without amending the charter.

Mays asked if it was necessary to include provisions that were already in the charter. He prefaced when he had first become mayor, he thought it was prudent for city council to pass new rules and one of his objectives was to cut down on the number of pages. He said Runyon and Long were part of that effort.

Runyon said he had worked on both the rules and the charter. He had been directed to only work on a specific area and not the whole charter.

Mays said he brought the reduction of pages up because provisions are already on the charter.

Kara responded it was not required to include the charter requirements in the rules but it was advisable.

Long said she agreed with the city attorney it was nice to have it in one place.

Richardson agreed as well and he was okay with holding off on voting on these rules until the next city council meeting. He said on page 40 of the packet, under public comment rules in section 3D describing the in-person comment he wanted to know if this was something the council and mayor were comfortable enforcing. He stated that sometimes there are people who show up and want to comment at the last minute without identifying themselves. He wanted to know if they were going to make the people identify who they were and if they were a resident of the City.

Mays said he brought this up to Kara and had a problem with it. He said he was not sure why we recently started doing this in the past year.

Runyon said he also had brought this issue up as well.

Richardson said he felt it was not necessary for people to sign in if they wanted to speak. He did believe it was wise for council to insist people who wanted to comment in public on city business at the city council meeting identify themselves.

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Mays said people wouldn't know to contact the City Clerk before noon day of the meeting if they wanted to comment on zoom.

Klebes said the reason for the sign up for virtual option was in direct response to the zoom bombings incidents that had occurred. He said a zoom bombing event had occurred last week at the Wasco County Commission meeting.

McGlothlin asked for clarification on what Klebes commented about the reason for the virtual option.

Klebes clarified regarding the zoom bombings. He said those provisions were put in place to guard against these types of incidents.

McGlothlin said there should be some formality, even when they come to the city council meetings, they identify who the person is and if they're a resident.

Klebes then said in regards to the virtual option on the city's website, where you access our agenda packets, it was noted prominently on the top of the page. The sign-up requirements for the virtual option was noon on Monday that way the city could provide the link to the individual who would like to submit comment.

McGlothlin said number 5 on the agenda gives an open on having the right to speak but they need to identify themselves, in the audience participation section.

Kara mentioned this particular item was handled by the City Clerk, who was not present, the issues that had arisen regarding public comment was the city was required to include the names of the participants of the meeting and their views on a subject in the minutes, as it was a requirement of public meetings law. Having participant sign in ensured names and spelling were correctly recorded in minutes. He said the intent was not to stifle public comment but to organize the city's meetings. When there's a standing room only, it would be helpful to have these rules, with the understanding of not being possible to add new rules on the fly but always possible for a council majority to waive those rules in any given situation. If the direction was to add in an exception provision for the presiding officer, while also maintaining the signup rules and requirements, this can be an acceptable compromise for everyone.

Mays asked Kara how would he word it.

Kara responded keeping it how it currently is and adding the presiding officer has discretion to make exceptions to the deadlines.

Mays asked Kara if the way it would be worded would reflect it would be the Mayor's decision.

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Kara said unless council had anything else to qualify it by.

Long said she thought the reason council wanted to hammer this down is because they were trying to protect themselves legally and if they had the right to waive but don't waive it for someone that was a problem. She said council was discussing this as if someone could come and talk about something with urgency, that was on the agenda but city council did not allow that. It said, in the rules, "not on the agenda" people should know ahead of time, unless they were commenting off someone else coming up and making a comment, city council would not allow back and forth. Long said she did not like the rule that stated people could not talk about anything that was later on the agenda.

Kara said the rules were only applicable to the public comment section on the agenda.

Mays asked if council was going to require people to sign up to talk in person.

Runyon said he didn't have a problem with constituents signing up to speak but he would not eliminate someone for being 2 minutes late. He suggested having a big sign outside the chambers notifying residents intending to speak at the meeting sign up. He was in favor of delaying action on this item to make sure council had time to look at the additional items discussed and give the City Attorney and City Manager time to review and to speak with League of Oregon Cities (LOC).

Mays asked if there were any objections in delaying the council rules. No objections were made.

Klebes mentioned to Council, the next meeting has a full agenda already, no meetings in August, the following City Council meeting will be in September.

Mays said for staff direction, leave it in as is or take it out and put verbiage for the mayor's discretion.

Long said striking 'before the meeting' or residents can speak so they have their names written down correctly, to control the flow.

Kara clarified Long was saying council should strike the provision requiring that sign up be conducted before the presiding officer calls the meeting to order. Having the sign-up sheet available, at the entrance, at least before they submit comment.

Long requested a big sign in the entrance.

Kara suggested having a clipboard on a podium where council could see residents signing up in front of them and collecting it afterwards.

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Mays asked the City Manager to check with the City Clerk to ensure she is on board.

Klebes said he most certainly would. This public comment piece both in person and virtual, the city clerk did substantial outreach with her clerk network around the state around best practices when it comes to public comment.

Mays pointed out on page 49, section A(i), the last sentence stated 'no person is authorized to serve as city manager pro tem more than 6 consecutive months,' and said other cities have gone 6 months without a permanent city manager. If it was in the charter, he understood.

Kara said this was another item to look at for a charter review in the future.

Mays said on page 59, it stated council should not ask people to attend a council meeting to notice a complaint. This was already in the rules but wanted to know how council felt about this item.

Richardson said he would be in favor of striking it. It may be proper for people to go to the city manager first but having it as a rule discouraged people from coming and talking to the council.

Runyon said a resident had come to him to talk about an issue and he had directed them to call City Hall to request a meeting with the City Manager. The job of council was policy not day to day administration. He said it was up to the constituent for a course of action. He did not want to cause a delay by going through different channels for finding solutions and starting on the process.

Richardson said when residents come to a meeting, council directed them to talk to city manager anyway.

Long said she understood councilors were to do this because it would prevent misinformation.

Richardson said to change the word 'shall' to should.

McGlothlin said remove the first sentence and replace it with 'councilors shall refer such matters to the City Manager', if people were not happy with this option, then they could appear at a city council meeting.

Long said it should not be 'shall' because it could be weaponized.

Runyon requested the sentence be written more positive.

McGlothlin said he also had a problem with shall.

Kara said this provision was copied and pasted from their existing rules.

Klebes said council could strike the beginning portion of the paragraph and start with ‘when contacted by citizens about a complaint or question councilors shall encourage citizens to contact the city.’

Mays asked if council agreed with that change.

Councilors agreed.

Mays said on page 61, citizen removal.

Kara said section C & C1 were copied and pasted from the current council rules section 16.2.

Mays said on paragraph C, ‘reasons for removal include missing two consecutive meetings’ and asked if they should add without an excuse.

Kara said no. He would not recommend it.

Mays asked if someone misses two consecutive meetings, could they be removed.

Kara said with subcommittees only meeting once a month, they would have missed a significant amount for the year.

Mays said some subcommittees meet twice a month.

Kara said these were reasons why a mayor could recommend removal to the council. They did not automatically trigger a removal. There were other provisions for the person on the committee to make their case and if they had a compelling reason as to why, then it was something council would look at. He said he would like to give the mayor the authority to have flexibility.

Mays pointed at C1, second sentence, ‘citizen may submit a letter of response.’ Mays asked if there should be a time restraint on this.

Kara said he would clarify that upon the request from the mayor for submitting a letter of resignation from a committee the citizen would be allowed to submit a letter of resignation or a letter of response within 10 days.

Kara said he would target the updated council rules as an agenda item for the first or second meeting in September.

Mays if the reason council did not meet in August was because it was in the rules.

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Kara said it was in the rules.

Long said she would take the opportunity to go through the rule changes and give feedback.

Kara said he welcomed the feedback.

Adopting General Ordinance No. 24-1406, an Ordinance Repealing and Revising Certain Provisions of The Dalles Municipal Code Chapter 1.08 (City Council), Chapter 1.36 (Public Library), and Chapter 11.24 (Enterprise Zone) for Legal Sufficiency

City Attorney Jonathan Kara presented the staff report.

Mays asked the council if they had any questions about the ordinance.

McGlothlin referenced changes to 1.36 020 Library board. He asked if they have had open communications with what they were doing to the agreement and if the board was aware.

Kara responded he did not know.

McGlothlin said it did not affect them, but did affect the relationship with the library board and wanted to ensure there was not an oversight.

Klebes said he had not explicitly contacted the library district as this was a cleanup, particularly since there was now a fourth IGA now and the appointment of the library board was a function of the district itself. It was not in any sense cutting them loose. There was a provision in the municipal code that was not relevant anymore and the fourth IGA would control.

McGlothlin said he recognized the intent. He said because there was some contention with City and library, he would like to see open communication so that knew the changes wouldn't affect them directly.

Klebes said he understood and would reach out to the district to let them know.

Mays asked the audience if they would like to weigh in on the ordinance.

No one commented.

It was moved by Long and seconded by McGlothlin to adopt General Ordinance No. 24-1406 as presented, by title only. The motion carried 5 to 0, Long, McGlothlin, Randall, Long, Richardson Runyon voting in favor; none opposed;

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ADJOURNMENT

Being no further business, the meeting adjourned at 6:31pm

Submitted by/
Abby Jara, Executive Assistant

SIGNED: _____

Richard A. Mays, Mayor

ATTEST: _____

Amie Ell, City Clerk

DRAFT

RESOLUTION NO. 24-019

**A RESOLUTION CONCURRING WITH THE
MAYOR'S APPOINTMENT TO THE BEAUTIFICATION & TREE COMMITTEE**

WHEREAS, there are vacant positions on Beautification & Tree Committee, and

WHEREAS, the Mayor has elected to appoint Chuck Gomez and Jon Chavers to the
Beautification & Tree Committee.

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

Section 1: The City Council concurs with the appointment of:
Chuck Gomez and Jon Chavers to the Beautification & Tree Committee; with term expiring October
31, 2027.

Section 2. This Resolution shall be effective July 22, 2024.

PASSED AND ADOPTED THIS 22nd DAY OF JULY, 2024.

Voting Yes, Councilors: _____
Voting No, Councilors: _____
Absent, Councilors: _____
Abstaining, Councilors: _____

AND APPROVED BY THE MAYOR THIS 22nd DAY OF JULY, 2024.

SIGNED:

ATTEST:

Richard A. Mays, Mayor

Amie Ell, City Clerk



AGENDA STAFF REPORT

AGENDA LOCATION: Item #10A

MEETING DATE: July 22, 2024

TO: Honorable Mayor and City Council

FROM: Joshua Chandler, Community Development Director

ISSUE: APL 36-24, an appeal of Planning Commission Resolution No. P.C. 622-24, approving Conditional Use Permit No. 212-24 (Chris Hodney) for a mixed-use, multi-family development in the CBC zone district with a maximum building height of 60 ft.

BACKGROUND:

Appeal

At its June 6, 2024, regular meeting, the Planning Commission (**Commission**) approved Conditional Use Permit No. 212-24 (**Application**) submitted by Chris Hodney (**Applicant**). The Application proposed a mixed-use, multi-family development with a maximum building height of 60 ft. The Central Business Commercial (**CBC**) zone district implements a development standard for Building Height: the maximum allowed building height standard in the CBC zone is *55 ft., except developments may reach up to 75 ft. with a conditional use permit (CUP)*. The Application also requests an extension of the one (1) year expiration of the CUP to three (3) years. Because the site plans submitted with the Application indicate a proposed development height of 60 ft., the Community Development Department (**CDD**) provided the Application to the Planning Commission for its review through the conditional use permit process.

On June 17, 2024, Dan Meader (**Appellant**) submitted and CDD received Notice of Appeal No. 36-24, a Notice of Appeal for the Planning Commission's decision to approve CUP 212-24, (**APL 36-24**).

Appeal Issues

APL 36-24 describes two (2) reasons the City Council should grant the appeal request and reverse the Planning Commission’s previous decision:

1. *the “bias” the staff and Planning Commission exhibited during the course of the [June 6, 2024, Planning Commission] Hearing [of CUP 212-24]; and*
2. *the City is using the wrong process to allow this project to move forward. The Land Use Action required in this instance requires a Variance and cannot be allowed to move forward with a Conditional Use Permit with no standards.*

Scope of Review

A copy of Appellant’s Notice of Appeal is attached to and made part of this staff report. Pursuant to TDMC 10.3.020.080(A), an appeal is reviewed by the City Council at a hearing that allows for: (1) the introduction of additional evidence on issues raised at a lower level and included in the Notice of Appeal; and (2) arguments or testimony based on those issues. Accordingly, tonight’s quasi-judicial hearing does not allow (1) new issues to be raised or (2) evidence, arguments, or testimony to be presented on issues not raised in the Notice of Appeal.

Staff response to Appeal Issues

Bias

Appellant’s first reason for reversing the Planning Commission’s decision is the claim that staff and the Planning Commission were biased at the June 6, 2024, Planning Commission hearing on CUP 212-24. Appellant offers no actual evidence of any such bias in their Notice of Appeal and instead indicates they “[wi]ll speak directly to that issue when the time comes.” As a threshold matter, while Appellant did include their claim of bias in the Notice of Appeal, Appellant did not raise the issue of bias at the Planning Commission level as is required by TDMC 10.3.020.080(A). Accordingly, the City Council is not required to consider that portion of the Appeal in reaching its decision tonight.

If Council would like to nevertheless consider Appellant’s bias claim, it is important to understand how the issue of bias is addressed in Oregon land use decision-making. The Oregon Land Use Board of Appeals (**LUBA**) will reverse or remand a City’s decisions if there is substantial evidence in the record that clearly demonstrates the public officials charged with making the City’s final decision were incapable of making an objective decision based on the evidence and argument presented. Actual bias means prejudice or prejudgment of the parties or the application to such a degree the decision-maker is incapable of being persuaded by the facts to vote another way. Bias can include personal bias against the development project or the parties to the proceedings.

A biased decision-maker substantially impairs a party’s ability to receive a full and fair hearing. Bias can be in favor of or against the party or the application. Presumably, Appellant is suggesting staff and the Planning Commission exhibited bias in favor of either the party or the application, but the Notice of Appeal does not contain sufficient information for staff to reach that conclusion with certainty. Moreover, because staff is not the decisionmaker in this case, whether it has bias for or against the project or a party is irrelevant. LUBA and the court will only review a decision for whether the City’s “final” decisionmaker was biased.

Assuming Appellant's claim is focused on staff's or the Planning Commission's bias in favor of the Applicant/Application (as opposed being against the Applicant/Application), Appellant offers no evidence to suggest any bias. Actual bias strong enough to disqualify a decision-maker must be demonstrated in a clear and unmistakable manner. The burden of showing bias rests with the person challenging the decision (i.e., Appellant in this instance). Absent such a showing, the record contains no basis for Council to find staff or Planning Commission bias here.

Without any other information from Appellant as expressed in their Notice of Appeal, staff does not recommend Council reverse the Planning Commission decision on the basis of bias. Generally, under Oregon land use law:

- General expressions of opinion by staff, Planning Commissioners, or City Councilors is insufficient to demonstrate bias;
- Staff's, Planning Commissioners, or City Councilor's mere association with membership of an organization is insufficient to demonstrate bias;
- Staff, Planning Commission, or City Council adopting an applicant's proposed findings in support of a land use decision is insufficient to demonstrate bias; and
- Friendship with the applicant is insufficient to demonstrate bias.

None of the above appear to be implicated here but are included to provide Council an idea of how its decision-making is viewed with respect to bias.

Finally, please note that because bias only applies to the "final" decisionmaker, only the City Council's bias can provide a grounds for LUBA's reversal or remand of a land use decision, and the Appellant has not identified any bias among the members of the City Council.

Procedural Error

Appellant's second reason for reversing the Planning Commission's decision is the claim that the City followed the wrong procedure when it reviewed the Application and the subsequent approval by the Planning Commission. The Notice of Appeal claims that the variance process should be followed instead of the CUP process the Planning Commission followed.

Appellant's argument, as expressed in the Notice of Appeal, is (1) the CUP process has no standards, (2) there is no way to quantify what the Applicant's needs are, (3) the City would be hard-pressed to deny such requests in the future, and (4) this "phony conditional use needs to be removed from the City Code." Staff does not fully understand Appellant's argument—(1) the CUP process has standards, (2) the Applicant's needs are quantified, (3) the City Council intentionally adopted the relevant City Code followed here to allow precisely what the Application seeks the Planning Commission approved, and (4) whether the height allowance for a conditional use in the CBC zone should be removed from the code is a legislative decision. Unless and until the code is amended, the City is required to apply the code in effect on the date the Application was submitted.

First, the CUP process has standards. The application review procedures applicable to CUPs is codified as TDMC Article 10.3.050 (*Conditional Use Permits*); specifically, TDMC 10.3.050.040 (*Review Criteria*), Section B (*Standards*) provides the standards applicable to this Application and as the below findings indicate.

Second, there is a way to quantify precisely what the Applicant's needs are: based on submitted and approved site plans, Applicant seeks to develop a mixed-use, multi-family development in the CBC zone district with a building height of 60 ft. It is unclear how the review process implemented in that proposed development's approval impacts the City's assessment of the Applicant's needs.

Third, Appellant suggests the City's interests are served by denying the Application because the City would be hard-pressed to deny similar requests in the future. Appellant overlooks the CUP process implemented here was specifically contemplated by the City Council when it approved Zoning Ordinance Amendment 79-11 (**ZOA 79-11**) after a legislative public hearing on July 25, 2011—that hearing was noticed on July 6, 2011, as the City Council's consideration of an amendment to the City's Land Use and Development Ordinance (**LUDO**) "to allow structures in the CBC district to be as tall as 75 feet, with a conditional use permit." Former Senior Planner Dick Gassman provided the staff report for ZOA 79-11 and it was presented to Council by former City Manager Nolan Young. Copies of that staff report and other documentation connected with ZOA 79-11 are attached to and made part of this staff report, and the "Discussion" section of that 2011 staff report provides:

The proposed amendment would allow taller buildings in the downtown area, if a conditional use permit is obtained. The reason for the taller buildings is to allow denser development in the core area. The conditional use permit requirement is to give the City the ability to review such issues as the requested height, parking, design, and other architectural features.

ZOA 79-11 took shape in connection with the proposed Rapoza development, a previously proposed development from 2011. There, the applicant reached out to the City with questions connected with the required process to develop a property located in the CBC zone district above 55 ft. Former CDD Director Dan Durow responded to that applicant with two (2) options: the applicant could explore a variance or the City could explore amending the LUDO to allow developments in the CBC zone district with building heights over 55 ft. through the CUP process. The applicant there informed the City their preference would be for the City to amend the LUDO to allow their development through the CUP process. CDD, the Planning Commission, and the City Council agreed and approved ZOA 79-11 to facilitate that development (which ultimately never materialized). Accordingly, the City Council's adoption of the ordinance codifying ZOA 79-11 was intended to be applied to developments similar to the Application's mixed-use, multi-family development here.

Fourth, Appellant's personal opinion the "phony conditional use" must be removed from the LUDO does not provide a basis to reverse the Planning Commission's decision. Even if Council agrees that the height allowance in the CBC zone should be removed, the City cannot do so in the context of a quasi-judicial land use application like this one. Under state law, specifically the "Goal Post Rule" in ORS 227.178(3)(a), the City must approve or deny an application based on the standards that were in effect on the date the application was submitted. Thus, a legislative amendment to the development code to remove the height allowance in the CBC zone could only be applied to an application submitted after that date. If Council would like to explore removing this provision from the LUDO going forward, the appropriate approach would be to direct staff to coordinate

a LUDO text amendment consistent with TDMC 10.3.110 (*Ordinance Amendments*) reflecting that change. Until then, the City must apply the current code as written.

A variance from the LUDO's standards may be granted whenever the strict application of a LUDO requirement would impose difficulties on the applicant or unnecessary hardships on properties seeking development. Variances are reviewed consistent with the provisions of TDMC 10.3.070 (*Variances*) as quasi-judicial actions when a proposed development does not meet City standards as expressed in the LUDO. Here, the variance process would not be appropriate because the Application meets City standards—the maximum building height development standard here is codified at TDMC 10.5.050.060 (*Development Standards*) and provides the maximum building height is “55 ft., except 75 ft. maximum with a conditional use permit.” Since the Application proposes a 60 ft. building, the Application complies with this standard and the Planning Commission's decision to approve a CUP authorizing the 60 ft. development is consistent with TDMC 10.5.050.060.

Conclusion

Appellant presents no other arguments in the Notice of Appeal. Appellant's bias argument should not be a factor in Council's decision-making tonight because it was not raised at a lower level (as is required by TDMC 10.3.020.080(A)); however, even if Council considered it, no evidence of staff or Planning Commission bias exists in the record. Because no evidence of bias exists in the record and because the City correctly followed the CUP process as expressly intended by Council, staff recommends Council deny APL 36-24 and affirm the Planning Commission's approval of the Application. Moreover, because the City Council is the final decisionmaker, any bias by the Planning Commission does not provide a basis to deny the Application. Finally, because the proposed 60-foot building height is less than 75 feet, the proposal complies with TDMC 10.5.050.060 and a variance is not required.

Process

Applicant submitted a pre-application (**Site Team**) request on April 9, 2024; the meeting was held on April 25, 2024. Following the Site Team meeting, the City provided the Applicant meeting notes on April 29, 2024, and informed the Applicant the Application must be processed as a quasi-judicial land use action pursuant to TDMC 10.5.050.060 because the submitted site plans indicate a development height exceeding 55 ft. The Applicant proceeded to submit the Application and associated fee on May 6, 2024. The Application was deemed complete on May 14, 2024.

REQUEST:

Applicant is requesting approval for a mixed-use, multi-family development with a maximum building height of 60 ft. in the CBC zone district. The applicant is also requesting an extension of the one (1) year expiration of the Conditional Use Permit (CUP) to three (3) years. The property is addressed **523 East 3rd Street** and is depicted in Assessor's Map No. 1N 13E 3 BD as Tax Lots 6700, 6800, and 6900.

NOTIFICATION:

Property owners within 300 feet, City Departments, and Franchise Utilities.

COMMENTS RECEIVED:

No comments received as of the date this staff report was published.

REVIEW CRITERIA:

I. City of The Dalles Municipal Code, Title 10 Land Use and Development

Section 10.3.020.080 Appeal Procedures

A. De Novo

FINDING #1: The City Council’s hearing is de novo with respect to any evidence regarding the issues identified in the appeal. That is, the parties can submit any evidence, argument or testimony on the issues identified in the Notice of Appeal. **This criterion met.**

B. Right to Appeal Decisions.

FINDING #2: Appellant is a party of record because they testified at the June 6, 2024, Commission hearing on the Application. **Criterion met.**

C. Filing Appeal.

FINDING #3: On June 17, 2024, Appellant submitted the Notice of Appeal to CDD, which was within 10 days of the Notice of Decision of CUP 212-24. The Notice of Appeal was filed with the CDD during normal business hours and date stamped upon receipt. **Criterion met.**

D. Notice of Appeal.

FINDING #4: TDMC 10.3.020.080(D)(3) provides every notice of appeal shall include the “specific grounds why the decision should be reversed or modified, based on the applicable criteria or procedural error.” The Notice of Appeal describes two reasons why the Appellant should reverse the Planning Commission’s decision. Staff will address the issues raised in the Notice of Appeal regarding applicable criteria of the Code and/or procedural errors. **Criterion met.**

E. Jurisdictional Defects.

FINDING #5: Staff determined no jurisdictional defects exist with the APL 36-24 request. **Criterion met.**

G. Notification of Appeal Hearing.

FINDING #6: Appropriate mailings to property owners within 300 feet and notice to affected departments and agencies were made on June 8, 2024. **Criterion met.**

Section 10.3.050.030 Applications

A. Applications.

FINDING #7: Digital copies of all required plans have been submitted. Staff determined no paper copies are required at this time. **Criterion met.**

B. Review.

FINDING #8: See Finding #3. The Applicant is proceeding with a Site Plan Review (SPR) to site and construct the development concurrently with this CUP

application; however, the SPR approval is conditional on the approval of CUP 212-24. **Criterion met.**

C. Concept Review

FINDING #9: Applicant is requesting the two-stage CUP concept process for initial review of the building height increase. Upon approval of CUP 212-24, the Applicant will continue with SPR to site and construct the development.

Criterion met.

Section 10.3.050.040 Review Criteria

A. Permitted Conditional Use. The proposed use is conditionally permitted in the zone district where it is proposed to be located.

FINDING #10: Pursuant to TDMC 10.5.050.060, the maximum building height within the CBC zoning district is 55', or 75 ft. with a CUP. As mentioned in Finding #9, Applicant is requesting the two-stage CUP concept process for initial review of the building height increase. **Criterion met.**

B. Standards. The proposed use conforms to all applicable standards of the zone district where the use is proposed to be located. The proposed use will also be consistent with the purposes of this Title, and any other statutes, ordinances, or policies that may be applicable.

FINDING #11: All applicable standards of TDMC are addressed within this staff report. **Criterion met.**

A. Impact. The proposed structure(s) and use(s) shall be designed and operated in such a way as to meet the standards of this Article. Impacts caused by the construction of the conditional use shall not be considered regarding a decision on the validation of the application.

1. Noise impacts across the property line shall not exceed 60 decibels. Noise related to traffic impacts shall not be included in this determination. Nothing in this Article shall modify other noise ordinance standards as adopted by the City.

FINDING #12: The proposed site uses are not expected to generate noise exceeding 60 decibels. However, routine testing and maintenance of a diesel generator will reach levels close to 60 dB. To address this, the generator is placed within a roofed enclosure set back from the alley and Jefferson Street right-of-way. Furthermore, an exhaust muffler will be installed to reduce noise to permissible levels. Staff determined the increased height would have no impact on noise levels. **Criterion met.**

2. Lighting impacts across the property line shall not exceed 0.5 foot-candles (a foot-candle is the amount of light falling upon a 1-square-foot surface which is 1 foot away from a 1-candlepower light source.)

FINDING #13: Staff will review impacts from lighting associated with the proposed development during the concurrent SPR application. A condition of approval of this CUP will require lighting impacts across the property line shall not exceed 0.5 foot-candles (a foot-candle is the amount of light falling

upon a 1-square-foot surface which is 1 foot away from a 1-candlepower light source) to be demonstrated prior to SPR approval. **Criterion met with condition.**

3. *Dust and other particulate matter shall be confined to the subject property.*

FINDING #14: Dust and other particulate matter shall be confined to the subject property. Staff determined the increased height would not produce dust or particulate matter. **Criterion met.**

4. *The following odors shall be completely confined to subject property:*
 - a. *Industrial and/or chemical grade chemicals, solvents, paints, cleaners, and similar substances;*
 - b. *Fuels; and*
 - c. *Fertilizers, manure, or other animal waste products, other than for landscape installation and maintenance.*

FINDING #15: Staff determined the increased height would not produce any of the above mentioned odors. **Criterion met.**

5. *Vibrations shall not be felt across the property line.*

FINDING #16: Staff determined the increased height would not create vibrations felt across the property line. **Criterion met.**

6. *The transportation system is capable, or can be made capable, of supporting the additional transportation impacts generated by the use. Evaluation factors shall include, but are limited to:*
 - a. *Street designation and capacities;*
 - b. *On-street parking impacts;*
 - c. *Bicycle safety and connectivity;*
 - d. *Pedestrian safety and connectivity; and*

FINDING #17: The increased height does not directly impact transportation systems. Staff will review impacts to the transportation system associated with the proposed development during the concurrent SPR application. **Criterion met.**

7. *In areas designated as Historic Districts, proposed development and redevelopment shall first require review and approval of the Historic Landmarks Commission in accordance with the procedures of Chapter 11.12 - Historic Resources.*

FINDING #18: The proposed use is not located in a historic district. **Criterion not applicable.**

Section 10.6.090.010 Height Limitation Exceptions

A. General.

3. *In nonresidential zones, except for the requirements of subsection B below, necessary roof structures, elevator shaft housings, towers (except wireless communication towers), steeples, aerials, smoke stacks, solar or wind energy devices, and other similar objects (except flagpoles, which are described below in paragraph 4) not used for human occupancy with a height limit, measured from the adjacent grade, of 75 feet or less are not subject to the zone district height limits...*

FINDING #19: TDMC 10.6.090.010 provides an exception to the underlying zoning district building height limits for necessary structural components of a building not used for human occupancy and measuring less than 75' in height. For consideration of this Application, Applicant demonstrated an overall physical building height of 63'-4" building height, including 3'-4" of "necessary roof structures"; however, Applicant presented the building height as 60' for purposes of areas *used for human occupancy*. Staff determined the discrepancy in the two height measurements as negligible and has no impact on the CUP review criteria listed within this staff report. As mentioned in Finding #10, all buildings within the CBC zoning district may be increased by 20' (from 55' to 75') through the CUP application process. **Criterion met.**

COUNCIL ALTERNATIVES:

1. **Staff recommendation:** *Move to direct staff to prepare a resolution denying the appeal and affirming the approval of Conditional Use Permit No. 212-24 as set forth in Planning Commission Resolution No. PC 622-24, based upon the findings of fact and conclusions of law set forth in the Agenda Staff Report.*
2. If Council desires to affirm the Planning Commission's decision based upon additional findings and conclusions, or with different conditions of approval, move to direct staff to prepare a resolution denying the appeal and affirming the Planning Commission's approval of Conditional Use Permit No. 212-24 as set forth in Resolution No. P.C. 622-24, based upon the findings and fact and conclusions of law set forth in the agenda staff report, as modified by the Council.
3. If Council desires to grant the appeal, move to direct staff to prepare a resolution granting the appeal, reversing the Planning Commission's decision, and approving the application.

ATTACHMENTS:

A comprehensive list of all attachments pertaining to Appeal No. 36-24 have been provided below.

1. ZOA 79-11, Staff Report and supporting documentation
2. Resolution No. 24-017A
3. Resolution No. 24-017B
4. APL 36-24, Public Hearing Notice
5. APL 36-24, Notice of Appeal
6. CUP 212-24 Notice of Decision

7. PC Resolution No. 622-24
8. Planning Commission minutes, June 6, 2024 (DRAFT)
9. CUP 212-24, Comments
10. CUP 212-24, Staff Report
11. CUP 212-24, Application

CITY of THE DALLES313 COURT STREET
THE DALLES, OREGON 97058(541) 296-5481 ext. 1125
FAX: (541) 298-5490**AGENDA STAFF REPORT**

MEETING DATE	AGENDA LOCATION	AGENDA REPORT #
July 25, 2011	Public Hearings	

TO: Honorable Mayor and City Council**FROM:** Dick Gassman, Senior Planner *DG***THRU:** Nolan Young, City Manager**DATE:** July 25, 2011**ISSUE:** Public hearing for a single amendment to the Land Use and Development Ordinance, Zoning Ordinance Amendment 79-11, to allow taller buildings in the Central Business Commercial zone.**RELATED CITY COUNCIL GOAL:** N/A**PREVIOUS AGENDA REPORT NUMBERS:** N/A**BACKGROUND:**

This matter was heard by the Planning Commission on July 7, 2011. A copy of the staff report for the Planning Commission public hearing is attached. Also attached is a copy of the recommendation of the Planning Commission.

PROPOSED AMENDMENT:

This request would allow buildings in the Central Business Commercial district to extend to 75 feet in height, with the approval of a conditional use permit. The current height limitation is 55 feet.

NOTICE:

Notice of the public hearing was published in The Chronicle on July 10, 2011.

PROCESS:

The Planning Commission heard this matter on July 7, 2011 and has made a recommendation to the Council. The Council will hold a public hearing for consideration and decision. If approved, staff will prepare an ordinance for Council consideration at a later meeting.

DISCUSSION:

The proposed amendment would allow taller buildings in the downtown area, if a conditional use permit is obtained. The reason for the taller buildings is to allow denser development in the core area. The conditional use permit requirement is to give the City the ability to review such issues as the requested height, parking, design and other architectural features.

Staff recommended to the Planning Commission, and the Planning Commission has recommended to the Council the approval of this proposed amendment.

RECOMMENDATION:

Staff recommends that the City Council follow the recommendation of the Planning Commission.

MOTIONS:

1. Recommended Motion. Move to approve the proposed amendment as recommended by the Planning Commission with the findings of facts and conclusions of law as contained in the staff report and to direct staff to prepare an ordinance adopting Zoning Ordinance Amendment 79-11, to be presented at a future City Council meeting.
2. Alternative Motion. Move to deny Zoning Ordinance Amendment 79-11, and state the reasons for the denial.

RESOLUTION NO. P.C. 511-11

Recommending approval of Zone Change Ordinance #79-11, proposing a change to a height limitation on buildings in the CBC-Central Business Commercial District from a maximum of 55 feet to 75 feet with a Conditional Use Permit.

WHEREAS, on July 7, 2011, the Planning Commission of the City of The Dalles conducted a public hearing to consider a request for approval of Zone Change Ordinance #79-11; and

WHEREAS, the Planning Commission has considered the public testimony, and reviewed the proposed legislative amendment, and has considered the information in the staff report, including proposed findings of fact and conclusions of law; and


WHEREAS, based upon the information in the staff report, including the proposed findings of fact and conclusions of law, which are hereby incorporated herein by this reference, and the public testimony presented during the public hearing, the Planning Commission voted to recommend that the City Council approve Zone Change Amendment #79-11.

NOW, THEREFORE, THE PLANNING COMMISSION RESOLVES AS FOLLOWS:

Section 1. The Planning Commission recommends that the City Council of the City of The Dalles approve Zone Change Amendment #79-11.

Section 2. The Secretary of the Commission shall (a) certify to the adoption of the Resolution; (b) transmit a copy of the Resolution along with a stamped approved/denied site plan or plat to the applicant.

APPROVED AND ADOPTED THIS 7th DAY OF JULY, 2011.



 Bruce Lavier, Chairman
 Planning Commission

I, Dan Durow, Community Development Director for the City of The Dalles, hereby certify that the foregoing Resolution was adopted at the regular meeting of the City Planning Commission, held on the 7th of July, 2011.

AYES: Lavier, Ahlberg, Zukin, Nelson, Whitehouse, Wimmers

NAYS: Poppoff

ABSENT:

ABSTAIN: *none*


ATTEST: 

Dan Durow, Community Development Director
City of The Dalles

**City of The Dalles
Planning Commission Staff Report**

**Amendment to the
Land Use and Development Ordinance**

ZOA 79-11

Prepared by: Dick Gassman, Senior Planner 

For: City of The Dalles Planning Commission

Procedure Type: Legislative Hearing

Meeting Date: July 7, 2011

Request: Amendment to the Land Use and Development Ordinance

Properties: All properties within the City of The Dalles Central Business Commercial District

Applicant: City of The Dalles
Community Development Department
313 Court Street
The Dalles, OR 97058

BACKGROUND INFORMATION

The Land Use and Development Ordinance (LUDO) is the guiding document for development within the administrative authority of the City. It contains over 450 pages of language on procedural and substantive requirements for land division, property development, and zoning. One of the development standards in each zone is a height limitation. In the downtown area, which is zoned CBC-Central Business Commercial, and in other commercial zones, that height limitation is 55 feet. There is a prospective developer who is interested in building a new hotel in the downtown area and may want to build it higher than 55 feet.

In the existing LUDO the method for obtaining relief from a particular code provision is to request an adjustment or a variance. Neither of these is automatically approved. In order to facilitate development of this kind the City is proposing to amend the height limitation in the CBC to allow for buildings up to 75 feet in height, but for those over 55 feet, a conditional use permit would be required. This is the only proposed amendment.

This application is a legislative action under the provisions of Section 3.110.020 and 3.020.060(A)(2). The role of the Planning Commission is to review the proposed amendment, amend as needed, and forward a recommendation to the City Council. The final decision on the proposed amendment will be made by the City Council.

NOTIFICATION

Notice of this public hearing was published in The Dalles Chronicle on June 26, 2011.

COMMENTS

As of the date of the preparation of this staff report, no comments were received.

REVIEW

A. LAND USE AND DEVELOPMENT ORDINANCE 98-1222

1. PROCEDURE

a. Section 3.010.040 Applications:

FINDING A-1: This application is initiated by the Director pursuant to the provisions of Section 3.010.040 F.

b. Section 3.020.060 Legislative Actions:

Subsection A. Decision types. 2. Ordinance Amendments:

FINDING A-2: This application is for a single Ordinance Amendment per Section 3.110.

Subsection B. Public Hearings. The Commission shall hold at least one legislative public hearing to review applications for legislative actions and, by duly adopted resolution, make a recommendation to the Council to approve, approve with conditions, or deny the request.

FINDING A-3: The public hearing has been set for July 7, 2011.

d. Section 3.020.060 Legislative Actions:

Subsection C. Notice of Hearing. At least 10 days before the legislative hearings, notice of the hearing shall be published in a newspaper of general circulation.

FINDING A-3: A notice of hearing containing the information required was published in The Dalles Chronicle on June 26, 2011.

e. Notice of Hearing as required by ORS 227.186.

ORS 227.186 requires that all property owners whose property is rezoned must be provided notice at least 20 days but no more than 40 days prior to the date of the first hearing. For purposes of this provision, rezone includes any change that limits or prohibits uses previously allowed in a zone.

FINDING A-4: Staff has determined that the proposed amendment does not come within the definition of rezone as contained in the statute. Notices to individual property owners were not required.

f. Section 3.020.070(A)(3) Staff Report.

A staff report shall be presented which identifies the criteria and standards applying to the application and summarizes the basic findings of fact. The staff report may also include a recommendation for approval, approval with conditions, or denial.

FINDING A-5: The staff report has identified the criteria and standards as they relate to this application and has summarized the basic findings of fact. The staff report does include a recommendation for approval.

2. REVIEW

a. Section 3.110.030 Review Criteria

Proposed text amendments shall be consistent with the Comprehensive Plan, and State Laws and Administrative Rules.

FINDING A-6: The City of The Dalles has broad discretion to adopt zoning textual changes. The proposed amendment is consistent with the Comprehensive Plan, State Laws, and Administrative Rules.

B. COMPREHENSIVE PLAN

1. Goal #1. Citizen Involvement. To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.

Policy 3. The land-use planning process and policy framework shall include opportunity for citizen input as a part of the basis for all decisions and actions related to the use of land.

FINDING B-1: This proposal is consistent with goals and policies of the Comprehensive Plan. A notice of public hearing has been published and the public has an opportunity to provide testimony on the proposed change to the Commission. The Commission can make alterations in the proposed amendment based on testimony at this hearing. There will be another public hearing before the City Council and that body will also have the opportunity to consider testimony from citizens and make changes.

2. Goal #2. Land Use Planning. To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.

Policy 6. Implement this Plan through appropriate ordinances and action. Implementing measures shall be developed to allow administrative review and approval authority.

FINDING B-2: This amendment adds additional flexibility to development in the CBC District. There is nothing about this amendment that is contrary to the Comprehensive Plan.

DISCUSSION

The actual proposed language would amend the Building Height standard for the CBC District, found in LUDO Section 5.050.050 Development Standards. The current language simply says “55 ft. maximum.” The proposed new language would read as follows: “55 ft. maximum **except 75 ft. maximum with a conditional use permit.**” This language change would allow development to be over the existing height limitation, but would allow the City to have some control so that adverse effects might be mitigated. A proposal over the 55 foot level would be required to obtain a conditional use permit through the usual process which includes notice to surrounding property owners and a public hearing in front of the Planning Commission.

STAFF RECOMMENDATION

Staff recommends that the Planning Commission recommend to the Council the approval of the amendment as written above in the DISCUSSION paragraph, with any additional changes from the Commission.

as 7/2/11

AGENDA ITEM REQUEST

NAME: Richard Gassman **DATE:** 6-29-11

INVOLVED DEPARTMENT(S): CDD

RESPONSIBLE FOR AGENDA STAFF REPORT: Richard Gassman

PROPOSED MEETING DATE: July 25, 2011

TOPIC: Land Use and Development Ordinance amendment for height in Central Business Commercial District.

RECOMMENDED ACTION: Hold hearing, decide on amendment.

List interested parties, with mailing addresses, and whether the party should receive an agenda only or agenda and copy of particular staff report.

<u>NAME</u>	<u>ADDRESS</u>	<u>Agenda Only</u>	<u>Agenda/Staff Report</u>
_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	_____	<input type="checkbox"/>	<input type="checkbox"/>

DEADLINE: As per Council Rules, agenda items (with Agenda Staff Report and pertinent information) must be submitted **no later than** Wednesday, 5:00 p.m., 10 days prior to the scheduled meeting. Late requests will be scheduled for the next available meeting.

Approved by: _____ Date: _____

Scheduled for _____ Council meeting

- | | |
|--|--|
| <input type="checkbox"/> Presentation/Proclamation | <input type="checkbox"/> Action Item |
| <input type="checkbox"/> Consent Agenda Item | <input type="checkbox"/> Discussion Item |
| <input type="checkbox"/> Public Hearing Item | <input type="checkbox"/> Executive Session |
| <input type="checkbox"/> Contract Review Board | |

**City of The Dalles
Planning Commission Staff Report
Amendments to the
Land Use and Development Ordinance
Zoning Ordinance Amendment 79-11**

Prepared by: Dick Gassman, Senior Planner
Procedure Type: Legislative
Decision Date: July 7, 2011
Request: Amendment to the Land Use and Development Ordinance
Properties: All properties within the Central Business Commercial District
Applicant: City of The Dalles
Community Development Department
313 Court Street
The Dalles, OR 97058

BACKGROUND INFORMATION

The Land Use and Development Ordinance (LUDO) contains limitations on height of structures in all zoning districts. In the downtown business district the limitation is 55 feet. In order to allow for structures over 55 feet in height, the City is proposing to amend the LUDO to allow structures in the CBC district to be as tall as 75 feet, with a conditional use permit. This is the only proposed amendment for this hearing.

This application is a legislative action under the provisions of Section 3.110.020 and 3.020.060(A)(2).

NOTIFICATION

Notice of this public hearing was published in The Dalles Chronicle on June 20 and June 27, 2011.



Zoning Ordinance Amendment 79-11

COMMENTS

As of the date of the preparation of this staff report, no comments had been received.

REVIEW

A. LAND USE AND DEVELOPMENT ORDINANCE 98-1222

1. PROCEDURE

a. Section 3.010.040 E. Applications: A planning application may be initiated by the Director, the Commission, the Council, or at the request of the applicant.

FINDING A-1: This application is initiated by the Director pursuant to the provisions of Section 3.010.040 F.

b. Section 3.020.060 Legislative Actions:

Subsection A. Decision types. 2. Ordinance Amendments:

FINDING A-2: This application is for an Ordinance Amendment per Section 3.110. Criterion met.

Subsection B. Public Hearings. The Commission shall hold at least one legislative public hearing to review applications for legislative actions and, by duly adopted resolution, make a recommendation to the Council to approve, approve with conditions, or deny the request.

FINDING A-3: The public hearing has been set for July 7, 2011. Criterion met.

d. Section 3.020.060 Legislative Actions:

Subsection C. Notice of Hearing. At least 10 days before the legislative hearings, notice of the hearing shall be published in a newspaper of general circulation.

FINDING A-3: A notice of hearing containing the information required was published in The Dalles Chronicle on June 20, 2011. Criterion met.

e. Notice of Hearing as required by ORS 227.186.

ORS 227.186 requires that all property owners whose property is rezoned must be provided notice at least 20 days but no more than 40 days prior to the date of the first hearing. For purposes of this provision, rezone includes any change that limits or prohibits uses previously allowed in a zone.

FINDING A-4: Staff has determined that the proposed amendment does not come within the definition of rezone as contained in the statute. Notices were not required. Criterion met.

f. Section 3.020.070(A)(3) Staff Report.

A staff report shall be presented which identifies the criteria and standards applying to the application and summarizes the basic findings of fact. The staff report may also include a recommendation for approval, approval with conditions, or denial.

FINDING A-5: The staff report has identified the criteria and standards as they relate to this application and has summarized the basic findings of fact. The staff report does include a recommendation for approval. Criterion met.

2. REVIEW

a. Section 3.110.030 Review Criteria

Proposed text amendments shall be consistent with the Comprehensive Plan, and State Laws and Administrative Rules.

FINDING A-6: The City of The Dalles has broad discretion to adopt zoning textual changes. The proposed amendment is consistent with the Comprehensive Plan, State Laws, and Administrative Rules.

B. COMPREHENSIVE PLAN

1. Goal #1. Citizen Involvement. To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.

Policy 3. The land-use planning process and policy framework shall include opportunity for citizen input as a part of the basis for all decisions and actions related to the use of land.

FINDING B-1: This proposal is consistent with goals and policies of the Comprehensive Plan. A notice of public hearing has been published and the public has an opportunity to provide testimony on the proposed changes to the Commission. The Commission can make alterations in the proposed amendments based on testimony at this hearing. There will be another public hearing before the Council and that body will also have the opportunity to consider testimony from citizens and make changes. Criterion met.

2. Goal #2. Land Use Planning. To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.

Policy 6. Implement this Plan through appropriate ordinances and action. Implementing measures shall be developed to allow administrative review and approval authority.

FINDING B-2: This amendment provides flexibility for major developments in the downtown area while maintaining control through the conditional use permit process. Criterion met.

C. DISCUSSION

At the March 6, 2008 joint work session, there was interest in discussing changes in the street standards contained in Section 10.060 J. 6. There is no proposed amendment in the

attached draft ordinance on this issue since it has not yet been determined whether any changes should be made and if so, what those changes should be. The ideas that were brought up at the work session, or have been mentioned at other times, include sidewalks on only one side of the street, no sidewalks on either side of the street, different paving widths for different types of streets, and elimination of the parking strip. Staff is seeking guidance from the Commission on changes to this section. This item will be discussed at the May 1 hearing.

Here are some of the more significant proposed changes.

1. New language to require the portion of the building facing the street to at least have the appearance of a traditional front. See Section 6 of the draft ordinance.
2. Refund of Appeal Fee. New. Provide a method whereby an applicant can request a refund of the appeal fee. Final decision to be made by City Council upon recommendation from City Manager. See Section 7 of the draft ordinance.
3. Airport Approach Zones. New. Adds a new section dealing with restrictions in approach zones. See Section 8 of the draft ordinance.
4. Stop Use Order. New. Provides another option of enforcement when use is not allowed in a zone. See Section 28.

I have prepared a draft ordinance so the Commissioners can read the actual proposed language. All of the proposed amendments are subject to revision or elimination. The final decision on all the proposed amendments will be made by the City Council.

STAFF RECOMMENDATION:

Staff recommends that the Planning Commission recommend to the Council the approval of the amendments as shown on the attached draft ordinance, with any additional changes from the Commission.

LUDO Amendment June 2011

Amend LUDO Section 5.050.050 Development Standards, Building Height: to read “55 feet maximum **allowed outright, or 75 feet maximum with a conditional use permit**”.

DLCD NOTICE OF ADOPTION

This form **must be mailed** to DLCD **within 5 working days after the final decision** per ORS 197.610, OAR Chapter 660 - Division 18

(See reverse side for submittal requirements)

Jurisdiction: City of The Dalles Local File No.: 20A 79-11
(if no number, use none)

No Date of Adoption: July 25, 2011 Date Mailed: August 16, 2011
(Must be filled in) (Date mailed or sent to DLCD)

Date the Notice of Proposed Amendment was mailed to DLCD: May 13, 2011

- Comprehensive Plan Text Amendment
- Land Use Regulation Amendment
- New Land Use Regulation
- Comprehensive Plan Map Amendment
- Zoning Map Amendment
- Other: _____
(Please Specify Type of Action)

Summarize the adopted amendment. Do not use technical terms. Do not write [See Attached.]

In Central Business District allowed building height to go to 75 feet with a conditional use permit.

Describe how the adopted amendment differs from the proposed amendment. If it is the same, write [Same.] If you did not give notice for the proposed amendment, write [N/A.]

Same.

Plan Map Changed from: N/A to _____

Zone Map Changed from: N/A to _____

Location: CBC zone Acres Involved: N/A

Specify Density: Previous: N/A New: _____

Applicable Statewide Planning Goals: Goal 2

Was an Exception Adopted? Yes: _____ No: X

DLCD File No.: _____

Did the Department of Land Conservation and Development **receive** a notice of Proposed Amendment **FORTY FIVE (45) days prior to the first evidentiary hearing**. Yes: ___ No: X If no, do the Statewide Planning Goals apply. Yes: ___ No: X

If no, did The Emergency Circumstances Require immediate adoption. Yes: ___ No: X

Affected State or Federal Agencies, Local Governments or Special Districts: _____

Local Contact: Richard Gassman Area Code + Phone Number: 541-296-5481 x1151
 Address: 313 Court Street City: The Dalles
 Zip Code+4: 97058 Email Address: rgassman@ci.the-dalles.or.us

ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** to DLCD **within 5 working days after the final decision**
 per ORS 197.610, OAR Chapter 660 - Division 18.

1. **Send this Form and TWO (2) Copies of the Adopted Amendment to:**

**ATTENTION: PLAN AMENDMENT SPECIALIST
 DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
 635 CAPITOL STREET NE, SUITE 150
 SALEM, OREGON 97301-2540**

2. Submit **TWO (2) copies** the adopted material, if copies are bounded please submit **TWO (2) complete copies** of documents and maps.
3. **Please Note:** Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the [Notice of Adoption] is sent to DLCD.
6. In addition to sending the [Notice of Adoption] to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can copy this form on to 8-1/2x11 green paper only ; or call the DLCD Office at (503) 373-0050; or Fax your request to:(503) 378-5518; or Email your request to Tamara.Good@state.or.us - ATTENTION: PLAN AMENDMENT SPECIALIST.



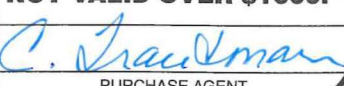
CITY of THE DALLES
 313 Court Street
 The Dalles, OR 97058
 (541) 296-5481

**FIELD
 PURCHASE
 ORDER**

180674

Attachment 1
CITY of THE DALLES
 313 COURT STREET
 THE DALLES, OREGON 97058

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

TO <u>The Chronicle</u>		DATE <u>7-6</u> 20 <u>11</u>
ADDRESS _____		
SHIP TO _____		
ADDRESS _____		
DATE REQUIRED		HOW SHIP
QUANTITY	PLEASE SUPPLY ITEMS LISTED BELOW	PRICE
1		
2	<u>ZOA 79-11-CC 7/25/11</u>	
3		
4	<u>ANN 71-11 CC 7/25/11</u>	
5		
6	<u>Run: July 10, 2011</u>	
7		
8		
9		
10		
11		
12		
Account # <u>001-1100-417-53-40</u>		
IMPORTANT OUR ORDER NUMBER MUST APPEAR ON ALL INVOICES, PACKAGES, ETC. PLEASE NOTIFY US IMMEDIATELY IF YOU ARE UNABLE TO SHIP COMPLETE ORDER BY DATE SPECIFIED.		NOT VALID OVER \$1000.00  PURCHASE AGENT

(White - Vendor, Yellow - Accounting, Pink - Leave in Book)

C HEARING

ative public hearing on Monday, July 25, 2011
 uncil Chambers at City Hall, 313 Court Street,
 eceive public testimony regarding the

rdinance Amendment. Applicant: City of

allow structures in the CBC district to be

able for inspection at City Hall, 313 Court
 he hearing.

riteria are available at, and comments may be
 t, Richard Gassman, Senior Planner, phone
 ay be submitted prior to the hearing by mail or
 o 541-298-5490. Emails will only be
 omments must include the name and address

of the person making the comments. Comments for a quasi-judicial hearing which are longer than one side of page shall be accepted only by mail or in person and only if 12 copies are presented. Comments must be at least equal in size to ten point type. Comments must be received by the hearing date, or may be presented at the hearing. Additional information relating to comments and the quasi-judicial hearing process can be found at Section 3.020.070 in the LUDO. The LUDO is on line at www.ci.the-dalles.or.us.

The meeting will be conducted in a handicap accessible meeting room. Anyone requiring accommodations may call the office of the City Clerk, 541-296-5481 ext. 1120, Monday through Friday, from 8:00 a.m. to 5:00 p.m. to make arrangements.

****PLEASE PUBLISH ONCE, SUNDAY, JULY 10, 2011**
THANK YOU, CAROLE TRAUTMAN, ADMINISTRATIVE SECRETARY.

PO#180674



July 6, 2011

NOTICE OF PUBLIC HEARING

The City of The Dalles City Council will hold a legislative public hearing on Monday, July 25, 2011 at 6:00 pm. The meeting will take place in the City Council Chambers at City Hall, 313 Court Street, The Dalles, Oregon. The purpose of the hearing is to receive public testimony regarding the following application:

APPLICATION NUMBER: ZOA 79-11, Zoning Ordinance Amendment. Applicant: City of The Dalles.

REQUEST: This application is for an amendment to allow structures in the CBC district to be as tall as 75 feet, with a conditional use permit.

The proposed amendment and staff report will be available for inspection at City Hall, 313 Court Street, The Dalles, Oregon 97058 seven days prior to the hearing.

All information relating to the application and review criteria are available at, and comments may be delivered to, the Community Development Department, Richard Gassman, Senior Planner, phone 541-296-5481, ext. 1151. Signed written comments may be submitted prior to the hearing by mail or personal delivery. Faxes will be accepted only if sent to 541-298-5490. Emails will only be accepted if sent to rgassman@ci.the-dalles.or.us. All comments must include the name and address of the person making the comments. Comments for a quasi-judicial hearing which are longer than one side of page shall be accepted only by mail or in person and only if 12 copies are presented. Comments must be at least equal in size to ten point type. Comments must be received by the hearing date, or may be presented at the hearing. Additional information relating to comments and the quasi-judicial hearing process can be found at Section 3.020.070 in the LUDO. The LUDO is on line at www.ci.the-dalles.or.us.

The meeting will be conducted in a handicap accessible meeting room. Anyone requiring accommodations may call the office of the City Clerk, 541-296-5481 ext. 1120, Monday through Friday, from 8:00 a.m. to 5:00 p.m. to make arrangements.

****PLEASE PUBLISH ONCE, SUNDAY, JULY 10, 2011**
THANK YOU, CAROLE TRAUTMAN, ADMINISTRATIVE SECRETARY.

PO#180674



CITY of THE DALLES
313 Court Street
The Dalles, OR 97058
(541) 296-5481

**FIELD
PURCHASE
ORDER**

180671

TO The Chronicle DATE 6-21 2011

ADDRESS _____

SHIP TO _____

ADDRESS _____

DATE REQUIRED		HOW SHIP	
QUANTITY	PLEASE SUPPLY ITEMS LISTED BELOW	PRICE	
1			
2	ZOA 78-11		
3			
4	ZOA 79-11		
5			
6			
7	Run 6/26/11		
8			
9			
10			
11			
12			

Account # 001-1100-417-53-40

<p>IMPORTANT OUR ORDER NUMBER MUST APPEAR ON ALL INVOICES, PACKAGES, ETC. PLEASE NOTIFY US IMMEDIATELY IF YOU ARE UNABLE TO SHIP COMPLETE ORDER BY DATE SPECIFIED.</p>	<p>NOT VALID OVER \$1000.00</p> <p><i>C. Trautman</i> PURCHASE AGENT</p>
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(White - Vendor, Yellow - Accounting, Pink - Leave in Book)

June 21, 2011

NOTICE OF PUBLIC HEARING

The City of The Dalles Planning Commission will hold a legislative public hearing on Thursday, July 7, 2011 at 6:00 pm. The meeting will take place in the City Council Chambers at City Hall, 313 Court Street, The Dalles, Oregon. The purpose of the hearing is to receive public testimony regarding the following application:

APPLICATION NUMBER: ZOA 79-11, Zoning Ordinance Amendment. Applicant: City of The Dalles. REQUEST: This application is for an amendment to allow structures in the CBC district to be as tall as 75 feet, with a conditional use permit.

The proposed amendment and staff report will be available for inspection at City Hall, 313 Court Street, The Dalles, Oregon 97058 seven days prior to the hearing.

All information relating to the application and review criteria are available at, and comments may be delivered to, the Community Development Department, Richard Gassman, Senior Planner, phone 541-296-5481, ext. 1151. Signed written comments may be submitted prior to the hearing by mail or personal delivery. Faxes will be accepted only if sent to 541-298-5490. Emails will only be accepted if sent to rgassman@ci.the-dalles.or.us. All comments must include the name and address of the person making the comments. Comments for a quasi-judicial hearing which are longer than one side of page shall be accepted only by mail or in person and only if 12 copies are presented. Comments must be at least equal in size to ten point type. Comments must be received by the hearing date, or may be presented at the hearing. Additional information relating to comments and the quasi-judicial hearing process can be found at Section 3.020.070 in the LUDO. The LUDO is on line at www.ci.the-dalles.or.us.

The meeting will be conducted in a handicap accessible meeting room. Anyone requiring accommodations may call the office of the City Clerk, 541-296-5481 ext. 1120, Monday through Friday, from 8:00 a.m. to 5:00 p.m. to make arrangements.

****PLEASE PUBLISH ONCE, SUNDAY, JUNE 26, 2011**
THANK YOU, CAROLE TRAUTMAN, ADMINISTRATIVE SECRETARY.

PO#180671

PROF 1

Notice of Proposed Amendment

DATE STAMP	For DLCD Use Only
---------------	-------------------

**THIS FORM MUST BE RECEIVED BY DLCD
45 DAYS PRIOR TO THE FIRST EVIDENTIARY HEARING**
PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18 AND SENATE BILL 543,
EFFECTIVE JUNE 30, 1999

Jurisdiction: City of The Dalles Local file number: ZOA 79-11
 Date First Evidentiary hearing: July 7, 2011 Date of Final Hearing: July 25, 2011
 Date this Notice of Proposed Amendment was mailed to DLCD: May 13, 2011
 Is this a **REVISED** Proposal previously submitted to DLCD? YES NO Date Submitted: _____
 Comprehensive Plan Text Amendment Comprehensive Plan Map Amendment
 Land Use Regulation Amendment Zoning Map Amendment
 New Land Use Regulation Other: _____

Briefly Summarize Proposal. Do not use technical terms. Do not write "See Attached". (limit of 500 characters)

In Central Business Commercial district allow building height to go to 75 feet with a conditional use permit.

Plan Map Changed from: N/A to: _____

Zone Map Changed from: N/A to: _____

Location: _____ Acres Involved: _____

Specify Density: Previous: _____ New: _____

Applicable Statewide Planning Goals: Goal 2

Is an Exception Proposed? YES NO

Affected State or Federal Agencies, Local Governments or Special Districts:

None

Local Contact: Richard Grossman Phone: (541) 296-5481 Extension: 1151

Address: 313 Court Street City: The Dalles Zip: 97058

Fax Number: 541-298-5490 Email Address: rgrossman@ci.the-dalles.or.us

Richard Gassman

Subject: New LUDO Amendment

Amend LUDO Section 5.050.050 Development Standards, Building Height, to read as follows: **“55 ft. maximum, with a 75 ft. maximum upon approval of a Conditional Use Permit.”**

Richard Gassman

From: Daniel Durow
Sent: Friday, June 10, 2011 9:04 AM
To: Richard Gassman
Cc: Dawn Hert; Gene Parker; Nolan Young
Subject: FW: Hotel and height limitation requirements,

Dick,

Here is a FYTD (for you to do). Please get this LUDO amendment started as soon as possible. They agree that the ordinance amendment, #2 below, is the better process.

Dan

From: Michael Leash [mailto:mlhomeloans@aol.com]
Sent: Friday, June 10, 2011 8:45 AM
To: Daniel Durow
Subject: FW: Hotel and height limitation requirements,

Dan,

Our Team is in agreement with your idea below (#2), about having you move forward with an ordinance amendment that would raise the height limitation to 75 feet.

Thank you for your assistance with moving this forward.

Thanks,
Michael

From: Jason Pasternak [mailto:jpasternak@wavehospitalityadvisors.com]
Sent: Thursday, June 02, 2011 10:39 AM
To: Michael Leash; Jens Von Gierke
Subject: RE: Hotel and height limitation requirements,

Agreed. Also agree with Dan that the 2nd route is the way to go. Although it may take a little longer, if we get started now, the timing should work with our schedule. The first route runs the risk of thinking we are in the clear and then getting unexpected delays at the 11th hour, which is no good for all parties involved.

What are the first steps to begin the ordinance amendment process?

From: Michael Leash [mailto:mlhomeloans@aol.com]
Sent: Wednesday, June 01, 2011 2:32 PM
To: Jason Pasternak; Jens Von Gierke
Subject: FW: Hotel and height limitation requirements,

Team,

Hope everyone had a good Memorial Day Weekend.

FYI – Below from Dan on Hotel and height limitation requirements:

We should try to get started on this ASAP based on number days it takes to get through the process; also, we need to have permit on file before year-end.

Thanks,
Michael

From: Daniel Durow [mailto:ddurow@ci.the-dalles.or.us]
Sent: Wednesday, June 01, 2011 1:14 PM
To: Michael Leash
Cc: Nolan Young; Richard Gassman; Dawn Hert
Subject: Hotel and height limitation requirements,

Michael.

Regarding the maximum height requirements question:

I discussed the maximum height requirements with some of my staff and with the Chief of the Fire and Rescue District. There are two ways we could go about getting the higher building approved.

1. We could attempt a 'variance' and see if we could create the justification needed to meet the variance criteria, at least to the point where the City Planning Commission could approve it. However, the criteria are difficult to meet and if someone really wanted to oppose the project and appealed the variance to the State Land Use Board of Appeals, we may not prevail. So, all of the time used to get through the variance process would be wasted. If we didn't prevail, then our only alternative would be to do what is described in the paragraph below. If it weren't for the uncertainty of meeting the variance criteria and then the threat of losing on appeal, the variance process would be the way to go. It is a higher risk process but one that is immediately available. I don't know the likelihood of an appeal, it is probably low, but it only takes one person and anyone can have standing to file the appeal.
2. We think the better approach is to do an ordinance amendment that would raise the height limitation to 75 feet. This would be done through an open public process with the Planning Commission and then the City Council. The intent would be to make any structure used for human occupancy that is between 55 and 75 feet high get a 'conditional use permit'. Once the ordinance amendment was completed, the hotel project would go through the conditional use permit hearing process with the Planning Commission. The proposed increase in the maximum height would be consistent with our current ordinance that allows some structures up to 75 feet (just not when needed for occupancy) and would be acceptable with the Fire and Rescue District (given the structure has a fire sprinkler system and meets their other fire suppression standards). This approach would provide much greater certainty of prevailing on an appeal because the justification would be much more solid.

We could begin this ordinance amendment process immediately, which would take between 60 and 90 days. The conditional use permit process would take another 30 to 45 days once a complete application was submitted. The CUP application would not need to have the hotel design completed. It would only need to show the footprint of the building and the height, along with its general size, shape, and location on the site.

Dan Durow

From: Michael Leash [mailto:mlhomeloans@aol.com]
Sent: Thursday, May 26, 2011 2:19 PM
To: 'Daniel Durow'
Subject: RE: City Comments on Design work so far

Dan,

We just finished a conference call and I need to follow-up with you on additional height.

We really need to be able to go above 55' this will allow us to have 5-floors of rooms and 135-rooms. Jens & Jason suggested we ask for 65' as max and that will allow a little bit of leeway. (I'm guessing we would be under 62') (First Floor 14'-9" and 5 @ 9'4" = Total 61'5", per the Architect)

Thank you for your assistance,
Michael

From: Michael Leash [<mailto:mlhomeloans@aol.com>]
Sent: Thursday, May 12, 2011 3:21 PM
To: Daniel Durow
Subject: FW: City Comments on Design work so far

Dan,

Hi there - Could you assist me with questions in red below from Jason? ** Please see Jason comments below:

Thank you,
Michael

From: Jason Pasternak [<mailto:jpasternak@wavehospitalityadvisors.com>]
Sent: Thursday, May 12, 2011 1:56 PM
To: Michael Leash
Cc: Jens Von Gierke; 'Harold Rapoza'
Subject: RE: City Comments on Design work so far

Michael,

Thanks for comments on the current schemes to date. I will pass along to Warren and see how we can incorporate during the next round of designs.

My understanding is that the larger ballroom in Schemes 3/4 (5,500 GSF) can accommodate approximately 360-370 people seated for dinner. In order to accommodate 500 people, probably has to be in the 7,500 SF range. Will discuss with Warren.

But before we go ahead with looking at a plan to accommodate sit down dinners and conventions for 600-700 people, I think it is critical that we get started on that meeting space supply/demand analysis. I would hate to waste time and money exploring options for designs with even more meeting space if the demand generators do not support more space. If we can get that introductory email out today so that Jens and I can begin coordinating the process, that would be extremely helpful, as the completion of the market study will obviously impact design decisions, and it is important that both processes run concurrently.

One question on your comments in regards to the roof covering the buffet area in Scheme 4? Do you want to push in the roofline from 1st street, so that along 1st street we can have an outdoor dining element? Please explain, as I am not sure I understand correctly.

Also, in terms of getting a variance to build above 55' from Planning Commission and Fire & Rescue District, what is the process that we need to go through? Do we need completed designs and then submit for approval, or do we request approval, and then design to the new approved height? If we are able to get approval, it is probably the difference between 4 stories in the room tower, and our ability to add a 5th story (and 25-30 additional keys).

Regards,
Jason

From: Michael Leash [<mailto:mlhomeloans@aol.com>]
Sent: Thursday, May 12, 2011 1:13 PM
To: Jason Pasternak
Cc: Jens Von Gierke; 'Harold Rapoza'
Subject: City Comments on Design work so far

Jason,

As we discussed, the Team at the City had a few comments on the building designs:

- Need to keep in mind your connectivity to the Parking Garage
 - Side door & passage way through the blue building
 - Passage out of the Blue Building to create connectivity to the Granada Theater
- Were you planning on having a covered passage or sky-bridge from the garage
- Retail space in the basement of Blue building, don't forget that lower level will open out to the New Plaza Area
 - (My thoughts, a Wine Retailer or Tasting Room)
- Like the larger Ballroom Schemes 3 & 4
 - Can you accommodate sit downs for 500 + ?
- You can build above the Blue Building with rooms; no restriction from Urban Renewal. (It sound like the building will not have any restriction.)
- City thought we could get a "variance" to build above 55' from Planning Commission & Fire and Rescue District.

My comments:

- We'll want to allocate space to have a Video Poker Room (Oregon Lottery) somewhere just off of the Bar by the Restaurant
- Ballroom – Any way to make get closer to 7,000-8,000 sq ft? I think we would really benefit by having the ability to do sit down dinners & conventions for 600-700 people. (I would really like to see our meeting space compare to The Riverhouse in Bend, Oregon; we'll be able to get the same business coming out of Portland, Seattle, Boise, Tri-Cities & Spokane) <http://www.riverhouse.com/web/conventions/floorplans.htm#CascadeA>
- Outdoor area above the Ballroom area (Possible after-party function area)
- Can we plan for a season Area over the Ballroom Area toward the front of the building (Should have nice views)
 - Outdoor Patio & Pool – Pool Party & Outdoor space is big trend in Hospitality
 - We have weather April through October that makes the space very useable.
- In Scheme #4 – Would we want to build the roof over the Buffet Area & front the building so that we could expand to an outdoor deck & dinning area some time in the future?
- I really think we should build the maximum number of rooms (150+) we can get by building from one end to the other and over the blue building. Also, we will benefit by having some nice Suite Rooms and Extend Family Rooms as well.

Thanks,
 Michael

From: Jason Pasternak [<mailto:jpasternak@wavehospitalityadvisors.com>]
Sent: Thursday, May 12, 2011 11:02 AM
To: Michael Leash
Cc: Jens Von Gierke
Subject: RE: Letter to Eric

Michael,

Looks good. Let us know if Dan and his team have any final comments or changes.

If you could get me your comments on the design for Warren and the photos for the website for Hyperdisk today, that would be greatly appreciated. I would really like to pass those along before the end of the week so we can keep both of those processes moving ahead.

Thanks,
Jason

From: Michael Leash [<mailto:mlhomeloans@aol.com>]
Sent: Thursday, May 12, 2011 12:51 AM
To: Jason Pasternak; Jens Von Gierke
Subject: RE: Letter to Eric

[Here is the updated file for Eric.](#)

From: Michael Leash [<mailto:mlhomeloans@aol.com>]
Sent: Tuesday, May 10, 2011 4:53 PM
To: 'Jason Pasternak'; 'Jens von Gierke'
Subject: Letter to Eric

Team,

Hi there – Hope all is well.

Please review the attached letter to Eric and provide any thoughts on things to be added or deleted. Or, any statement that should be added to help get what we want.

Thanks,
Michael

higher
level

CC 7-25-11

70A 79-11

Q- What about the capability to fight
fire above 55 feet.

Don said in discussions w/ Bob
Palmer, FC, it would be OK.

Approved 4-0.

OFFICE OF THE CITY MANAGER

COUNCIL AGENDA

AGENDAREGULAR CITY COUNCIL MEETING

July 25, 2011

5:30 p.m.

CITY HALL COUNCIL CHAMBER
313 COURT STREET
THE DALLES, OREGON

1. CALL TO ORDER
2. ROLL CALL OF COUNCIL
3. PLEDGE OF ALLEGIANCE
4. APPROVAL OF AGENDA
5. PRESENTATIONS/PROCLAMATIONS
 - A. Americans With Disabilities Day Proclamation
 - B. Presentation by ODOT Regarding Interstate 84 Marina Interchange Landscaping Project
 - C. Presentation by The Dalles Business Team Regarding Business Recruitment and Retention
 - D. Update from Economic Development Policy Committee
6. AUDIENCE PARTICIPATION

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

CITY OF THE DALLES

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

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


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

- A. Approval of July 11, 2011 Regular City Council Meeting Minutes
 - B. Authorization for City Clerk to Endorse Annual OLCC License Renewals
 - C. Approval for Outside City Limits Sewer Connection Application
11. PUBLIC HEARINGS
 - A. Public Hearing to Receive Testimony Regarding an Annexation Request by Gary Honald [**Agenda Staff Report #11-071**]
 - B. Public Hearing to Receive Testimony Regarding a Proposed Amendment to the Land Use Development Ordinance Regarding Height Requirements in the Central Business Commercial District [**Agenda Staff Report #11-072**]
12. CONTRACT REVIEW BOARD ACTIONS
 - A. Award Contract for Purchase of Electric Shuttles for The Dalles Dam Tours [**Agenda Staff Report #11-073**]
 - B. Award Contract for 2011 Sanitary Sewer Slipline Contract [**Agenda Staff Report #11-074**]
13. ACTION ITEMS
 - A. Approval of Golf Course Memorandum of Understanding [**Agenda Staff Report #11-082**]
 - B. Approval of a Water System Agreement Between the Columbia Gorge Regional Airport and Dallesport Water District [**Agenda Staff Report #11-076**]
 - C. Special Ordinance No. 11-542 Vacating a Portion of Terrace Drive and East Terrace Drive Located Adjacent to the Mayfield Property at 513 East Terrace Drive [**Agenda Staff Report #11-077**]

- D. Resolution No. 11-025 Accepting a Deed of Dedication from Stanley G. Mayfield
[Agenda Staff Report #11-078]
 - E. General Ordinance No. 11-1313 Amending Land Use Development Ordinance No.
98-1222 **[Agenda Staff Report #11-079]**
14. DISCUSSION ITEMS
- A. Report Regarding Water Rates and Water Capital Improvement Plan Re-Evaluation
[Agenda Staff Report #11-080]
 - B. Discussion Regarding Department Managers Salaries **[Agenda Staff Report #11-081]**
15. ADJOURNMENT

This meeting conducted in a handicap accessible room.

Prepared by/
Julie Krueger, MMC
City Clerk

 _____

RESOLUTION NO. 24-017A

A RESOLUTION DENYING APPEAL APPLICATION 036-24, AFFIRMING THE PLANNING COMMISSION DECISION TO APPROVE CONDITIONAL USE PERMIT 212-24, A LAND USE APPLICATION REQUESTING A BUILDING HEIGHT INCREASE FOR A MIXED-USE, MULTI-FAMILY DEVELOPMENT IN THE CBC ZONE DISTRICT WITH A MAXIMUM BUILDING HEIGHT OF 60 FEET

WHEREAS, on June 6, 2024, the Planning Commission conducted a public hearing to consider Conditional Use Permit No. 212-24 (**CUP 212-24**), a land use application request to increase the building height for a mixed-use, multi-family development in the Central Business Commercial zone district with a maximum building height of 60 feet, located at 523 East 3rd Street, in The Dalles, Oregon, depicted in Assessor's Map No. 1N 13E 3 BD as Tax Lots 6700, 6800, and 6900;

WHEREAS, during that hearing, the Planning Commission deliberated on CUP 212-24, and voted 3-1-1 to approve Resolution No. PC 622-24, a resolution formalizing approval of CUP 212-24;

WHEREAS, on June 17, 2024, Appellant submitted and the City received a Notice of Appeal for Resolution No. PC 622-24 (**APL 036-24**);

WHEREAS, at its July 22, 2024, regular meeting, the City Council conducted a public hearing to consider APL 036-24, where testimony and other evidence was submitted and entered into the hearing record, including a Staff Report stating findings of fact, conclusions of law, and Staff's Recommendation; and

WHEREAS, the City Council deliberated on the matter and, based on the Staff Report and its attachments, the evidence presented at the public hearing, and all other components of the hearing record, all of which are incorporated herein by reference, the City Council voted on the matter of APL 036-24, formalized as follows.

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

1. Decision. Based on the City Council's review and interpretation of the applicable criteria, the evidence in the record, and the findings, interpretations, and conclusions set forth in the Staff Report, Appeal Application 036-24 is hereby DENIED, the decision of the Planning Commission is AFFIRMED, and the application for Conditional Use Permit 212-24 is APPROVED.
2. Adoption from Staff Report. The City Council hereby adopts as its own the findings, interpretations, and conclusions set forth in the Staff Report.
3. Effective Date. This Resolution shall be effective upon adoption.

PASSED AND ADOPTED THIS 22ND DAY OF JULY, 2024,

Voting Yes	Councilors:	_____
Voting No	Councilors:	_____
Abstaining	Councilors:	_____
Absent	Councilors:	_____

AND APPROVED BY THE MAYOR THIS 22ND DAY OF JULY, 2024.

Richard A. Mays, Mayor

ATTEST:

Amie Ell, City Clerk

RESOLUTION NO. 24-017B

A RESOLUTION APPROVING APPEAL APPLICATION 036-24, REVERSING THE PLANNING COMMISSION DECISION TO APPROVE CONDITIONAL USE PERMIT 212-24, A LAND USE APPLICATION REQUESTING A BUILDING HEIGHT INCREASE FOR A MIXED-USE, MULTI-FAMILY DEVELOPMENT IN THE CBC ZONE DISTRICT WITH A MAXIMUM BUILDING HEIGHT OF 60 FEET

WHEREAS, on June 6, 2024, the Planning Commission conducted a public hearing to consider Conditional Use Permit No. 212-24 (**CUP 212-24**), a land use application request to increase the building height for a mixed-use, multi-family development in the Central Business Commercial zone district with a maximum building height of 60 feet, located at 523 East 3rd Street, in The Dalles, Oregon, depicted in Assessor’s Map No. 1N 13E 3 BD as Tax Lots 6700, 6800, and 6900;

WHEREAS, during that hearing, the Planning Commission deliberated on CUP 212-24, and voted 3-1-1 to approve Resolution No. PC 622-24, a resolution formalizing approval of CUP 212-24;

WHEREAS, on June 17, 2024, Appellant submitted and the City received a Notice of Appeal for Resolution No. PC 622-24 (**APL 036-24**);

WHEREAS, at its July 22, 2024, regular meeting, the City Council conducted a public hearing to consider APL 036-24, where testimony and other evidence was submitted and entered into the hearing record, including a Staff Report stating findings of fact, conclusions of law, and Staff’s Recommendation; and

WHEREAS, during that hearing, the City Council challenged Planning Commission’s approval of Conditional Use Permit 212-24, citing inconsistencies with the Commission’s findings of unmet criteria; specifically, the City Council identified the following criteria to validate its determination:

1. *Text to be inserted following City Council deliberations.*
2. *Text to be inserted following City Council deliberations.*

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

1. Decision. Based on the City Council’s review and interpretation of the applicable criteria, the evidence in the record, and the findings, interpretations, and conclusions either set forth in the Staff Report or decided following the conclusion of the July 22, 2024, public hearing (as reflected in the minutes, as applicable), Appeal Application 036-24 is hereby **GRANTED**, the decision of the Planning Commission is **REVERSED**, and the application for Conditional Use Permit 212-24 is **DENIED**.
2. Adoption from Staff Report or Deliberations. The City Council hereby adopts as its own the findings, interpretations, and conclusions either set forth in the Staff Report or

decided following the conclusion of the July 22, 2024, public hearing (as reflected in the minutes, as applicable).

3. Effective Date. This Resolution shall be effective upon adoption.

PASSED AND ADOPTED THIS 22ND DAY OF JULY, 2024,

Voting Yes	Councilors:	_____
Voting No	Councilors:	_____
Abstaining	Councilors:	_____
Absent	Councilors:	_____

AND APPROVED BY THE MAYOR THIS 22ND DAY OF JULY, 2024.

Richard A. Mays, Mayor

ATTEST:

Amie Ell, City Clerk



CERTIFICATE OF MAILING

I hereby certify that I served the attached

Notice of Public Hearing

regarding:

APL 036-24 – Daniel R. Meader

On July 8, 2024, by mailing a correct copy thereof, certified by me as such, contained in a sealed envelope, with postage paid and deposited in the post office at The Dalles Oregon on said day. Between the said Post Office and the address to which said copy was mailed, there is a regular communication by US Mail.

DATED: July 8, 2024

Secretary
Community Development Department

Name		PC Public Hearing Notices 2024-07-08
Name	E-mail	
Amie Ell	amell@ci.the-dalles.or.us	
Art Smith	arthurs@co.wasco.or.us	
Aviation Contacts		
Ben Beseda	BBeseda@tennesoneng.com	
Bradley Cross	bradleyc@co.wasco.or.us	
CDD	cotdcdd@gmail.com	
customerservice2044@wasteconnections.com	customerservice2044@wasteconnections.com	
Cynthia Keever	ckeever@ci.the-dalles.or.us	
Dale McCabe	dmccabe@ci.the-dalles.or.us	
Dan Shanahan	dan.t.shanahan@odot.oregon.gov	
Dave Anderson	danderson@ci.the-dalles.or.us	
Don Morehouse	donald.morehouse@odot.oregon.gov	
Eric Grendel	ericg@ncphd.org	
Ernie Garcia	ernie.garcia@charter.com	
Jamie Carrico	JCarrico@ci.the-dalles.or.us	
Jay Wood	jwood@mfr.org	
Jeff Teel	Jeff-Teel@nwascopud.org	
Jonathan Kara	jkara@ci.the-dalles.or.us	
Joshua Chandler	jchandler@ci.the-dalles.or.us	
Kara Flath	flathk@nwasco.k12.or.us	
Karly Aparicio	kcnaparicio@gmail.com	
Kelsey Dobo	dobo.kelsey@deq.state.or.us	
Mario Esquivel	mario.m.esquivel@usps.gov	
MEDIA		
ODOT Region 4 Plan Manager	ODOTR4PLANMGR@odot.state.or.us	
Pat Cimmiyotti	Patrick.M.Cimmiyotti@odot.state.or.us	
Paula Grendel	paulag@ncphd.org	
Sean Bailey	seanb@co.wasco.or.us	
Shane Johnson	Shane.R.Johnson@odot.state.or.us	
Shilah Olson - Wasco County SWCD	shilah.olson@or.nacdnet.net	
TD Irrigation District	tdid@gorge.net	
Tom Holmes	tholmes@dunncarney.com	
Tom Worthy	tworthy@ci.the-dalles.or.us	
Tonya Brumley	tlb@nwnatural.com	
Ty Wyman	twyman@dunncarney.com	
Wasco County Assessor	assessor@co.wasco.or.us	
Wasco County Planning	wcplanning@co.wasco.or.us	

Name		Aviation Contacts
Name	E-mail	
Brandon Pike	brandon.pike@odav.oregon.gov	
Jeff Renard	manager@flycgra.com	
ODA	oda.planning@odot.oregon.gov	
WA DOT Aviation	AviationLandUse@wsdot.wa.gov	

Century Link
 902 Wasco St
 Hood River OR 97031

418 E 2ND ST LLC
592 SE ANDOVER PL
PORTLAND, OR 97202

516E297058 LLC
PO BOX 582
HOUSTON, TX 77001

616 E 3RD ST LLC
19305 SOUTHWEST TETON AVE
TUALATIN, OR 97062

ALLEN PATRICIA SCHANO
4384 N 6TH ST
HARRISBURG, PA 17110

AMICCI BRUNO C TRUSTEE
12205 SW WINTERHAWK LN
BEAVERTON, OR 97007

BACKUS NICOLE M
414 JEFFERSON ST
THE DALLES, OR 97058

BAKER ROGER L
9 MONROE PKY STE 140
LAKE OSWEGO, OR 97035

BARRTELL PROPERTIES LLC
PO BOX 2317
THE DALLES, OR 97058

BIG RAM LLC
608 E 2ND ST
THE DALLES, OR 97058

BONHAM DANIEL G & LORILYN E
624 E 2ND ST
THE DALLES, OR 97058

C & E LLC
PO BOX 1371
THE DALLES, OR 97058

CHRISMAN & CHASE LLC
200 E MAIN ST
ENTERPRISE, OR 97828

CLARK HOWARD P
508 E 2ND
THE DALLES, OR 97058

COLUMBIA LODGE #5 IOOF
1100 W 18TH ST
THE DALLES, OR 97058

CREZ PARTNERS LLC
PO BOX 331
THE DALLES, OR 97058

ENTERPRISE TD LLC
2406 NE 32ND AVE
PORTLAND, OR 97212

FIRST INTERSTATE BANK OF OR
PO BOX 2609
CARLSBAD, CA 92018

FISHER JOHN & REBEKAH T
421 E 4TH ST
THE DALLES, OR 97058

GOLZ CHRISTOPHER H
417 E 4TH
THE DALLES, OR 97058

GREATER GORGE COMMUNITY
HOUSING LLC
312 COURT ST STE 419
THE DALLES, OR 97058

GREATER GORGE COMMUNITY
HOUSING LLC
500 E 2ND ST
THE DALLES, OR 97058

GRIZZLY FIREFIGHTERS INC
PO BOX 17426
SALEM, OR 97305

HEISLER STANLEY D
PO BOX 3
THE DALLES, OR 97058

MANCIU ANTHONY
612 E 3RD
THE DALLES, OR 97058

MATTHEW BUILDINGS LLC
PO BOX 939
THE DALLES, OR 97058

PENTA LLC
2860 ARBOR DR
WEST LINN, OR 97068

QUEENLAND INVESTMENTS LLC
812 E 20TH ST
THE DALLES, OR 97058

RUSHFORD PROPERTY PARTNERS LLC
PO BOX 1562
HOOD RIVER, OR 97031

SALVATION ARMY THE
8495 SE MONTEREY AVE
HAPPY VALLEY, OR 97086

SALVATION ARMY THE
623 E 3RD ST
THE DALLES, OR 97058

SAWYER PROPERTIES LLC
500 E 3RD ST
THE DALLES, OR 97058

SAWYER WARREN & MARCIA
500 E 3RD ST
THE DALLES, OR 97058

SMITH PENELOPE A
409 LAUGHLIN
THE DALLES, OR 97058

TD3RD LLC
101 SW MAIN ST, STE 825
PORTLAND, OR 97204

TD3RD LLC
101 W 2ND ST #2049
THE DALLES, OR 97058

THE DALLES CITY OF
313 COURT ST
THE DALLES, OR 97058

TKW PROPERTIES LLC
3426 BROKEN TEE DR
HOOD RIVER, OR 97031

TLG PROPERTIES LLC
PO BOX 362
WOLF CREEK, MT 59648

VANN VINCENT JEFFERY
3100 OLD DUFUR RD
THE DALLES, OR 97058

VERGEER RONALD D & CAROL L
601 E 3RD ST
THE DALLES, OR 97058

WALTERS RONALD & KATHRYN
2710 SE MERRITT DR
BATTLE GROUND, WA 98604

WASCO COUNTY ADMINISTRATOR
511 WASHINGTON
THE DALLES, OR 97058

WEED THOMAS E & KERRI P
3426 BROKEN TEE DR
HOOD RIVER, OR 97031

WOOLSEY SAMUEL H
751 E 18TH ST
THE DALLES, OR 97058

ZSBG DEVELOPMENT LLC
2530 E 14TH
THE DALLES, OR 97058

ZSBG PROPERTY LLC
2530 E 14TH
THE DALLES, OR 97058

DANIEL R MEADER
911 E 7TH ST
THE DALLES, OR 97058

CHRIS HODNEY
HACKER ARCHITECTS
555 SE MLK JR BLVD, STE 501
PORTLAND, OR 97214


CITY of THE DALLES

 313 COURT STREET
 THE DALLES, OREGON 97058

 (541) 296-5481 ext. 1125
 COMMUNITY DEVELOPMENT DEPARTMENT

July 8, 2024

NOTICE OF PUBLIC HEARING

Notice is hereby given that the City of The Dalles City Council will conduct a quasi-judicial public hearing on **Monday, July 22, 2024 at 5:30 p.m.** The meeting will be held in the City Hall Council Chambers, 313 Court Street, The Dalles, Oregon 97058. The meeting will be conducted in a room in compliance with ADA standards. Anyone requiring accommodations may call the office of the City Clerk, (541) 296-5481, ext. 1119, Monday through Friday, from 8:00 a.m. to 5:00 p.m. to make arrangements. Interested parties may attend in person, via Zoom at <https://us06web.zoom.us/j/88147760127?pwd=bzF6UVBBS0EvaDIxTEVyRngrbExmQT09>, or by phone at 1-253-215-8782 or 1-669-900-6833. Meeting ID: **881 4776 0127**, Passcode: **007612**. The livestream can be viewed at www.thedalles.org/live_streaming.

This notice is being sent to affected agencies, parties of record, and property owners within 300 feet of the subject property. The request is outlined below, and followed by procedures for the public hearing. **The application and all related documents, as well as the applicable criteria, are available for viewing in the Community Development Department in City Hall.**

APPELLANT: Daniel R. Meader

APPLICATION NUMBER: APL 036-24

REQUEST: Appeal of Planning Commission Resolution No. P.C. 622-24, approving Conditional Use Permit No 212-24 *Chris Hodney* for the approval of a height increase to exceed the maximum allowed height of the underlying zoning district for a mixed-use, multi-family development. The proposed height of the building is 60 ft., which exceeds the maximum building height within the Central Business Commercial (CBC) zoning district of 55 ft. The applicant is also requesting an extension of the one (1) year expiration of the Conditional Use Permit (CUP) to three (3) years.

PROPERTY OWNER: TD 3rd LLC

LOCATION: The property is located at 523 E. 3rd Street and further described as 1N 13E BD tax lots 6700, 6800, and 6900. Property is zoned CBC – Central Business Commercial District.

REVIEW CRITERIA: The Dalles Municipal Code, Title 10 Land Use and Development, Article 3.020 Review Procedures, Article 3.050 Conditional Use Permits, Article 5.050 CBC – Central Business Commercial District, Section 10.6.090.010 Height Limitation Exceptions.

COMMENT PROCEDURE:

1. Signed written comments may be submitted prior to the hearing by mail or personal delivery. Faxes will be accepted only if sent to 541-296-6906. Emails will be accepted only if sent to jchandler@ci.the-dalles.or.us. All comments must include the name and address of the person making the comments. Comments for a quasi-judicial hearing which are longer than one side of one page shall be accepted only by mail or in person and only if 12 copies are presented. Comments must be at least equal in size to ten point type. Comments must be received by 5:00 p.m. on the hearing date or may be presented in person at the hearing. Additional information relating to comments and the quasi-judicial hearing process can be found in The Dalles Municipal Code, Title 10 Land Use and Development, Article 3.020.070. The full Code is on line at www.thedalles.org.
2. Failure to raise an issue during the public hearing process, in person or by letter, or failure to provide statements or evidence sufficient to afford the decision maker an opportunity to respond to the issue will preclude an appeal to the City Council and the Land Use Board of Appeals based upon that issue.
3. Copies of all review criteria and evidence relied upon by the decision maker or evidence provided by the applicant are available for free review or may be purchased at the Community Development Department, 313 Court Street, The Dalles, Oregon 97058. **A Staff Report will be available for inspection seven days prior to the hearing.**

DECISION PROCESS:

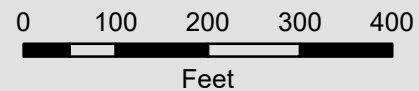
1. An application is received, decision date set, and notice mailed to property owners within 300 feet of the subject property.
2. All affected City departments and other agencies are asked to comment.
3. All timely comments and the application are weighed against the approval criteria in a Staff Report.
4. The provisions of The Dalles Municipal Code and the City of The Dalles Comprehensive Plan must be met.
5. A decision is reached by the City Council based on the Findings of Fact in the Staff Report and other evidence submitted.
6. Parties of Record (notified property owners, affected public agencies, and other parties who make timely comment) will receive a Notice of Decision.
7. Aggrieved parties may appeal a quasi-judicial decision to the City Council within 10 days of the date a Notice of Decision is mailed, subject to the requirements for appeal procedures.

Please direct any questions to Joshua Chandler, Director, Community Development Department at (541) 296-5481, ext. 1121, or contact via e-mail jchandler@ci.the-dalles.or.us.



	Subject Properties
	Notified Properties
	Taxlots
	Roads

Properties within 300 feet of
APL 036-24
523 E. 3rd Street
1N 13E BD, tax lots 6700/6800/6900



City of The Dalles
Community Development
Department
July 8, 2024 | JC





City of The Dalles
Community Development Dept
 313 Court Street
 The Dalles, OR 97058
 (541) 296-5481, ext. 1125
 www.thedalles.org

Application #: APL 036-24
 Filing Fee: \$250.00
 Receipt #: 520679
 Received: 6-17-24

Notice of Appeal for Land Use Decision

Appellant's Name: Daniel R. Meader
 Address: 911 East 7th Street
 The Dalles, OR 97058
 Phone: 541 980 8442
 Email: dan.meader61@gmail.com

Please state the reasons why the appellant qualifies as a party entitled to file a notice of appeal: I spoke at the Planning Commission on June 6, 2024. The subject property lies within my viewshed. I have asked the Clerical Staff to enter my name on the Property Owners List for notification about two years ago.

Please provide the date and a brief description of the decision being appealed:
 The Decision being appealed is the CUP 212.24 by the Dalles City Planning Commission.

Please cite the specific grounds why the decision should be reversed or modified, and cite the applicable criteria or procedural error which supports the grounds for appeal:*

There are several, first is the "bias" the staff and Planning Commission exhibited during the course of the Hearing. I'll speak directly to that issue when the time comes.

The second is the City is using the wrong process to allow this project to move forward. The Land Use Action required in this instance requires a Variance and cannot be allowed to move forward with a Conditional Use Permit with no standards. There is no way to quantify what the applicants' needs are. The City would be hard pressed to deny any such request in the future. This phony conditional use needs to be removed from the City Code. I intend to show the Council the process by which this Conditional Use was added to the City Code back in 2011. There are other issues regarding this Conditional Use Permit that may also be addressed during the course of the hearing.


Appellant Signature

Date 6/17/2024

*Attach additional sheets as necessary.



CITY of THE DALLES
313 COURT STREET
THE DALLES, OREGON 97058

(541) 296-5481 ext. 1125
COMMUNITY DEVELOPMENT DEPARTMENT

NOTICE OF PUBLIC HEARING DECISION

CUP 212-24

Chris Hodney, Hacker Architects

DECISION DATE: June 6, 2024

APPLICANT: Chris Hodney

REQUEST: Applicant is requesting approval for a height increase of 5' to the maximum allowed height requirement (55') of the underlying zoning district (CBC) for the construction of a five-story mixed-use, multi-family development. In addition, the Applicant is requesting an extension of the one-year CUP time limit.

LOCATION: 1N 13E 3 BD tax lots 6700, 6800 and 6900
Property is located at 523 E. Third Street

PROPERTY OWNER: TD3RD, LLC

AUTHORITY: The Dalles Municipal Code, Title 10 Land Use and Development

DECISION: Based on the findings of fact and conclusions in the staff report of CUP 212-24, and after a hearing in front of the Planning Commission, the request by **Chris Hodney** is hereby **approved** with the following conditions:

1. The final building height must be consistent with the plans included in Attachment A: Appendix B and D of CUP 212-24 Application Package.
2. Following an approved CUP, Applicant must proceed with a Site Plan Review to site and construct the development. The Site Plan Review approval is conditional upon an approved CUP for the height increase.
3. Prior to Site Plan Review approval for the proposed development, it shall be demonstrated that lighting impacts across the property line shall not exceed 0.5 foot-candles (a foot-candle is the amount of light falling upon a 1-square-foot surface which is 1 foot away from a 1-candlepower light source).
4. The CUP approval shall be valid for **three** years from the date granted by the Commission. If construction is commenced within this three-year period and is being pursued diligently toward completion, the conditional use permit shall stay in full force

for an additional year. In the case of unavoidable delay or an extensive construction schedule, the Commission may extend the time limit for completion of the project.

Signed this 6th day of June, 2024, by



Joshua Chandler, Director
Community Development Department

TIME LIMITS: The period of approval is valid for the time period specified for the particular application type in The Dalles Municipal Code, Title 10 Land Use and Development. All conditions of approval shall be fulfilled within the time limit set forth in the approval thereof, or, if no specific time has been set forth, within a reasonable time. Failure to fulfill any of the conditions of approval within the time limits imposed can be considered grounds for revocation of approval by the Director.

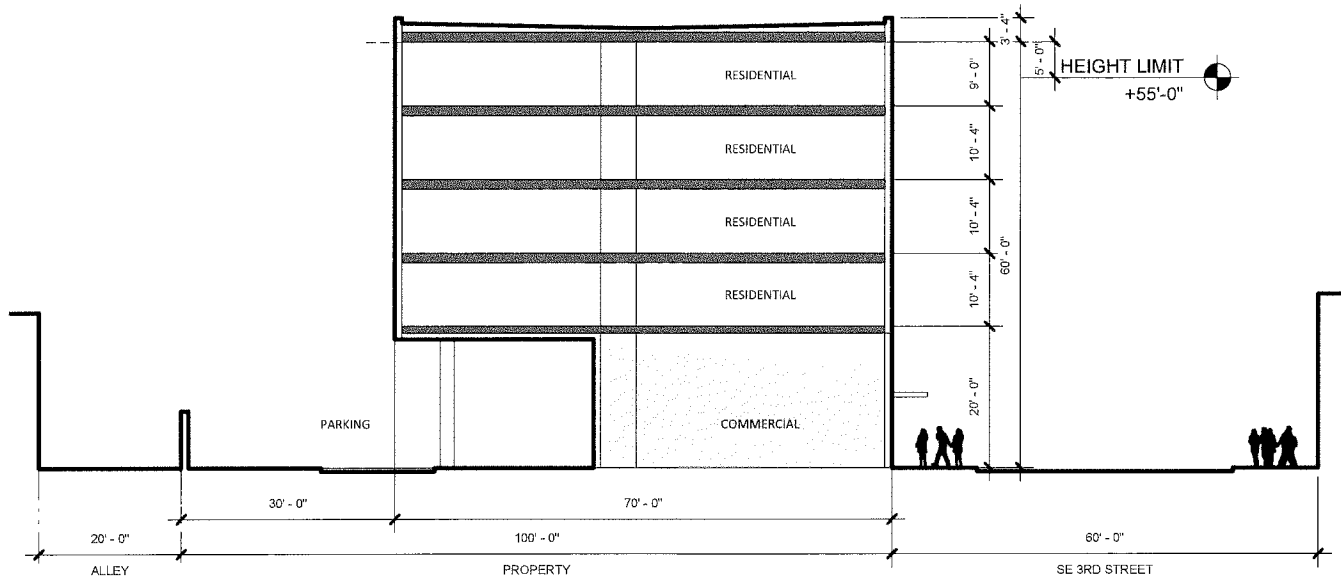
Please Note! No guarantee of extension or subsequent approval either expressed or implied can be made by the City of The Dalles Community Development Department. Please take care in implementing your approved proposal in a timely manner.

APPEAL PROCESS: The Planning Commission's approval, approval with conditions, or denial is the City's final decision, and may be appealed to the City Council if a completed Notice of Appeal is received by the Director no later than 5:00 p.m. on **June 17, 2024**, the 10th day following the date of the mailing of the Notice of Public Hearing Decision. The following may file an appeal of administrative decisions:

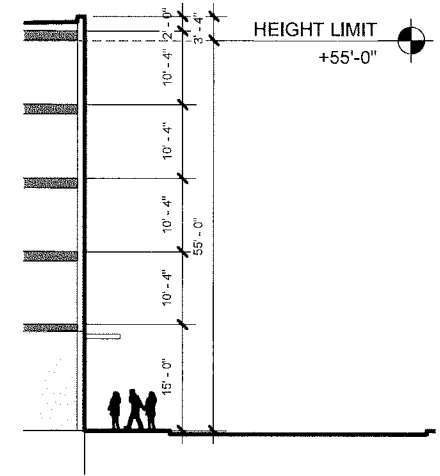
1. Any party of record to the particular public hearing action.
2. A person entitled to notice and to whom no notice was mailed. (A person to whom notice is mailed is deemed notified even if notice is not received.)
3. The Historic Landmarks Commission, the Planning Commission, or the City Council by majority vote.

A complete record of application for public hearing action is available for review upon request during regular business hours, or copies can be ordered at a reasonable price, at the City of The Dalles Community Development Department. A Notice of Appeal form is also available at The Dalles Community Development Office. The fee to file a Notice of Appeal is \$250.00. **The appeal process is regulated by Section 10.3.020.080: Appeal Procedures, The Dalles Municipal Code, Title 10 Land Use and Development Ordinance.**

APPENDIX B | Proposed Building Section with Height Increase



Building Section Of Proposed Design With Height Increase



Building Section By-Right Within
Height Limit

HACKER

BASALT COMMONS | HANLON DEVELOPMENT

APPENDIX D | View along E. 3rd Street with Height Increase



HACKER

BASALT COMMONS | HANLON DEVELOPMENT



CITY of THE DALLES
313 COURT STREET
THE DALLES, OREGON 97058

(541) 296-5481 ext. 1125
COMMUNITY DEVELOPMENT DEPARTMENT

RESOLUTION PC 622-24

Approval of Conditional Use Permit Application **212-24, Chris Hodney**, for approval of a height increase to exceed the maximum allowed height of the underlying zoning district for a mixed-use, multi-family development. The proposed height of the building is 60 ft., which exceeds the maximum building height within the Central Business Commercial (CBC) zoning district of 55 ft. The applicant is also requesting an extension of the one (1) year expiration of the Conditional Use Permit (CUP) to three (3) years. The Applicant is proceeding with a Site Plan Review (SPR) to site and construct the development concurrently with this CUP application; however, the SPR approval is conditional on the approval of this CUP. Property is located at 523 E. 3rd Street and further described as 1N 13E 3 BD tax lots 6700, 6800 and 6900. Property is zoned CBC – Central Business Commercial with a CBC-2 Overlay.

I. RECITALS:

- A. The Planning Commission of the City of The Dalles has on June 6, 2024 conducted a public hearing to consider the above request. A staff report was presented, stating the findings of fact, conclusions of law, and staff recommendation.
- B. Staff's report of Conditional Use Permit 212-24 and the minutes of the June 6, 2024 Planning Commission meeting, upon approval, provide the basis for this resolution and are incorporated herein by reference.

II. RESOLUTION:

Now, therefore, be it FOUND, DETERMINED, and RESOLVED by the Planning Commission of the City of The Dalles as follows:

In all respects as set forth in Recitals, Part "I" of this resolution, Conditional Use Permit 212-24 is hereby approved with the following conditions of approval:

1. The final building height must be consistent with the plans included in Attachment A: Appendix B and D of CUP 212-24 Application Package.
2. Following an approved CUP, Applicant must proceed with a Site Plan Review to site and construct the development. The Site Plan Review approval is conditional upon an approved CUP for the height increase.
3. Prior to Site Plan Review approval for the proposed development, it shall be demonstrated that lighting impacts across the property line shall not exceed 0.5 foot-candles (a foot-candle is the amount of light falling upon a 1-square-foot surface which is 1 foot away from a 1-candlepower light source).

- 4. The CUP approval shall be valid for **three** years from the date granted by the Commission. If construction is commenced within this three-year period and is being pursued diligently toward completion, the conditional use permit shall stay in full force for an additional year. In the case of unavoidable delay or an extensive construction schedule, the Commission may extend the time limit for completion of the project.

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

APPROVED AND ADOPTED THIS 6TH DAY OF JUNE, 2024.



Cody Cornett, Chair
Planning Commission


I, Joshua Chandler, Community Development Director for the City of The Dalles, hereby certify that the foregoing Resolution was adopted at the regular meeting of the City Planning Commission, held on the 6th day of June, 2024.

AYES: Case, Cornett, Portela

NAYS: Poppoff

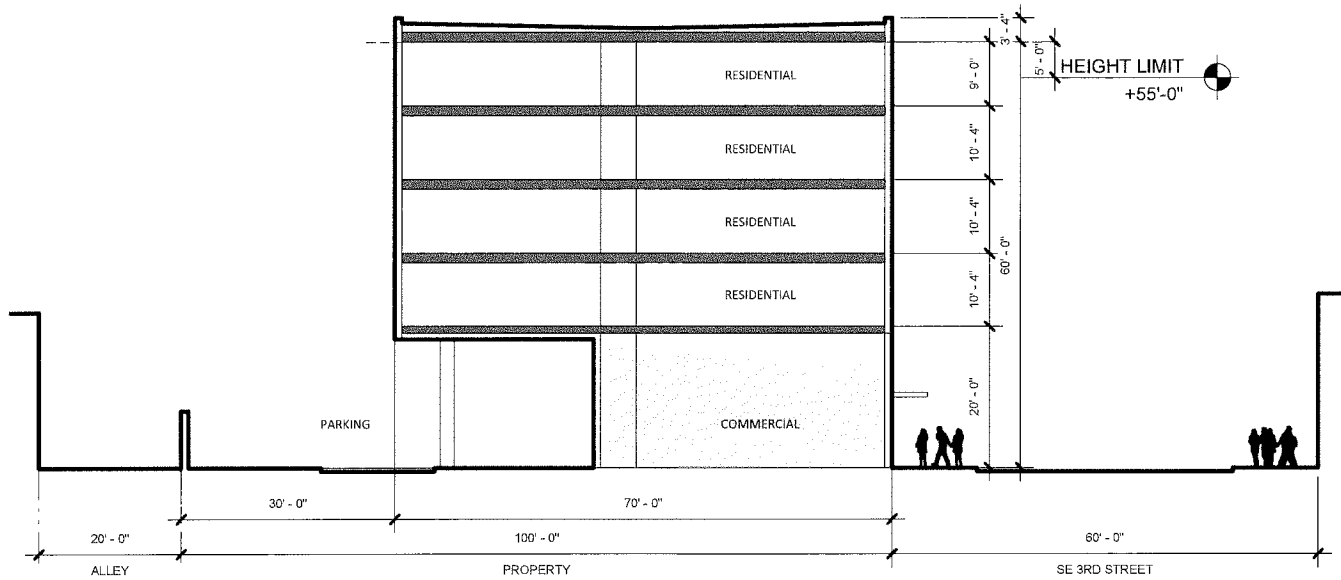
ABSENT: mascher, Peña

ABSTAIN: Grant

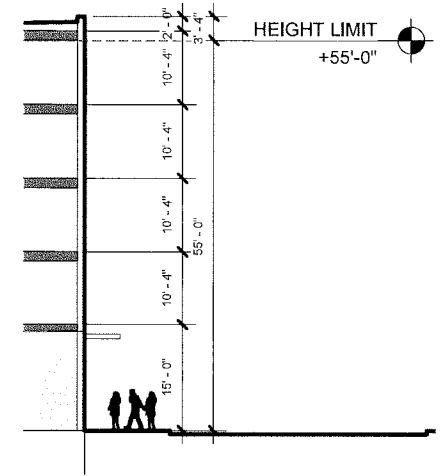
ATTEST: 

Joshua Chandler, Director
Community Development Department
City of The Dalles

APPENDIX B | Proposed Building Section with Height Increase



Building Section Of Proposed Design With Height Increase



Building Section By-Right Within
Height Limit

APPENDIX D | View along E. 3rd Street with Height Increase



HACKER

BASALT COMMONS | HANLON DEVELOPMENT

MINUTES

PLANNING COMMISSION

June 6, 2024

5:30 p.m.

City Hall Council Chambers
313 Court Street, The Dalles, Oregon 97058
Via Zoom / Livestream via City Website

PRESIDING: Cody Cornett, Chair

COMMISSIONERS PRESENT: Addie Case, John Grant, Mark Poppoff and Nik Portela

COMMISSIONERS ABSENT: Philip Mascher and Maria Peña

STAFF PRESENT: Director Joshua Chandler, Secretary Paula Webb

CALL TO ORDER

The meeting was called to order by Chair Cornett at 5:30 p.m.

PLEDGE OF ALLEGIANCE

Chair Cornett led the Pledge of Allegiance.

APPROVAL OF AGENDA

It was moved by Grant and seconded by Poppoff to approve the agenda as submitted. The motion carried 5/0; Case, Cornett, Grant, Poppoff and Portela voting in favor, none opposed, Mascher and Peña absent.

APPROVAL OF MINUTES

It was moved by Poppoff and seconded by Cornett to approve the minutes of February 1, 2024 as submitted. The motion carried 5/0; Case, Cornett, Poppoff and Portela voting in favor, none opposed, Grant abstained, Mascher and Peña absent.

PUBLIC COMMENT

None.

QUASI-JUDICIAL PUBLIC HEARING

CUP 212-24, Chris Hodney

Request: Approval of a height increase to exceed the maximum allowed height of the underlying zoning district for a mixed-use, multi-family development. The proposed height of the building is 60 ft., which exceeds the maximum building height within the Central Business Commercial (CBC) zoning district of 55 ft. The applicant is also requesting an extension of the one (1) year expiration of the Conditional Use Permit (CUP) to three (3) years. The Applicant is proceeding with a Site Plan Review (SPR) to site and construct the development concurrently with this CUP application; however, the SPR approval is conditional on the approval of this CUP.

Chair Cornett read the rules of a Public Hearing. He then asked if any Commissioner had ex parte contact, bias or a conflict of interest, which may preclude an impartial decision. Hearing none, he opened the public hearing at 5:37 p.m.

Director Chandler presented the staff report and presentation, Attachment 1.

Commissioner Grant asked if it was normal to have a vote brought to the Commission prior to a Site Plan Review.

Director Chandler replied it is contemplated in the Code [The Dalles Municipal Code (TDMC or Code)], which provides a two-step process. The first step is the conceptual review process. The second step is review of the site and construction of the site for the Site Plan Review.

Chris Hodney, Hacker Architects, 555 SE MLK Jr Blvd., Portland, Oregon 97214

Mr. Hodney stated he is representing the developer and property owner. He shared a presentation, Attachment 2.

Mr. Hodney stated it was important to his client that the design of the building is authentic to the time and place it is built.

Commissioner Poppoff asked for the net ceiling height of the first floor. Mr. Hodney replied he expects 15 to 17 ft.

Chair Cornett invited comment from proponents. There was none.

Chair Cornett then invited comment from opponents.

Dan Meader, 911 E. 7th Street, The Dalles

Mr. Meader is a land use planning consultant, and has worked on many projects throughout the region. He is currently working for 13 small cities and three counties. Mr. Meader noted his understanding of the laws.

Mr. Meader shared his concern, stating there has been a grave error in the way this application was processed. The listed conditional uses in the Central Business Commercial (CBC) District include automotive service stations, automatic teller machines, conference and visitor convention centers, community facilities and contractor shops, among others. They are all a specific land use.

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Planning Commission Meeting
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Under Development Standards [TDMC, Section 10.5.050.060] the building height is “55 ft. maximum, except 75 ft. maximum with a conditional use permit.” He asked where that came from. It does not fit with the conditional uses listed; it is not the same type of use. It is a mechanism to skip going through a variance. A variance is the required process.

Mr. Meader said there has been a mistake. He understands it is in the Code, but it is improper. It should be a variance. He read, “A variance may be granted whenever a strict application of the requirement of this Title would impose unusual practical difficulties on one or more property owners, or unnecessary hardships on one or more properties. The authority provided by this Article to grant variances does not extend to the use regulations in any zone district or overlay.” [TDMC, Section 10.3.070.010]

A variance is what most cities use to allow people to step outside the ordinance a small amount, not a conditional use. All land use activities regulated by cities and counties are supposed to have clear and objective standards in their ordinance. This just says get a conditional use.

Mr. Meader urged the Commission not to make a decision tonight. Listen to the Staff and City Attorney. I believe that they have to understand that this is incorrect. The variance is the process that should be followed.

Chair Cornett asked if there was something in the Code for the CBC [Central Business Commercial] District that says a variance should be used instead of a conditional use permit?

Mr. Meader replied there is nothing in the CBC Code that says a variance should be used.

Chair Cornett noted the Code says a conditional use permit should be used. Why would we use a variance instead of a conditional use?

Mr. Meader replied a conditional use permit is for a type of land use, like a service station. The conditional use does not fit the actual process the applicant is undergoing.

Chair Cornett said the process is explicitly outlined in the Code.

Mr. Meader stated he could see that he was not making himself clear. He wanted to have standing, which was all he needed.

Chair Cornett said he understood “the way it is typically done” is fair to say, but thought that “typically” processed would be used in the event nothing else explicitly stated how to process the application.

Mr. Meader said typically people will come in and want to exceed whatever the ordinance limitation is and the staff will say, “You need a variance.” Mr. Meader said he did not know where this came from. The last model of this ordinance he read, instead of saying the conditional uses listed below, said these are the only conditional uses that can be granted in this zone. It did not include the height as a conditional use, it was listed separately. It does not fit.

Chair Cornett asked for Mr. Meader’s suggestion. Mr. Meader replied, “They need to go back and go through the variance process.”

Chair Cornett then asked if a variance process was not outlined in the CBC zone... Mr. Meader interjected that it is not outlined in any zone. It is part of the land use actions available to the City and applicants. In the Code there is a list of tentative or proposed land use actions; the

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variance is one of them. It is not listed in residential or commercial zones. It is just there in the TDMC.

Chair Cornett stated this is new information, and not part of the agenda packet. The Commission does not research things for a specific meeting, things that are beyond the agenda packet.

Mr. Meader said he understood this was new information and was not urging the Commission to deny this tonight. He asked the Commission to continue and have Staff research the issue. He thought an error had been made.

Chair Cornett asked Mr. Meader why he thought this was important. Mr. Meader replied he is adamantly opposed to this project.

Chair Cornett said, to be clear, you are suggesting the applicant pursue a variance, even if the City allows a conditional use permit, to reach quite possibly the same result. Mr. Meader replied, quite possibly, but perhaps not.

Director Chandler said he would argue that this is not new information. Director Chandler joined the City in 2018; this is how the Code has read. If an earlier Planner added this into the Code to create this flexibility in the event a development like this were to come along, maybe that was contemplated prior to 2018. Director Chandler added he definitely wanted to be clear, that it was not added for this project.

City Attorney Kara offered some insight with the conditional use permit issue. Attorney Kara said he understood Mr. Meader's position. Mr. Meader is trying to draw a conclusion that because the Code standard in 10.5.050.060, which lists the development standards in the CBC zone, indicates a 75 ft. maximum is allowed with a conditional use permit, that the Commission has the choice allow up to a 75 ft. maximum for conditional uses. That is not what the Code says. The Code says it allows up to a 75 ft. maximum with a conditional use permit combined with the language indicated that stems from the conceptual, two-step process which contemplates the use of a conditional use permit. The Code is clear that it allows the Planning Commission to authorize up to 75 ft. structures as a development standard applicable to developments located within the CBC-2 zone and any other part of the CBC zone. The bottom line, as far as the City is concerned with respect to its own Code, is that this has been a long-standing Code. It very clearly contemplates the use subject to the conditional use process review and approval, which is a public process.

Mr. Meader respectfully disagreed with Attorney Kara. Mr. Meader did not expect the Commission to make a decision tonight. Mr. Meader wanted to establish that he has standing.

Deliberations

Commissioner Poppoff said if the applicant went with the 15 ft. height, the result would be similar to the height of the Council Chamber. He did not see any overreaching need for a 20 ft. height on the first floor.

Commissioner Grant replied it opens up the commercial area for other markets to take place.

Commissioner Poppoff replied the only building of that height downtown is the Commodore, several blocks away. Even at 55 ft., this would dominate the entire neighborhood.

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Commissioner Portela felt the structure would need extra height when thinking about the large tanks used by breweries. He said brewery equipment is quite large, and understood the request for more space rather. He did not feel an additional 5 ft. would make a huge difference.

Commissioner Grant asked if height was discussed with previous uses. Chair Cornett replied, yes. Commissioner Grant said breweries require a lot of space; a brewery would not be possible without the extra space.

Commissioner Grant asked if, when we go from 55 ft. to 75 ft. in the conditional use, we are going off the criteria met in the staff report. Director Chandler replied, yes. The Code allows an increase in height of up to 75 ft.

Chair Cornett stated this application is the same as the application approved two years ago. The only difference is the request for additional time for the applicant to work on their project. The Commission follows the Code.

It was moved by Grant and seconded by Poppoff to vote on the increased height separately from the request for additional time.

Chair Cornett did not think vote could be separated; both items are part of the same application. Director Chandler said technically, a condition could be amended in the event the Commission wants something different. That action would need to be shown in an amended condition. At the end of the day, the decision would be whether to approve this application.

Chair Cornett asked which condition Commissioner Grant would like to change. Commissioner Grant replied he would like to vote and deliberate on them separately. He was unsure if he had enough information to vote on that subject. He said we have no previous example on expanding the period. We have one year, with an extension of one year; then it can return to the Commission. He understood the request for the flexibility with a three-year period, however, many things could happen in three years. He was unsure how he felt about the extension.

Chair Cornett invited Commissioner Grant to share his apprehension for discussion.

Commissioner Grant noted we have a motion and second on the floor to vote on them separately; we would have to have deliberation and then vote on each part. Correct?

City Attorney Kara asked Secretary Webb if there was a motion and second. She replied yes, but there was no vote. Attorney Kara then asked for the motion. She replied the motion was to vote separately on the height increase and extension of time. Attorney Kara said the Commission could vote on the motion.

Chair Cornett called the vote. The motion failed 3/2; Cornett, Case and Portela opposed, Poppoff and Grant in favor, Mascher and Peña absent.

City Attorney Kara added the appropriate way to do what Commissioner Grant intended is to have a discussion connected with the three-year portion of the condition. If Commissioner Grant is otherwise in support of the resolution, the proper way is to adopt Resolution PC 622-24 as amended, and then to amend that condition. If the Commission supports the approval of the height variance, it would simply be to amend that condition regarding the extension of time.

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Chair Cornett asked what Commissioner Grant proposed as opposed to three years. Commissioner Grant replied he did not have anything that gave him the inclination to exceed what is already in the Code.

Chair Cornett said the staff report noted the applicant is 14 months from beginning construction. That means that two months prior to construction they will be before the Commission again. Commissioner Grant replied if the time period is in the Code, the applicant would need a compelling argument for the extension. The verbiage says we have one year, and extends one year. He then asked Director Chandler if that was correct.

Director Chandler replied once construction begins, it extends for one additional year. Chair Cornett stated in the application, the applicant already said it would go for more than one year. It is basically a nonstarter for the applicant if we are not going to give the extension.

Commissioner Grant said, as far as setting precedence, are we just going to extend the time? Chair Cornett did not think so. He thought it was a fair point, but said this is not a regular project, but one of the largest projects the downtown has ever seen. We use our best judgement to decide.

Commissioner Portela asked if the Commission did extend for three years and approve it for one year, we would literally be voting again in a year on the height variance alone, correct? Chair Cornett replied, yes.

Director Chandler asked the Commission to imagine the amount of uncertainty placed on an applicant. An applicant would be 12 months into the design, then return to the Planning Commission again for a decision. Twelve months of hiring architects and engineers – it is difficult to imagine how much that would cost. It is 14 months before the applicant reaches the point to break ground.

Chair Cornett stated it is normal for a conditional use permit to be greater than a year in some other city. Commissioner Grant replied we are not in another city. He understood the time, but said unless the Code is changed before future projects come along, that argument will be brought to the Commission.

Director Chandler said in the Code, the following statement allows the Commission to make this decision: “In the case of unavoidable delay or an extensive construction schedule, the Commission may extend the time limit for the completion of the project.” There is flexibility for the Commission to make a decision, potentially on a case-by-case basis. There is no set metric of time to extend that period, but from the information provided, one could argue that this application has an extensive construction schedule.

It was moved by Cornett and seconded by Portela to adopt Resolution PC 622-24, approving Conditional Use Permit 212-24, with the proposed conditions of approval based on the findings of fact and conclusions of law set forth in the agenda staff report. The motion passed 3/2; Cornett, Case and Portela in favor, Poppoff opposed, Grant abstained, Mascher and Peña absent.

The public hearing closed at 6:48 p.m.

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RESOLUTION

Resolution PC 622-24: Approval of CUP 212-24, Chris Hodney, Hacker Architects

It was moved by Cornett and seconded by Poppoff to adopt Resolution PC 622-24 approving Conditional Use Permit 212-24 with the proposed conditions of approval based on the findings of fact and conclusions of law set forth in the agenda staff report. The motion passed 3/2; Cornett, Case and Portela in favor, Poppoff opposed, Grant abstained, Mascher and Peña absent.

STAFF COMMENTS / PROJECT UPDATES

Director Chandler stated we are in the middle of our Housing Production Strategy (HPS) process. This will continue through the end of the year. He appreciated everyone's attendance and participation at the May 2, 2024 meeting. The next step will include interviews with local housing producers to receive input on struggles or barriers they deal with in producing housing.

The next Planning Commission and City Council joint session will be held July 18, 2024. Staff will distribute the information prior to the meeting. If unable to attend the meeting, feel free to forward comments.

Development is ramping up; Staff is receiving multiple applications. The pre-application/Site Team calendar is full.

In the next few months, Staff will work on updates to the flood plain ordinance. We anticipate adoption near the end of the year.

Director Chandler complimented RARE Planner Ann Moorhead. We have been graced with her work over the past few months; she will leave the City in mid-July. Ms. Moorhead has done amazing work. Director Chandler encouraged the Commission to visit one of her projects, "Illuminate the Dalles." This features a projector system that recreates and projects images of the ghost signs on the Gitchell Building.

COMMISSIONER COMMENTS / QUESTIONS

Commissioner Grant asked if Planning Commission meetings would ramp-up in the future. Director Chandler replied, yes. The department is short-staffed, and taking on some larger projects, such as Code revisions. The multiple applications received take priority over Code revisions. Director Chandler hopes to move on with meetings in the next few months. Meetings in July and October for Housing Production Strategy are already scheduled. The schedule is planned on an as-needed basis depending on the necessity of a quasi-judicial hearing.

Commissioner Grant said the meetings are necessary to keep the Commission informed; the last meeting minutes were from February. Director Chandler replied we lost our Senior Planner in March; she was handling most of the long-range planning. After that, Staff needed to move into current planning. He appreciates the Commission's patience.

Chair Cornett stated he is unable to attend the July 18 meeting.

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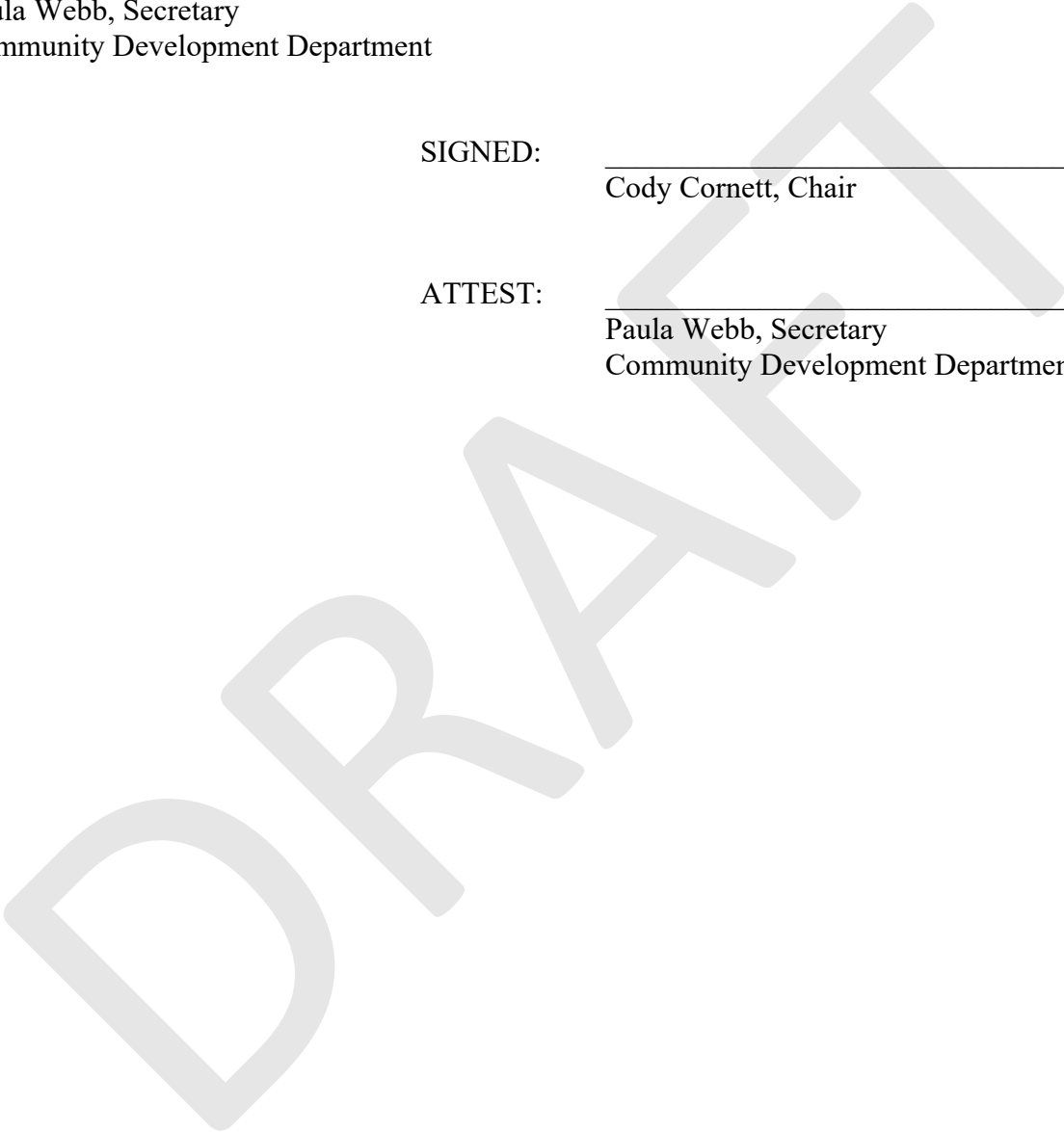
ADJOURNMENT

Chair Cornett adjourned the meeting at 6:54 p.m.

Submitted by/
Paula Webb, Secretary
Community Development Department

SIGNED: _____
Cody Cornett, Chair

ATTEST: _____
Paula Webb, Secretary
Community Development Department





City of The Dalles Planning Commission

THURSDAY, JUNE 5, 2024 | 5:30 PM

Conditional Use Permit No. 212-24

Applicant: Chris Hodney


Address: 523 E. 3rd Street

Zoning District: Central Business Commercial

Proposal: Applicant is requesting approval of a height increase to exceed the maximum allowed height of the underlying zoning district for a mixed-use, multi-family development. The proposed height of the building is 60 ft., which exceeds the maximum building height within the Central Business Commercial (CBC) zoning district of 55 ft. The applicant is also requesting an extension of the one (1) year expiration of the Conditional Use Permit (CUP) to three (3) years. The Applicant is proceeding with a Site Plan Review (SPR) to site and construct the development concurrently with this CUP application; however, the SPR approval is conditional on the approval of this CUP.

Subject Property

523 E. 3rd Street
Former site of Griffith Motors



Basalt Commons

Five-Story
Mixed-Use
92,000 gross SF

Floor 1:

- Retail, resident amenity and building services

Floors 2-5:

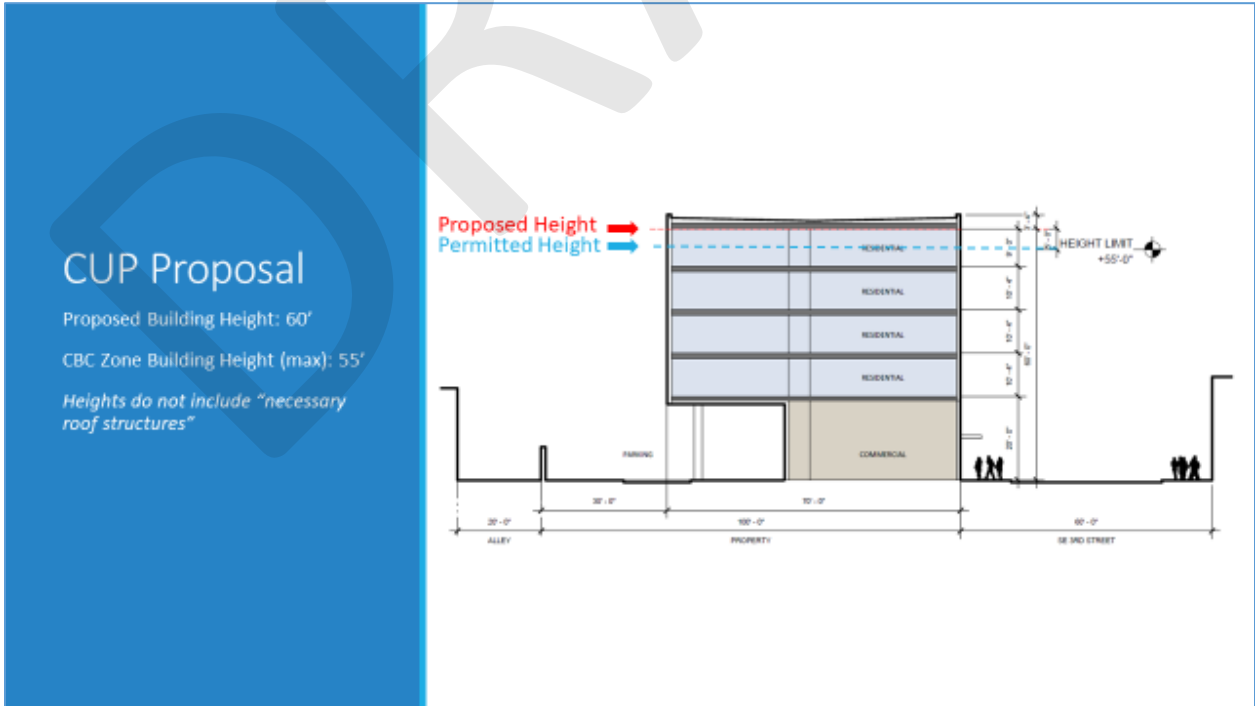
- 116 for-rent apartments



Land Use Review

Project will consist of three separate actions currently in review:

- Replat (MIP 438-24): Request to consolidate three tax parcels into one.
- **Conditional Use Permit (CUP 212-24)**: Building height increase.
- Site Plan Review (SPR 544-24): Site and construction of the development.
 - SPR approval is conditional on the approval of CUP 212-24



Purpose

Additional height provides benefits to the vitality of ground-floor:

- Provides civic scale and prominence to the ground-floor for the pedestrian experience;
- Allows ground-floor height that is consistent with commercial corner buildings of the district;
- Provides better proportion of ground-floor height to overall building height;
- Improves leasability - Creates flexible retail space that is attractive to a wider variety of tenant types (restaurants, micro-breweries prefer taller ceilings); and,
- Improves natural daylighting of the ground-floor spaces.

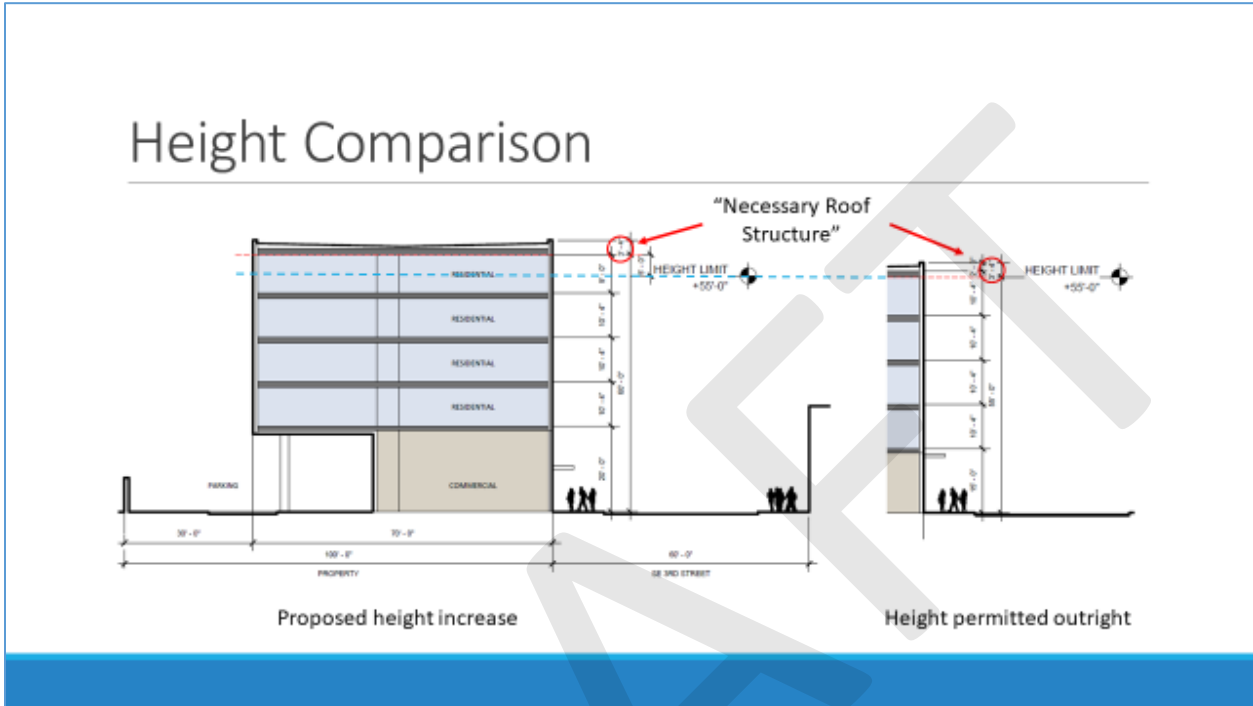
Height Comparison



Proposed height increase



Height permitted outright



Review Criteria TDMC 10.3.050.040(A) & (B)

A. Permitted Conditional Use. *The proposed use is conditionally permitted in the zone district where it is proposed to be located.*

Pursuant to TDMC 10.5.050.060, the maximum building height within the CBC zoning district is 55'; however, the building height may be increased to 75' with a CUP. **Criterion met.**

B. Standards. *The proposed use conforms to all applicable standards of the zone district where the use is proposed to be located. The proposed use will also be consistent with the purposes of this Title, and any other statutes, ordinances, or policies that may be applicable.*

Addressed in the Staff Report. **Criterion met.**

Height Limit Exceptions TDMC 10.6.090.010(A)

3. *In nonresidential zones,... necessary roof structures, elevator shaft housings, towers (except wireless communication towers), steeples, aerials, smoke stacks, solar or wind energy devices, and other similar objects (except flagpoles, which are described below in paragraph 4) not used for human occupancy with a height limit, measured from the adjacent grade, of 75 feet or less are not subject to the zone district height limits...*
- Physical Building Height: 63'-4"
 - 3'-4" of "necessary roof structures"
 - Building Height (human occupancy): 60'
 - *All buildings within the CBC zoning district may be increased by 20' (from 55' to 75') through the CUP application process.*

Review Criteria: Impact TDMC 10.3.050.040(C)

1. *Noise impacts across the property line shall not exceed 60 decibels. Noise related to traffic impacts shall not be included in this determination. Nothing in this Article shall modify other noise ordinance standards as adopted by the City.*
2. *Lighting impacts across the property line shall not exceed 0.5 foot-candles (a foot-candle is the amount of light falling upon a 1-square-foot surface which is 1 foot away from a 1-candlepower light source.)*
3. *Dust and other particulate matter shall be confined to the subject property.*
4. *The following odors shall be completely confined to subject property:*
5. *Vibrations shall not be felt across the property line.*
6. *The transportation system is capable, or can be made capable, of supporting the additional transportation impacts generated by the use. Evaluation factors shall include, but are limited to:*
7. *In areas designated as Historic Districts, proposed development and redevelopment shall first require review and approval of the Historic Landmarks Commission in accordance with the procedures of Chapter 11.12 - Historic Resources.*

Review Criteria: Impact Criterion Met

1. *Noise impacts across the property line shall not exceed 60 decibels. Noise related to traffic impacts shall not be included in this determination. Nothing in this Article shall modify other noise ordinance standards as adopted by the City.*
2. *Lighting impacts across the property line shall not exceed 0.5 foot-candles (a foot-candle is the amount of light falling upon a 1-square-foot surface which is 1 foot away from a 1-candlepower light source.)*
3. *Dust and other particulate matter shall be confined to the subject property.*
4. *The following odors shall be completely confined to subject property:*
5. *Vibrations shall not be felt across the property line.*
6. *The transportation system is capable, or can be made capable, of supporting the additional transportation impacts generated by the use. Evaluation factors shall include, but are limited to:*
7. *In areas designated as Historic Districts, proposed development and redevelopment shall first require review and approval of the Historic Landmarks Commission in accordance with the procedures of Chapter 11.12 - Historic Resources.*

Review Criteria: Impact Criterion Met with Conditions

1. *Noise impacts across the property line shall not exceed 60 decibels. Noise related to traffic impacts shall not be included in this determination. Nothing in this Article shall modify other noise ordinance standards as adopted by the City.*
2. *Lighting impacts across the property line shall not exceed 0.5 foot-candles (a foot-candle is the amount of light falling upon a 1-square-foot surface which is 1 foot away from a 1-candlepower light source.)*
3. *Dust and other particulate matter shall be confined to the subject property.*
4. *The following odors shall be completely confined to subject property:*
5. *Vibrations shall not be felt across the property line.*
6. *The transportation system is capable, or can be made capable, of supporting the additional transportation impacts generated by the use. Evaluation factors shall include, but are limited to:*
7. *In areas designated as Historic Districts, proposed development and redevelopment shall first require review and approval of the Historic Landmarks Commission in accordance with the procedures of Chapter 11.12 - Historic Resources.*

Review Criteria: Impact Criterion Not Applicable

1. *Noise impacts across the property line shall not exceed 60 decibels. Noise related to traffic impacts shall not be included in this determination. Nothing in this Article shall modify other noise ordinance standards as adopted by the City.*
2. *Lighting impacts across the property line shall not exceed 0.5 foot-candles (a foot-candle is the amount of light falling upon a 1-square-foot surface which is 1 foot away from a 1-candlepower light source.)*
3. *Dust and other particulate matter shall be confined to the subject property.*
4. *The following odors shall be completely confined to subject property:*
5. *Vibrations shall not be felt across the property line.*
6. *The transportation system is capable, or can be made capable, of supporting the additional transportation impacts generated by the use. Evaluation factors shall include, but are limited to:*
7. ~~*In areas designated as Historic Districts, proposed development and redevelopment shall first require review and approval of the Historic Landmarks Commission in accordance with the procedures of Chapter 11.12—Historic Resources.*~~

Time Limits and Extensions TDMC 10.3.050.070

Conditional use permits shall be valid for one year from the date granted by the Commission. If construction is commenced within this one-year period and is being pursued diligently toward completion, the conditional use permit shall stay in full force for an additional year. In the case of unavoidable delay or an extensive construction schedule, the Commission may extend the time limit for completion of the project...

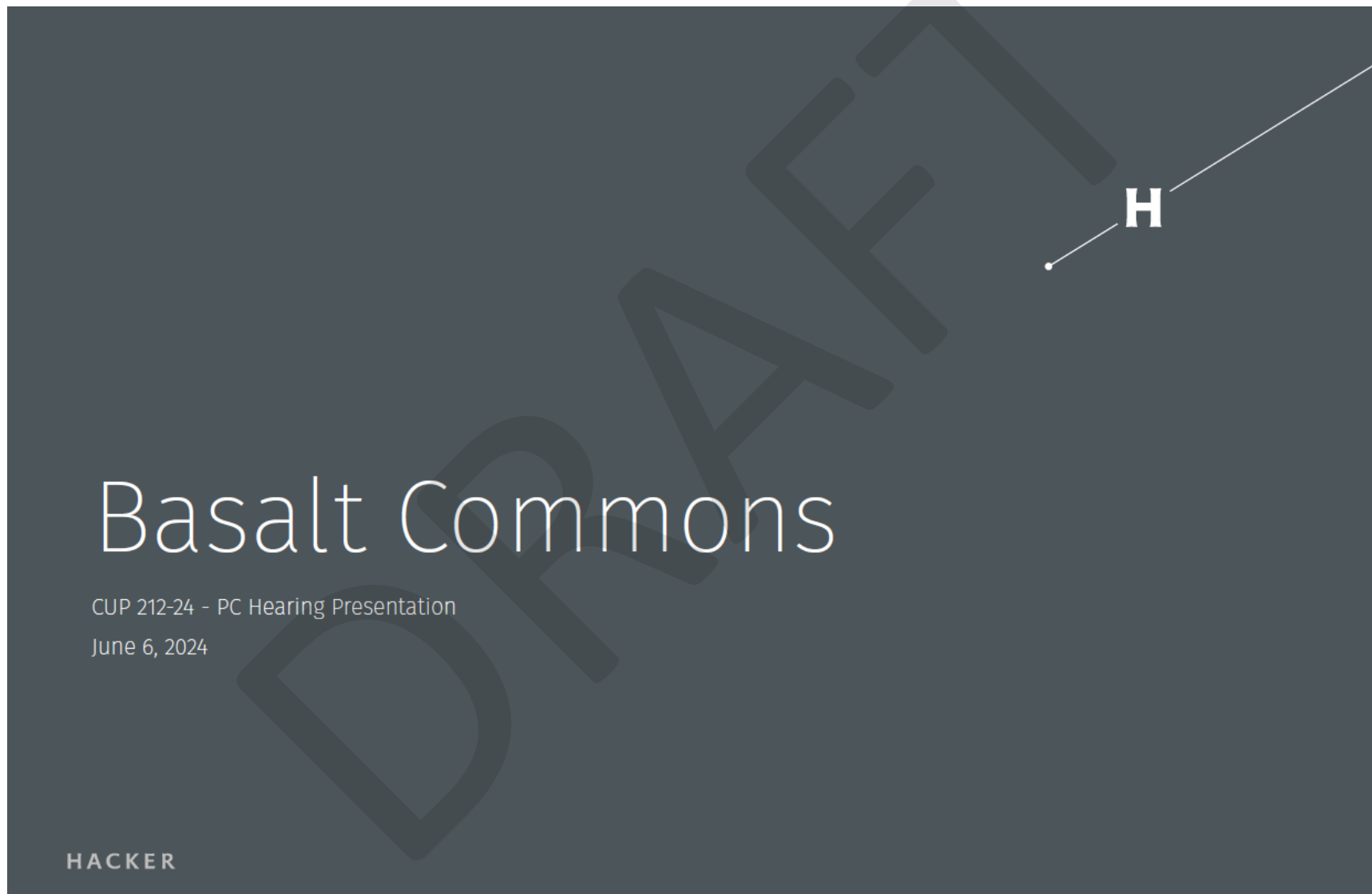
- Applicant is requesting an extension of the 1-year CUP approval to 3 years to accommodate an extensive construction schedule
- Anticipated project schedule: 14 months (*design, entitlements, building permit review*)

Conditions of Approval

1. The final building height must be consistent with the plans included in Attachment A: Appendix B and D of CUP 212-24 Application Package.
2. Following an approved CUP, Applicant must proceed with a Site Plan Review to site and construct the development. The Site Plan Review approval is conditional upon an approved CUP for the height increase.
3. Prior to Site Plan Review approval for the proposed development, it shall be demonstrated that lighting impacts across the property line shall not exceed 0.5 foot-candles (a foot-candle is the amount of light falling upon a 1-square-foot surface which is 1 foot away from a 1-candlepower light source).
4. The CUP approval shall be valid for **three** years from the date granted by the Commission. If construction is commenced within this three-year period and is being pursued diligently toward completion, the conditional use permit shall stay in full force for an additional year. In the case of unavoidable delay or an extensive construction schedule, the Commission may extend the time limit for completion of the project.

Commission Alternatives

1. **Staff recommendation:** The Planning Commission move to adopt Resolution PC 622-24 approving Conditional Use Permit 212-24, with the proposed Conditions of Approval included with this report, based upon the findings of fact and conclusions of law set forth in the Agenda Staff Report.
2. *If the Planning Commission desires to deny Conditional Use Permit 212-24, move to direct staff to prepare a resolution of denial. The Planning Commission shall identify the specific criteria concerning this decision.*



PROJECT INSPIRATION AND RELEVANT PATTERNS OF ARCHITECTURE



- Pedestrian-oriented main street architecture
- Varied building widths and heights, undulating roofline and patchwork of facade patterns
- Prominent ground-floor, with large storefront, canopies, transoms and material detail

HACKER

CUP 212-24 | BASALT COMMONS MULTIFAMILY | June 6, 2024

CORNER BUILDING SCALE AND GROUND-FLOOR HEIGHTS

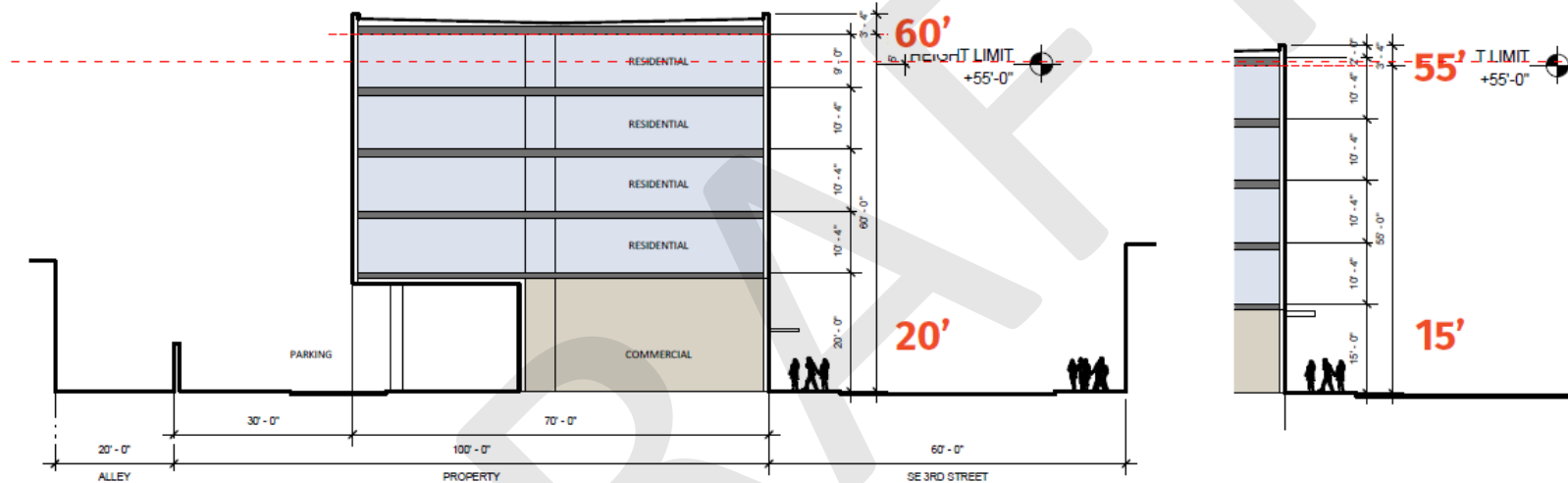


- Main intersections anchored by taller corner buildings with taller ground-floor heights
- Corner buildings vary from 35 ft, 40 ft, and up to the 61 ft Commodore
- Ground-floor heights between 16 feet and 19 feet

HACKER

CUP 212-24 | BASALT COMMONS MULTIFAMILY | June 6, 2024

PROPOSED BUILDING - REQUESTING ADDITIONAL 5 FEET OF HEIGHT



PROPOSED BUILDING SECTION | 60 Feet Maximum Height

- 20 FT FLOOR-TO-FLOOR GROUND LEVEL
- 14-17 FT GROUND LEVEL CEILINGS

BY-RIGHT BUILDING SECTION | 55 Feet

- 15 FT FLOOR-TO-FLOOR GROUND LEVEL
- 11-12 FT GROUND LEVEL CEILINGS

- Prominent ground floor height that is consistent with existing context
- Attracts most active and public retail tenants (restaurants, pubs, event halls)
- Provide long-term flexibility, economic vitality and best meet the goals of the district

HACKER

CUP 212-24 | BASALT COMMONS MULTIFAMILY | June 6, 2024

EXTENSION OF CONDITIONAL USE DECISION EXPIRATION DATE

- Design, Documentation leading up to Permits takes between 8 and 12 months after Conditional Use
- Site Plan Review and Building Permits take between 6 and 8 months
- Requesting that the decision expiration be extended to 3 years from the final notice of decision, so long as construction has begun and is being pursued in earnest

HACKER

CUP 212-24 | BASALT COMMONS MULTIFAMILY | June 6, 2024

May 30, 2024

Community Development Department
City of The Dalles
313 Court Street
The Dalles, OR 97058



RE: MIP 438-24 Chris Hodney

I'm the owner of the property located at 518 East 2nd Street The Dalles. We are worried about the project not having enough parking spots allocated for the number of apartment units in the development.

We believe each unit should have at least one parking spot incorporated at the site of this development.

If the parking issue is not addressed this will have a negative impact on the value of our property and cause a hard ship on my tenants business.

Sincerely,

Kathryn Walters

Ronald Walters
Kathryn Walters
2710 SE Merritt Dr.
Battle Ground, WA 98604
(360) 608-3605

**CITY of THE DALLES**313 COURT STREET
THE DALLES, OREGON 97058(541) 296-5481 ext. 1125
COMMUNITY DEVELOPMENT DEPARTMENT**STAFF REPORT
CUP 212-24**

Applicant: Chris Hodney, Hacker Architects
Procedure Type: Quasi-Judicial
Hearing Date: June 6, 2024
Property Owner: TD3RD LLC, Hanlon Development – Mary Hanlon
Assessor’s Map: Township 1 North, 13 East, Section 3 BD
Tax Lot: 6700, 6800, 6900
Address: 523 E. 3rd Street
Zoning District: “CBC” Central Business Commercial
Subdistrict: CBC-2
Prepared By: Joshua Chandler, Community Development Director

REQUEST: Applicant is requesting approval of a height increase to exceed the maximum allowed height of the underlying zoning district for a mixed-use, multi-family development. The proposed height of the building is 60 ft., which exceeds the maximum building height within the Central Business Commercial (CBC) zoning district of 55 ft. The applicant is also requesting an extension of the one (1) year expiration of the Conditional Use Permit (CUP) to three (3) years. The Applicant is proceeding with a Site Plan Review (SPR) to site and construct the development concurrently with this CUP application; however, the SPR approval is conditional on the approval of this CUP.

NOTIFICATION: Property owners within 300 feet, City Departments and Franchise Utilities.

ATTACHMENTS:

- Attachment 1: Appendix B and D of CUP 212-24 Application Package

COMMENTS RECEIVED: No comments received as of the date of this report.

PROJECT BACKGROUND AND INFORMATION:

This CUP request is to replace CUP 205-22 that was approved August 11, 2022 by the Planning Commission but expired due to construction not commencing within one year of CUP approval.

The proposed project combines 116 for-rent apartments over 9,720 sf of retail, resident amenity and building services in a 92,000 gross square feet mixed-use building. The conceptual design recognizes tall ground-floor heights and varied building widths of the district as a defining character. To achieve the tall ground floor height, a CUP is requested by the applicant to increase the overall height of the building above 55', which is allowable height in the zone, with up to 75' allowed with a CUP. This proposal requests an additional 5' of building height be allowed to grow the height of the ground floor. The additional height will allow the ground floor to have a civic scale and match existing patterns for corner and more public buildings. The resulting building height would be very similar to the historic Commodore at E. 3rd and Court Streets. The additional height provides some benefits to the vitality of the ground-floor, such as:

- Provides civic scale and prominence to the ground-floor for the pedestrian experience;
- Allows ground-floor height that is consistent with commercial corner buildings of the district;
- Provides better proportion of ground-floor height to overall building height;
- Improves leasability - Creates flexible retail space that is attractive to a wider variety of tenant types (restaurants, micro-breweries prefer taller ceilings); and,
- Improves natural daylighting of the ground-floor spaces.

Additionally, the proposal requests that the expiration date of the CUP be extended past the standard one-year time limit so long as development (construction) begins within 3 years from the final decision. The anticipated project schedule including design phases and all entitlements, and building permit reviews will take roughly 14 months. Therefore, with any reasonable schedule contingency, a conditional use decision will typically expire if held to the current code expiration limits prior to construction beginning on any project of this scale.

REVIEW CRITERIA:

City of The Dalles Municipal Code, Title 10 Land Use and Development

Section 10.3.010.040 Applications

A. Acceptance

FINDING #1: Applicant submitted a pre-application (Site Team) request on April 9, 2024; the meeting was held on April 25, 2024. Following the Site Team meeting, the city provided the applicant meeting notes on April 29, 2024. **Criterion met.**

B. Completeness

FINDING #2: The application was deemed complete on May 14, 2024. **Criterion met.**

Section 10.3.020.050 Quasi-Judicial Actions

A. Decision Types.

FINDING #3: Pursuant to The Dalles Municipal Code (TDMC), CUP applications are processed as Quasi-Judicial Actions. **Criterion met.**

B. Staff Report.

FINDING #4: This document serves as the staff report. **Criterion met.**

C. Public Hearings.

FINDING #5: The public hearing is scheduled for June 6, 2024, which is within 23 days from the date the application was deemed complete. **Criterion met.**

D. Notice of Hearing.

FINDING #6: A notice of public hearing was sent to property owners within 300', as well as affected city departments, agencies and utilities on May 23, 2024, for consideration of a June 6, 2024 Planning Commission meeting. **Criterion met.**

Section 10.3.050.030 Applications

A. Applications.

FINDING #7: Digital copies of all required plans have been submitted. Staff determined no paper copies are required at this time. **Criterion met.**

B. Review.

FINDING #8: See Finding #3. The Applicant is proceeding with a Site Plan Review (SPR) to site and construct the development concurrently with this CUP application; however, the SPR approval is conditional on the approval of CUP 212-24. **Criterion met.**

C. Concept Review

FINDING #9: Applicant is requesting the two-stage CUP concept process for initial review of the building height increase. Upon approval of CUP 212-24, the Applicant will continue with SPR to site and construct the development. **Criterion met.**

Section 10.3.050.040 Review Criteria

A. Permitted Conditional Use. The proposed use is conditionally permitted in the zone district where it is proposed to be located.

FINDING #10: Pursuant to TDMC 10.5.050.060, the maximum building height within the CBC zoning district is 55'; however, the building height may be increased to 75' with a CUP. As mentioned in Finding #9, Applicant is requesting the two-stage CUP concept process for initial review of the building height increase. **Criterion met.**

B. Standards. The proposed use conforms to all applicable standards of the zone district where the use is proposed to be located. The proposed use will also be consistent with the purposes of this Title, and any other statutes, ordinances, or policies that may be applicable.

FINDING #11: All applicable standards of TDMC are addressed within this staff report. **Criterion met.**

A. Impact. The proposed structure(s) and use(s) shall be designed and operated in such a way as to meet the standards of this Article. Impacts caused by the construction of the conditional use shall not be considered regarding a decision on the validation of the application.

1. Noise impacts across the property line shall not exceed 60 decibels. Noise related to traffic impacts shall not be included in this determination.

Nothing in this Article shall modify other noise ordinance standards as adopted by the City.

FINDING #12: Applicant is requesting approval of a height increase to exceed the maximum allowed height of the underlying zoning district. The proposed site uses are not expected to generate noise exceeding 60 decibels. However, routine testing and maintenance of a diesel generator will reach levels close to 60 dB. To address this, the generator is placed within a roofed enclosure set back from the alley and Jefferson right-of-way. Furthermore, an exhaust muffler will be installed to reduce noise to permissible levels. Staff determined the increased height would have no impact on noise levels. **Criterion met.**

2. *Lighting impacts across the property line shall not exceed 0.5 foot-candles (a foot-candle is the amount of light falling upon a 1-square-foot surface which is 1 foot away from a 1-candlepower light source.)*

FINDING #13: Applicant is requesting approval of a height increase to exceed the maximum allowed height of the underlying zoning district. Staff will review impacts from lighting associated with the proposed development during the concurrent SPR application. A condition of approval of this CUP will require lighting impacts across the property line shall not exceed 0.5 foot-candles (a foot-candle is the amount of light falling upon a 1-square-foot surface which is 1 foot away from a 1-candlepower light source) to be demonstrated prior to SPR approval. **Criterion met with condition.**

3. *Dust and other particulate matter shall be confined to the subject property.*

FINDING #14: Applicant is requesting approval of a height increase to exceed the maximum allowed height of the underlying zoning district. Dust and other particulate matter shall be confined to the subject property. Staff determined the increased height would not produce dust or particulate matter. **Criterion met.**

4. *The following odors shall be completely confined to subject property:*
 - a. *Industrial and/or chemical grade chemicals, solvents, paints, cleaners, and similar substances;*
 - b. *Fuels; and*
 - c. *Fertilizers, manure, or other animal waste products, other than for landscape installation and maintenance.*

FINDING #15: Applicant is requesting approval of a height increase to exceed the maximum allowed height of the underlying zoning district. Staff determined the increased height would not produce any of the above mentioned odors. **Criterion met.**

5. *Vibrations shall not be felt across the property line.*

FINDING #16: Applicant is requesting approval of a height increase to exceed the maximum allowed height of the underlying zoning district. Staff determined the increased height would not create vibrations felt across the property line. **Criterion met.**

6. *The transportation system is capable, or can be made capable, of supporting the additional transportation impacts generated by the use. Evaluation factors shall include, but are limited to:*
- a. *Street designation and capacities;*
 - b. *On-street parking impacts;*
 - c. *Bicycle safety and connectivity;*
 - d. *Pedestrian safety and connectivity; and*

FINDING #17: Applicant is requesting approval of a height increase to exceed the maximum allowed height of the underlying zoning district. The increase in height does not directly impact transportation systems. Staff will review impacts to the transportation system associated with the proposed development during the concurrent SPR application. **Criterion met.**

7. *In areas designated as Historic Districts, proposed development and redevelopment shall first require review and approval of the Historic Landmarks Commission in accordance with the procedures of Chapter 11.12 - Historic Resources.*

FINDING #18: The proposed use is not located in a historic district. **Criterion not applicable.**

Section 10.6.090.010 Height Limitation Exceptions

A. General.

3. *In nonresidential zones, except for the requirements of subsection B below, necessary roof structures, elevator shaft housings, towers (except wireless communication towers), steeples, aerials, smoke stacks, solar or wind energy devices, and other similar objects (except flagpoles, which are described below in paragraph 4) not used for human occupancy with a height limit, measured from the adjacent grade, of 75 feet or less are not subject to the zone district height limits...*

FINDING #19: TDMC 10.6.090.010 provides an exception to the underlying zoning district building height limits for necessary structural components of a building not used for human occupancy and measuring less than 75' in height. For consideration of this application, Applicant demonstrated an overall physical building height of 63'-4" building height, including 3'-4" of "necessary roof structures"; however, presented the building height as 60' for purposes of areas *used for human occupancy*. Staff determined the discrepancy in the two height measurements as negligible and has no impact on the CUP review criteria listed within this staff report. As mentioned in Finding #10, all buildings within the CBC zoning district may be increased by 20' (from 55' to 75') through the CUP application process. **Criterion met.**

RECOMMENDATION: Based on the application materials and findings demonstrating compliance with the applicable criteria, **Staff recommends approval of Conditional Use Permit 212-24, subject to the following conditions of approval.** Any modifications to the

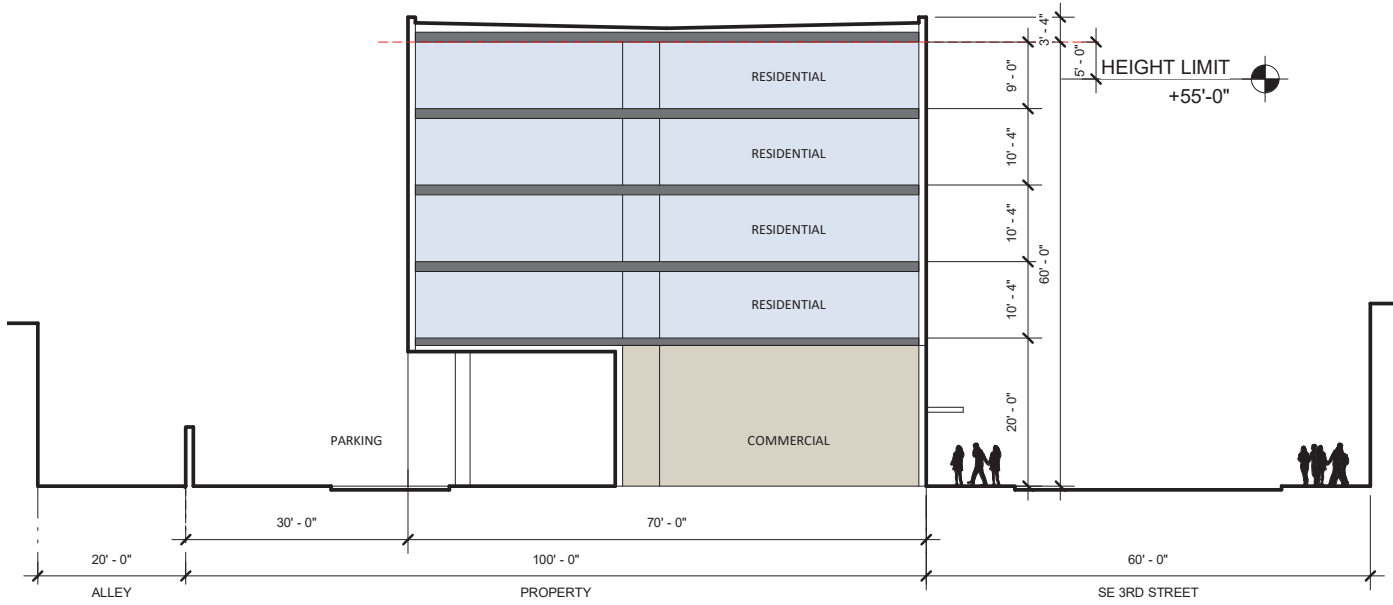
approved plans, other than those required by this decision, will require a new land use application and approval.

1. The final building height must be consistent with the plans included in Attachment A: Appendix B and D of CUP 212-24 Application Package.
2. Following an approved CUP, Applicant must proceed with a Site Plan Review to site and construct the development. The Site Plan Review approval is conditional upon an approved CUP for the height increase.
3. Prior to Site Plan Review approval for the proposed development, it shall be demonstrated that lighting impacts across the property line shall not exceed 0.5 foot-candles (a foot-candle is the amount of light falling upon a 1-square-foot surface which is 1 foot away from a 1-candlepower light source).
4. The CUP approval shall be valid for **three** years from the date granted by the Commission. If construction is commenced within this three-year period and is being pursued diligently toward completion, the conditional use permit shall stay in full force for an additional year. In the case of unavoidable delay or an extensive construction schedule, the Commission may extend the time limit for completion of the project.

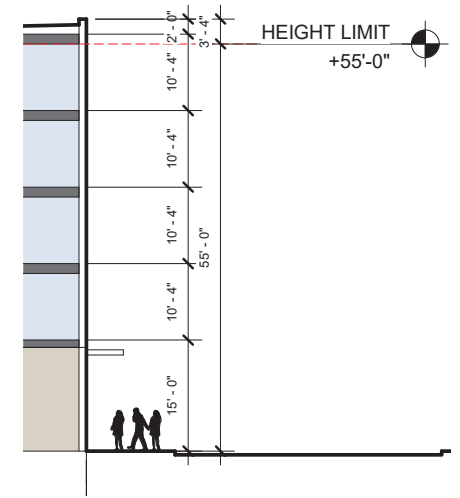
COMMISSION ALTERNATIVES:

1. **Staff recommendation:** The Planning Commission move to adopt Resolution 622-24 approving Conditional Use Permit 212-24, with the proposed Conditions of Approval included with this report, based upon the findings of fact and conclusions of law set forth in the Agenda Staff Report.
2. If the Planning Commission desires to deny Conditional Use Permit 212-24, move to direct staff to prepare a resolution of denial. The Planning Commission shall identify the specific criteria concerning this decision.

APPENDIX B | Proposed Building Section with Height Increase



Building Section Of Proposed Design With Height Increase



Building Section By-Right Within Height Limit

APPENDIX D | View along E. 3rd Street with Height Increase



HACKER

BASALT COMMONS | HANLON DEVELOPMENT



City of The Dalles
Community Development Dept
 313 Court Street
 The Dalles, OR 97058
 (541) 296-5481, ext. 1125
 www.thedalles.org

Application #: CUP 212-24
 Filing Fee: \$550
 Receipt #: _____
 Deemed Complete: _____
 Ready to Issue: _____
 Date Issued: _____

Received: 5/7/24

Conditional Use Permit Application

Applicant

Name: Chris Hodney
 Address: 555 SE MLK Jr Blvd, Suite 501
Portland, OR 97214
 Phone #: 503-227-1254
 Email: chodney@hackerarchitects.com

Legal Owner (if different than Applicant)

Name: Mary Hanlon, Managing member, Hanlon Development
 Address: TD3rd LLC, W 2nd St., #2049
The Dalles, OR 97058
 Phone #: 503-539-2880
 Email: mary@hanlondevelopment .COM

Property Information

Address: 523 E. 3rd Street
 Zone: CBC, CBC-2 Subdistrict
 City Limits: Yes No
 Geohazard Zone: None

Map and Tax Lot: 1N 13E BD 6700/6800/6900
 Overlay: None
 Size of Development: 5 Stories, 96,000 gross sf, 116 units
 Flood Designation: None

Project Information

New Construction Expansion/Alteration Change of Use Amend Approved Plan

Current Use of Property: Auto Sales

Proposed Use of Property: Multifamily Housing and Retail

Briefly Explain the Project:

5-Story, Type VA over IA, Multifamily Residential with Retail and Resident Amenity and Leasing on the Ground Floor. 59 Parking spaces (35 on-site) provided. Requesting 5 feet of additional building height, and an extension of the expiration to 3 years from the decision if construction has begun.

Proposed Building(s) Footprint Size (ft²): 20,373

Total Number of Parking Spaces Proposed: 59

Parking Lot Landscaping Proposed (ft²): 1,165

Total Landscaping Proposed (ft²): 1,165

Percentage of Irrigated Landscaping: 100%

Project Information (continued)

Economic Development Information

Proposed Project is in the Enterprise Zone

(for questions regarding Enterprise Zones, please contact the Assistant to the City Manager’s Office at (541) 296-5481, ext. 1150)

Full Time Equivalent (FTE) jobs are currently provided: 0

FTE jobs are expected to be created by the proposed project: 12

In addition to the requirements of Article 3.010: Application Procedures, this application must be accompanied by the information required in Article 3.050 Site Plan Review, contained in Title 10 Land Use and Development of the City of The Dalles Municipal Code.

Upon submission of this application, please provide the following material:

Site Team / Pre-Application:

- Completed application
- Concept plan (PDF recommended)
- 50% application fee

Official Conditional Use Permit Review:

- Remainder of application fees
- Professional plans (PDF required)

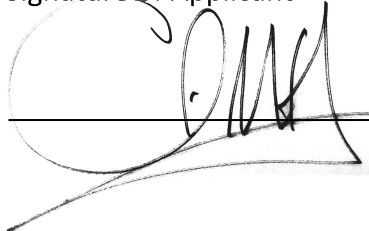
Following an approved Site Plan Review determination, plans with all necessary changes must be submitted to City Staff for final review. Please provide the following number of copies for review:

- 1 – PDF of final plans
- 1 – 11” x 17” set of final plans
- 2 – Full size sets of construction detail plans

Following final plan review, please provide the following number of copies:

- 1 – PDF of final plans
- 2 – 11” x 17” sets of final plans
- 4 – Full size sets of construction detail plans

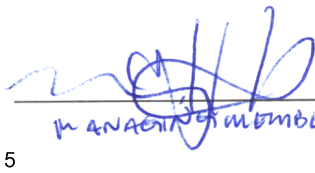
Signature of Applicant



5/6/2024

Date

Signature of Property Owner



SO LE MEMBER HANSON DEVELOPMENT LLC
MANAGING MEMBER TD3CO LLC

Date

5/30/24



Basalt Commons

Conditional Use Review Application Documents

May 6, 2024

PROJECT NARRATIVE



Project Description:

The proposed project combines 116 for-rent apartments over 9,720 sf of retail, resident amenity and building services in a 92,000 gross square feet mixed-use building. The anticipated construction type will be (4) floors of Type VA over a Type IA podium, and fully sprinklered with an NFPA 13R system.

Open-air, 'tuck-under' surface parking is proposed along the alley, with ground-floor retail, resident lobby, amenity, and building services wrapping along all pedestrian frontages. Open-air retail courtyards outdoor seating niches are proposed along E. 3rd and Laughlin frontages to activate the corners, and provide expanded public sidewalk areas.

The conceptual design recognizes tall ground-floor heights and varied building widths of the district as a defining character, and emulates these through a modern, timeless expression. The building massing is broken to read as (4) separate masses, and the building plane alternates to pull back from E. 3rd - creating expanded outdoor seating off the sidewalk, and breaking up the overall bulk of the building.

Anticipated Reviews:

- Contional Use Review
- Minor Partition/Replat
- Site Plan Review

Conditional Use Review Requests:

The CBC zone allows 55' height in the zone, with up to 75' allowed under Conditional Use review.

This proposal is requesting an additional 5 feet of building height be allowed to grow the height of the ground floor (see Appendix B). The additional height will allow the ground floor to have a truly civic scale and match existing patterns for corner or more public buildings (See App. A). The resulting building height would be very similar to the historic Commodore at E. 3rd and Court Streets.

The additional height provides some benefits to the vitality of the ground-floor, such as:

- Provides civic scale and prominence to the ground-floor for the pedestrian experience
- Allows ground-floor height that is consistent with commercial corner buildings of the district
- Provides better proportion of ground-floor height to overall building height
- Improves leasability - Creates flexible retail space that is attractive to a wider variety of tenant types (restaurants, micro-breweries want taller ceilings)
- Improves natural daylighting of the ground-floor spaces

Additionally, the proposal requests that the expiration date of the land-use reviews be extended so that they are valid so long as development (construction) begins within 3 years from the final decision of the land use reviews (CUP, MIP, and SPR).

The anticipated project schedule including design phases and all entitlements + building permit reviews will take roughly 14 months. Therefore, with any reasonable schedule contingency, a conditional use decision will typically expire if held to the current code expiration limits prior to construction beginning on any project of this scale.

REVIEW CRITERIA RESPONSE

10.3.050.040 Review Criteria

A conditional use permit shall be granted if the Commission finds that the proposed use conforms with, or can be made to conform with through added conditions, any related requirements of this and other City ordinances and all of the following criteria:

Requirement	Code Reference	Standard
Permitted Use	10.3.050.040.A, 10.5.050.030, 10.5.050.040	The proposed use is conditionally permitted in the zone district where it is proposed to be located <i>RESPONSE: Complies.</i> <i>The proposed uses are multifamily residential, food services (restaurants), retail uses, office. All are allowed out-right within the district.</i>
Standards	10.3.050.040.B	The proposed use conforms to all applicable standards of the zone district where the use is proposed to be located. The proposed use will also be consistent with the purposes of this Title, and any other statutes, ordinances, or policies that may be applicable. <i>RESPONSE: Complies..</i> <i>Complies with applicable standards described and responded to in the following tables.</i>
Impact – Noise	10.3.050.040.C.1	Noise impacts across the property line shall not exceed 60 decibels. Noise related to traffic impacts shall not be included in this determination. Nothing in the Article shall modify other noise ordinance standards as adopted by the City. <i>RESPONSE: Complies,</i> <i>The proposed site uses aren't expected to generate noise exceeding 60 decibels. However, routine testing and maintenance of a diesel generator will reach levels close to 60 dB. To address this, the generator is placed within a roofed enclosure (Gen.Rm. on the concept plan), set back from the alley and Jefferson right of way. Furthermore, an exhaust muffler will be installed to reduce noise to permissible levels.</i>
Impact – Lighting	10.5.050.040.C.2	Lighting impacts across the property line shall not exceed 0.5 foot-candles (a foot-candle is the amount of light falling upon a 1-square-foot surface which is 1 foot away from a 1-candlepower light source). <i>RESPONSE: Complies,</i> <i>Exterior lighting will be located and detailed to focus light to the immediate pedestrian path around the building (sidewalk and retail/lobby entries).</i>

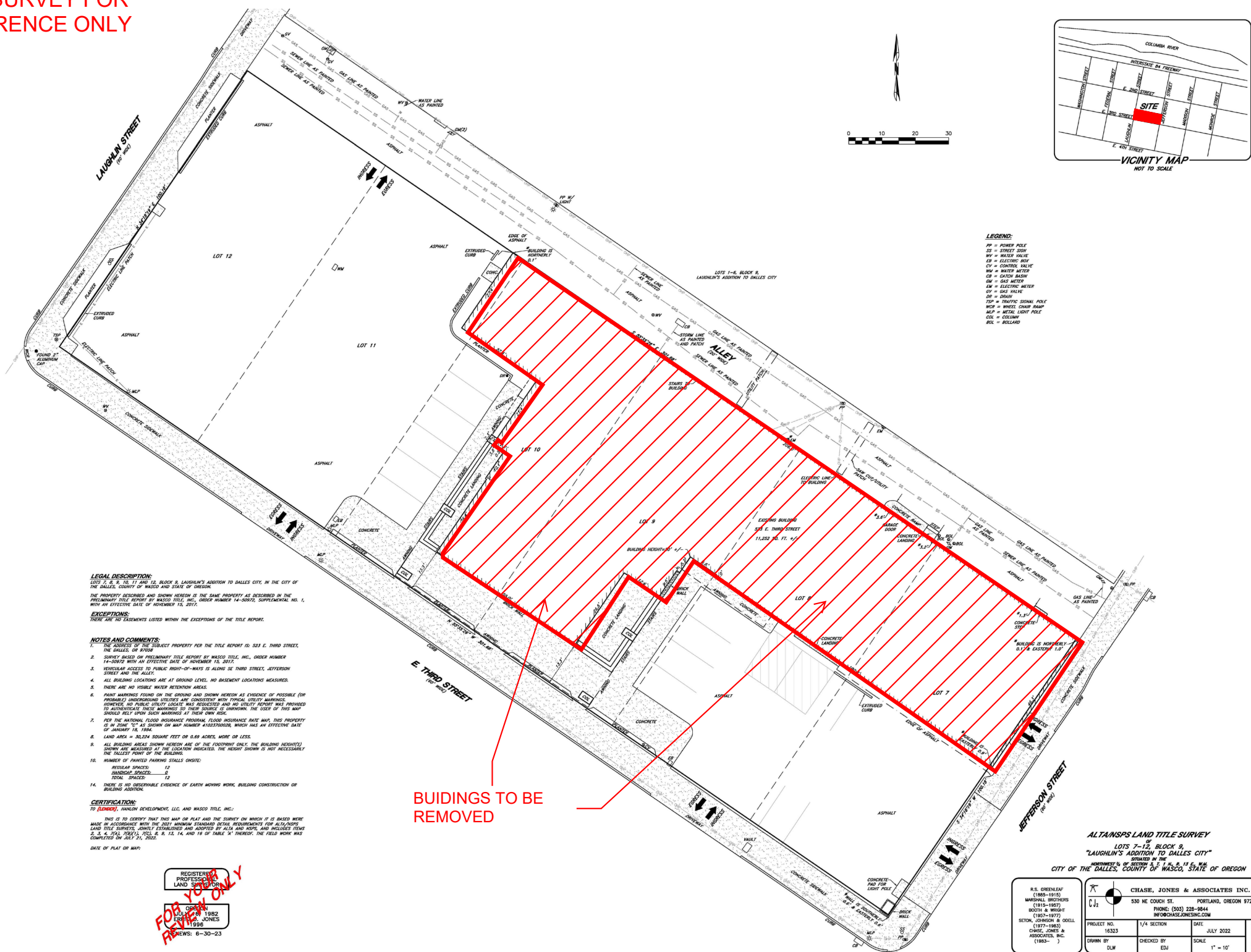
Impact – Dust	10.5.050.040.C.3	Dust and other particulate matter shall be confined to the subject property <i>RESPONSE: Complies, N/A</i> <i>The proposed uses will not generate dust or other particulate matter which would impact surrounding properties or right-of-way.</i>
Impact – Odors	10.5.050.040.C.4	The following odors shall be completely confined to the subject property: <ul style="list-style-type: none"> a) Industrial and/or chemical grade chemicals, solvents, paints, cleaners, and similar substances. b) Fuels ,and c) Fertilizers, manure, or other animal waste products, other than for landscape installation and maintenance. <i>RESPONSE: Complies , N/A</i> <i>The proposed uses will not generate any of the specified odors that would impact surrounding properties or right-of way.</i>
Impact –Vibrations	10.5.050.040.C.5	Vibrations shall not be felt across the property line. <i>RESPONSE: Complies,</i> <i>The proposed uses will not generate any vibrations that would impact surrounding properties or right-of way.</i>
Impact – Transportation	10.5.050.040.C.6	The transportation system is capable, or can be made capable, of supporting the additional transportation impacts generated by the use. Evaluation factors shall include, but are limited to: <ul style="list-style-type: none"> a. Street designation and capacities; b. On-street parking impacts c. Bicycle safety and connectivity d. Pedestrian safety and connectivity, and e. Transit capacity and efficiency. <i>RESPONSE: N/A for this review.</i> <i>No negative impacts to the transportation system are anticipated with this proposal. Proposed uses and density are within the allowable limits of the CBC and the CBC-2 Subdistrict, therefore all transportation systems are capable of supporting this development. A traffic impact study has been completed and will be provided with the Site Plan Review application.</i>
Impact – Historic Districts	10.5.050.040.C.7	In areas designated as Historic Districts, proposed development and redevelopment shall first require review and approval of the Historic Landmarks Commission in accordance with the procedures of Chapter 11.12 – Historic Resources <i>RESPONSE: Not applicable.</i> <i>The proposed building property is not within a designated Historic District.</i>

VICINITY MAP



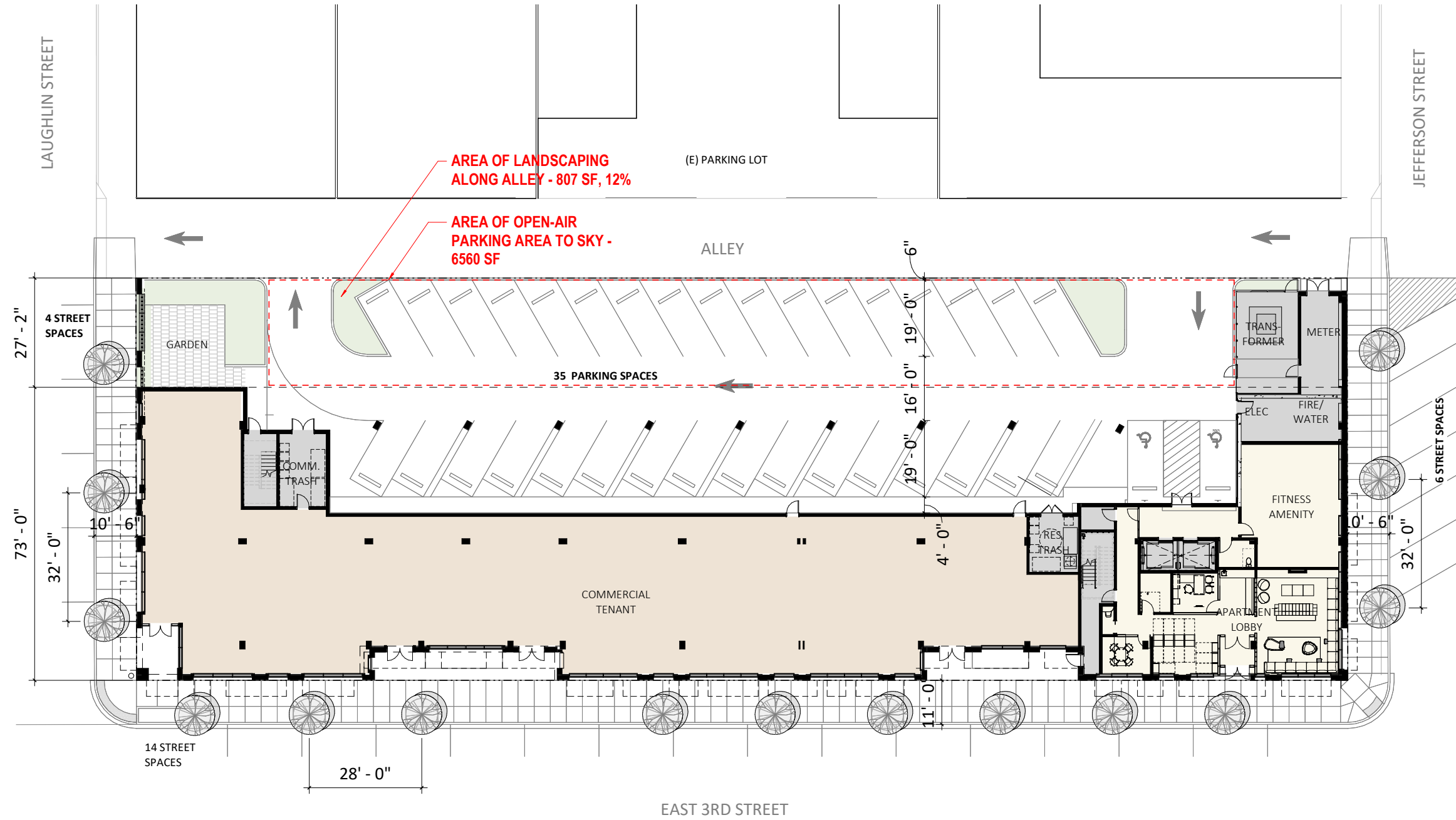
EXISTING SURVEY

SITE SURVEY FOR REFERENCE ONLY



523 E 3RD STREET MULTIFAMILY | SITE TEAM REVIEW | October 31, 2022

CONCEPT SITE PLAN



SCALE : 1 IN = 60 FEET

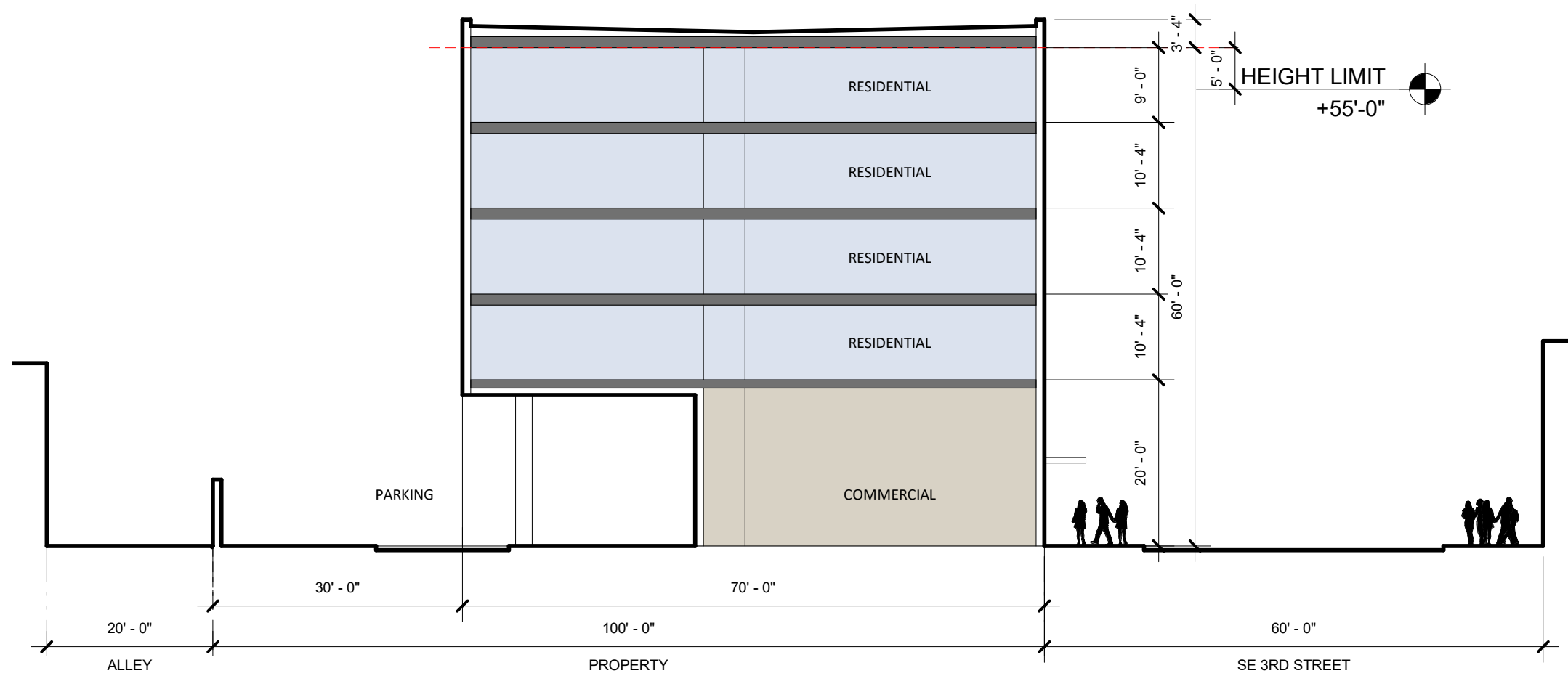
APPENDIX

APPENDIX A | Contextual corner buildings and ground floor heights

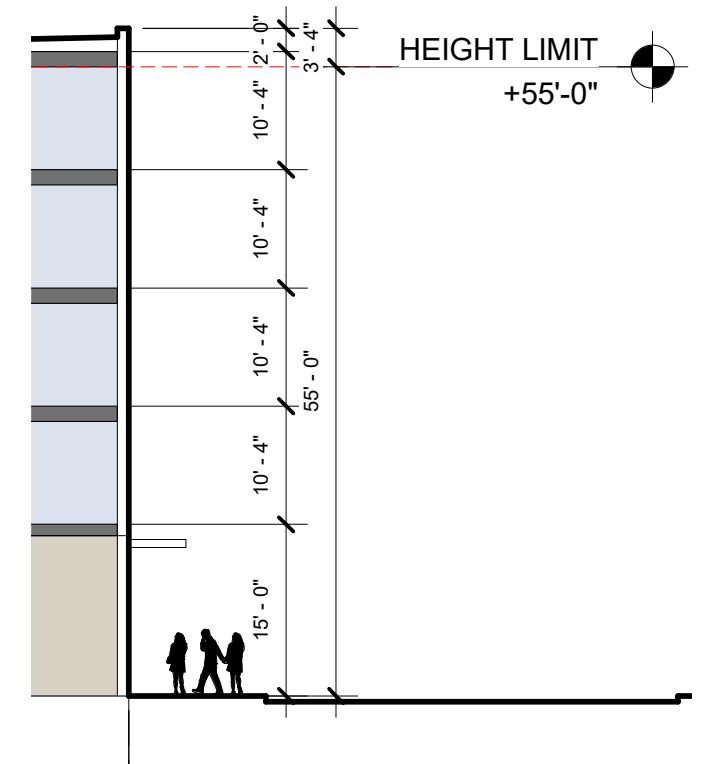


- The proposed design is most similar in height to the Commodore at E. 3rd and Court St. (bottom left). The proposed design will anchor the East end of the district with a similar scale to the Commodore.
- Multistory commercial buildings in the district are commonly 35', 40', and range up to 61' tall.
- Corners are often anchored by taller buildings, and taller ground-floor heights (or reading) to give prominence to the ground floor.
- Ground-floor heights commonly range from 16'-19' tall.

APPENDIX B | Proposed Building Section with Height Increase



Building Section Of Proposed Design With Height Increase



Building Section By-Right Within Height Limit

APPENDIX C | View along E. 3rd Street By-Right Height



HACKER

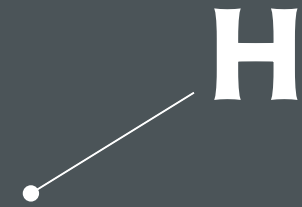
BASALT COMMONS | HANLON DEVELOPMENT

APPENDIX D | View along E. 3rd Street with Height Increase



HACKER

BASALT COMMONS | HANLON DEVELOPMENT



Thank you

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HANLON DEVELOPMENT



AGENDA STAFF REPORT

AGENDA LOCATION: #11A

MEETING DATE: July 24, 2024

TO: Honorable Mayor and City Council

FROM: Jeff Renard / Airport Manager

ISSUE: Change Order #1 for FAA/AIP Grant 3-41-0059-020-2023
Change Order #2 is for FAA/BIL Grant 3-41-0059-021-2023

BACKGROUND: The Airport is in the middle of a FAA AIP grant for the rehabilitation of the South Apron and to construct 5 new taxi lanes. Change Order #1 is for the project that was originally scoped to include the pavement in front of the airport owned hangar (the Shear Spray Hangar) and then removed from the bid documents due to the funds available. However, with the bids that came in for the project we do have adequate funds available to perform this work.

In addition, the need for additional conduit under the soon to be rehabbed South Apron was identified. The Fuel Apron and Tank projects used the existing spare conduit, leaving us without any future access, our desire to not cut and patch our new pavement prompted this portion of the change order. Change Order #2 is for the FAA/BIL Grant 3-41-0059-021-2023 and is for the addition of electrical and storm drain infrastructure and the associated paving for the Fuel apron and future above ground fuel system.

More specifically, Change Order Items #CO1-BB-8 thru CO1-BB-32 add additional apron reconstruction in front of an airport owned hangar which was originally determined to be eligible by FAA for reconstruction, but removed prior to bidding the project due to funding availability. After bidding, it was determined that there was adequate funding to reconstruct this portion of the existing apron. These items are original Base Bid items originally awarded and include the original unit prices bid, and awarded. Change Order Items #CO1-1 thru CO1-5 is to complete the installation of a new concrete encased electrical conduit duct bank under the south apron for future airfield electrical service needs.

Change Order Items #CO1-1 thru CO1-5: The new electrical conduit duct bank under the apron is being completed to eliminate any future apron pavement removal and replacement (trenching) in the future when new airfield electrical services require new conduit under the South Apron. The airport currently has work which will eliminate all existing spare conduits to the electrical equipment building and would require the installation of additional conduits during a future project, which would require the removal of pavements installed during this project. To eliminate the need for future trenching and patching across the apron, the spare conduit duct bank is being installed with this project prior to apron reconstruction.

BUDGET IMPLICATIONS: Change Order #1 is for \$180,305.32, 90% of this number is covered with FAA funds leaving \$18,030.53 for the airport to match. Staff had budgeted for these match funds previous to removing them from the base bid, so we do have the funds in the budget to cover this amount. The FAA Grant award was for \$3,215,216.00 and the project with the change order has come in at \$3,142,806.45

Change Order #2 is for \$93,267.88 and is also able to be funded with the original available grant funds and the needed match money is budgeted for.

COUNCIL ALTERNATIVES:

1. **Staff recommendation:** *Move to authorize the City Manager to execute the attached Change Order #1 associated with FAA/AIP grant 3-41-0059-020-2023 in the amount of \$180,305.45 and Change Order #2 associated with FAA/BIL grant 3-41-0059-021-2023 in the amount of \$93,267.88*
2. Move to direct Staff to make requested changes for further review.
3. Move to take no action.



AGENDA STAFF REPORT

AGENDA LOCATION: #11B

MEETING DATE: July 22, 2024

TO: Honorable Mayor and City Council

FROM: Jeff Renard, Airport Manager

ISSUE: CGRA Hangars, LLC (Planecave LLC) Ground Lease

BACKGROUND:

CGRA Hangars, LLC is a Washington LLC, which is managed by Planecave LLC, also a Washington LLC. Planecave is wholly owned by Steve Jordan and Thomas Richter. Mr. Jordan is a pilot with a presence at our airport and has requested to construct 2 rows of T-hangars adjacent to the new taxiways that were built with our FAA project.

That T-hangar project comprises one building of 10 units and one building of 8 units for private aircraft storage. The site that they desire is one of the sites designated for private developers to build on. The developers have met all application requirements of the Airport and are now working with Klickitat County Planning for their land use and development approvals.

Staff is seeking Council's approval of the attached 20-year ground lease with the option for two 10-year extensions approved. As documented in the ground lease, and consistent with Airport policy, the Airport and its sponsors (the City and Klickitat County) have the right of first refusal over the sale of any developments on the Airport, including the proposed constructed T-hangars here. Those developments also are part of the 40-year reversionary clause associated with our federal grant assurances.

The Airport Board recommended the approval of this ground lease at its March 29, 2024, regular meeting. I understand the Klickitat County Board of County Commissioners will be considering approval of this ground lease tomorrow at their July 23, 2024, regular meeting.

BUDGET IMPLICATIONS: Consistent with the Airport's established ground lease rate of \$0.20 cents per square foot for aviation lots, this 21,000 square foot ground lease's base rent is \$4,200.00/year for the fiscal year ending June 30, 2025, subject to 2.6% annual adjustments each year during the lease term.

COUNCIL ALTERNATIVES:

1. **Staff recommendation:**
Move to authorize the City Manager to enter into a ground lease with CGRA Hangars, LLC (managed by Planecave LLC) as presented and contingent upon approval from the Klickitat County Board of County Commissioners.
2. Direct staff to address specific aspects of the ground lease with the potential tenant.
3. Decline formal action and provide staff direction.

GROUND LEASE
between
CITY OF THE DALLES & KLICKITAT COUNTY
and
CGRA HANGARS, LLC

WHEREAS, the City of The Dalles, an Oregon municipal corporation (**City**), and Klickitat County, Washington municipal corporation (**County**), jointly own and operate (together, **Landlord**) the Columbia Gorge Regional Airport (**Airport**) located in Dallesport, Washington;

WHEREAS, CGRA Hangars, LLC, a Washington limited liability company, (**Tenant**), desires to enter into an agreement with Landlord for the lease of property located on the Airport, upon which Tenant proposes to construct hangars for aircraft storage and other miscellaneous uses (**Hangars**) at the Tenant's sole cost and expense; and

WHEREAS, the Parties intend this ground lease (**Lease**) to memorialize their complete intent with respect to Tenant's lease from Landlord and Landlord's lease to Tenant as described.

NOW, THEREFORE, in consideration of the provisions set forth herein, the Parties mutually agree:

SECTION 1. LEASE AND PREMISES. For and in consideration of the rent and faithful performance by Tenant of the terms and conditions and the mutual covenants hereof, Landlord does hereby lease to Tenant, and Tenant hereby leases from Landlord, subject to all easements and encumbrances of record, the property described in **Exhibit A (Premises)** and accepts the Premises as-is, finding it suitable for Tenant's intended use of constructing and maintaining the Hangars. The Parties expressly agree this Lease shall be interpreted to preserve the Airport's compliance with Federal Aviation Administration (**FAA**) and other federal obligations and Tenant understands and accepts all rights conferred to it through this Lease are, at all times and in all ways, subordinate to the Airport's federal obligations.

SECTION 2. TERM. This lease shall be for a term of twenty (20) Lease Years, and shall commence on **September 1, 2024**, that certain date Landlord delivers possession of the Premises to Tenant (**Commencement Date**). **Lease Year** shall mean the 12-month period beginning on the Commencement Date of this Lease and each annual anniversary thereof. The initial lease term shall end at midnight on the date that is twenty (20) Lease Years after the Commencement Date (**Initial Term**), unless (a) sooner terminated as provided in this Lease or (b) the term is renewed as provided in this Section. This Lease may be renewed by the Tenant for two (2) additional terms of ten (10) years each. All of the provisions in the Lease for the Initial Term shall apply to the additional ten (10) year renewal terms, including the provision for rental increases as set forth in Section 3. To exercise any Lease renewal, Tenant must (a) not be in default at the time any notice contemplated by this Section is given and (b) provide written notice to Landlord of its desire to renew by the later of the following dates:

- (a) by no later than one (1) year prior to the expiration of the Initial Term, or by no later than six (6) months after the Landlord has given written notice to Tenant the Lease will expire unless it has been renewed for an additional ten (10) year term; and

- (b) by no later than one (1) year prior to the expiration of the first additional ten (10) year term, or by no later than six (6) months after the Landlord has given written notice to Tenant the Lease will expire unless it has been renewed for a second additional ten (10) year term.

SECTION 3. RENT. Tenant shall pay Landlord a yearly rent for use of the Premises during the term of this Lease. Tenant shall generally pay rent at the rate of twenty cents per square foot (**\$0.20/sf**) of real property. Specifically, the property comprises approximately **21,000 square feet** of dedicated ground. Accordingly, the base rent shall be Four Thousand, Two Hundred dollars and zero cents (**\$4,200.00/year**) per Lease Year, with the first payment to be made on the Commencement Date and with a like payment to be made on each Commencement Date anniversary thereafter during the Lease term (**Base Rent**); provided, however, Tenant's Base Rent shall be adjusted by an annual increase of two and three-fifths (**2.6%**) percent each July 1 during the Lease term. Nothing in this Section precludes the potential adjustment of Tenant's rent (at any time, but not more frequently than every five (5) Lease Years) consistent with direction Landlord receives from the FAA connected with the fair market value of Airport property, revenue, and this Lease (a **FAA-directed Adjustment**), in an amount not to exceed ten percent (10%) of the rent in effect immediately prior to such FAA-directed Adjustment (unless otherwise required by applicable law) and Tenant expressly assents to any adjustment so directed or will have the right to terminate this Lease upon such FAA-directed Adjustment.

SECTION 4. USE.

4.1 Authorized Use. Tenant must use the Premises for the purpose of constructing and subleasing the Hangars, which will allow for storage, maintenance, restoration, or any FAA-approved services of aircraft-related parts and equipment, and office space, related to aircraft and related parts and equipment, only. All of Tenant's use qualifications, restrictions, and obligations to use the Premises inures to all subtenants and licensees.

4.2 Use Restrictions. Tenant shall conform to all applicable laws and regulations of any public authority impacting the Premises and the use, including the Airport and its rules and regulations as amended.

4.3 Environmental Impacts and Hazardous Materials. Tenant shall not cause or permit any hazardous substance to be spilled, leaked, disposed of, or otherwise released on or under the Premises or into the stormwater system at the Airport. Tenants may use or otherwise handle on the Premises only the hazardous substances typically used or sold in the customary, prudent, and safe authorized use of the Premises. Tenants may store such hazardous substances on the Premises only in quantities necessary to satisfy Tenant's reasonably anticipated needs. Tenants shall comply with all environmental laws and exercise the highest degree of care in the use, handling, and storage of hazardous substances and shall take all practicable measures to minimize the quantity and toxicity of hazardous substances used, handled, or stored on the Premises. Upon the expiration or sooner termination of this Lease, Tenant shall remove all hazardous substances from the Premises. For purposes of this subsection, the term *environmental law* shall mean any federal, state, or local statute, regulation, or ordinance, or any judicial or other governmental order pertaining to the protection of health, safety, or the environment. The term *hazardous substances* shall mean any hazardous, toxic, infectious, or radioactive substance, waste, and material as defined or listed by any environmental law and shall include, without limitation, petroleum oil and its fractions. Tenants shall maintain for the duration of the Lease term "Material Safety Data Sheets" for all hazardous substances used or

Ground Lease

stored on the Premises in a place known and accessible to the Landlord and the Airport Manager.

SECTION 5. REPAIRS, MAINTENANCE, INSPECTION, AND IMPROVEMENTS.

5.1 Repairs and Maintenance. Tenant shall have the total responsibility for all repairs and maintenance required to keep the Premises, including but not limited to the Hangars and paving to be constructed thereon, in good repair.

5.2 Inspection of Premises. Landlord shall have the right to inspect the Premises (including Hangars) at any reasonable time or times after providing at least forty-eight (48) hours' written notice to Tenant, except in the case of an emergency, when Landlord shall have the right to inspect the Premises at any reasonable time without providing such written notice to Tenant, but Landlord shall make best efforts to otherwise notify Tenant of the intended inspection.

5.3 Improvements. Tenant shall construct, at Tenant's sole expense, the Hangars, more specifically described as steel aircraft hangars and appurtenant asphalt paving, as generally shown on **Exhibit B**. Prior to construction of the Hangars, Tenant shall submit the plans and specifications to the Airport Board (**Board**), seeking the Board's approval. The Board shall review the plans and specifications submitted by Tenant for the purposes of overseeing Tenant's compliance with the terms of this Lease and the Airport rules adopted by the Board, including installation at (Tenant's sole expense) of paving for taxiways and the like on the Premises. Tenant shall comply with and obtain all approvals required under Klickitat County's land use regulations and building codes prior to submitting the plans and specifications to the Board. Within seven (7) days after the Board considers the plans and specifications, the Board shall notify Tenant of its approval or disapproval of the plans and specifications as presented or as modified by the Board at a regular public meeting. If disapproved, the Board shall also provide Tenant with the reason(s) for such disapproval. Once approved by the Board, the plans and specification shall either be attached to this Lease as **Exhibit C** or identified in such exhibit by date and name of the architect or engineer who prepared them. Construction shall be completed within twelve (12) months from the Commencement Date, unless otherwise extended by mutual agreement of the Parties. Should Tenant be unable to complete construction due to financing limitations, Tenant has the option to terminate the lease within twelve (12) months from the Commencement Date. Upon expiration or the sooner termination, for any reason, of this Lease, the surrender provisions of Section 13 apply.

5.4 Right of First Refusal. During the Lease term, including any extensions pursuant to Section 2, Landlord (or its successor in interest, assignee, or designee) shall have a right of first refusal (**ROFR**) to purchase (a) all of the fee ownership of the Hangars, (b) all of Tenant's interest in or rights under this Lease, including, without limitation the right to collect rents, or (c) any other legally recognizable and full interest in the Hangars Tenant may seek to transfer (each, **Tenant's Interest**) whenever Tenant receives a bona fide offer from an unrelated third party to purchase, directly or indirectly, all of Tenant's Interest that Tenant desires to accept (**Offer**). If the Offer is part of a larger transaction (including, without limitation, transactions involving Tenant's business, Hangars, Tenant's equity, or a larger package of assets which includes the Tenant's Interest), Tenant shall make a good faith estimate of the portion of such larger offer price attributable to the Tenant's Interest and provide that price to Landlord. Prior to accepting such Offer, Tenant shall give Landlord a copy of the Offer and other relevant documents, including the price and the terms and conditions upon which Tenant proposes to transfer Tenant's Interest (collectively, **ROFR Notice**). Landlord shall have forty-five (45) days

Ground Lease

from the receipt of the ROFR Notice to agree to purchase Tenant's Interest for the price and upon the terms and conditions specified in the Offer (**Landlord Approval Period**).

If Landlord elects to so purchase Tenant's Interest, Landlord shall give to Tenant written notice thereof within said Landlord Approval Period (**Acceptance Notice**). If Landlord delivers an Acceptance Notice as provided herein, then Landlord and Tenant shall enter into a mutually acceptable purchase and sale agreement pertaining to such Tenant's Interest (**Purchase and Sale Agreement**), reflecting the terms of the Offer and other customary covenants, representations, and warranties contained in purchase and sale agreements for similar acquisitions in the region, all subject to FAA rules, regulations, and grant assurances. The Parties agree to act reasonably and cooperatively in negotiating, executing, and delivering the Purchase and Sale Agreement. Except as otherwise specified in the Offer, at the closing for the sale of all or any part of the Hangars, Tenant shall deliver to Landlord a bill of sale or other evidence of ownership sufficient (as determined by Landlord's reasonable judgment) to convey to Landlord absolute title in the Tenant's Interest transferred.

If Landlord does not exercise the ROFR during the Landlord Approval Period, then Tenant may proceed to transfer the relevant Tenant's Interest upon the same terms and conditions set forth in the Offer; provided, however, such transfer occurs within six (6) months following the end of the Landlord Approval Period, the transfer is made in accordance with all the other terms and conditions of this Lease, and such purchaser assumes the obligations of Tenant under this Lease including, without limitation, this ROFR which shall be an ongoing ROFR during the Lease term and extensions. If Tenant has not transferred Tenant's Interest within such six (6) month period, or in the event any terms or conditions of the proposed deal materially change from the terms and conditions provided in the initial ROFR Notice, then Tenant shall not thereafter transfer Tenant's Interest to an unrelated third party without first renewing the ROFR Notice to Tenant in the manner provided above. Landlord's failure to exercise its ROFR or its express waiver of its ROFR in any instance shall not be deemed a waiver of Landlord's ROFR for subsequent instances when Tenant proposes to transfer Tenant's Interest to an unrelated third party during the Lease term. Notwithstanding the foregoing, Tenant's right to sell all or any part of the Hangars to a third party shall not be encumbered or restricted, except to the extent set forth in this Section.

SECTION 6. ALTERATIONS AND ADDITIONS. Except for the initial Improvements as further described on **Exhibits B** and **C**, which shall be deemed approved by Landlord pursuant to this Lease, Tenant shall not make any material external alterations to or erect any additional structures or make any material improvements on the Premises prior written consent of the Landlord, which consent shall not be unreasonably withheld. Any external alteration or addition approved by Landlord shall be constructed at the sole expense of Tenant. Upon approval by Landlord of any such alteration or addition, Landlord shall notify Tenant whether such alterations made shall remain on the Premises and be acquired by Landlord or be removed from the Premises by Tenant at its sole cost and expense upon expiration or earlier termination of this Lease. If Landlord elects to require Tenant to remove any alterations, Tenant at its sole cost shall remove such alterations and restore the Premises to the conditions existing immediately prior to the addition of such alteration (reasonable wear and tear excepted) on or before the last day of the Lease term.

Ground Lease

SECTION 7. INSURANCE.

7.1 Fire Insurance. Tenant shall keep the Premises and all improvements thereon insured at Tenant's expense against fire and other risks covered by a standard fire insurance policy with an endorsement for extended coverage. Insurance shall be on a replacement-cost basis to the full insurable value of the improvement. Neither Party shall be liable to the other for any loss or damage caused by fire or any of the risks enumerated in a standard fire insurance policy with an extended endorsement if such insurance was obtainable at the time of such loss or damage.

7.2 Liability Insurance. Before taking possession of the Premises, Tenant shall procure and shall continue during the Lease term public liability and property damage insurance which shall cover all risks arising directly or indirectly out of its activities on or any condition of the Premises whether or not related to an occurrence caused or contributed to by Landlord's negligence. The policy limits shall not be less than \$2,000,000 on a combined single limit basis. The *City of The Dalles, Klickitat County*, and the *Columbia Gorge Regional Airport Board* shall be named as additional insureds on said policy. Certificates evidencing such insurance and bearing endorsements requiring thirty (30) days written notice to Landlord prior to any change or cancellation shall be furnished to Landlord prior to Tenant's occupancy of the Premises. Tenant's failure to maintain an approved insurance policy shall constitute a default under this Lease.

7.3 Insurance Review. On each fifth (5th) anniversary date of the Commencement Date during the Lease term, including the two (2) additional terms of ten (10) years each if the Lease is renewed, Landlord and Tenant shall review the amount of coverage for public liability and property damage insurance to be maintained by Tenant, to ensure the amount of coverage is equivalent in value to \$2,000,000. If the potential liabilities associated with this Lease are reasonably in excess of that \$2,000,000 amount, Tenant agrees to acquire new or increased policies to cover the difference within a reasonable amount of time from Landlord's notice to Tenant of that difference. If Tenant fails to provide proof of increased coverage in an amount which Landlord and Tenant have mutually agreed is reasonably necessary within ninety (90) days of Landlord's notice to that effect, Landlord may terminate this Lease under the provisions of Section 12.

7.4 Sublease Insurance. Any subleases, subtenancies, or licenses entered into by Tenant for the Premises, including the Hangars (**Subleases**), shall contain a provision requiring such sublessees, subtenants, or licensees (**Subtenants**) to acquire and maintain aircraft liability coverage policies of not less than \$1,000,000 on a combined single limit basis and naming the *City of The Dalles, Klickitat County*, and the *Columbia Gorge Regional Airport* as additional insureds on any such policies.

SECTION 8. TAXES AND UTILITIES.

8.1 Taxes. Tenant shall pay as due all taxes, personal and property, assessments, license fees, and other charges which are levied and assessed upon Tenant's interests in the Premises, by any legally authorized governmental authority. Tenant is responsible for real property taxes imposed by Klickitat County upon the Premises which reflect the property's pro rata share of the real property taxes imposed by Klickitat County upon the Airport.

Ground Lease

8.2 Utility Charges. Tenant shall pay when due all charges for services and utilities incurred in connection with the use, occupancy, operation, and maintenance of the Premises, including, but not limited to water, gas, electricity, internet, telephone, and sewage disposal.

8.3 Utility Installation. As necessary, Tenant shall be responsible for the costs of connecting all required or desired utilities from the location to which the utilities are currently stubbed in order to provide services to the Hangars which Tenant shall construct, all connections and utility infrastructure being installed pursuant to applicable law. Tenant shall also be responsible for the costs of any Tenant-required or desired relocation of the utilities during the Lease term.

SECTION 9. INDEMNIFICATION. Tenant shall indemnify, defend, save, protect, and hold harmless the Landlord, its officers, agents, and employees from any claim, loss or liability, including reasonable attorney fees, arising out of or related to any activity of Tenant on the Premises or any condition of the Premises in the possession or under the control of Tenant. Landlord shall have no liability to Tenant for any injury to Tenant for any injury, loss, or damage caused by third parties or by any condition of the Premises, except to the extent caused by Landlord's negligence or breach of duty under this Lease.

SECTION 10. ASSIGNMENT. Tenant shall not assign, sell, or transfer its interest in this Lease without having first obtained the express written consent of the Landlord, which consent shall not be unreasonably withheld by Landlord; provided, however, as conditions to any consent to any assignment, sale, or transfer, Landlord may require the following (without limitation): (a) financial statements, credit reports, or other such information about an assignee as Landlord may deem reasonably necessary to ascertain transferee's ability to satisfy its financial and other obligations under this Lease; (b) an environmental assessment of the Premises, at Tenant's expense; and/or (c) that any agreement between Tenant and the transferee requires transferee to perform all obligations of Tenant required under this Lease. Landlord's consent to an assignment of this Lease shall not be construed to release or discharge Tenant of its obligations and liabilities under this Lease. In the event Tenant shall attempt to assign, sell, or transfer its interest in this Lease or any part hereof, without having first obtained the express written consent of Landlord, this Lease shall be null and void and Landlord shall have an immediate right of entry.

SECTION 11. DEFAULT. The following shall be events of default:

11.1 Default in Rent. Tenant's failure to pay any rent or other charge within ten (10) days after it is due.

11.2 Default in Other Covenants. Tenant's failure to comply with any term or condition or fulfill any obligation of the Lease (other than the payment of rent or other charges), within twenty (20) days after written notice by Landlord, unless the nature of the term, condition or obligation cannot reasonably be cured within such twenty (20) day period, in which case it shall only be an event of default if Tenant's fails to begin good-faith efforts to comply with the term, condition, or obligation, and fails to diligently prosecute such cure to completion.

11.3 Insolvency. Assignment by Tenant for the benefit of creditors, filing by Tenant of a voluntary petition in bankruptcy, adjudication that Tenant is bankrupt or the appointment of a receiver of the properties of Tenant, Tenant's failure to secure dismissal of an involuntary petition of bankruptcy within thirty (30) days after filing, and/or attachment or levying of execution on Tenant's leasehold interest.

Ground Lease

SECTION 12. REMEDIES ON DEFAULT.

12.1 Termination. In the event of default, the Lease may be terminated by Landlord upon written notice to Tenant. Whether the Lease is terminated by the election of Landlord or otherwise, Landlord shall be entitled to recover damages from Tenant for the default. Upon termination by Landlord, Landlord may reenter and/or take possession of the Premises and remove any persons or property by legal action without having accepted a surrender.

12.2 Disposition of Hangars and Tenant's Improvements. Upon the sooner termination (for any reason) of this Lease, the surrender provisions of Section 13 apply generally and with respect to the Hangars and Tenant's Improvements.

12.3 Damages. In the event of termination following default, Landlord shall be entitled to recover immediately, without waiting until the due date, of any future rent or until the date fixed for expiration of the Lease term, the following damages:

12.3.1 The loss of rental from the date of default until a new tenant is, or with the exercise of reasonable efforts could have been, secured and paying out.

12.3.2 The reasonable costs of reentry and re-letting, including without limitation the cost of any cleanup, refurbishing, removal of Tenant's property and fixtures, remodeling or repairs costs, attorney fees, court costs, recording costs, broker commissions, and advertising costs.

12.4 Late Fee. In the event Landlord fails to receive rent, or any other payment required by this Lease, within ten (10) days after the due date, Tenant shall pay to Landlord a late charge of five percent (5%) of the payment amount. Tenant shall pay the late charge upon demand by Landlord. Landlord may levy and collect a late charge in addition to all other remedies available for Tenant's default, and collection of a late charge shall not waive the breach caused by the late payment.

12.5 Remedies Cumulative. The foregoing remedies shall be in addition to and shall not exclude any other remedy available to Landlord under applicable law.

SECTION 13. SURRENDER. Upon expiration or the sooner termination (for any reason) of this Lease, Landlord may elect and shall notify Tenant of Landlord's election to either (a) take possession of the Hangars and all Tenant's Improvements consistent with Section 13.1 or (b) require Tenant to remove the Hangars at its sole cost and expense. If Landlord determines it desires to take possession of the Hangars, Landlord shall also take possession of any alterations, additions, and/or improvements made by Tenant during the term of this Lease at Landlord's election. In the event Landlord determines the Hangars must be removed, Tenant shall terminate any Subleases and coordinate with Landlord for the removal of the Hangars within the time period specified in the notice provided by the Landlord to Tenant. Further:

13.1 Ownership of Hangars and Tenant's Improvements. Within thirty (30) days before this Lease's expiration and if Landlord determines it desires to acquire ownership of the Hangars and/or Tenant's Improvements, Tenant shall deliver to Landlord a bill of sale or other evidence of ownership sufficient (as determined by Landlord's reasonable judgment) to convey to Landlord absolute title to the Hangars and/or Tenant's Improvements effective as of the date of Lease expiration, all at no additional cost to Landlord. To exercise this privilege, Landlord shall

Ground Lease

notify Tenant of its desire to so acquire ownership thirty (30) days prior to this Lease's expiration. Upon this Lease's sooner termination, for any reason, Landlord shall have no obligation to notice its desire to so acquire and may instead notice Tenant of its desire to so acquire up to thirty (30) days after this Lease's sooner termination. Landlord's privilege to notice its desire to so acquire is exercisable as applied to the twenty (20), thirty (30), and forty (40) year dates indicated in Section 2 and may further be exercised at any time in the event of default pursuant to Section 12. Tenant's obligation to surrender and Landlord's privilege to notice its desire to so acquire the Hangars and Tenant's Improvements as described in this Section shall survive this Lease's expiration or sooner termination and is a material inducement to Landlord entering this Lease and consideration for the rent it charges Tenant.

13.2 Tenant's Personal Property. Title to personal property belonging to Tenant shall at all times during the Lease term, or any extension thereof, remain in Tenant, and Tenant shall have the right at any time to remove any or all personal property of every kind and nature whatsoever which Tenant may have placed, affixed, or installed upon the Premises; provided, however, upon Tenant's removal of such personal property Tenant also restores the Premises to its original condition. Tenant shall have the right to remove said personal property; provided, however, upon any such removal Tenant shall repair, at its own expense, any damages resulting therefrom and leave the Premises in a reasonably clean and neat condition, with all other improvements in place.

13.3 Holdover. In the event Tenant shall remain in possession of the Premises after the expiration, cancellation, or earlier termination of this Lease, such holding over shall not be deemed to operate as renewal or extension of this Lease, but shall only create a tenancy from month-to-month which may be terminated at any time by Landlord on thirty (30) days written notice. The amount of monthly rent paid during any holdover tenancy shall be increased by ten percent (10%) over the monthly amount Tenant was paying prior to creation of the holdover tenancy.

SECTION 14. MISCELLANEOUS.

14.1 Non-waiver. Waiver by either Party of strict performance of any provision of this Lease shall not be a waiver of or prejudice the Party's right to require strict performance of the same provision in the future or of any other provision.

14.2 Attorney Fees. Each Party shall be responsible for the cost of their attorney fees in the event any action is initiated in connection with any controversy arising out of this Lease, including attorney fees at trial or on appeal, unless otherwise more specifically provided elsewhere in this Lease.

14.3 Notices. All notices or other communications required or permitted under this Lease shall be in writing and shall be: (a) personally delivered (including by means of professional messenger service), which notices and communications shall be deemed received on receipt at the office of the addressee; (b) sent by registered or certified mail, postage prepaid, return receipt requested, which notices and communications shall be deemed received three (3) days after deposit in the United States mail; or (c) electronically mailed pursuant to Section 18.

14.4 Interest on Rent and Other Charges. Any rent or other payments required of Tenant by this Lease shall, if not paid within ten (10) days after it is due, bear interest at the rate of twelve percent (12%) per annum (but not in any event at a rate greater than the maximum rate of

Ground Lease

interest permitted by law) from the due date until paid. This is in addition to the five percent (5%) "late fee."

14.5 Time of Essence. Time is of the essence of the performance of each of Tenant's obligations under this Lease.

14.6 Damage or Destruction by Fire or Other Casualty. If the Hangars are damaged or destroyed and Tenant elects to repair the Hangars, then Tenant shall promptly do whatever is necessary to repair, rebuild, or restore the Hangars to the condition allowed under this Lease. Any insurance proceeds must be used to restore the Premises, including any improvements, at Landlord's election. If the Premises are not repaired, then Tenant shall promptly remove whatever is left of the Hangars and other improvements and all debris and shall restore the Premises to Landlord's reasonable satisfaction.

14.7 Aircraft Use and Development. Landlord reserves the right to further develop or improve the landing area of the Airport as it sees fit, regardless of the desires of Tenant and without interference. Landlord reserves the right, but shall not be obligated to Tenant, to maintain and keep in repair the landing area of the Airport and all publicly-owned facilities of the Airport, together with the right to direct and control all activities of Tenant in this regard. This Lease shall be subordinate to the provisions and requirements of any existing or future Lease between the Landlord and the United States, relative to the development, operation, and maintenance of the Airport.

There is hereby reserved to the Landlord, and its successors and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the Premises. This public right of flight shall include the right to cause in said airspace any noise inherent in the operation of any aircraft used for navigation or flight through said airspace or landing at, taking off from, or operation on the Airport.

Any physical taking of the Premises for use by the Landlord, other than as provided herein, shall be considered a taking pursuant to the governmental power of eminent domain.

Tenant agrees to comply with the notification and review requirements covered in Part 77 of the Federal Aviation Regulation in the event future construction of a building is planned for the Premises, or in the event of any planned modification or alteration of any present or future building or structure located upon the Premises. Tenant agrees it will not erect or permit the erection of any structure or object, nor permit the growth of any tree on the Premises to exceed the established height contours. In the event of a breach of the foregoing covenants, Landlord reserves the right to enter upon the Premises and remove the offending structure or object and cut the offending tree, all of which shall be at the expense of Tenant.

Tenant agrees it will not make use of the Premises in any manner which might interfere with the landing and taking off of aircraft from the Airport or otherwise constitute a hazard. In the event of a breach of the foregoing covenant, Landlord reserves the right to enter on the Premises and cause the abatement of such interference at the Tenant's expense.

It is understood and agreed nothing contained herein shall be construed to grant or authorize the granting of an exclusive right within the meaning of Section 308(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1349a). This Lease and all provisions hereof shall be subject to whatever right the United States Government now has or in the future may have or

Ground Lease

acquire, affecting the control, operation, regulation, and taking over of the Airport by the United States during the time of war or national emergency.

14.8 Mechanic's and Materialman's Liens. Neither Landlord or Tenant shall permit any mechanic's, materialman's, or other lien against the Premises or the property of which the Premises forms a part in connection with any labor, materials, or services furnished or claimed to have been furnished. If any such lien shall be filed against the Premises or property of which the Premises forms a part, the Party charged with causing the lien will cause the same to be discharged; provided, however, that either Party may contest any such lien, so long as the enforcement thereof is stayed.

14.9 Savings Clause. In the event any part of this Lease or application thereof shall be determined to be invalid by a court of competent jurisdiction, such findings shall have no effect on the remaining portions of this Lease.

14.10 Written Lease. Neither Party has relied upon any promise or representation not contained in this Lease. All previous conversations, negotiations, and understandings are of no further force or effect. This Lease may be modified only in writing signed by both Parties.

14.11 Parties Bound. The covenants herein contained shall, subject to the provisions as to assignment and transfer, apply to and bind the heirs, successors, executors, administrators, and assigns of all of the Parties hereto; and all of the Parties hereto shall be jointly and severally liable hereunder.

14.12 Subleases and Subtenants. Tenant shall ensure all Subtenants use the Premises, including the Hangars, consistent with Section 4; Tenant's failure to prohibit Subtenant use of the Premises, including the Hangars, consistent with Section 4 shall be a default of this Lease subject to the provisions of Section 12. Provided Tenant ensures that all Subtenants use the Premises, including the Hangars, consistent with Section 4, Landlord hereby consents to Tenant's Subleasing of the Hangars upon such terms as Tenant may require (unless prohibited by applicable law). Such Subleases shall have terms consistent with the provisions of this Lease. Tenant shall provide Landlord, within 30 days of entering any Sublease for the Premises or Hangars, the following identifying information for all such Subtenants: (a) their name; (b) the purpose of their Sublease; and (c) any reasonably relevant insurance policy information.

14.13 Section Captions. The captions appearing before the section number designations of this Lease are for convenience only and are not a part of this Lease and do not in any way limit or amplify the terms and provisions of this Lease.

SECTION 15. NON-DISCRIMINATION.

In all its activities within the scope of its airport program, Tenant agrees to comply with pertinent statutes, Executive Orders, and such rules as identified in Title VI List of Pertinent Nondiscrimination Acts and Authorities (as may be amended) to ensure that no person shall, on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964. If Tenant transfers its obligation to another, the transferee is obligated in the same manner as Tenant.

Ground Lease

Tenant for itself, its heirs, successors, and assigns, as part of the consideration hereof, does hereby covenant and agree that in the event facilities are constructed, maintained, or otherwise operated on the Premises for a purpose for which a United States Department of Transportation (DOT) program or activity is extended or for another purpose involving the provision of similar services or benefits, Tenant shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, DOT, Sub-Title A, Office of the Secretary, Part 21, Non-discrimination in Federally Assisted Programs of the Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

The Tenant, for itself, its heirs, successors and assigns, as part of the consideration hereof, does covenant and agree that: (1) no person on the grounds of race, color, sex, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to, discrimination in the use of said facilities; (2) that in the construction of any improvements on, over, or under the Premises and the furnishing of services thereon, no person on the grounds of race, color, sex or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination; and (3) that the Tenant shall use the Premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, DOT, Sub-Title A, Office of the Secretary, Part 21, Non-discrimination in Federally Assisted Programs of the Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

In the event of a breach of any of the above non-discrimination covenants, Landlord shall have the right to terminate this Lease and re-enter and repossess said Premises and the facilities thereon, and hold the same as if said Lease had never been made. This provision does not become effective until the procedures of 49 CFR Part 21 are followed and completed, including expiration of appeal rights.

SECTION 16. GOVERNING LAW.

This Lease shall be construed in accordance with the laws of the State of Washington, and any litigation arising from the Lease shall be filed in Klickitat County; provided, however, laws applicable to governmental entities under Oregon law, including but not limited to the Oregon Tort Claims Act and Article IX, Sections 5, 7, and 10 of the Oregon Constitution, shall apply to the City. Further, Tenant shall comply with all federal, state, and local laws applicable to the Airport, and to the Tenant's use and occupancy of the Premises, including rules adopted by the Board and Klickitat County's land use regulations.

SECTION 17. PAYMENTS. Tenant shall make payment checks to the *City of The Dalles* and mail Lease payments to:

Finance Department
City of The Dalles
313 Court Street
The Dalles, Oregon 97058

SECTION 18. NOTICES AND COMMUNICATIONS. All notices must comply with Section 14.3 and addressed to:

Landlord:

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

Chair, Board of County Commissioners
Klickitat County
115 West Court Street, Mail Stop 201
Goldendale, WA 98620

Tenant:

CGRA Hangars, LLC
572 Sleepy Hollow Road
Appleton, WA 98602

Signature page follows.

IN WITNESS WHEREOF, the Parties bind themselves to this Ground Lease effective upon the latest date of execution by a Party set forth below (**Effective Date**).

LANDLORD

City of The Dalles, an Oregon municipal corporation

TENANT

CGRA Hangars, LLC
a Washington limited liability company
By planeCave LLC, its Manager

Matthew B. Klebes, City Manager

Thomas Richter, Manager

Date: _____

Date: _____

ATTEST:

Amie Ell, City Clerk

Approved as to form:

Jonathan M. Kara, City Attorney

Board of County Commissioners
Klickitat County, a Washington municipal corporation

Chair

Commissioner

Commissioner

Date: _____

ATTEST:

Clerk of the Board

Approved as to form:

Prosecuting Attorney

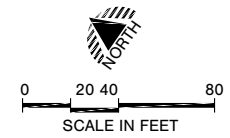
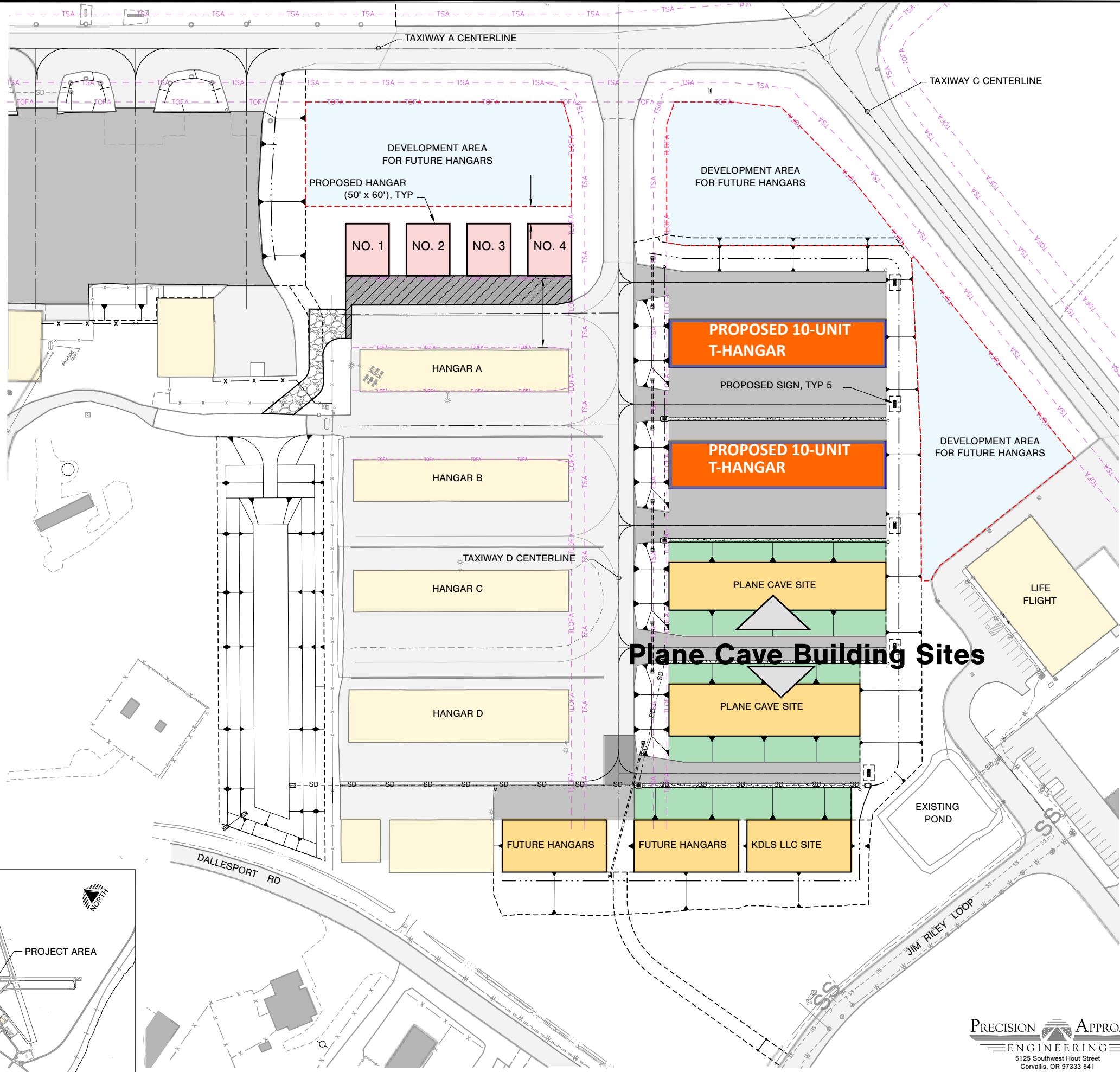
EXHIBIT A
PREMISES

[Legal Description and Visual Depiction to be inserted]

EXHIBIT B
HANGARS

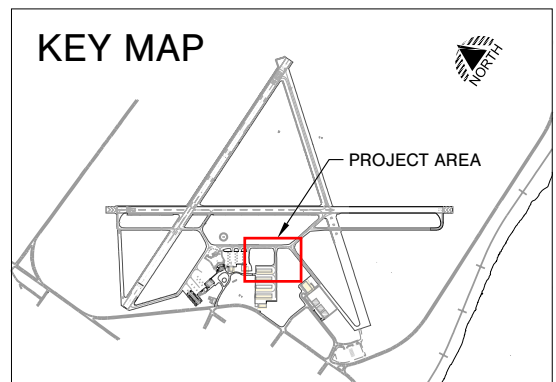
EXHIBIT C
BOARD APPROVED FINAL PLANS

05/04/23 - 12:07pm - jwade - P:\D\DAL008-S Apron and Taxilanes\0400CAD\Graphics\EXH-Future-Development.dwg



LEGEND

	PROPOSED 50' X 60' HANGAR
	FUTURE HANGAR CONSTRUCTION, BY OTHERS
	EXISTING ASPHALT PAVEMENT
	ASPHALT PAVEMENT TO BE CONSTRUCTED SUMMER 2023
	PROPOSED ASPHALT HANGAR APPROACH
	FUTURE ASPHALT PAVEMENT BY OTHERS
	DEVELOPMENT AREA FOR FUTURE HANGARS



Plane Cave Building Sites

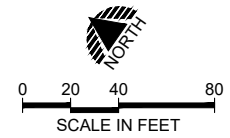
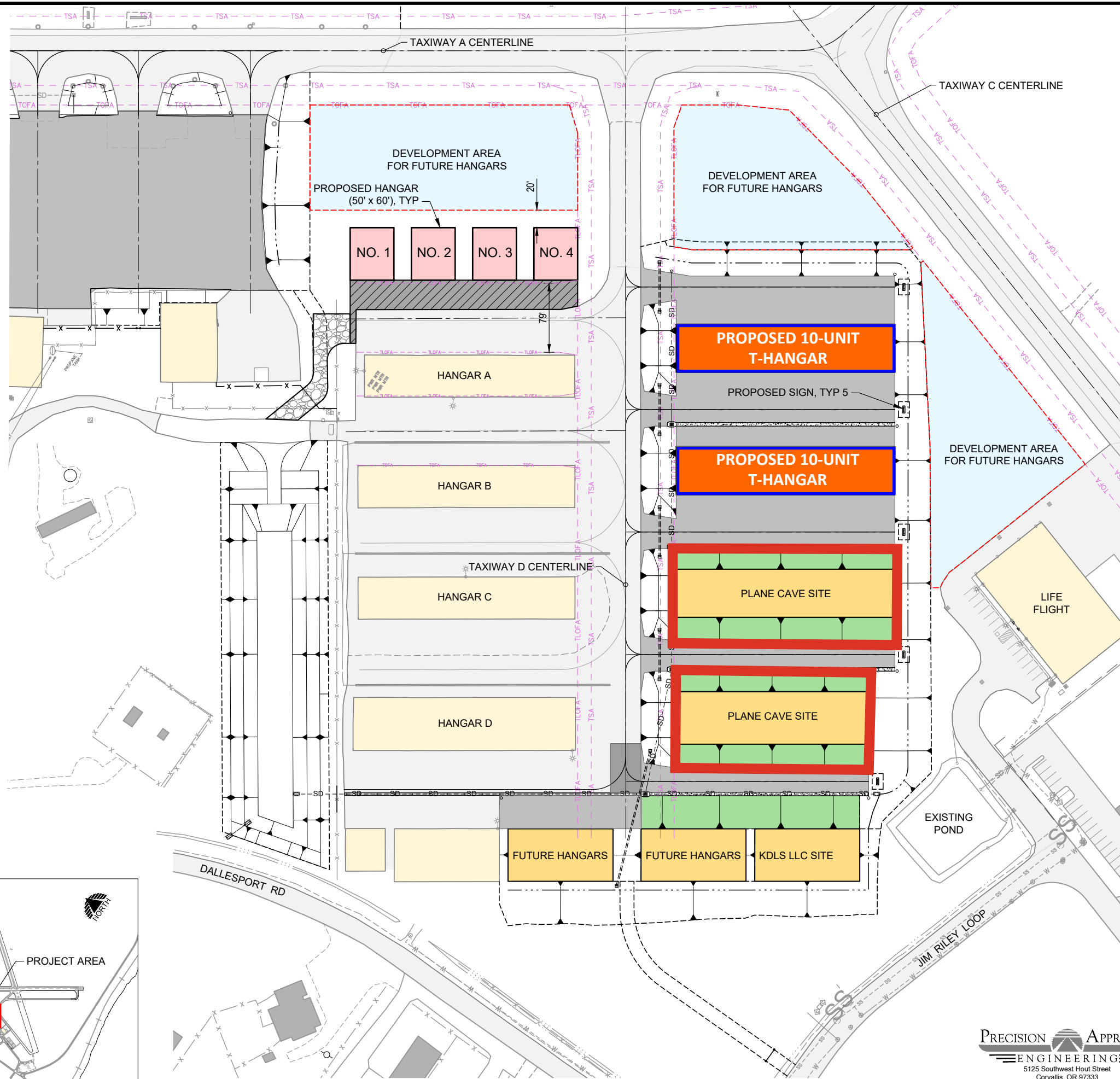
PRELIMINARY NOT FOR CONSTRUCTION 5/04/2023

COLUMBIA GORGE REGIONAL AIRPORT

NEW TAXILANES AND FUTURE HANGARS

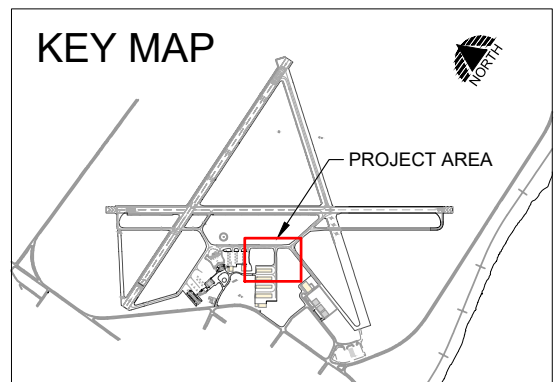
PRECISION APPROACH ENGINEERING
 5125 Southwest Hout Street
 Corvallis, OR 97333 541
 764 0643

05/04/23 - 12:07pm - jwade - P:\DID\DAL008-S Apron and Taxilanes\0400CAD\Graphics\EXH-Future-Development.dwg



LEGEND

	PROPOSED 50' X 60' HANGAR
	FUTURE HANGAR CONSTRUCTION, BY OTHERS
	EXISTING ASPHALT PAVEMENT
	ASPHALT PAVEMENT TO BE CONSTRUCTED SUMMER 2023
	PROPOSED ASPHALT HANGAR APPROACH
	FUTURE ASPHALT PAVEMENT BY OTHERS
	DEVELOPMENT AREA FOR FUTURE HANGARS



**PRELIMINARY
NOT FOR CONSTRUCTION**

COLUMBIA GORGE REGIONAL AIRPORT

NEW TAXILANES AND FUTURE HANGARS

PRECISION APPROACH
ENGINEERING
5125 Southwest Hout Street
Corvallis, OR 97333
541-754-0043



AGENDA STAFF REPORT

AGENDA LOCATION: #11C

MEETING DATE: July 22, 2024

TO: Honorable Mayor and City Council

FROM: Angie Wilson, Finance Director

ISSUE: Resolution No. 24-018 Authorizing Transfers of Budgeted Amounts Between Various Departments of The General Fund of the City Of The Dalles Adopted Budget, Making Appropriations and Authorizing Expenditures for Fiscal Year Ending June 30, 2025

RELATED COUNCIL GOAL: Balanced Budget

BACKGROUND: Oregon Budget Law recognizes that after the beginning of the fiscal year, changes in appropriations in the budget sometimes become necessary and so allows for those changes via supplemental budgets and budget amendments. Supplemental budgets add funds to existing budgets, while budget amendments move already budgeted funds between categories of the same fund without adding to the fund's total budget.

The proposed resolution contain the following items:

Resolution No. 24-018 transfers \$50,000 from the Contingency line item of the General Fund to cover the following item:

On 6/18/2024 one of the City of The Dalles Police cars was heavily damaged in an Officer Involved Shooting. Due to the severity of the damage, our insurance agency has totaled the vehicle and will reimburse for the loss of the vehicle. Staff is seeking a budget resolution to use money from the contingency fund for the replacement of the vehicle. The insurance proceeds will be placed in the Misc. Revenue account when received.

BUDGET IMPLICATIONS: Resolution No. 24-018 transfers currently budgeted amounts, and does not have any impact on the total budget of the General Fund.

COUNCIL ALTERNATIVES:

1. Staff recommendation: ***Move to adopt Resolution No. 24-018 Authorizing Transfers of Budgeted Amounts between Categories of Various Funds of the City of The Dalles Budget, Making Appropriations and Authorizing Expenditures for Fiscal Year Ending June 30, 2025.***
2. Direct staff to make changes to the proposed resolutions and bring the resolutions back to a future Council meeting for consideration.
3. Decline to take action.

RESOLUTION NO. 24-018

A RESOLUTION AUTHORIZING TRANSFERS OF BUDGETED AMOUNTS BETWEEN CATEGORIES OF THE GENERAL FUND OF THE CITY OF THE DALLES ADOPTED BUDGET, MAKING APPROPRIATIONS AND AUTHORIZING EXPENDITURES FOR THE FISCAL YEAR ENDING JUNE 30, 2025.

WHEREAS, during the budget year certain funds may experience expenditures above approved category limits; and

WHEREAS, Oregon Budget Law recognizes these events and allows for transferring of funds between approved category limits within and between funds; and

WHEREAS, On 6/18/2024 one of the City of The Dalles Police cars was heavily damaged in an Officer Involved Shooting. Due to the severity of the damage, our insurance agency has totaled the vehicle and will reimburse for the loss of the vehicle. Staff is seeking a budget resolution to use money from the contingency fund for the replacement of the vehicle for \$50,000. The insurance proceeds will be placed in the Misc. Revenue account when received.

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

Section 1. Authorizing Budget Transfers. The City Council hereby authorizes the following transfers of funds between budgeted categories and funds:

<u>FUND OR DEPT.</u>	<u>BUDGETED</u>	<u>RESOURCES NEEDED</u>	<u>REALLOCATED</u>
<u>GENERAL FUND (001)</u>			
from General Fund Contingency	\$ 1,143,173	\$ 1,093,173	- \$50,000
to Police Department	\$ 5,483,405	\$ 5,533,405	+ \$50,000

Section 2. Effective Date. This Resolution shall become effective upon adoption by the City Council and shall remain in effect until receipt and acceptance of the FY24/25 audit report.

PASSED AND ADOPTED THIS 22nd DAY OF JULY, 2024.

Voting Yes, Councilors: _____
Voting No, Councilors: _____
Absent, Councilors: _____

Abstaining, Councilors: _____

AND APPROVED BY THE MAYOR THIS 22nd DAY OF JULY, 2024.

SIGNED:

ATTEST:

Richard A. Mays, Mayor

Amie Ell, City Clerk



AGENDA STAFF REPORT

AGENDA LOCATION: #12A

MEETING DATE: July 22, 2024

TO: Honorable Mayor and City Council

FROM: Joshua Chandler
Community Development Director

ISSUE: Short Term Rentals – 2024 Code Amendment Discussion

BACKGROUND: At the regular City Council meeting on October 23, 2023, City Staff guided a discussion pertaining to the City’s current Short Term Rental (STR) program in hopes of reevaluating the existing ordinance and exploring opportunities for refinement. That discussion was the result of direction from Council at its May 8, 2023, meeting to address some growing nuisance concerns of existing accommodations.

Although formal complaints of STR operations have been minimal since the program officially began in late 2020, many of the reported concerns have revolved around nuisances connected with STR operations in residentially zoned neighborhoods (primarily noise and parking). In addition to those community concerns, Staff have dealt with some operational “nuisances” related to non-responsive operators and failure to accurately report Transit Room Tax (TRT). There has also been some concern amongst Councilors and community members over the impact STRs have on the available housing stock within the City.

During the October 23, 2023, meeting, Staff presented various discussion points for Council’s consideration, including reclassification of STR types (i.e., owner occupied vs. non-owner-occupied, residential vs. commercial), limiting the total number of STRs, and various operational changes. The main takeaway from that discussion was Council’s interest in establishing a moratorium on all new non-owner occupied STRs located within residential zoning districts. That action allowed the City time for a comprehensive review of the program and present permanent code revisions (as needed) at a later date. In November 2023, Council adopted Resolution No. 23-039 to place a moratorium on all new non-owner occupied STRs located within residential zoning districts for up to one year. This moratorium is in full force and effect until November 26, 2024, unless sooner repealed or modified by Council resolution.

One of the main objectives of the moratorium with respect to its limiting of non-owner occupied accommodations is mitigating a perceived lack of on-site management, with non-owner occupied STRs potentially requiring additional oversight from outside entities (neighbors, City). Operators living on-site typically have more opportunity to monitor the actions of their guests when compared to non-owner occupied units. Non-owner occupied units tend to function more as a business venture than a more customary “home share” scenario. Most, if not all, of the concerns raised from community members last year involved non-owner occupied units.

Overall, the impact of the moratorium may have stagnated the lack of growth in the STR program, with a drop from **51 units in October 2023** to **47 in July 2024**; however, a complete list of all inquiries into new non-owner occupied units was not monitored since the moratorium was adopted. Rather, Staff would attribute that drop in STR numbers to natural attrition in the program, with some previously licensed/permitted accommodations no longer interested in participating in the program. With the City having still a relatively low number of licensed/permitted accommodations to date (47 as of the date of this report), this is a prime opportunity to address these concerns before the program continues to grow.

Over this last year, Staff began working with planning consultant MIG to assist in analyzing some potential permanent changes to the STR program, as well as STRs impact on housing affordability. This work coincided with additional Council discussion concerning TRTs, most recently at the June 10, 2024, Council meeting, when Council discussed three broad example “visions” to help foster further discussions on the matter. Of these vision statements, Staff understood the one resonating most with Council is:

Tourism plays an important supportive role for our local businesses and attractions and there is a balance between hotels, short-term rentals and other needs such as housing and industry. Short-term rentals are limited. A minimum of required TRT is used to maintain current TRT revenues.

Although the overall direction of tourism within the community spans much further than a topic on STRs, Council expressed an interest in “keeping a lid” on STR growth in the community to avoid dealing with the many issues experienced by some Oregon communities, particularly the challenges the City of Hood River has dealt with in recent years. In addition to this direction, it was expressed that changes to the program should primarily be for *new accommodations* while allowing continued operations for *existing accommodations*.

Included as Attachment 1 to this Agenda Staff Report is a memorandum from MIG and their analysis of the City’s STR program. This memo includes analysis and recommendations related to the existing STR license program, STRs impact on housing affordability, case studies of STR regulations in other comparable cities in Oregon, and potential STR regulation and policy recommendations. The memo provides a fresh and objective perspective on the program and is intended to guide Council’s discussion by outlining potential code revisions or ideas that might have been overlooked.

Concerning housing affordability, this report identifies two theoretical mechanisms by which the growth in STR activity can have an impact:

- Conversion refers to when a unit of housing is converted from long-term housing to the short-term rental pool, reducing the overall long-term inventory.

- Bid price escalation refers to a market in which STR operation has become the most profitable use for a property and can bid higher than other for-sale properties.

Overall, the growth of STRs in a community may have a modest impact on rents and home prices, with one study estimated that “a 1% increase in Airbnb listings leads to a 0.018% increase in rents and a 0.026% increase in house prices”. This information was gathered from a comprehensive dataset of all U.S. properties listed on Airbnb. The identified impacts of STRs are not evenly distributed, with more tourist-rich towns and/or individual neighborhoods with the greatest density of STRs experiencing the greatest impacts on affordability. A study of several cities (including Portland) found cities with policies limiting the number of STRs a host can operate can mitigate the impact on affordability for both long-term renters and home buyers in the area.

Proposed Amendment Topics:

Following previous discussions and recommendations from the July 3, 2024, MIG Memo, Staff compiled a list of proposed amendment topics for further Council discussion. This is a preliminary list of ideas, with further revisions expected to be drafted following the discussion this evening.

One of the many changes Staff considered for potential code revisions was a restriction associated with non-owner-occupied STR accommodations. This would be consistent with the current moratorium. However, following recent litigation in the federal lawsuit *Panabaker v. City of Hood River*, Staff is not currently recommending such an amendment. For reference, the plaintiffs in this case claim the city’s (Hood River) ordinance (which restricts non-owner-occupied units in residential zones) violates the *Commerce Clause* of the U.S. Constitution. This clause states that cities/counties (1) must not discriminate (or have the effect of discriminating) against out-of-state actors, unless (2) that restriction is not unduly burdensome on out-of-state trade.

A. STR Cap

Proposal: *Establishing an overall cap on the total number of STRs within the City not to exceed 1% of the total housing unit inventory per the Housing Needs Analysis.*

- Current number of dwellings (2023 HNA): 7,171 | Proposed: 70 STRs
- Current listings = 47 (less than 1%)
- Multiple examples of 1%-5% caps on total housing stock in western US cities and counties.
- The 2017 report “Assessing and Responding to Short-Term Rentals in Oregon” prepared by the University of Oregon Department of Planning, Public Policy, and Management, recommended all cities should cap STRs when units exceed 4% of the total housing stock.
- Oregon community examples: Lincoln City, Yachats, and Gearhart

B. Waiting List/Lottery System

Proposal: *Establishing a waiting list/lottery system when the overall STR cap is reached.*

- STR Licenses are renewed annually with priority given to existing licenses seeking renewal.
- Renewal applications must be submitted by a certain date (City of Yachats: December 29th)
- If the cap is not met by a certain date, new applications will be accepted. City of Yachats uses a first come-first serve waitlist, while Lincoln City selects from a lottery system.
- If selected from the wait list/lottery, the prospective operator has X days to submit their application and pay applicable fees or their property is removed from the waitlist and another property is selected through the same lottery process.
- Oregon community examples: Lincoln City, Yachats

C. Vicinity

Proposal: *Establish a distance requirement for STRs in residential zoning districts where new STRs may not be located within 300' from an existing STR.*

- One major concern expressed in recent years was the clustering of STRs in various neighborhoods.
- All existing STRs would be exempt from this provision.
- Non-residentially zoned units would be exempt from this provision, as these areas allow for more commercially focused uses.
- Oregon community examples: Coos Bay

D. Local Contact

Proposal: *Amend operator contact requirements to availability within one hour.*

- Currently, the contact person for a STR must be available to be contacted by a City representative within 24 hours.
- This amendment will require more proactivity of all operators, both owner-occupied and non-owner-occupied, to mitigate issues and address concerns with operations.
- Oregon community examples: Hood River

Proposal: *Establish an online database on the City's website of all STR listings with contact information for each accommodation.*

- This database will allow direct contact for neighbors to report concerns directly to each operator.

E. Parking

Proposal: *Amend minimum parking requirements to require one parking space for each bedroom.*

- Currently, all STRs offering more than one guest room must provide at least one off-street parking space for each additional guest room. Ultimately, one bedroom units are not required to provide parking.
- One of the main concerns received with STRs is the monopolization of parking.
- All existing STRs would be exempt from this provision.
- Properties listed as a historic resource, may be granted an exemption from guest room parking requirements (current code provision).

F. Operations

- ***Events.***

Proposal: *Amend “special events” restrictions to only residentially zoned properties.*

- Currently, no "special events" shall be conducted at any STR during periods of transient rental.
- Non-residentially zoned STRs would be exempt from this provision, as these areas allow for more commercially focused uses.

- ***Violations/Revocation Process.***

Proposal: *Various amendments to the current Violations/License Revocation Process.*

- ***Good Neighbor Guidelines.***

Proposal: *Establish Good Neighbor Guidelines for all STR operations.*

- To ensure operators are conducting their accommodation with respect for the surrounding community, staff recommends consideration of “Good Neighbor Guidelines” that should be practiced by all operators.
- Not enforced by the City, but rather provided to all guests by the operator. Currently, the City of Hood River and Newport use similar guidelines.
- Oregon community examples: City of Hood River

Next Steps:

Following additional discussion on the proposed code amendment topics at the July 22, 2024 City Council meeting, Staff will draft a complete set of amendments for community input. These amendments may be available for viewing on the City’s website and provided to all current STR operators. Staff will encourage additional input on the matter and consider further revisions to the draft amendments. This review process will ideally occur during the months of August and September 2024. Following this community input process, Staff will present a final set of amendments to Council in October. If approved for adoption, these amendments will take effect by November, prior to the repeal of the current moratorium (November 26, 2024). Additional internal program refinements will

occur during this time with the hopes of new program requirements beginning at the start of the 2025 STR License year.

BUDGET IMPLICATIONS: None.

COUNCIL ALTERNATIVES: This is a discussion item. Staff is requesting City Council input on the above-mentioned topics for inclusion with future amendments to the STR License program.

ATTACHMENTS:

Attachment 1: Short-Term Rental Regulations - Analysis and Policy Recommendations, MIG, July 3, 2024.



TO: Joshua Chandler, City of The Dalles

FROM: Carrie Brennecke and Jon Pheanis, MIG

RE: Short-Term Rental Regulations - Analysis and Policy Recommendations

DATE: July 3, 2024

Background

The City of The Dalles regulates Short Term Rentals (STRs) by Title 8 - Business of The Dalles Municipal Code (TDMC). TDMC Chapter 8.02 Short-Term Rental License provides the regulations and procedures for establishing and maintaining a STR in the city. All short-term rentals are required to obtain a license from the City prior to operation and are required to be renewed annually. This process is called the City's Short-Term Rental License Program (STR License Program) and was adopted by the City in late 2020 by General Ordinance 20-1377.

In October 2023, the City Council opened a discussion on STRs due to recent concerns regarding operations of STR accommodations during the previous year. Staff concerns related to non-responsive operators and failure to accurately report Transit Room Taxes (TRTs), while the public largely presented nuisance concerns from parties and events at larger accommodations (specifically related to noise and parking). Overall, complaints of operations have been primarily related to residentially zoned accommodations. In addition to operational concerns, there has been some concern amongst Councilors and community members over the impact STRs have on housing availability and affordability within the city.

To best address the above-mentioned considerations and allow time for a comprehensive review of the current STR License program, in November 2023 the City Council adopted Resolution No. 23-039 that placed a moratorium on all new non-owner occupied STRs located within residential zoning districts for up to one year. This moratorium is in full force and effect until November 26, 2024, unless sooner repealed or modified by Council resolution.

This Memo provides a component of the comprehensive review of the City of The Dalles' STR License Program by providing analysis and potential policy recommendations for STR regulations in The Dalles. Following discussion at an upcoming City Council meeting, other components of the comprehensive review will include STR operator engagement and selected revisions to align the STR program with upcoming TRT ordinance amendments.

This Memo provides analysis and recommendations related to:

- The Dalles existing STR license program
- STRs impact on Housing Affordability
- Case studies of STR regulations in other comparable cities in Oregon
- Potential STR regulation and policy recommendations

The Dalles Existing Short-Term Rental License Program

The STR License Program was adopted by the City in late 2020 by General Ordinance 20-1377. TDMC Chapter 8.02 Short-Term Rental License provides the regulations and procedures for establishing and maintaining a STR in the city. With the adoption of the STR License Program, the existing Bed and Breakfast and Vacation Rental land use permit program was repealed from Title 10 Land Use and Development of TDMC. The bullets below outline the main elements of the City's existing STR License Program.

- STRs are defined as “all accommodations with duration of 30 consecutive days or less” (TDMC 8.02020).
- **General Requirements (TDMC 8.02.040):**
 - > All STRs are required to obtain a license prior to operation that is renewed annually. Licenses are non-transferrable.
 - > The length of stay for STR guests is limited to 30 consecutive days.
 - > All STRs are required to submit TRTs for each nightly stay per month. Failure to submit TRTs may result in a late fee.
 - > A completed safety checklist is required prior to issuance of a license.
- **License Requirements (TDMC 8.02.050):**
 - > The facility is a dwelling unit as defined by TDMC, Chapter 10.2 *Definitions*.
 - > Privacy screening is required on units with shared yards or common areas in the rear or side yards to mitigate impacts to the surrounding neighborhood.
 - > All STRs offering more than one guest room must provide at least one off-street parking space for each additional guest room.
 - > A contact person for the STR must be available to be contacted within 24 hours.
 - > Weekly solid waste disposal is required.
 - > No special events are permitted (e.g., weddings and wedding receptions, corporate events, commercial functions, and other gatherings).
 - > Maximum occupancy is two people per bedroom.
- STR applicants must provide proof of residency (TDMC 8.02.070.B).
- STR applications require notification to neighbors within 100' of the proposed site with operator contact information, license number, number of guest rooms, maximum guest occupancy, and contact information for the City's Code Enforcement Division (TDMC 8.02.090).
- An STR license will be revoked after three or more violations resulting in fines within a 12-month period, absence of an operator for 24-hour contact with the City, or other grounds outlined in TDMC 8.02.130.

Short-Term Rental's Impact on Housing Affordability

The following provides key information to consider when evaluating and revising the STR License Program in The Dalles and related impacts on housing affordability.

- There are two theoretical mechanisms by which the growth in STR activity can impact housing affordability:
 - > Conversion refers to when a unit of housing is converted from long-term housing to the short-term rental pool, reducing the overall long-term inventory.
 - > Bid price escalation refers to a market in which STR operation has become the most profitable use for a property and can bid higher than for-sale properties.
- Studies attempting to measure STR impacts on affordability are limited but suggest that STR activity increases rents and home prices to some extent. The STR impact is just one, usually minority, component of all the factors that contribute to price growth.
- The presence and growth of STRs in a housing market does have an impact on rents and home prices, contributing to the escalation of both at a modest rate. One study estimated that “a 1% increase in Airbnb listings leads to a 0.018% increase in rents and a 0.026% increase in house prices” and estimated that this effect accounted for roughly one-fifth of rent growth and one-seventh of house price growth in their area of study (Barron et al., 2020; see also Horn et al., 2017).
- Multiple studies confirm that the assumed conversion effect is real, with STRs at least partially reducing the long-term rental supply (Li et al., 2021; see also Barron et. al., 2020).
- The identified impacts of STRs are not evenly distributed, with popular towns and/or individual neighborhoods with the greatest density of STRs experiencing the greatest impacts on affordability. Cities where Airbnb is more popular experience greater price increases and larger rental supply reductions. One study found that affordability impacts were stronger in zip codes with a lower ownership rate “consistent with non-owner-occupiers being more likely to reallocate their homes from the long- to short-term rental market” (Barron et al., 2020).
- “Professional” STR operators, or those who own more than one STR in a given community, compete directly with single-property STRs. These professionals typically make up a small share of all hosts, but nonetheless may operate half or more of the STRs in a given destination (Horn et al., 2017). A study of several cities (including Portland) found that cities with a policy that limit the number of STRs that a host can operate can mitigate the impact on affordability for both long-term renters and home buyers in the area (Chen et al., 2019).

Summary of Case Studies of Short-Term Rental Regulations

Many communities in Oregon have implemented and continue to implement local regulations for STRs. In many cases, these communities are heavily dependent on tourism and are located on the Oregon coast, or in other recreation-dependent areas of the state such as Hood River, Gearhart, Lincoln City, Bend, Bandon, McMinnville, Newport, Coos Bay, Tillamook County, Lincoln County, and Yachats. Five of these jurisdictions in particular - Gearhart, Newport, Lincoln City, Bandon, and Tillamook County - have robust local requirements and represent effective case studies for research on this topic.

Below is a summary of regulations from the case studies that could be used to update The Dalles' existing STR program. The case studies are intended to be informative and to illustrate the common STR regulations in those communities.

- **Limit STRs to certain zones or geographies.** Most jurisdictions use local zoning to place geographical limits on where STRs can be permitted. Commonly, STRs are permitted differently in residential zones in comparison to commercial or mixed-use zones. Some jurisdictions, such as Newport and Lincoln City, prohibit STRs in the lowest density zones and/or certain planned developments; others consider STRs as commercial uses that are permitted only conditionally in residential zones.
 - > **The Dalles:** *STRs must be located within a “dwelling unit” as defined by TDMC, with no zoning or area restrictions.*
 - **Opportunity:** *Consider limiting STRs to certain geographic areas or zones, and/or implementing different requirements by zone.*
- **Limit the number permitted.** Jurisdictions have chosen to limit the number of STRs permitted, either city-wide or in certain areas. Lincoln City, Yachats, and Gearhart have a cap on the number of STRs licensed in their jurisdictions. Yachats and Lincoln County both have a waitlist system for available STR permits, with a process for being selected from the waitlist.¹² Other jurisdictions limit STRs through saturation rates. Saturation rates prohibit

¹ Yachats caps STRs to 125 licenses. Licenses are renewed each calendar year with priority given to existing licenses seeking renewal if renewal applications are submitted to the City by December 29th. After December 29th, if existing licenses are below 125, new applications will be accepted on a first-come first-serve basis based on the Vacation Rental Waitlist. The City website includes a waitlist registration form with a nonrefundable \$25 processing fee.

² Lincoln City caps STR licenses differently by geographic region of the county with an STR waitlist created for each region. When a new STR license becomes available in a region, the Lincoln County Licensing Authority selects a property from that region's waitlist by random selection utilizing a website that issues random numbers. This process is conducted and confirmed by two members of the Licensing Authority. The owner of the selected property will be notified by mail and email that they have been selected to apply for a new STR license. The owner has 45 days to submit a new STR license and pay applicable fees before their property is removed from the waitlist and another property is selected through the same lottery process.

STRs within a certain distance of other existing STRs (used in Bandon and Coos Bay) or are based on an established percentage of lots in a zone that can be STRs (the Lincoln City approach). Coos Bay adopted new STR regulations in January 2022 that require a 300' distance requirement between STR locations for STRs where the owner/operator does not live on the site. An STR Permit requires notification to neighbors within 300' of the proposed site and must include contact information for the STR's owner/operator.

- > ***The Dalles:*** *Currently there is no limit on the total number of STRs within The Dalles. At the date of this meeting, there are 47 licensed/permitted STR/BBVs. The Dalles also does not currently have an STR saturation rate. The City's STR License requires notification to neighbors within 100' of the proposed site with operator contact information, license number, number of guest rooms, maximum guest occupancy, and contact information for the City's Code Enforcement Division.*
 - ***Opportunity:*** *Explore capping the total number of STRs permitted within The Dalles with a lottery/waitlist process for when STR licenses become available on an annual basis. Consider implementing an STR saturation rate that prohibits STRs within a certain distance of other existing STRs if the owner/operator does not live on site.*
- **Establish operational standards.** Operational standards set expectations for how the activity should be conducted and properly maintained and can mitigate livability and nuisance concerns regarding STRs. Case study jurisdictions have a variety of regulations related to operations including:
 - > Maximum occupancy requirements per bedroom and/or unit
 - > Parking requirements³
 - > Landscaping requirements
 - > Waste collection requirements
 - > Requiring an owner or contact to be local
 - > Signage requirement for dwelling/unit number
 - > Life/safety inspections to ensure safety requirements such as fire alarms, railings, pool safety, etc. is met
 - > Quiet hours
 - > Creating provisions that revoke STR license or permits for properties that receive more than five (5) nuisance complaints in a year. *Newport has policies that revoke the*

³ Many cities including Yachats, Lincoln City, and Bandon, require one off-street parking space to be provided for each bedroom with a minimum of two off-street parking spaces.

permit after three (3) complaints.

- **The Dalles:** *The City of The Dalles’ STR License Program currently employs many of the operational standards mentioned above; however, no requirements for local operators, maximum occupancy by unit, or quiet hours are included.*
 - **Opportunity:** *Consider adding quiet hours, limiting the maximum occupants per unit rather than per bedroom, tightening owner/operator requirements to be local and available within a shorter time versus the existing 24-hour requirement, and implementing minimum parking requirements.*

Potential Revisions to The Dalles Short-Term Rental Licensing Program

Requirements described in this memorandum are intended to provide context and “real world” examples from other Oregon jurisdictions that regulate STRs. City Council and interested community members will need to take the next steps to identify which opportunities outlined above, and in the table, below are appropriate for The Dalles, given the desired balance between permitting STRs and mitigating potential negative neighborhood or community impacts. The community will need to identify issues of greatest concern, then choose appropriate measures to address those concerns.

In determining appropriate requirements and establishing a program for STRs, the community may wish to consider the following.

Policy Questions to Guide Community Conversations

Potential Revisions	Additional Considerations
<p>Limiting the number of STRs. <i>Does the City want to set a limit on number of STRs permitted in The Dalles? What are the implications (positive and negative) of implementing a limit?</i></p> <p>Opportunities:</p> <ul style="list-style-type: none"> • <i>Cap the total the number of STRs permitted</i> • <i>Develop a waitlist/lottery process for when STRs become available</i> • <i>Implement a saturation rate that limits STRs within a certain</i> 	<ul style="list-style-type: none"> • Is the limitation city-wide or focused on specific area(s)? • What is the maximum number of STRs permitted at one time? What will this number be based on? • Of the maximum number, how many are permitted at the outset of the program? Are existing STRs grandfathered into the program? • Should STRs be limited by proximity to other existing STRs? If so, what should be the required distance or saturation rate be between STRs? Should the saturation rate apply to all STRs or just those where the

<p><i>distance of existing STRs</i></p>	<p>owner/operator does not live on site?</p> <ul style="list-style-type: none"> • After the start of the program, how do new permits become available and accessed (e.g., waitlist and/or lottery system)?
<p>Regulating operations. <i>Should the City adopt additional operational regulations (e.g., for STRs to reduce potential neighborhood impacts/nuisance complaints)? What are the most common nuisance issues that currently exist with STRs in The Dalles?</i></p> <p>Opportunities:</p> <ul style="list-style-type: none"> • <i>Implement maximum occupancy limits by unit, minimum parking requirements, and quiet hours</i> • <i>Require a local contact person that is available, in-person, within a shorter time than the existing 24-hour requirement</i> 	<ul style="list-style-type: none"> • Does the City wish to establish regulations for the following? <ul style="list-style-type: none"> • Maximum occupancy limits by unit (not bedroom) • Minimum parking requirements (e.g., minimum of two off-street spaces per STR) • Quiet hours • Should a <u>local</u> contact who can handle immediate concerns in-person be required for each STR? Should the response time be quicker than the existing 24-hour requirement and can respond in-person? What is the role of the local contact at the time of complaint?