



Medford City Council Meeting

Agenda

March 3, 2016

12:00 Noon AND 7:00 P.M.

**Medford City Hall, Council Chambers
411 West Eighth Street, Medford, Oregon**

10. Roll Call

Introduction of McLoughlin Middle School Students of the Month

20. Approval or Correction of the Minutes of the February 18 Regular Meeting

30. Oral Requests and Communications from the Audience

Comments will be limited to 3 minutes per individual or 5 minutes if representing a group or organization. PLEASE SIGN IN.

40. Consent Calendar

40.1 COUNCIL BILL 2016-27 A resolution affirming the Public Works Director's administrative decision requiring the repair of an unsafe sidewalk located at 117 S. Central Avenue.

40.2 COUNCIL BILL 2016-28 A resolution affirming the Public Works Director's administrative decision requiring the repair of an unsafe sidewalk located at 135 – 149 S. Central Avenue.

40.3 COUNCIL BILL 2016-29 A resolution affirming the Public Works Director's administrative decision requiring the repair of an unsafe sidewalk located at 125 S. Central Avenue.

50. Items Removed from Consent Calendar

60. Ordinances and Resolutions

60.1 COUNCIL BILL 2016-30 A resolution adopting the fifth Supplemental Budget for the 2015-17 biennium.

60.2 COUNCIL BILL 2016-25 An ordinance awarding a contract in the amount of \$346,760 to Tyler Technologies, Inc. for software and professional services required for the implementation of Municipal Court software.

60.3 COUNCIL BILL 2016-31 An ordinance accepting the dedication to the City of Medford a street known as Hospitality Way which extends 434 feet in length.

60.4 COUNCIL BILL 2016-32 A resolution approving referral to the electors of the City of Medford the question of imposing a three percent tax on the sale of marijuana items by a marijuana retailer within the City.

60.5 COUNCIL BILL 2016-33 A resolution approving referral to the electors of the City of Medford the question of banning marijuana retailers within the City.

- 60.6 COUNCIL BILL 2016-34 An ordinance authorizing execution of an amended Agreement with the Chamber of Medford/Jackson County to include requested additions and to allow for an extension of time to finalize negotiations.

70. Council Business

- 70.1 Multicultural Commission Appointment

80. City Manager and Other Staff Reports

- 80.1 Further reports from City Manager

90. Propositions and Remarks from the Mayor and Councilmembers

- 90.1 Proclamations issued: None

- 90.2 Further Council committee reports

- 90.3 Further remarks from Mayor and Councilmembers

100. Adjournment to the Evening Session

EVENING SESSION

7:00 P.M.

Roll Call

110. Oral Requests and Communications from the Audience

Comments will be limited to 3 minutes per individual or 5 minutes if representing a group or organization. PLEASE SIGN IN.

120. Public Hearings

Comments are limited to a total of 30 minutes for applicants and/or their representatives. You may request a 5-minute rebuttal time. Appellants and/or their representatives are limited to a total of 30 minutes and if the applicant is not the appellant they will also be allowed a total of 30 minutes. All others will be limited to 3 minutes per individual or 5 minutes if representing a group or organization. PLEASE SIGN IN.

- 120.1 COUNCIL BILL 2016-35 An ordinance amending sections 10.031, 10.146, 10.300, 10.348, 10.349, 10.350, 10.351, 10.352, 10.353, 10.354, 10.355, 10.358, 10.360, 10.365, 10.410, 10.411, and 10.414 of the Medford Code to align with the Airport's Master Plan Update. (ZC-13-079, DCA-13-080) Legislative

- 120.2 COUNCIL BILL 2016-36 An ordinance vacating an approximate 8,080 square feet of public right-of-way located north of Dakota Avenue between Park and S. Oakdale Avenues. (SV-15-160) Land Use, Quasi-Judicial

130. Ordinances and Resolutions

140. Council Business

150. Further Reports from the City Manager and Staff

160. Propositions and Remarks from the Mayor and Councilmembers

160.1 Further Council committee reports

160.2 Further remarks from Mayor and Councilmembers

170. Adjournment



CITY OF MEDFORD AGENDA ITEM COMMENTARY

Item No: 40.1

www.ci.medford.or.us

DEPARTMENT: Public Works
PHONE: 541-774-2100
STAFF CONTACT: Cory Crebbin, Public Works Director

AGENDA SECTION: Consent Calendar
MEETING DATE: March 3, 2016

COUNCIL BILL 2016-27

A resolution affirming the Public Works Director's administrative decision requiring the repair of an unsafe sidewalk located at 117 S. Central Avenue.

SUMMARY AND BACKGROUND

An appeal of the Public Works letter to Rogue Community College (RCC) informing them that the sidewalk fronting the property at 117 S. Central Avenue poses a safety hazard and needs to be repaired was considered by the City Council on February 18, 2016. The Council denied the appeal and granted the appellant nine months to complete repairs provided the City is indemnified for any related claims.

PREVIOUS COUNCIL ACTIONS

The Council voted to deny the appeal at the February 18, 2016, Council meeting.

ANALYSIS

Section 3.010 of the Medford Municipal Code (MMC) requires owners of property within the city to inspect and maintain all sidewalks abutting their property in a condition safe for use by the public at all times. The code further states that if any property owner by his neglect to perform any duty required by this section causes injury or damage to any person or property, he shall be liable to the person suffering such injury or damage and indemnify the city for all damages it has been compelled to pay in such cases.

FINANCIAL AND/OR RESOURCE CONSIDERATIONS

None.

TIMING ISSUES

None.

STRATEGIC PLAN

Theme: Quality Public Services
Goal 9: Provide a safe, multi-modal, efficient and well planned transportation system.
Objective 9.6: Provide equal emphasis for all modes of travel supported by the City.
Action 9.6a: Enforce code provisions governing property owner responsibilities regarding the public right-of-way.

COUNCIL OPTIONS

Approve, modify or deny the resolution.

STAFF RECOMMENDATION

Staff recommends approval of the resolution.

SUGGESTED MOTION

I move to approve the resolution denying the appeal of an administrative decision regarding the defective sidewalk at 117 S. Central Avenue.

EXHIBITS

Resolution

RESOLUTION NO. 2016-27

A RESOLUTION affirming the Public Works Director's administrative decision requiring the repair of an unsafe sidewalk located at 117 S. Central Avenue.

WHEREAS, the Public Works Director's administrative decision requiring the repair of an unsafe sidewalk located at 117 S. Central Avenue pursuant to section 3.010 of the Medford Code was appealed to the City Council by appellant, Rogue Community College; and

WHEREAS, the City Council reviewed the decision and considered the matter upon appeal and affirmed the Public Works Director's decision; now, therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MEDFORD, OREGON:

Section 1. The City Council finds there is substantial evidence in the record affirming the Public Works Director's decision requiring the repair of an unsafe sidewalk located at 117 S. Central Avenue, which repairs are to be completed within 270 days from the date hereof.

Section 2. The property owner shall indemnify the City of Medford from any liability associated with the subject unsafe sidewalk.

Section 3. The appeal is hereby denied.

PASSED by the Council and signed by me in authentication of its passage this _____ day of _____, 2016.

ATTEST: _____
City Recorder

Mayor



CITY OF MEDFORD AGENDA ITEM COMMENTARY

Item No: 40.2

www.ci.medford.or.us

DEPARTMENT:	Public Works	AGENDA SECTION:	Consent Calendar
PHONE:	541-774-2100	MEETING DATE:	March 3, 2016
STAFF CONTACT:	Cory Crebbin, Public Works Director		

COUNCIL BILL 2016-28

A resolution affirming the Public Works Director's administrative decision requiring the repair of an unsafe sidewalk located at 135 through 149 S. Central Avenue.

SUMMARY AND BACKGROUND

An appeal of the Public Works letter to Central Avenue Properties, LLC, informing them that the sidewalk fronting the property at 135-149 S. Central Avenue poses a safety hazard and needs to be repaired was considered by the City Council on February 18, 2016. The Council denied the appeal and granted the appellant nine months to complete repairs provided the City is indemnified for any related claims.

PREVIOUS COUNCIL ACTIONS

The Council voted to deny the appeal at the February 18, 2016, Council meeting.

ANALYSIS

Section 3.010 of the Medford Municipal Code requires owners of property within the city to inspect and maintain all sidewalks abutting their property in a condition safe for use by the public at all times. The code further states that if any property owner by his neglect to perform any duty required by this section causes injury or damage to any person or property, he shall be liable to the person suffering such injury or damage and indemnify the city for all damages it has been compelled to pay in such cases.

FINANCIAL AND/OR RESOURCE CONSIDERATIONS

None.

TIMING ISSUES

None.

STRATEGIC PLAN

Theme: Quality Public Services
Goal 9: Provide a safe, multi-modal, efficient and well planned transportation system.
Objective 9.6: Provide equal emphasis for all modes of travel supported by the City.
Action 9.6a: Enforce code provisions governing property owner responsibilities regarding the public right-of-way.

COUNCIL OPTIONS

Approve, modify or deny the resolution.

STAFF RECOMMENDATION

Staff recommends approval of the resolution.

SUGGESTED MOTION

I move to approve the resolution denying the appeal of an administrative decision regarding the defective sidewalk at 135-149 S. Central Avenue.

EXHIBITS

Resolution

RESOLUTION NO. 2016-28

A RESOLUTION affirming the Public Works Director's administrative decision requiring the repair of an unsafe sidewalk located at 135 through 149 S. Central Avenue.

WHEREAS, the Public Works Director's administrative decision requiring the repair of an unsafe sidewalk located at 135 through 149 S. Central Avenue pursuant to section 3.010 of the Medford Code was appealed to the City Council by appellant, Central Avenue Properties, LLC; and

WHEREAS, the City Council reviewed the decision and considered the matter upon appeal and affirmed the Public Works Director's decision; now, therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MEDFORD, OREGON:

Section 1. The City Council finds there is substantial evidence in the record affirming the Public Works Director's decision requiring the repair of an unsafe sidewalk located at 135 through 149 S. Central Avenue, which repairs are to be completed within 270 days from the date hereof.

Section 2. The property owner shall indemnify the City of Medford from any liability associated with the subject unsafe sidewalk.

Section 3. The appeal is hereby denied.

PASSED by the Council and signed by me in authentication of its passage this _____ day of _____, 2016.

ATTEST: _____
City Recorder

Mayor



CITY OF MEDFORD AGENDA ITEM COMMENTARY

Item No: 40.3

www.ci.medford.or.us

DEPARTMENT: Public Works
PHONE: 541-774-2100
STAFF CONTACT: Cory Crebbin, Public Works Director

AGENDA SECTION: Consent Calendar
MEETING DATE: March 3, 2016

COUNCIL BILL 2016-29

A resolution affirming the Public Works Director's administrative decision requiring the repair of an unsafe sidewalk located at 125 S. Central Avenue.

SUMMARY AND BACKGROUND

An appeal of the Public Works letter to Mountain Development Company, LLC, informing them that the sidewalk fronting the property at 125 S. Central Avenue poses a safety hazard and needs to be repaired was considered by the City Council on February 18, 2016. The Council denied the appeal and granted the appellant nine months to complete repairs provided the City is indemnified for any related claims.

PREVIOUS COUNCIL ACTIONS

The Council voted to deny the appeal at the February 18, 2016, Council meeting.

ANALYSIS

Section 3.010 of the Medford Municipal Code requires owners of property within the City to inspect and maintain all sidewalks abutting their property in a condition safe for use by the public at all times. The code further states that if any property owner by his neglect to perform any duty required by this section causes injury or damage to any person or property, he shall be liable to the person suffering such injury or damage and indemnify the City for all damages it has been compelled to pay in such cases.

FINANCIAL AND/OR RESOURCE CONSIDERATIONS

None.

TIMING ISSUES

None.

STRATEGIC PLAN

Theme: Quality Public Services
Goal 9: Provide a safe, multi-modal, efficient and well planned transportation system.
Objective 9.6: Provide equal emphasis for all modes of travel supported by the City.
Action 9.6a: Enforce code provisions governing property owner responsibilities regarding the public right-of-way.

COUNCIL OPTIONS

Approve, modify or deny the resolution.

STAFF RECOMMENDATION

Staff recommends approval of the resolution.

SUGGESTED MOTION

I move to approve the resolution denying the appeal of an administrative decision regarding the defective sidewalk at 125 S. Central Avenue.

EXHIBITS

Resolution

RESOLUTION NO. 2016-29

A RESOLUTION affirming the Public Works Director's administrative decision requiring the repair of an unsafe sidewalk located at 125 S. Central Avenue.

WHEREAS, the Public Works Director's administrative decision requiring the repair of an unsafe sidewalk located at 125 S. Central Avenue pursuant to section 3.010 of the Medford Code was appealed to the City Council by appellant, Mountain Development Company, LLC; and

WHEREAS, the City Council reviewed the decision and considered the matter upon appeal and affirmed the Public Works Director's decision; now, therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MEDFORD, OREGON:

Section 1. The City Council finds there is substantial evidence in the record affirming the Public Works Director's decision requiring the repair of an unsafe sidewalk located at 125 S. Central Avenue, which repairs are to be completed within 270 days from the date hereof.

Section 2. The property owner shall indemnify the City of Medford from any liability associated with the subject unsafe sidewalk.

Section 3. The appeal is hereby denied.

PASSED by the Council and signed by me in authentication of its passage this _____ day of _____, 2016.

ATTEST: _____
City Recorder

Mayor



CITY OF MEDFORD
AGENDA ITEM COMMENTARY

Item No: 60.1

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DEPARTMENT: Finance
PHONE: (541) 774-2030
STAFF CONTACT: Alison Chan, Finance Director

AGENDA SECTION: Ordinances and Resolutions
MEETING DATE: March 3, 2016

COUNCIL BILL 2016-30

A resolution adopting the fifth Supplemental Budget for the 2015-17 biennium.

SUMMARY AND BACKGROUND

The Finance Department is presenting a supplemental budget which will affect the General Fund, the Park Dedication Fund and the CDBG fund. ORS 294.471 provides for a Supplemental Budget process.

PREVIOUS COUNCIL ACTIONS

There have been four (4) supplemental budgets this biennium.

ANALYSIS

General Fund:

The General Fund is requesting to recognize and appropriate the remaining \$368,000 of greater than budgeted beginning fund balance. The budgeted beginning fund balance was \$16,615,670. The actual beginning fund balance was \$18,351,863, a difference of \$1,736,193. Of that, \$1,367,310 has already been appropriated in two prior supplemental budgets. The remaining \$368,000 will be used to replenish the General Fund contingency. At the February 18, 2016 Council meeting a \$700,000 transfer from contingency was approved with direction to present a supplemental budget to replenish as much as possible from greater than beginning fund balance.

Contingent on MURA's approval at the March 3, 2016 6:00 p.m. meeting, the General Fund is requesting to recognize and appropriate \$30,000 of unbudgeted transfer revenue from MURA for the North Riverside Parking Lot project. The project had unforeseen expenses and is receiving additional funding from MURA. This supplemental budget recognizes the transfer revenue and increases appropriations as follows:

BR0084 – North Riverside Parking Lot \$ 30,000

Park Dedication Fund:

The Parks and Recreation Department is requesting to recognize and appropriate \$846,900 of greater than budgeted beginning fund balance. The budgeted beginning fund balance was \$4,079,260. The actual beginning fund balance was \$4,926,177, a difference of \$846,917.

The Parks and Recreation department is also requesting the creation of a new reserve fund to accumulate funding for an aquatics facility. This will establish a reserve fund and transfer \$346,900 from the Park Dedication Fund to the newly created Park Aquatic Reserve Fund. This supplemental budget recognizes and appropriates as follows:

PR0007 – Kennedy School Park	\$ 325,000
PR0022 – Leisure Services Plan	25,000
PR0069 – Prescott Park	100,000
PR0105 – Hawthorne Park	50,000
Transfer to Park Aquatic Reserve Fund	<u>346,900</u>
Total	<u>\$ 846,900</u>



CITY OF MEDFORD
AGENDA ITEM COMMENTARY

Item No: 60.1

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CDBG Fund:

The CDBG Fund is requesting to move an appropriation to a new category within the fund. The Parks and Recreation Department was awarded a CDBG grant. This supplemental budget will create the category and move the appropriation of \$40,000.

FINANCIAL AND/OR RESOURCE CONSIDERATIONS

The proposed resolution will increase appropriations in the General Fund by \$398,000 and \$846,900 in the Park Dedication Fund.

TIMING ISSUES

None

STRATEGIC PLAN

Theme: Responsive Leadership

Goal 12: Ensure financial stewardship and long-term municipal financial stability for City services, assets and facilities.

COUNCIL OPTIONS

Approve, modify or deny the resolution.

STAFF RECOMMENDATION

Staff recommends approval of the resolution

SUGGESTED MOTION

I move to approve the resolution as outlined in the attached exhibit.

EXHIBITS

Resolution

Supplemental Budget Request is attached

RESOLUTION NO. 2016-30

A RESOLUTION adopting the fifth Supplemental Budget for the 2015-17 biennium.

WHEREAS, a supplemental budget is required to change appropriations in certain circumstances under ORS 294.471; now, therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MEDFORD, OREGON:

SECTION 1. The City Council hereby adopts the fifth Supplemental Budget for the 2015-17 biennium.

SECTION 2. The City Council hereby makes the new appropriations and transfers of appropriations for the 2015-17 biennium in the amounts and for the purposes shown on the Supplemental Budget Adjustment form which is attached hereto as Exhibit A and incorporated herein by reference.

PASSED by the Council and signed by me in authentication of its passage this _____ day of _____, 2016.

ATTEST: _____
City Recorder

Mayor

CITY OF MEDFORD		Supplemental Appropriation Modification per ORS 294-.338	
Requesting Department: Finance		Biennium	FY15/16 - FY16/17
Date of Proposed Council Action: 3/3/2016		Date	February 19, 2016
Explanation of Requested Transfer: See AIC			

Account Number	Description	Project Number	Debit	Credit
001-1609-614.99-00	Contingency		368,000	-
001-0000-599.00-00	Beginning Fund Balance			368,000
001-1102-611.51-00	Capital Improvement	BR0084	30,000	-
001-0000-370.11-00	MURA	BR0084		30,000
015-5208-652.51-00	Capital Improvement	PR0007	325,000	
015-5208-652.51-00	Capital Improvement	PR0022	25,000	
015-5208-652.51-00	Capital Improvement	PR0069	100,000	
015-5208-652.51-00	Capital Improvement	PR0105	50,000	
015-1608-614-71-11	Transfer		346,900	
015-0000-599.00-00	Beginning Fund Balance			846,900
111-0000-470.15-00			-	346,900
Unappropriated Ending Fund Balance (111)	Reverse Fund Balance		346,900	
037-5208-652.51-00	Capital Improvement		40,000	
037-0102-663.27-99	Social Service Grants			40,000
TOTALS			1,631,800	1,631,800

Requested by 
 Department Head

Approved by 
 City Manager
 CITY MANAGER PRO TEM



60.2 CITY OF MEDFORD AGENDA ITEM COMMENTARY

Item No: 60.2

www.ci.medford.or.us

DEPARTMENT: Technology Services
PHONE: (541) 774-2051
STAFF CONTACT: Doug Townsend, Director TS

AGENDA SECTION: Ordinances and Resolutions
MEETING DATE: March 3, 2016

COUNCIL BILL 2016-25

An ordinance awarding a contract in the amount of \$346,760 to Tyler Technologies, Inc. for software and professional services required for the implementation of Municipal Court software.

SUMMARY AND BACKGROUND

An ordinance awarding a \$346,760 contract to Tyler Technologies, Inc. for software and the professional services required to implement Municipal Court software. The City's Municipal Court has been using the current software solution for twenty years. Maintenance extended the software's life, but the current product relies upon aging technology to operate. The City budgeted to replace the software and issued an RFP for software and the professional services required to implement it. Tyler Technologies, Inc. was selected.

PREVIOUS COUNCIL ACTIONS

This item was denied by Council at the noon meeting February 18th. During the evening meeting, Council reconsidered this item and directed staff to resubmit it for consideration by Council on March 3rd.

ANALYSIS

The Municipal Court software implementation will proceed as soon as the contract is approved by City Council.

FINANCIAL AND/OR RESOURCE CONSIDERATIONS

The cost to implement Municipal Court software is projected at \$346,760, which includes estimated travel at \$50,000. This is budgeted as part of the total software replacement project in the 2015-2017 biennial budget.

TIMING ISSUES

Estimated go-live for Municipal Court is October 1, 2016

STRATEGIC PLAN

Theme: Responsive Leadership

Goal 1: Ensure financial stewardship and long-term municipal financial stability for City services, assets and facilities.

COUNCIL OPTIONS

Approve or deny the ordinance.

STAFF RECOMMENDATION

Staff recommends approval of the ordinance.

SUGGESTED MOTION

I move to approve the ordinance authorizing a \$346,760 contract with Tyler Technologies, Inc. for the implementation of Municipal Court software.

EXHIBITS

Ordinance

Project Charter

Contract is on file in the City Recorder's office.

ORDINANCE NO. 2016-25

AN ORDINANCE awarding a contract in the amount of \$346,760 to Tyler Technologies, Inc. for software and professional services required for the implementation of Municipal Court software.

THE CITY OF MEDFORD ORDAINS AS FOLLOWS:

That a contract in the amount of \$346,760 for software and professional services required for the implementation of Municipal Court software, which is on file in the City Recorder's office, is hereby awarded to Tyler Technologies, Inc.

PASSED by the Council and signed by me in authentication of its passage this _____ day of _____, 2016.

ATTEST: _____
City Recorder

Mayor

APPROVED _____, 2016.

Mayor



Project Charter: Incode Municipal Court

Background

The City of Medford is currently utilizing a software solution that was implemented over 20 years ago. There is a benefit to migrating to a Microsoft Windows application and to utilizing a Microsoft SQL database. After a lengthy RFP evaluation process, staff selected Tyler Technology Incode software to replace the existing Municipal Court legacy solution.

Goals

- Increase productivity
 - Increase ease of use
 - Increase automation
 - Reduce training time for new employees
- Bolster disaster preparedness
 - Automate data replication
 - Increased fault-tolerance
- Improve business processes
 - Simplify diversity of technology
 - Improve data exchange
 - Improve workflow
- Enhance access to information
 - Expanded business intelligence
 - Implement informational dashboards
 - Improve reporting capabilities

Scope

Tyler Technology consultants will be guiding the City through the Incode implementation. There are three components to the solution: Case Management, Court Scheduling, and Jury Management.

Key Stakeholders

Role	Stakeholder Name
Project Sponsor	Bill Hoke
Project Manager	Barbara Madruga
Project Champion	Doug Townsend
Project Change Champion	Alison Chan
Project Stakeholder	Lori Cooper
Project Lead	Denise Bostwick

Project Milestones	Go-Live Date
Complete Solution	October 2016

Project Budget

The budget for the project is \$346,760.

Constraints, Assumptions, and Risks

Constraints	Adequate funding, go-live dates, staffing, business processes
Assumptions	Well-defined requirements, selected solution meets requirements, sufficient staffing, participation and minimal aversion to change, competent vendor support, reasonable implementation timeline, adequate funding
Risks	Loss of institutional knowledge, limits to staff participation, scope creep, network/desktop hardware performance, satisfied business processes, sufficient training/knowledge transfer

Approval Signatures

Bill Hoke,
Project Sponsor

Barbara Madruga,
Project Manager

Doug Townsend,
Project Champion

Alison Chan,
Project Change Champion



CITY OF MEDFORD AGENDA ITEM COMMENTARY

Item No: 60.3

www.ci.medford.or.us

DEPARTMENT: Public Works
PHONE: (541) 774-2100
STAFF CONTACT: Cory Crebbin, Public Works Director

AGENDA SECTION: Ordinances and Resolutions
MEETING DATE: March 3, 2016

COUNCIL BILL 2016-31

An ordinance accepting the dedication to the City of Medford a street known as Hospitality Way which extends 434 feet in length.

SUMMARY AND BACKGROUND

The Rogue Valley Manor and Pacific Retirement Services (PRS) created a Planned Unit Development that included a private street known as Hospitality Way. Circa May of 2013 PRS contacted the City to request dedicating the existing built street as public right-of-way and for the City to accept maintenance jurisdiction. Staff from Public Works conducted an inspection of the street and created a list of items that PRS needed to complete for Public Works to recommend approval. The work requested by Public Works was completed on January 11, 2016. PRS has executed the dedication of right-of-way along with a storm drain easement, public utility easement and maintenance agreement for island landscaping required completing the conditions for dedication.

PREVIOUS COUNCIL ACTIONS

None

ANALYSIS

Hospitality Way is approximately 434 feet in length and is currently privately maintained. If the City accepts the street for public maintenance it will become the responsibility of the City to maintain the street.

FINANCIAL AND/OR RESOURCE CONSIDERATIONS

Based on the current budget it will cost approximately \$1,400 per year in additional street maintenance if the City accepts the street.

TIMING ISSUES

PRS has requested that action be taken as early as possible because they sold a piece of property for the Hilton Garden Inn located at the end of Hospitality Way. That development is nearing completion.

STRATEGIC PLAN

Theme: Healthy Economy
Goal 5: Continue implementation of the Economic Development Strategy.
Objective 5.1: Promote retention and expansion of existing businesses and development of new businesses.

COUNCIL OPTIONS

Approve, modify or deny the ordinance.

STAFF RECOMMENDATION

Staff recommends acceptance of the public right-of-way for Hospitality Way.

SUGGESTED MOTION

I move to direct that the City accept the dedication of right-of-way for Hospitality Way.

EXHIBITS

Ordinance
Map

ORDINANCE NO. 2016-31

AN ORDINANCE accepting the dedication to the City of Medford a street known as Hospitality Way which extends 434 feet in length.

THE CITY OF MEDFORD ORDAINS AS FOLLOWS:

Section 1. That the property described in Exhibits 1 - 4 and incorporated herein is hereby accepted by the City of Medford for public right-of-way.

Section 2. That the City Recorder is hereby directed to cause a certified copy of this ordinance to be recorded in the official deed records of Jackson County, Oregon, and to deliver a copy thereof to the County Surveyor of Jackson County, Oregon.

PASSED by the Council and signed by me in authentication of its passage this _____ day of _____, 2016.

ATTEST: _____
City Recorder

Mayor

APPROVED _____, 2016.

Mayor

State of Oregon)
County of Jackson)

On this _____ day of _____, 2016, Gary H. Wheeler, as Mayor of the City of Medford, personally appeared before me and is known to me to be the person whose name is signed to this document, and acknowledges that he signed the document.

Notary Public for Oregon
My Commission expires:

DEDICATION OF STREET RIGHT-OF-WAY

Rogue Valley Manor, hereby dedicates to the public of the City of Medford, a municipal corporation of the State of Oregon, the following described tract for street right-of-way purposes:

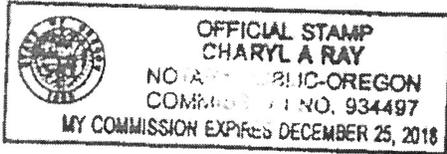
(See attached Exhibit "A")

IN WITNESS HEREOF, signed this 23 day of November, 2015

[Signature]

STATE OF OREGON
(County of Jackson) ss.

On the 23 day of November, 2015, personally appeared before me Sarah Lynch, and acknowledged the foregoing instrument to be their voluntary act and deed.



Charyl A Ray
Notary Public

The City of Medford, a municipal corporation of the State of Oregon, hereby accepts such dedication on behalf of the public with the express understanding that in so doing, the City of Medford does not agree to improve or maintain said property, unless and until such time as the City shall accept jurisdiction of the property for purposes of street maintenance.

City of Medford

IN WITNESS HEREOF, signed this _____ day of _____, _____.

By: _____

Title: _____

STATE OF OREGON
(County of Jackson) ss.

On the _____ day of _____, _____, personally appeared before me _____, and acknowledged the foregoing instrument to be the voluntary act and deed of the City of Medford.

Notary Public

Exhibit A - Description of portion of Hospitality Way to be dedicated to the City of Medford

EXHIBIT

A strip of land being dedicated for public street right-of-way purposes, being a portion of that certain real property described in Instrument No. 2008-32941, Official Records of Jackson County, Oregon, and more fully described as follows:

Commencing at the Southeast corner of Donation Land Claim (D.L.C.) No. 50, in Township 37 South, Range 1 West, Willamette Meridian, Jackson County, Oregon; thence along the south line of said D.L.C. 50, South 89°52'30" West 37.00 feet to the westerly right-of-way line of Ellendale Drive; thence leaving said south line and along said right-of-way, North 00°00'50" West 557.36 feet to the POINT OF BEGINNING; thence continue along said right-of-way, North 00°00'50" West 102.00 feet; thence leaving said right-of-way, along the arc of a 20.00 foot radius non-tangent curve to the right (the long chord to which bears South 44°59'10" West 28.28 feet) a distance of 31.42 feet to the south line of that tract of land described in Instrument No. 2007-46990, Official Records, Jackson County, Oregon; thence along said south line, South 89°59'10" West 356.10 feet to the southwest corner thereof; thence along the west line of said tract, North 00°00'50" West 1.00 foot to the southeast corner of that tract of land described in Instrument No. 2008-32920, Official Records of said Jackson County; thence along the south line of said tract, South 89°59'10" West 44.72 feet; thence leaving said south line, South 00°00'50" East 63.00 feet to the north line of that tract of land described in Instrument No. 2013-38980, Official Records of said Jackson County; thence thence along the north line of said tract, North 89°59'10" East 400.82 feet; thence along the arc of a 20.00 foot radius curve to the right (the long chord to which bears South 45°00'50" East 28.28 feet) a distance of 31.42 feet to the point of beginning. (containing 0.604 acres, more or less)

REGISTERED
PROFESSIONAL
LAND SURVEYOR

Darrell L Huck

OREGON
FEBRUARY 4, 1983
DARRELL L HUCK
2023

EXPIRES 8/30/2015

Darrell L. Huck
L.S. 2023 – Oregon
Hoffbuhr & Associates, Inc.

(14075 hosp desc.doc)

REGISTERED
PROFESSIONAL
LAND SURVEYOR

Dennis L. Huck

OREGON
FEBRUARY 4, 1985
DARRELL L. HUCK
2023

Expires 6/30/2016

EXHIBIT
ROAD DEDICATION



37 1W 32BA
T.L. 2100

INST.NO.2008-032920

37 1W 32BA
T.L. 2300
INST.NO. 2007-046990

37 1W 32BA
T.L. 1700

INST.NO.2013-009495

area of dedication
HOSPITALITY WAY

TAX LOT 1690
INST.NO.2008-032941

37 1W 32BA
T.L. 2400

INST.NO. 2013-38980

ELLENDALE DRIVE

37 1W 32BA
T.L. 1800

37 1W 32BA
T.L. 1900

37 1W 32BA
T.L. 2502

TAX LOT 1690

37 1W 32BA
T.L. 1601

37 1W 32BA
T.L. 2700

37 1W 32BA
T.L. 2500

PUBLIC UTILITY EASEMENT

Rogue Valley Manor, an Oregon Non-profit Corporation, Grantor, hereby dedicates to the public of the City of Medford, a perpetual easement, for facilities of public utilities, described as follows:

SEE EXHIBITS "A" & "B"

Providers of public utilities may use this easement for construction and maintenance of their utility facilities. Public utilities that may use this easement include gas, electric, telephone, and cable television/broadband.

CONDITIONS

The grantor, its successors and assigns, covenant that they shall not construct any building or other structure, except standard surface paving, in this easement; shall not excavate adjacent to utility facilities and shall not reduce or increase the depth of cover over any utility facilities without the city's written consent.

A utility making excavation pursuant to this easement shall promptly fill the excavation to grade of adjoining property, restore surface, and repair any damage to landscaping and irrigation.

Signed this 23 day of November, 2015.

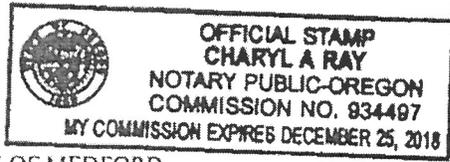
ROGUE VALLEY MANOR

[Signature]
By: Sarah Lynch, Executive Director

STATE OF OREGON)
)
County of Jackson)

The foregoing instrument was acknowledged before me this 23 day of November, by _____ on behalf of Rogue Valley Manor, a non-profit corporation.

[Signature]
Notary Public of Oregon
My Commission Expires: 12-25-18



CITY OF MEDFORD

By: _____

STATE OF OREGON)
)
County of Jackson)

*(Do not record unless signed)
(by the City of Medford)*

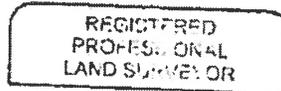
The foregoing instrument was acknowledged before me this ___ day of _____, 2015, by _____ on behalf of the City of Medford.

Notary Public of Oregon
My Commission Expires: _____

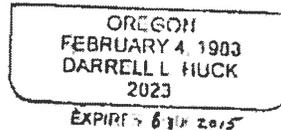
EXHIBIT A

A strip of land 10.00 feet in width, being dedicated for public utility easement purposes, being a portion of that certain real property described in Instruments No. 2007-46990 and 2008-32920, Official Records of Jackson County, Oregon, and more fully described as follows:

Commencing at the Southeast corner of Donation Land Claim (D.L.C.) No. 50, in Township 37 South, Range 1 West, Willamette Meridian, Jackson County, Oregon; thence along the south line of said D.L.C. 50, South 89°52'30" West 37.00 feet to the westerly right-of-way line of Ellendale Drive; thence leaving said south line and along said right-of-way, North 00°00'50" West 659.36 feet to the POINT OF BEGINNING; thence leaving said right-of-way, along the arc of a 20.00 foot radius non-tangent curve to the right (the long chord to which bears South 44°59'10" West 28.28 feet) a distance of 31.42 feet to the south line of that tract of land described in Instrument No. 2007-46990, Official Records, Jackson County, Oregon; thence along said south line, South 89°59'10" West 356.10 feet to the southwest corner thereof; thence along the west line of said tract, North 00°00'50" West 1.00 foot to the southeast corner of that tract of land described in Instrument No. 2008-32920, Official Records of said Jackson County, thence along the south line of said tract, South 89°59'10" West 44.72 feet; thence leaving said south line, North 00°00'50" West 10.00 feet; thence North 89°59'10" East 44.72 feet; thence South 00°00'50" East 1.00 foot; thence North 89°59'10" East 356.10 feet; thence along the arc of a 10.00 foot radius curve to the left (the long chord to which bears North 44°59'10" East 14.14 feet) a distance of 15.71 feet; thence North 89°59'10" East 10.00 feet to the point of beginning. (containing 0.097 acres, more or less)



Darrell L. Huck



Darrell L. Huck
L.S. 2023 - Oregon
Hoffbuhr & Associates, Inc

(14075 hosp pue desc.doc)

REGISTERED
PROFESSIONAL
LAND SURVEYOR

Darrell L. Huck

OREGON
FEBRUARY 4, 1983
DARRELL L. HUCK
2023

Expires 6/30/2016

EXHIBIT B
PUBLIC UTILITY EASEMENT



37 1W 32BA
T.L. 2100

INST.NO. 2008-032920

37 1W 32BA
T.L. 2300
INST.NO. 2007-046990

area of pue dedication

37 1W 32BA
T.L. 1700

INST.NO. 2013-009495

HOSPITALITY WAY

TAX LOT 1690
INST.NO. 2008-032941

37 1W 32BA
T.L. 2400

INST.NO. 2013-38980

ELLENDALE DRIVE

37 1W 32BA
T.L. 1800

37 1W 32BA
T.L. 1900

37 1W 32BA
T.L. 2502

TAX LOT 1690

37 1W 32BA
T.L. 1601

37 1W 32BA
T.L. 2700

37 1W 32BA
T.L. 2500

STORM DRAINAGE EASEMENT

This STORM DRAINAGE EASEMENT (the "Easement") is made by and between the CITY OF MEDFORD, a municipal corporation of the State of Oregon (the "City"), MHGI, LLC, a Washington limited liability company ("MHGI"), and ROGUE VALLEY MANOR, an Oregon limited liability company ("RVM"). MHGI and RVM are collectively referred to herein as the "Grantors".

WITNESSETH

WHEREAS, RVM is the current owner and holder of record of Title to certain real property described on Exhibit "1" which is attached hereto and incorporated herein (the "Property"); and

WHEREAS, an existing storm drain located within the Property currently traverses parcels owned by MHGI, LLC, RVM and Jackson County; and

WHEREAS, Grantors desire that the City accept the dedication for public use of an existing private road (Hospitality Way, or the "Road"), located within a portion of the Property as identified in Exhibit "2a" and "2b"; and

WHEREAS, prior to the City accepting the dedication of the Road, the City has requested that it be granted a storm drain maintenance easement for the existing storm drain line; and

WHEREAS, in order to complete the dedication of the Road, the Grantors desire to grant a perpetual, non-exclusive easement with the right to construct, reconstruct, operate, maintain, repair, relocate and replace an underground storm drainage line in, upon and across a portion of the properties identified in Exhibits "3a", "3b", "3c", "3d", "3e", and "3f"; and

WHEREAS, this Easement does not include the portion of the existing storm drain line constructed within property owned by Jackson County, Said property abuts the west line of property described in exhibit 3f.

NOW, THEREFORE, in consideration of the acceptance by the City of the dedication of the Road, Grantors hereby grant unto the City a perpetual, non-exclusive easement to construct, reconstruct, operate, maintain, repair, relocate and replace an underground storm drainage line in, upon and across the area described in Exhibits "4a", "4b" and as identified on the map in Exhibit "4c" attached hereto (the "Easement Area").

1. This Easement shall be effective upon the City Council's approval of accepting the dedication of the Road as identified on Exhibit "2a" and "2b". If for any reason the City does not accept the dedication of the Road, this Easement shall be null and void.

2. Grantors reserve the right to use the surface area within the above easement for right-of-way, driveways, walkways, agricultural planting, ornamental landscaping and/or fencing.
3. The City shall use reasonable efforts to avoid unnecessary disruption of Grantors use and enjoyment of the properties. The City shall promptly repair or fill all excavations, as soon as practicable after opening, to the grade of the adjoining property, restore the surface, and repair any damage to landscaping and irrigation. If the City fails to properly restore the property, then the City shall be liable to Grantors, their heirs and assigns, for the reasonable value of such repairs.
4. The Grantors and the City shall each use, and take reasonable measures to cause their employees, officers, customers, agents, contractors and assigns to use, the Easement Area in a reasonable manner and so as not to obstruct or otherwise use the Easement Area in a manner that would unreasonably interfere with the use thereof by the other parties hereto or its employees, officers, customers, agents, contractors and assigns.
5. Any party hereto may enforce this Easement by appropriate action, and should it prevail in such litigation, that party shall be entitled to recover, as part of its costs, reasonable attorneys' fees.
6. This Easement may not be modified or amended, except by a writing executed and delivered by the Grantors and the City or their respective successors and assigns.
7. If any term or provision of this Easement shall, to any extent, be invalid or unenforceable under applicable law, then the remaining terms and provisions of this Easement shall not be affected thereby, and each such remaining term and provision shall be valid and enforceable to the fullest extent permitted by applicable law
8. This Easement shall be construed and enforced in accordance with the internal laws of the State of Oregon.
9. Any ambiguity in the terms of this Easement shall not be construed for or against any party.

Grantors:

MHGI, LLC



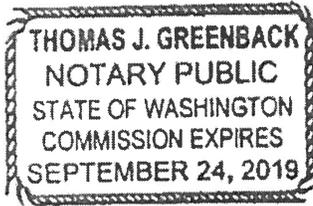
By: Kauri, LLC, Managing Member

By: Kent Angier, Managing Member

STATE OF WASHINGTON) ss.

County of KING)

SUBSCRIBED AND SWORN TO BEFORE ME this 15 day of December, 2015
by Kent Angier as manager of Kauri, LLC of MHGI, LLC.
manager


Notary Public for King County, Washington

My Commission expires: 9-24-2019

ROGUE VALLEY MANOR

By: [Signature]

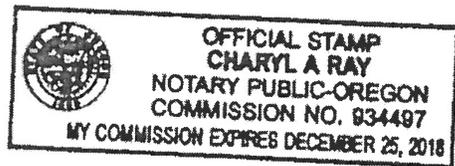
Its: Executive Director

STATE OF Oregon)
) ss.
County of Jackson)

SUBSCRIBED AND SWORN TO BEFORE ME this 23 day of November, 2015 by Sarah Lynch as Executive Director of Rogue Valley Manor.

[Signature]
Notary Public for Oregon

My Commission expires: 12-25-2018



Grantee:

THE CITY OF MEDFORD

By: _____

Its: _____

STATE OF Oregon)
) ss.
County of Jackson)

SUBSCRIBED AND SWORN TO BEFORE ME this ____ day of _____, 2015 by
_____ as _____ of the City of Medford.

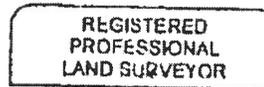
Notary Public for Oregon

My Commission expires: _____

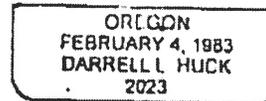
EXHIBIT 1: Description of T.L. 1690

EXHIBIT

Commencing at the Southeast Corner of Donation Land Claim (D.L.C.) No. 50 in Township 37 South, Range 1 West, Willamette Meridian, Jackson County, Oregon; thence along the south line of said D.L.C. 50, South 89°52'30" West 37.00 feet to the westerly right-of-way line of Ellendale Drive; thence along said right-of-way, North 00°00'50" West 557.36 feet to the POINT OF BEGINNING; thence leaving said right-of-way line, along the arc of a 20.00 foot radius curve to the left (the long chord to which bears North 45°00'50" West 28.28 feet) a distance of 31.42 feet to the north line of that tract of land described in Instrument No. 2007-046986, Official Records, Jackson County, Oregon; thence along the said north line, South 89°59'10" West 401.20 feet; thence continue along said north line, South 79°16'10" West 7.12 feet to the Northwest corner of said tract; thence along the west line of said tract and its southerly prolongation, South 00°00'50" East 263.46 feet; thence leaving said west line, South 89°59'10" West 63.00 feet to the southeast corner of that tract of land described in Instrument No. 2008-032943, Official Records, Jackson County, Oregon; thence North 00°00'50" West 256.18 feet; thence along the arc of a 25.00 foot radius curve to the left (the long chord to which bears North 17°31'46" East 15.05 feet) a distance of 15.29 feet; thence along the arc of a 44.00 foot radius curve to the right (the long chord to which bears North 44°37'16" East 86.57 feet) a distance of 122.36 feet; thence along the arc of 25.00 foot radius curve to the left (the long chord to which bears South 72°51'48" East 14.74 feet) a distance of 14.97 feet; thence North 89°59'10" East 44.72 feet; thence South 00°00'50" East 1.00 feet; thence North 89°59'10" East 356.10 feet; thence along the arc of a 20.00 foot radius curve to the left (the long chord to which bears North 44°59'10" East 28.28 feet) a distance of 31.42 feet to the westerly right-of-way line of Ellendale Drive; thence along said right-of-way, South 00°00'50" East 102.00 feet to the point of beginning.



Darrell L. Huck



EXPIRES: 8/31/23

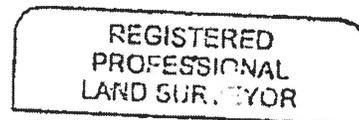
Darrell L. Huck
L.S. 2023 – Oregon
Hoffbuhr & Associates, Inc.

EXHIBIT 2a: Description of portion of Hospitality way to be dedicated

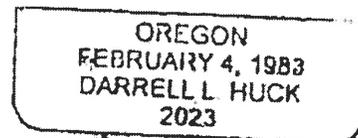
EXHIBIT .

A strip of land being dedicated for public street right-of-way purposes, being a portion of that certain real property described in Instrument No. 2008-32941, Official Records of Jackson County, Oregon, and more fully described as follows:

Commencing at the Southeast corner of Donation Land Claim (D.L.C.) No. 50, in Township 37 South, Range 1 West, Willamette Meridian, Jackson County, Oregon; thence along the south line of said D.L.C. 50, South 89°52'30" West 37.00 feet to the westerly right-of-way line of Ellendale Drive; thence leaving said south line and along said right-of-way, North 00°00'50" West 557.36 feet to the POINT OF BEGINNING; thence continue along said right-of-way, North 00°00'50" West 102.00 feet; thence leaving said right-of-way, along the arc of a 20.00 foot radius non-tangent curve to the right (the long chord to which bears South 44°59'10" West 28.28 feet) a distance of 31.42 feet to the south line of that tract of land described in Instrument No. 2007-46990, Official Records, Jackson County, Oregon; thence along said south line, South 89°59'10" West 356.10 feet to the southwest corner thereof; thence along the west line of said tract, North 00°00'50" West 1.00 foot to the southeast corner of that tract of land described in Instrument No. 2008-32920, Official Records of said Jackson County; thence along the south line of said tract, South 89°59'10" West 44.72 feet; thence leaving said south line, South 00°00'50" East 63.00 feet to the north line of that tract of land described in Instrument No. 2013-38980, Official Records of said Jackson County; thence thence along the north line of said tract, North 89°59'10" East 400.82 feet; thence along the arc of a 20.00 foot radius curve to the right (the long chord to which bears South 45°00'50" East 28.28 feet) a distance of 31.42 feet to the point of beginning. (containing 0.604 acres, more or less)



Darrell L. Huck



EXPIRES: 03/01/2015

Darrell L. Huck
L.S. 2023 – Oregon
Hoffbuhr & Associates, Inc.

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EXHIBIT 2b: Description of portion of Hospitality way to be dedicated

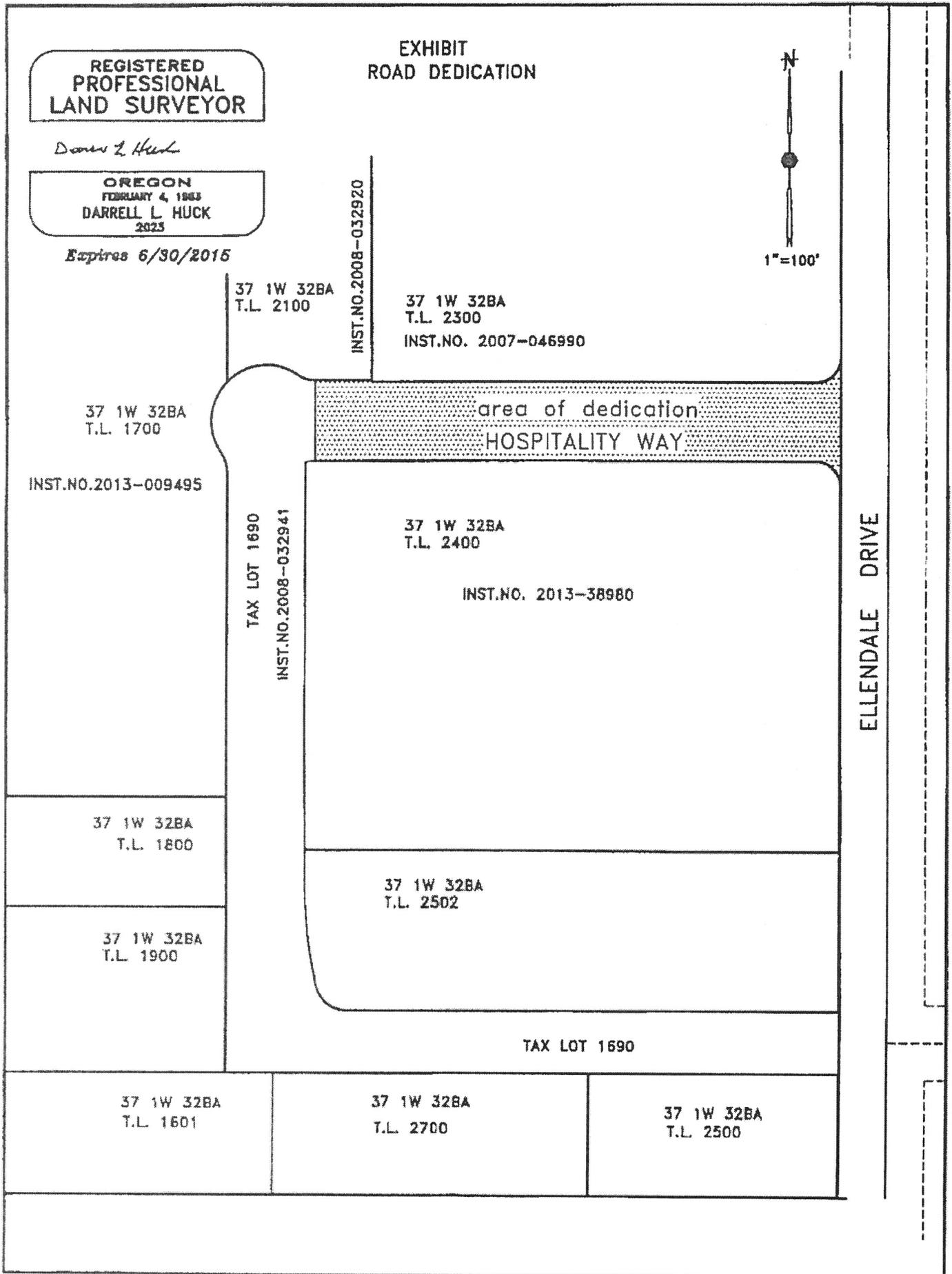


EXHIBIT 3a

LEGAL DESCRIPTION OF TAX LOT 2400

Commencing at the Southeast corner of Donation Land Claim (D.L.C.) No. 50 in Township 37 South, Range 1 West, Willamette Meridian, Jackson County, Oregon; thence along the South line of said D.L.C. No. 50, South 89°52'30" West 37.00 feet; thence leaving said South line and along a line parallel with and 37.00 feet distant from, when measured perpendicular to, the East line of the aforesaid D.L.C. 50, North 00°00'50" West 270.37 feet to the **POINT OF BEGINNING**; thence continue North 00°00'50" West 287.00 feet; thence along the arc of a 20.00 foot radius curve to the left (the long chord to which bears North 45°00'50" West 28.28 feet) a distance of 31.42 feet; thence South 89°59'10" West 401.20 feet; thence South 79°16'10" East 7.12 feet; thence South 00°00'50" East 305.675 feet; thence North 89°59'10" East 428.20 feet to the point of beginning.

EXHIBIT 3b

LEGAL DESCRIPTION OF TAX LOT 1700

Commencing at the Southeast corner of Donation Land Claim (D.L.C.) No. 50 in Township 37 South, Range 1 West, Willamette Meridian, Jackson County, Oregon; thence along the East line of said D.L.C. 50, North 00°00'50" west 312.51 feet; thence leaving said east line, South 89°59'10" West 528.20 feet to the POINT OF BEGINNING; thence continue South 89°59'10" West 264.00 feet; thence North 64°55'27" West 84.63 feet to the easterly boundary of that property established by Stipulated General Judgment in the Circuit Court of the State of Oregon (case file No. 054452E2) and filed as Instrument No. 2007-056979 of the Official Records of Jackson County, Oregon; thence along said easterly boundary, North 25°04'33" East 114.88 feet; thence continue along said easterly boundary, North 06°12'01" West 218.58 feet; thence North 15°36'57" West 63.03 feet; thence leaving said easterly boundary, North 89°59'10" East 61.41 feet; thence North 60°00'00" East 116.00 feet; thence North 89°59'10" East 170.56 feet; thence South 00°00'50" East 149.41 feet; thence along the arc of a 44.00 foot radius non-tangent curve to the left (the long chord to which bears South 04°36'42" West 56.16 feet) a distance of 60.91 feet; thence along the arc of a 25.00 foot radius curve to the right (the long chord to which bears South 17°31'46" East 15.05 feet) a distance of 15.29 feet; thence South 00°00'50" East 256.18 feet to the point of beginning.

EXHIBIT 3c

LEGAL DESCRIPTION OF TAX LOT 1690

Commencing at the Southeast Corner of Donation Land Claim (D.L.C.) No. 50 in Township 37 South, Range 1 West, Willamette Meridian, Jackson County, Oregon; thence along the south line of said D.L.C. 50, South $89^{\circ}52'30''$ West 37.00 feet to the westerly right-of-way line of Ellendale Drive; thence along said right-of-way, North $00^{\circ}00'50''$ West 557.36 feet to the POINT OF BEGINNING; thence leaving said right-of-way line, along the arc of a 20.00 foot radius curve to the left (the long chord to which bears North $45^{\circ}00'50''$ West 28.28 feet) a distance of 31.42 feet to the north line of that tract of land described in Instrument No. 2007-046986, Official Records, Jackson County, Oregon; thence along the said north line, South $89^{\circ}59'10''$ West 401.20 feet; thence continue along said north line, South $79^{\circ}16'10''$ West 7.12 feet to the Northwest corner of said tract; thence along the west line of said tract and its southerly prolongation, South $00^{\circ}00'50''$ East 329.76 feet; thence along the arc of a 375.00 foot radius curve to the left (the long chord to which bears South $06^{\circ}14'39''$ East 81.39 feet) a distance of 81.55 feet; thence along the arc of a 25.00 foot radius curve to the left (the long chord to which bears South $51^{\circ}18'01''$ East 31.35 feet) a distance of 33.88 feet; thence North $89^{\circ}52'30''$ East 394.91 feet to the westerly right-of-way line of the aforesaid Ellendale Drive; thence along said right-of-way, South $00^{\circ}00'50''$ East 50.00 feet; thence leaving said right-of-way, South $89^{\circ}52'30''$ West 491.20 feet; thence North $00^{\circ}00'50''$ West 473.18 feet; thence along the arc of a 25.00 foot radius curve to the left (the long chord to which bears North $17^{\circ}31'46''$ East 15.05 feet) a distance of 15.29 feet; thence along the arc of a 44.00 foot radius curve to the right (the long chord to which bears North $44^{\circ}37'16''$ East 86.57 feet) a distance of 122.36 feet; thence along the arc of 25.00 foot radius curve to the left (the long chord to which bears South $72^{\circ}51'48''$ East 14.74 feet) a distance of 14.97 feet; thence North $89^{\circ}59'10''$ East 44.72 feet; thence South $00^{\circ}00'50''$ East 1.00 feet; thence North $89^{\circ}59'10''$ East 356.10 feet; thence along the arc of a 20.00 foot radius curve to the left (the long chord to which bears North $44^{\circ}59'10''$ East 28.28 feet) a distance of 31.42 feet to the westerly right-of-way line of Ellendale Drive; thence along said right-of-way, South $00^{\circ}00'50''$ East 102.00 feet to the point of beginning.

EXHIBIT 3d

LEGAL DESCRIPTION OF TAX LOT 1800

Commencing at the Southeast corner of Donation Land Claim (D.L.C.) No. 50 in Township 37 South, Range 1 West, Willamette Meridian, Jackson County, Oregon; thence along the east line of said D.L.C. No. 50, North 00°00'50" West 225.38 feet; thence leaving said east line South 89°59'10" West 528.20 feet to the POINT OF BEGINNING; thence continue South 89°59'10" West 398.25 feet to the easterly boundary of that tract of land established by Stipulated General Judgment in the Circuit Court of the State of Oregon (case file No.054452E2) and filed as Instrument No. 2007-056979 of the Official Records of Jackson County, Oregon; thence along said easterly boundary, North 25°04'33" East 22.28 feet to that certain boundary established by agreement and recorded in Instrument No. 72-00028, Official Records, Jackson County, Oregon; along said boundary by agreement, North 75°00'09" East (record North 75°00'29" East) 6.44 feet to the northeasterly boundary of that tract of land described in Instrument No. 75-07439, Official Records, Jackson County, Oregon; thence along said northeasterly boundary, along the arc of a 577.46 foot radius non-tangent curve to the left (the long chord to which bears North 51°58'08" West 5.06 feet) a distance of 5.06 feet to the easterly boundary of the aforesaid Instrument No. 2007-056979; thence along said easterly boundary, North 25°04'33" East 108.28 feet; thence leaving said easterly boundary, South 64°55'27" East 84.63 feet; thence North 89°59'10" East 264.00 feet; thence South 00°00'50" East 87.13 feet to the point of beginning.

EXHIBIT 3e

LEGAL DESCRIPTION OF TAX LOT 1900

Commencing at the Southeast corner of Donation Land Claim (D.L.C.) No. 50 in Township 37 South, Range 1 West, Willamette Meridian, Jackson County, Oregon; thence along the South line of said D.L.C. 50, South 89°52'30" West 37.00 feet; thence North 00°00'50" West 96.53 feet; thence South 89°52'30" West 491.20 feet to the POINT OF BEGINNING; thence continue, South 89°52'30" West 306.58 to the easterly boundary of that tract of land described in Instrument No. 88-28017 of the Official Records of Jackson County, Oregon; thence along said easterly line, North 29°38'39" West (Record North 29°38'35" West) 88.76 feet to a 5/8 inch iron pin; thence continue along said easterly boundary, North 41°53'29" West 71.60 feet (Record North 41°52'28" West) to the easterly boundary of that property established by Stipulated General Judgment in the Circuit Court of the State of Oregon (case file No. 054452E2) and filed as Instrument No. 2007-056979 of the Official Records of Jackson County, Oregon; thence leaving said easterly boundary, North 89°59'10" East 398.25 feet; thence South 00°00'50" East 129.87 feet to the point of beginning.

EXHIBIT 3f

LEGAL DESCRIPTION OF TAX LOT 1601

Commencing at the Southeast corner of Donation Land Claim (D.L.C.) No. 50 in Township 37 South, Range 1 West, Willamette Meridian, Jackson County, Oregon; thence along the South line of said D.L.C. 50, South 89°52'30" West 490.20 feet to the POINT OF BEGINNING; thence continue along said south line, South 89°52'30" West (record South 89°52'50" West) 289.73 feet to a 5/8 inch iron pin located on the easterly boundary of that tract of land described in Instrument No. 88-28017 of the Official Records of Jackson County, Oregon; thence along said easterly line, North 29°38'39" West (Record North 29°38'35" West) 110.93 feet; thence leaving said easterly boundary, North 89°52'30" East 344.57 feet; thence South 00°00'50" East 96.53 feet to the point of beginning.

EXHIBIT 4a: Storm Drain description for portion crossing T.L. Nos.: 1690, 1800, 1900, and 1601

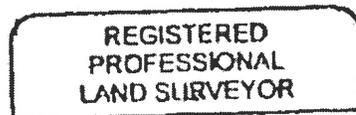
EXHIBIT

A strip of land 10.00 feet in width, for storm drain easement purposes, lying 5.00 feet on each side of the following described centerline:

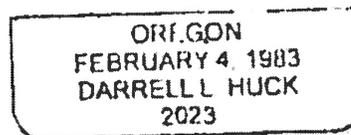
Commencing at the Southeast corner of Donation Land Claim No. 50 in Township 37 South, Range 1 West of the Willamette Meridian in Jackson County, Oregon; thence NORTH 312.38 feet; thence WEST 528.28 feet to the Southeast corner of that tract of land described in Instrument No. 2013-009495 of the Official Records of Jackson County, Oregon; thence along the east line of said tract, North 00°00'50" West 240.00 feet to the POINT OF BEGINNING; thence leaving said east line, South 89°59'53" East 12.06 feet; thence North 00°00'14" East 75.45 feet; thence North 89°57'44" East 60.00 feet; thence South 00°15'38" East 39.00 feet; thence South 89°24'11" East 378.74 feet to the point of terminus.

ALSO, TOGETHER WITH a strip of land 10.00 feet in width, for storm drain easement purposes, lying 5.00 feet on each side of the following described centerline:

Commencing at the Southeast corner of Donation Land Claim No. 50 in Township 37 South, Range 1 West of the Willamette Meridian in Jackson County, Oregon; thence NORTH 312.38 feet; thence WEST 528.28 feet to the Southeast corner of that tract of land described in Instrument No. 2013-009495 of the Official Records of Jackson County, Oregon; thence along the south line of said tract, North 89°59'14" West 257.77 feet to the POINT OF BEGINNING; thence leaving said south line, South 04°37'15" East 244.35 feet; thence South 82°55'27" West 50.58 feet to the westerly line of that tract of land described in Instrument No. 2008-032935 of the Official Records of Jackson County, Oregon for the point of terminus.



Darrell L. Huck



EXPIRES 6/30/2013

Darrell L. Huck
L.S. 2023 – Oregon
Hoffbuhr & Associates, Inc.

EXHIBIT 4b: Storm Drain description for portion crossing T.L. 1700

EXHIBIT

A strip of land 10.00 feet in width, for storm drain easement purposes, lying 5.00 feet on each side of the following described centerline:

Commencing at the Southeast corner of Donation Land Claim No. 50 in Township 37 South, Range 1 West of the Willamette Meridian in Jackson County, Oregon; thence NORTH 312.38 feet; thence WEST 528.28 feet to the Southeast corner of that tract of land described in Instrument No. 2013-009495 of the Official Records of Jackson County, Oregon; thence along the east line of said tract, North 00°00'50" West 240.00 feet to the POINT OF BEGINNING; thence leaving said east line, North 89°59'53" West 38.52 feet; thence SOUTH 230.00 feet; thence North 89°59'10" West 220.00 feet; thence South 04°37'15" East 10.03 feet to the south line of that tract of land described in the aforesaid Instrument No. 2013-009495 for the point of terminus.

REGISTERED
PROFESSIONAL
LAND SURVEYOR

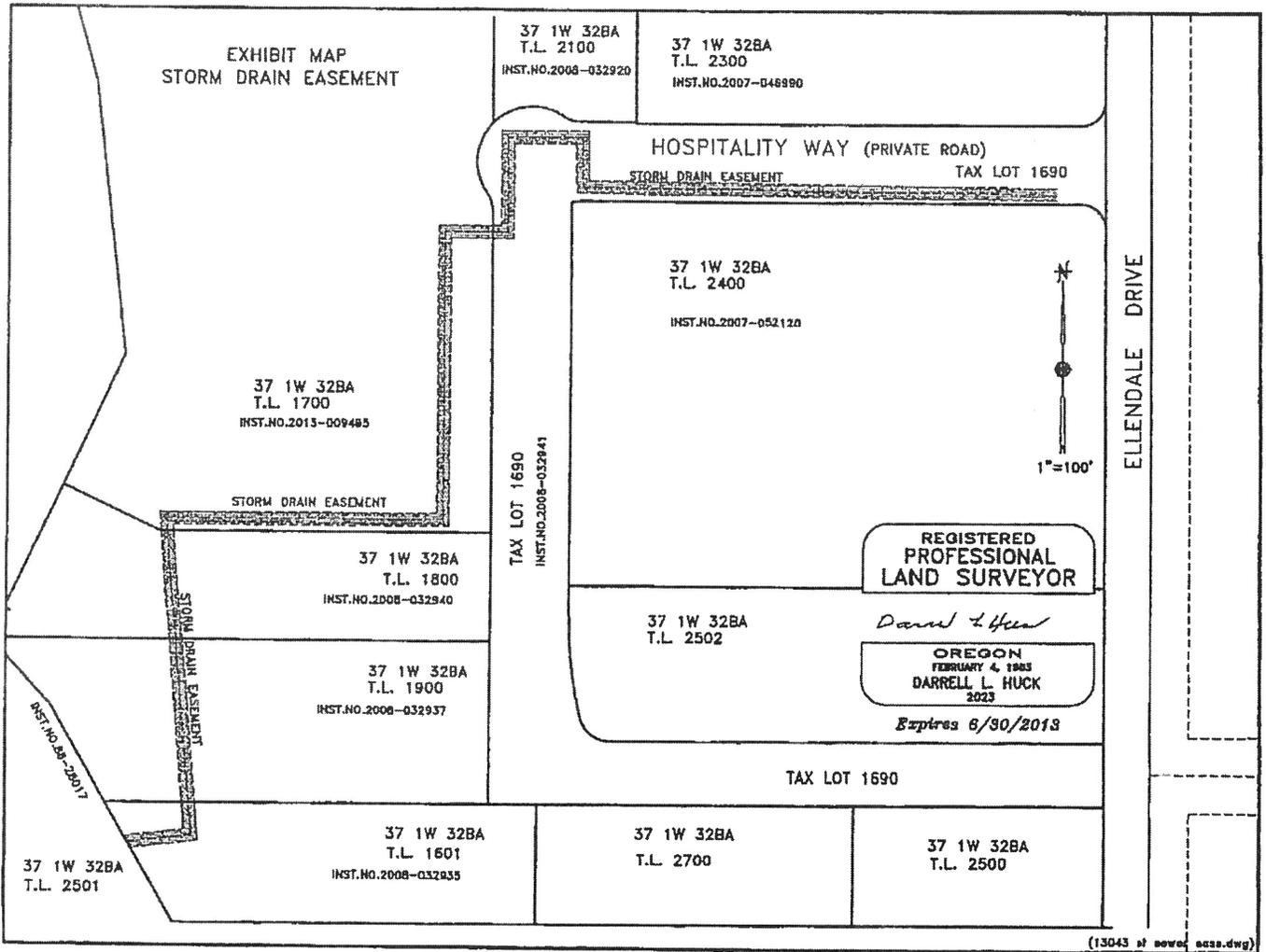
Darrell L. Huck

ORF GDN
FEBRUARY 4, 1983
DARRELL L. HUCK
2023

EXPIRES: 6/30/2013

Darrell L. Huck
L.S. 2023 – Oregon
Hoffbuhr & Associates, Inc.

EXHIBIT 4c: Storm Drain Easement Map



DEED DECLARATION
FOR THE LANDSCAPING OF THE ISLAND LOCATED
WITHIN HOSPITALITY WAY

This DECLARATION is made and effective this _____ day of _____, 2016, by and between Zaffre Properties, L.L.C., an Iowa limited liability company, Lapis Properties, L.L.C., an Iowa limited liability company, and Kauri MHHS LLC, a Washington limited liability Company, (collectively the "Company"), and the CITY OF MEDFORD, a municipal corporation of the State of Oregon (the "City").

RECITALS

1. The Company owns property in the City of Medford within Jackson County identified as Map No. 371W32BA Tax Lot ("TL")No. 1690, as described in Exhibit "A" (the "Property"); and
2. The Company desires that the City accept the dedication of an existing road (the "Road") known as Hospitality Way located on 371W32BA TL 1690 as identified in Exhibit "B"; and
3. An existing landscaped island (the "Island") is located within Hospitality Way and prior to the City accepting the dedication of the Road, the City has requested that the Company agree to continue to remain the responsible party for the landscaping and planting (collectively the "Landscaping") placed within the Island; and
4. Existing ingress/egress easements recorded as Document Nos. 2013-022775 and 2013-022776 in the Official Records of Jackson County, Oregon (the "Easements") between Pacific Retirement Hospitality, LLC (predecessor in interest to the Property owned by the Company) and Rogue Valley Manor, state that "upon dedication [of Hospitality Way], "[Pacific Retirement Hospitality LLC/its successor] shall record a deed declaration stating that the maintenance of the existing landscaped island in Hospitality Way is the responsibility of [Pacific Retirement Hospitality LLC/its successor]"; and
5. This Declaration is intended to satisfy the condition of the Easements quoted in paragraph 4 above and City's request.

AGREEMENT

NOW, THEREFORE, the City, and the Company, and its successors in interest to the Property ("Declarant"), hereby agree as follows:

1. Declarant shall remain the responsible party to maintain the Landscaping of the Island.

2. Declarant shall maintain the Island in good order and promptly repair or compensate the City for any damage to Hospitality Way occurring as a result of such maintenance.
3. Subject to the City's issuance of necessary permits, if any, Declarant shall prune shrubs, trees, and other plantings as necessary to control extraneous growth and ensure that City standard lines of sight to signs and corner sight distances are always maintained for the safety to the public.
4. In the event that Declarant or its successors and assigns fails to maintain the Island as provided herein, the City shall provide Declarant thirty (30) days written notice and the opportunity to comply with its obligations under this Declaration.
5. This Declaration, shall run with the land, be appurtenant thereto, and be binding upon the Company, and its successors or assigns.
6. This Declaration may be amended only by a written document executed by Declarant and the City and recorded in the Official Records of Jackson County, Oregon.
7. The City shall undertake to have this Declaration filed of record in the Official Records of Jackson County, Oregon within ten (10) business days following the Medford's City Council approval to accept the dedication of Hospitality Way.

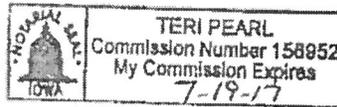
Zaffre Properties, L.L.C.

Signature: _____

Print Name: David E. Carpenter

Title: Manager

STATE OF Iowa)
) ss.
 County of Muscatine)



SUBSCRIBED AND SWORN TO BEFORE ME this 18th day of February, 2016 by David E. Carpenter as Manager of Zaffre Properties, L.L.C.

Teri Pearl

Notary Public for State of Iowa

My Commission expires: 7-19-17

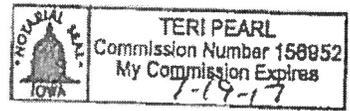
Lapis Properties, L.L.C.

Signature: _____

Print Name: David E. Carpenter

Title: Manager

STATE OF Iowa)
County of Muscatine) ss.



SUBSCRIBED AND SWORN TO BEFORE ME this 18th day of February, 2016 by David E. Carpenter as Manager of Lapis Properties, L.L.C.

Teri Pearl

Notary Public for State of Iowa

My Commission expires: 7-19-17

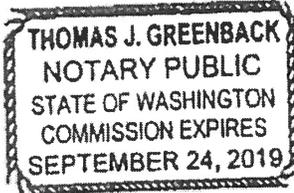
Kauri MHHS LLC

By: Kauri LLC, a Washington limited liability company, its sole member

[Signature]
Kent Angier, Manager

STATE OF Washington)
) ss.
County of King)

SUBSCRIBED AND SWORN TO BEFORE ME this 12th day of February, 2015 by Kent Angier as Manager of Kauri MHHS LLC.



[Signature]
Notary Public for Washington
My Commission expires: 9-24-2019

City of Medford

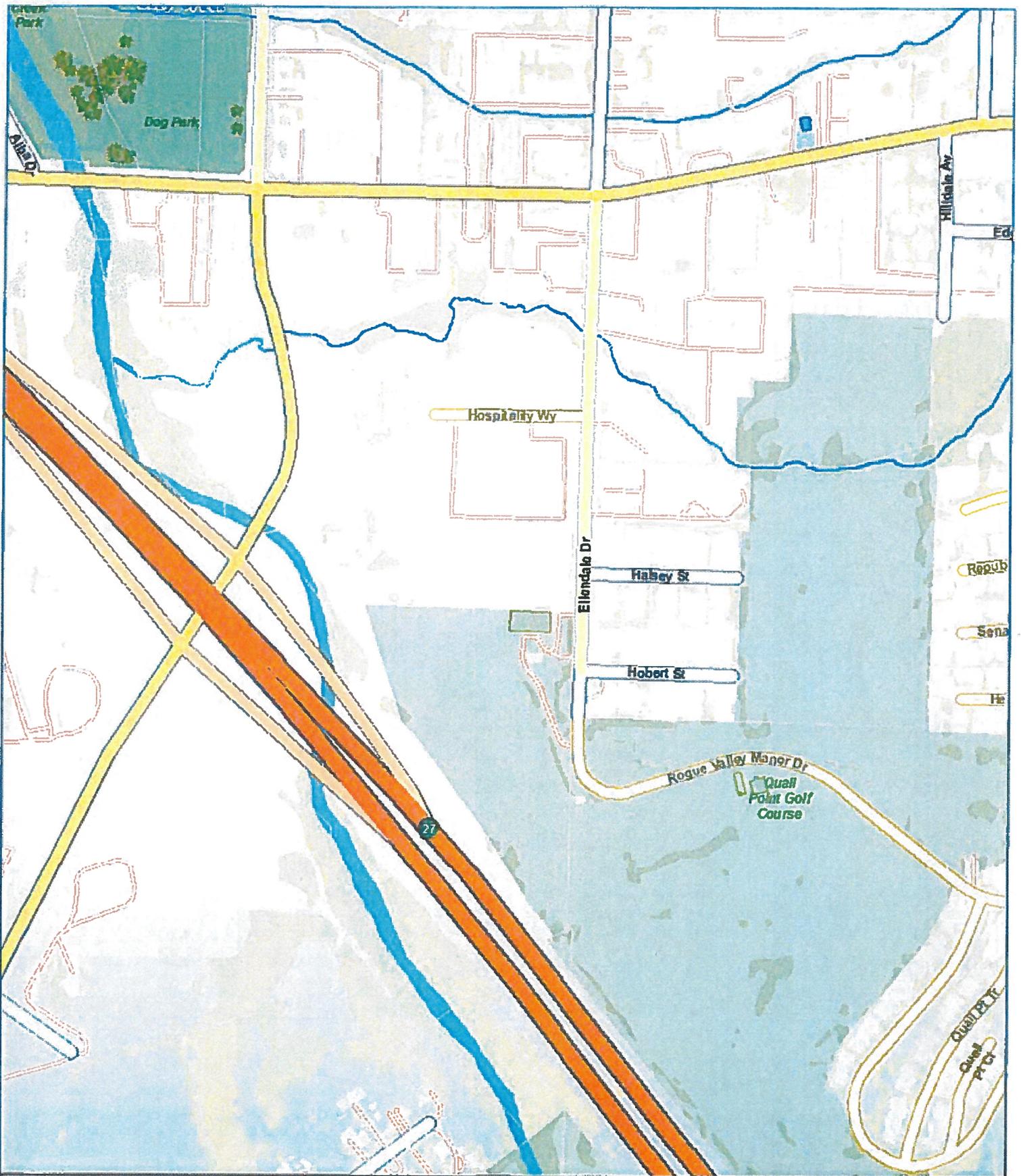
By:

Title:

STATE OF OREGON
(County of Jackson) ss.

On the _____ day of _____, _____, personally
appeared before me _____, and acknowledged the foregoing
instrument to be the voluntary act and deed of the City of Medford.

Notary Public



City of Medford: LIS

Map created by City of Medford's Land Information System (LIS). www.medfordmaps.org



Plot Date: February 3, 2016

CITY OF MEDFORD

GEOGRAPHIC INFORMATION SYSTEMS

The Geographic Information Systems (GIS) data made available on this map are developed and maintained by the City of Medford and Jackson County GIS data to not the official representations of any of the information included. The maps and data are made available to the public solely for informational purposes.

THERE MAY BE ERRORS IN THE MAPS OR DATA. THE MAPS OR DATA MAY BE OUTDATED, INACCURATE, AND MAY OMIT IMPORTANT INFORMATION. THE USER BEARS AS TO THE QUALITY OR PERFORMANCE IS WITH THE BUREAU OR USER AND IF INFORMATION IS DEFECTIVE, THE BUYER OR USER ASSUMES THE ENTIRE COST OF ANY NECESSARY CORRECTIONS OR SERVICES.

NO GUARANTEE OR WARRANTY IS EXPRESSED OR IMPLIED IN TERMS OF DATA ACCURACY OR LEGITIMACY.



CITY OF MEDFORD AGENDA ITEM COMMENTARY

Item No: 60.4

www.ci.medford.or.us

DEPARTMENT:	Legal Dept.	AGENDA SECTION:	Ordinances and Resolutions
PHONE:	541-774-2022	MEETING DATE:	March 3, 2016
STAFF CONTACT:	Kevin R. McConnell, Deputy City Attorney		

COUNCIL BILL 2016-32

A resolution approving referral to the electors of the City of Medford the question of imposing a three (3) percent tax on the sale of marijuana items by a marijuana retailer within the City.

SUMMARY AND BACKGROUND

On December 17, 2015, the Council adopted Ordinance No. 2015-132 ("the Ordinance"), which imposes a three (3) percent tax on the sale of marijuana items by a marijuana retailer, and referred the Ordinance to the electors of the City for approval at the November 8, 2016 statewide general election. This resolution directs the City Attorney to prepare a ballot title for the measure, and authorizes the City Recorder to act on behalf of the City and to take any action necessary to ensure that the measure is included on the ballot. Included for the Council's review are the statutorily-required Question, Summary and Explanatory statement.

PREVIOUS COUNCIL ACTIONS

Adopted Ordinance No. 2015-132 on December 17, 2015.

ANALYSIS

Adoption of this resolution will complete the steps necessary for the Ordinance to be included on the November ballot. In addition, staff has attached a copy of the Ordinance (the measure), along with the statutorily-required Question, Summary and Explanatory Statement as accompanying exhibits for the Council's review.

Exhibit 1 contains a copy of the Ordinance, along with the Question and Summary. The Question plainly phrases the chief purpose of the measure so that an affirmative response to the question corresponds to an affirmative vote on the measure. There is a 20 word limit. See *ORS 250.035(1)(b)*. The Summary is a concise and impartial statement summarizing the measure and its major effect. There is a 175 word limit. See *ORS 250.035(1)(c)*.

Exhibit 2 contains a copy of the Explanatory Statement, which is an impartial, simple, and understandable statement explaining the measure and its effect for use in the Jackson County Voters' Pamphlet. There is a 500 word limit. See *ORS 251.345 and OAR 165-022-0040(3)*.

If the Council adopts this resolution, the City Attorney's Office will then prepare a Ballot Title. The Ballot Title is a caption which reasonably identifies the subject of the measure. There is a 10 word limit. See *ORS 250.035(1)(a)*.

After the Ballot Title is prepared, the City Attorney will deliver the Ballot Title to the City Recorder, who shall then take all action necessary to comply with state law, including filing a Notice of Measure Election form. This form is provided by the Oregon Secretary of State, and the City will use this form to provide the Jackson County Election Office the Ballot Title, Question, Summary, and Explanatory Statement.

It is important to note that once the City Recorder files the referral with the Jackson County Elections Office, the ballot measure is certified to the ballot. At that point, the restrictions on public employees engaging in political activity will apply. Consequently, City staff should consult the Secretary of State's *Manual Restrictions on Political Campaigning by Public Employees* to ensure that public employees are complying with state elections law in their communications about the pending measure.



CITY OF MEDFORD AGENDA ITEM COMMENTARY

Item No: 60.4

www.ci.medford.or.us

FINANCIAL AND/OR RESOURCE CONSIDERATIONS

In its December 17, 2015 AIC for the Ordinance, staff explained that adoption of the Ordinance may have a positive financial impact upon the City. Staff explained that:

Adoption of this ordinance (and subsequent voter approval) may have a positive financial impact upon the City. That positive impact is contingent upon whether the Council adopts the proposed ordinance banning marijuana retailers. If the Council adopts that ordinance, and the voters approve the subsequent measure, the City may not impose the three percent tax. Moreover, the City would not be eligible to receive a distribution of state marijuana tax revenues (17 percent tax on retail sales) that would otherwise be available. See Agenda Item Commentary (Financial and/or Resource Considerations), Ordinance No. 2015-[133], Ordinance Declaring Ban on Recreational Marijuana Retailers. If the Council adopts the marijuana retailer ban, but the voters fail to approve that measure, the City would be able to impose the three percent tax and receive its allotted share of state tax revenues upon amending the Medford Code to reflect the electorate's intent.

Council adopted the Ordinance. If the electorate passes the three percent tax on the sale of marijuana items by a marijuana retailer and votes down the City's ban on marijuana retailers, the City will be able to impose the three percent tax and receive its allotted share of state tax revenues generated from the sale of marijuana items.

TIMING ISSUES

None.

STRATEGIC PLAN

Theme: Responsive Leadership

COUNCIL OPTIONS

Approve the resolution and accompanying exhibits.

Suggest amendments/revisions to the resolution and/or exhibits.

STAFF RECOMMENDATION

Staff recommends approval of the resolution and accompanying exhibits.

SUGGESTED MOTION

I move to approve the resolution approving referral to the electors of the City of Medford the question of imposing a three (3) percent tax on the sale of marijuana items by a marijuana retailer within the City and the accompanying exhibits, direct the City Attorney to prepare the ballot title for the measure and deposit the ballot title with the City Recorder within the times set forth by law, and authorize the City Recorder to act on behalf of the City and to take such further action as is necessary to carry out the intent and purposes set forth herein, in compliance with the applicable provisions of law.

EXHIBITS

Resolution

Exhibit 1: Ordinance 2015-132, Question, Summary

Exhibit 2: Explanatory Statement

RESOLUTION NO. 2016-32

A RESOLUTION approving referral to the electors of the City of Medford the question of imposing a three percent tax on the sale of marijuana items by a marijuana retailer within the City.

WHEREAS, section 34a of House Bill 3400 (2015) provides that a city council may adopt an ordinance to be referred to the voters that imposes up to a three (3) percent tax on the sale of marijuana items by a marijuana retailer in the area subject to the jurisdiction of the city; and

WHEREAS, the Medford City Council adopted Ordinance 2015-132, which imposes a tax of three percent on the sale of marijuana items by a marijuana retailer in the area subject to the jurisdiction of the city and referred the ordinance to the electors of the City for approval; now therefore;

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MEDFORD, OREGON:

MEASURE. A measure election is hereby called for the purpose of submitting to the electors of the City of Medford a measure imposing a three percent tax on the sale of marijuana items by a marijuana retailer in the area subject to the jurisdiction of the city, a copy of which is attached hereto as "Exhibit 1," and incorporated herein by reference.

ELECTION CONDUCTED BY MAIL. The measure election shall be held in the City of Medford on November 8, 2016. As required by ORS 254.465, the measure election shall be conducted by mail by the County Clerk of Jackson County, according to the procedures adopted by the Oregon Secretary of State.

DELEGATION. The City of Medford authorizes the City Manager, or the City Manager's designee, to act on behalf of the City and to take such further action as is necessary to carry out the intent and purposes set forth herein, in compliance with the applicable provisions of law.

PREPARATION OF BALLOT TITLE. The City Attorney is hereby directed to prepare the ballot title for the measure, and deposit the ballot title with the City Recorder within the times set forth by law.

NOTICE OF BALLOT TITLE AND RIGHT TO APPEAL. Upon receiving the ballot title for this measure, the City Recorder shall publish in the next available edition of a newspaper of general circulation in the City a notice of receipt of the ballot title, including notice that an elector may file a petition for review of the ballot title.

EXPLANATORY STATEMENT. The explanatory statement for the measure, which is attached hereto as "Exhibit 2," and incorporated herein by reference, is hereby approved.

FILING WITH COUNTY ELECTIONS OFFICE. The City Recorder shall deliver the Notice of Measure Election to the County Clerk for Jackson County for inclusion on the ballot for the November 8, 2016 election.

EFFECTIVE DATE. This resolution is effective upon adoption.

PASSED by the Council and signed by me in authentication of its passage this ____ day of _____, 2016.

ATTEST: _____

City Recorder

Mayor

ORDINANCE NO. 2015-132

AN ORDINANCE imposing a three (3) percent tax on the sale of marijuana items by a marijuana retailer; referring ordinance.

WHEREAS, section 34a of House Bill 3400 (2015) provides that a City Council may adopt an ordinance to be referred to the voters that imposes up to a three (3) percent tax or fee on the sale of marijuana items by a marijuana retailer in an area subject to the jurisdiction of the City; and

WHEREAS, the Medford City Council wants to impose a three (3) percent tax on the sale of marijuana items by a marijuana retailer in an area subject to the jurisdiction of the City; now therefore,

THE CITY OF MEDFORD ORDAINS AS FOLLOWS:

DEFINITIONS.

Marijuana item has the meaning given that term in Oregon Laws 2015, chapter 614, section 1.

Marijuana retailer means a person who sells marijuana items to a consumer in this State.

Retail sale price means the price paid for a marijuana item, excluding tax, to a marijuana retailer by or on behalf of a consumer of the marijuana item.

TAX IMPOSED. As described in section 34a of House Bill 3400 (2015), the City of Medford hereby imposes a tax of three (3) percent on the retail sale price of marijuana items by a marijuana retailer in an area subject to the jurisdiction of the City.

COLLECTION. The tax shall be collected at the point of sale of a marijuana item by a marijuana retailer at the time at which the retail sale occurs and remitted by each marijuana retailer that engages in the retail sale of marijuana items. The tax collected by a marijuana retailer constitutes a debt owing to the City, and is due and payable to the City's Finance Director on a monthly basis on or before the last day of the month immediately following for the preceding month.

A marijuana retailer shall make a return to the Finance Director, on forms provided by the City, specifying the total sales and the amount of tax collected.

REFERRAL. This ordinance shall be referred to the electors of the City of Medford at the

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November 8, 2016 statewide general election.

PASSED by the Council and signed by me in authentication of its passage this 17 day of December, 2015.

ATTEST: Lauren M. Spooner
City Recorder

APPROVED December, 2015.

[Signature]
Mayor
[Signature]
Mayor

EXHIBIT 1

QUESTION

Shall the City of Medford impose a three percent tax on the sale of marijuana items by a marijuana retailer?

SUMMARY

Under state law, a city council may adopt an ordinance imposing up to a three percent tax on the sale of marijuana items within the city by a state-licensed marijuana retailer.

Approval of this measure would impose a three percent tax on the sale of marijuana items in the City by a marijuana retailer.

Under state law, a city adopting an ordinance that prohibits the establishment of a state-licensed marijuana producer, processor, wholesaler or retailer may not impose a tax on the production, processing or sale of marijuana, or any product into which marijuana has been incorporated.

On December 17th, 2015, the Medford City Council adopted Ordinance No. 2015-133, which prohibits the establishment of marijuana retailers within the City. The measure of Ordinance No. 2015-133 has been referred to the electors for approval at the November 8, 2016 statewide general election.

This measure would become operative only if it passes by a majority of votes and the measure of Ordinance No. 2015-133 does not pass by a majority of votes.

EXHIBIT 2

EXPLANATORY STATEMENT

Approval of this measure would impose a three percent tax on the sale of marijuana items by a marijuana retailer within the City. There are no restrictions on how the City may use the revenues generated by this tax. However, this measure will become operative only if the ballot measure prohibiting the establishment of marijuana retailers fails.

Measure 91, adopted by Oregon voters in November 2014 and amended by the Legislature in 2015, provides that the Oregon Liquor Control Commission will license marijuana producers, processors, wholesalers and retailers. The 2015 legislation permits a city council to adopt an ordinance imposing up to a three percent tax on the sale of marijuana items by marijuana retail licensees in the city, but the council must submit the measure of the ordinance to the electors of the city at the next statewide general election. Marijuana items are defined by state law as marijuana, cannabinoid products, cannabinoid concentrates and cannabinoid extracts.

In light of the 2015 legislation, the Medford City Council adopted Ordinance No. 2015-132, which imposes a three percent tax on the sale of marijuana items by a marijuana retail licensee in the City. Pursuant to state law, the Medford City Council submitted the measure of Ordinance No. 2015-132 to the voters for approval at the November 8, 2016 statewide general election.

The 2015 legislation also permits a city council to adopt an ordinance prohibiting the establishment of marijuana producers, processors, wholesalers and retailers, which must then be referred to the electors of the city. On December 17th, 2015, the Medford City Council adopted Ordinance No. 2015-133, which prohibits the establishment of marijuana retailers within the City. A marijuana retailer is defined by state law as an entity licensed by the Oregon Liquor Control Commission to sell marijuana items to a consumer in this state. The measure of Ordinance No. 2015-133 has been referred to the electors of the City for approval at the November 8, 2016 statewide general election.

While the 2015 legislation permits a city to prohibit the establishment marijuana producers, processors, wholesalers or retailers, that city is subsequently precluded from imposing a tax on the production, processing or sale of marijuana or any product into which marijuana has been incorporated.

As a result, if the electors of the City pass Ordinance No. 2015-133, this tax measure will not become operative, even if it also receives a majority of votes.



CITY OF MEDFORD
AGENDA ITEM COMMENTARY

Item No: 60.5

www.ci.medford.or.us

DEPARTMENT: Legal Dept. **AGENDA SECTION:** Ordinances and Resolutions
PHONE: 541-774-2022 **MEETING DATE:** March 3, 2016
STAFF CONTACT: Kevin R. McConnell, Deputy City Attorney

COUNCIL BILL 2016-33

A resolution approving referral to the electors of the City of Medford the question of banning marijuana retailers within the City.

SUMMARY AND BACKGROUND

On December 17, 2015, the Council adopted Ordinance No. 2015-133 (“the Ordinance”), which prohibits the establishment of marijuana retailers, and referred ordinance to the electors of the City for approval at the November 8, 2016 statewide general election. This resolution directs the City Attorney to prepare a ballot title for the measure, and authorizes the City Recorder to act on behalf of the City and to take any action necessary to ensure that the measure is included on the ballot. Included for the Council’s review are the statutorily-required Question, Summary and Explanatory statement.

PREVIOUS COUNCIL ACTIONS

Adopted Ordinance No. 2015-133 on December 17, 2015.

ANALYSIS

Adoption of this resolution will complete the steps necessary the Ordinance to be included on the November ballot. In addition, staff has attached a copy of the Ordinance (the measure), along with the statutorily-required Question, Summary, and Explanatory Statement as accompanying exhibits for the Council’s review.

Exhibit 1 contains a copy of the Ordinance, along with the Question and Summary. The Question plainly phrases the chief purpose of the measure so that an affirmative response to the question corresponds to an affirmative vote on the measure. There is a 20 word limit. See *ORS 250.035(1)(b)*. The Summary is a concise and impartial statement summarizing the measure and its major effect. There is a 175 word limit. See *ORS 250.035(1)(c)*.

Exhibit 2 contains a copy of the Explanatory Statement, which is an impartial, simple, and understandable statement explaining the measure and its effect for use in the Jackson County Voters’ Pamphlet. There is a 500 word limit. See *ORS 251.345 and OAR 165-022-0040(3)*.

If the Council adopts this resolution, the City Attorney’s Office will then prepare a Ballot Title. The Ballot Title is a caption which reasonably identifies the subject of the measure. There is a 10 word limit. See *ORS 250.035(1)(a)*.

After the Ballot Title is prepared, the City Attorney will deliver the Ballot Title to the City Recorder, who shall then take all action necessary to comply with state law, including filing a Notice of Measure Election form. This form is provided by the Oregon Secretary of State, and the City will use this form to provide the Jackson County Election Office the Ballot Title, Question, Summary, and Explanatory Statement.

It is important to note that once the City Recorder files the referral with the Jackson County Elections Office, the ballot measure is certified to the ballot. At that point, the restrictions on public employees engaging in political activity will apply. Consequently, City staff should consult the Secretary of State’s *Manual Restrictions on Political Campaigning by Public Employees* to ensure that public employees are complying with state elections law in their communications about the pending measure.



CITY OF MEDFORD AGENDA ITEM COMMENTARY

Item No: 60.5

www.ci.medford.or.us

FINANCIAL AND/OR RESOURCE CONSIDERATIONS

In its December 17, 2015 AIC for the Ordinance, staff explained that adoption of the Ordinance would have an adverse financial impact upon the City. Staff explained that:

Cities that adopt an ordinance prohibiting the establishment of a recreational marijuana business are: 1) not eligible to receive a distribution of state marijuana tax revenues or 2) unable impose a local tax under section 34a of HB 3400.

When recreational marijuana businesses are licensed by the OLCC, the State will impose a seventeen (17) percent tax on retail sales, and cities may impose an additional three (3) percent tax on marijuana retailers. The State share will initially be distributed to cities based upon population estimates provided by Portland State University (ten percent of the shared revenue to cities). In 2017, shared revenue will be distributed to cities based upon the number of OLCC-licensees located within a city.

While it is impossible to know exactly how much of the shared revenue the City could receive under either distribution methodology, the Legislative Revenue Office estimates that cities could share almost 1 million dollars in FY 2017, 1.9 million in FY 2018, and 2.1 million dollars in FY 2019. The Revenue Impact of Marijuana Legislation Under Measure 91, Tables 12-13 at page 14.

<https://www.oregonlegislature.gov/lro/Documents/RR%203-14%20Measure%2091.pdf>

Coupled with the loss of a potential 3 (three) percent local tax on sales by marijuana retailers, the financial impact of the ordinance upon the City could be substantial.

Council adopted the Ordinance. Per state law, the City was no longer eligible for a distribution of state marijuana tax revenues and was prohibited from imposing a local marijuana sales tax. As such, adoption of this resolution does not have any further financial implication to the City.

TIMING ISSUES

None.

STRATEGIC PLAN

Theme: Responsive Leadership

COUNCIL OPTIONS

Approve the resolution and accompanying exhibits.

Suggest amendments/revisions to the resolution and/or exhibits.

STAFF RECOMMENDATION

Staff recommends approval of the resolution and accompanying exhibits.

SUGGESTED MOTION

I move to approve the resolution approving referral to the electors of the City of Medford the question of banning state-licensed marijuana retailers within the City and the accompanying exhibits, direct the City Attorney to prepare the ballot title for the measure and deposit the ballot title with the City Recorder within the times set forth by law, and authorize the City Recorder to act on behalf of the City and to take such further action as is necessary to carry out the intent and purposes set forth herein, in compliance with the applicable provisions of law.

EXHIBITS

Resolution; Exhibit 1: Ordinance 2015-133, **Page 58** Summary; Exhibit 2: Explanatory Statement

RESOLUTION NO. 2016-33

A RESOLUTION approving referral to the electors of the City of Medford the question of banning marijuana retailers within the City.

WHEREAS, section 134 of HB 3400 provides that a city council may adopt an ordinance to be referred to the electors of the city prohibiting the establishment of certain state-registered and state-licensed marijuana businesses in the area subject to the jurisdiction of the city; and

WHEREAS, the City of Medford City Council adopted Ordinance 2015-133, which prohibits the establishment of marijuana retailers in the area subject to the jurisdiction of the City and referred the ordinance to the electors of the City for approval; now therefore;

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MEDFORD, OREGON:

MEASURE. A measure election is hereby called for the purpose of submitting to the electors of the City of Medford a measure prohibiting the establishment of marijuana retailers in the area subject to the jurisdiction of the City, a copy of which is attached hereto as "Exhibit 1," and incorporated herein by reference.

ELECTION CONDUCTED BY MAIL. The measure election shall be held in the City of Medford on November 8, 2016. As required by ORS 254.465, the measure election shall be conducted by mail by the County Clerk of Jackson County, according to the procedures adopted by the Oregon Secretary of State.

DELEGATION. The City of Medford authorizes the City Recorder to act on behalf of the City and to take such further action as is necessary to carry out the intent and purposes set forth herein, in compliance with the applicable provisions of law.

PREPARATION OF BALLOT TITLE. The City Attorney is hereby directed to prepare the ballot title for the measure, and deposit the ballot title with the City Recorder within the times set forth by law.

NOTICE OF BALLOT TITLE AND RIGHT TO APPEAL. Upon receiving the ballot title for this measure, the City Recorder shall publish in the next available edition of a newspaper of general circulation in the City a notice of receipt of the ballot title, including notice that an elector may file a petition for review of the ballot title.

EXPLANATORY STATEMENT. The explanatory statement for the measure, which is attached hereto as "Exhibit 2," and incorporated herein by reference, is hereby approved.

FILING WITH COUNTY ELECTIONS OFFICE. The City Recorder shall deliver the Notice of Measure Election to the county clerk for Jackson County for inclusion on the ballot for the November 8, 2016 election.

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EFFECTIVE DATE. This resolution is effective upon adoption.

PASSED by the Council and signed by me in authentication of its passage this _____ day of _____, 2016.

ATTEST: _____

City Recorder

Mayor

ORDINANCE NO. 2015-133

AN ORDINANCE declaring a ban on recreational marijuana retailers; referring ordinance.

WHEREAS, Measure 91, which the voters adopted in November 2014, directs the Oregon Liquor Control Commission to license the production, processing, wholesale, and retail sale of recreational marijuana; and

WHEREAS, section 134 of HB 3400 provides that a City Council may adopt an ordinance to be referred to the electors of the city prohibiting the establishment of certain state-registered and state-licensed marijuana businesses in the area subject to the jurisdiction of the city; and

WHEREAS, the Medford City Council wants to refer the question of whether to prohibit marijuana retailers to the voters of the City of Medford; now therefore,

THE CITY OF MEDFORD ORDAINS AS FOLLOWS:

DEFINITIONS.

Marijuana means the plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae and the seeds of the plant Cannabis family Cannabaceae.

Marijuana retailer means an entity licensed by the Oregon Liquor Control Commission to sell marijuana items to a consumer in this state.

BAN DECLARED. As described in section 134 of House Bill 3400 (2015), the City of Medford hereby prohibits the establishment of marijuana retailers in an area subject to the jurisdiction of the City.

REFERRAL. This ordinance shall be referred to the electors of the City of Medford at the November 8, 2016 statewide general election.

PASSED by the Council and signed by me in authentication of its passage this 17 day of December, 2015.

ATTEST: Kaleenm Spurts
City Recorder

[Signature]
Mayor

APPROVED December 17, 2015.

[Signature]
Mayor

Exhibit 1

QUESTION

Shall the City of Medford prohibit the establishment of marijuana retailers within the City?

SUMMARY

State law allows operation of state-licensed marijuana producers, processors, wholesalers, and retailers. State law provides that a city council may adopt an ordinance to be referred to the electors of the city for approval to prohibit the establishment of any of those licensed activities.

On December 17, 2015, the Medford City Council adopted ordinance No. 2015 -133, which prohibits marijuana retailers from operating within the City.

A marijuana retailer is an entity licensed by the Oregon Liquor Control Commission to sell marijuana items to a consumer. Approval of this measure would prohibit the establishment of marijuana retailers within the area subject to the jurisdiction of the City.

If this measure is approved, the City will be ineligible to receive distributions of state marijuana tax revenues and will be unable to impose a local tax or fee on the production, processing or sale of marijuana or any product into which marijuana has been incorporated.

Exhibit 2

EXPLANATORY STATEMENT

Approval of this measure would prohibit the establishment of marijuana retailers within the City of Medford.

Measure 91, approved by Oregon voters in 2014 and amended by the Legislature in 2015, provides that the Oregon Liquor Control Commission will license marijuana producers, processors, wholesalers, and retailers. The 2015 legislation permits a city council to adopt an ordinance prohibiting the establishment of any of those entities within a city, but the council must refer the measure of the ordinance to the voters at the next statewide general election.

The 2015 legislation also permits a city council to adopt an ordinance imposing up to a three percent tax on the sale of marijuana items by a marijuana retailer within a city, which must also be referred to the voters at the next statewide general election.

In light of the 2015 legislation, the Medford City Council adopted Ordinance No. 2015-133, which prohibits the establishment of marijuana retailers, and referred the measure of the ordinance to the electors of the City for approval at the November 8, 2016 statewide general election. A marijuana retailer is defined by state law as an entity licensed by the Oregon Liquor Control Commission to sell marijuana items to a consumer in this state. Marijuana items are defined by state law as marijuana, cannabinoid products, cannabinoid concentrates and cannabinoid extracts.

The Medford City Council also adopted Ordinance No. 2015-132, imposing a three percent tax on the sale of marijuana items by a marijuana retailer, and referred the measure of that ordinance to the electors of the City for approval at the November 8, 2016 statewide general election.

The Medford City Council purposefully adopted these inconsistent ordinances so that the City's electors could decide whether marijuana retailers should be prohibited from operating within the City, and if not, whether the City should impose a three percent tax on the sale of marijuana items by marijuana retailers.

If approved, this measure would prohibit marijuana retailers from operating within the City.

Approval of this measure has revenue impacts. Currently, ten percent of state marijuana tax revenues will be distributed to cities to assist local law enforcement in performing their duties under Measure 91. If approved, this measure would make the City of Medford ineligible to receive distributions of state marijuana tax revenues. In addition, the City will not be able to impose a three percent tax on the sale of marijuana items by a marijuana retailer within the City, even if that measure also receives a majority of votes.



CITY OF MEDFORD AGENDA ITEM COMMENTARY

Item No: 60.6

www.ci.medford.or.us

DEPARTMENT: City Manager's Office

PHONE: 541-774-2000

STAFF CONTACT: John W. Hoke, City Manager Pro Tem

AGENDA SECTION: Ordinances and Resolutions

MEETING DATE: March 3, 2016

COUNCIL BILL 2016-34

An ordinance authorizing execution of an amended Agreement with the Chamber of Medford/Jackson County to include requested additions and to allow for an extension of time to finalize negotiations.

SUMMARY AND BACKGROUND

The City of Medford has an agreement with the Chamber of Medford/Jackson County (Chamber) to provide promotional services for recreational, cultural, convention and tourism-related activities and programs for a portion of the transient occupancy tax.

PREVIOUS COUNCIL ACTIONS

The City Council adopted Ordinance 2389 on October 20, 1975 authorizing a contract with the Chamber for utilization of transient lodging taxes for the purpose of promoting the use of the City of Medford for recreational, cultural, convention and tourist-related services and programs. Since that time, Council has approved contracts for the Chamber to continue this service. The current contract, approved on June 17, 2010 was scheduled to expire on June 30, 2015. On June 3, 2015, Council approved the extension of the contract until June 30, 2016 to allow time for negotiations.

ANALYSIS

Negotiations on a new agreement with the Chamber are continuing, however are not expected to be finalized prior to June 30, 2016. An extension of time to the current contract is requested in order to continue negotiations and finalize an agreement for adoption. In addition, Council requested the addition of several items into the amended agreement. These include a section on maintaining records for a period of 180 days after expiration of the agreement, providing financial records semi-annually, the addition of an audit, and promoting Medford and the Rogue Valley without discrimination or affiliation with the Chamber.

FINANCIAL AND/OR RESOURCE CONSIDERATIONS

Approximately \$750,000 per year

TIMING ISSUES

The current agreement expires on June 30, 2016

STRATEGIC PLAN

Theme: Healthy Economy

Goal 7: Encourage a diverse economy.

COUNCIL OPTIONS

Approve, modify or deny the ordinance.

STAFF RECOMMENDATION

Staff recommends approval of the ordinance to extend the agreement with the Chamber of Medford/Jackson County until June 30, 2018 with the requested additions.

SUGGESTED MOTION

I move to approve the ordinance extending the agreement between the City of Medford and the Chamber of Medford/Jackson County to June 30, 2018 including the requested additions.

EXHIBITS

Ordinance
Agreements

ORDINANCE NO. 2016-34

AN ORDINANCE authorizing execution of an amended Agreement with the Chamber of Medford/Jackson County to include requested additions and to allow for an extension of time to finalize negotiations.

THE CITY OF MEDFORD ORDAINS AS FOLLOWS:

Section 1. That execution of an amended Agreement with the Chamber of Medford/Jackson County to include requested additions and to allow for an extension to finalize negotiations, which agreement is on file in the City Recorder's office, is hereby authorized.

Section 2. The effective date of this Agreement is July 1, 2016, to June 30, 2018.

PASSED by the Council and signed by me in authentication of its passage this _____ day of _____, 2016.

ATTEST: _____
City Recorder

Mayor

APPROVED _____, 2016.

Mayor

AGREEMENT

THIS AGREEMENT is entered into between the City of Medford, a municipal corporation organized under the laws of Oregon, hereinafter referred to as "MEDFORD" and THE CHAMBER OF MEDFORD/JACKSON COUNTY, hereinafter referred to as "CHAMBER".

WHEREAS, the voters of Medford on August 5, 1975, approved a charter amendment authorizing the City to levy a tax not exceeding six percent on the privilege of transient occupancy within the City and authorizing the utilization of a portion not exceeding twenty-five percent of the proceeds of the tax for the purpose of promoting the use of the City of Medford for recreational, cultural, convention and tourist-related services and programs;

WHEREAS, on December 6, 1984, the City Council enacted Ordinance No. 5316 levying a six-percent transient lodging tax to be effective January 1, 1985; and

WHEREAS, as a result of the voter-approved increase of the transient lodging tax to nine-percent,

For and in consideration of the mutual terms and conditions contained herein, the parties agree as follows:

1. Medford shall pay to Chamber from funds lawfully appropriated during the fiscal years commencing July 1, 2010 and ending June 30, 2015, twenty-five percent of the net proceeds from the transient lodging tax. Actual payments shall be made as follows: not later than thirty (30) days from the date upon which monthly collections from the tax are required to be paid to Medford by operators, Medford shall pay to Chamber twenty-five percent of the net proceeds of said collections. Any such funds from each fiscal year disbursed to Chamber and not expended by Chamber at the close of business on September 30 each year shall be repaid to Medford not later than November 30 each year.
2. Chamber shall maintain adequate accounting records of all revenues and expenditures with supporting invoices. Said records shall be maintained by Chamber for a period of three (3) years. Chamber shall deposit all Medford funds received pursuant to this agreement in a separate checking account. No funds shall be disbursed from this account except for purposes authorized by this agreement. Provided however, that Chamber may deposit such amounts of its own funds in this account as may from time to time be necessary to carry out their duties under this agreement in the most efficient manner. Such advances may be repaid out of the separate account without interest. Provided, further, that Chamber shall be allowed to charge against the separate account an

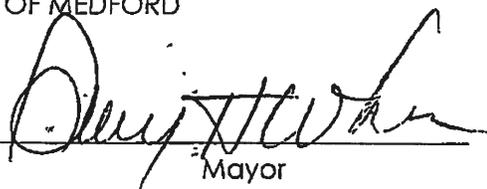
amount not exceeding 50% per year for the share of overhead (salaries, fringe benefits, rent and utilities) attributable to the services performed for Medford under this agreement. All other funds received from Medford shall be spent for materials and services to be provided for the benefit of Medford. Expenditures shall be in substantial compliance with an annual Budget Proposal that shall be provided to Medford on or before July 1 of each.

3. The Finance Director of Medford, or any persons authorized in writing by him, may examine during normal business hours the books and accounting records of Chamber after notifications to Chamber. Information regarding the contents of books, paper, and accounting records shall be considered confidential, provided that nothing shall prevent the disclosure to other Medford officials for the purpose of enforcing any provisions of this agreement. Chamber shall provide Medford with an annual accounting of all funds received and expenditures thereof under this agreement. The accounting shall be by a certified public accountant in accordance with agreed upon procedures, attached hereto as Exhibit "A", to evaluate compliance with the terms of this agreement and to be furnished to Medford not later than December 31 of each year during the term of this agreement.
4. Chamber, in receiving monies from Medford and in providing services to Medford hereunder, shall.
 - a) At all times be deemed an independent contractor and not an agent or partner or joint association with Medford. The parties acknowledge that any contracts entered into between Chamber and any third party shall not be obligation of Medford, and Chamber shall not represent that it has the power or authority to contractually bind or obligate Medford.
 - b) Cooperate with any governmental agency as directed by Medford in preparation of various studies and reports related to the Chamber's promotional activities hereunder.
 - c) Not discriminate in providing services hereunder on the basis of age, race, sex, color, religion, or national origin.
5. Chamber shall, upon written request, furnish the Finance Director with all information concerning services performed for Medford as may be deemed necessary to verify compliance with this agreement.
6. Chamber agrees to and does indemnify and agree to hold harmless Medford from all liabilities except for payments required to be made by Medford pursuant to the terms of this agreement.

7. Notwithstanding any other provisions of this agreement, Medford shall be obligated to make payments due to Chamber only to the extent of monies available and on deposit in the City's Community Promotions Fund.
8. This agreement is extended for an additional term of five (5) years. Either party, upon one hundred eighty (180) days' written notice to the other, may terminate this agreement without further obligations. Waiver by either party of any breach or violation of this agreement shall not be construed or deemed as continuing waiver and shall not prevent the party from terminating this agreement for any subsequent breaches or violations.
9. In the event any suit, action, or proceeding is brought to enforce the terms of this agreement, or any portion hereof, the prevailing party in such suit, action or proceeding, or any appeal therefrom shall be entitled to reasonable attorney's fees in an amount to be set by the court.
10. Chamber, for the value received from Medford, agrees to provide services to Medford as described in Exhibits "B" and "C" attached hereto and by this reference incorporated herein.

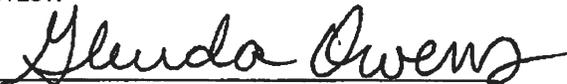
THIS AGREEMENT is entered into this 14 day of JUNE, 2010

CITY OF MEDFORD

By 

Mayor

ATTEST:



City Recorder

THE CHAMBER OF MEDFORD/JACKSON COUNTY

By 

PRESIDENT & CEO

EXHIBIT A

AGREED UPON PROCEDURES TO DETERMINE THE
CHAMBER'S COMPLIANCE WITH AGREEMENT
BETWEEN THE CITY AND THE CHAMBER

1. Identify the separate bank account used by the Chamber to receipt and disburse funds received under the contract with the City.
2. Trace all payments from the City to deposits to the separate VCB bank account.
3. Total the amounts deposited and compare to the amount the City advises was paid to the VCB. Compute any difference in amounts paid and received.
4. Total amount paid to the Chamber for overhead (salaries, fringe benefits, rent and utilities) attributable to VCB services; compare to fifty percent (50%) of receipts and compute the difference.
5. Review all other disbursements of funds in excess of \$1,500 received under the contract for substantial compliance with the budget proposal.

Document the review as follows:

- a) purpose;
 - b) classification;
 - c) comparison of payee and endorsement;
 - d) accuracy of posting to the general ledger; and
 - e) identify the check signers.
6. Obtain the VCB financial statement for each year ended June 30, with comparison to the proposed budget.
 - a) Trace actual amounts to the VCB general ledger.
 - b) Trace the budget amounts to the proposed budget required by the City contract.
 - c) Compare the actual amounts by classification to the totals of amounts by classification that were examined under procedure 4 and 5, and compute the difference.
 - d) Identify the amounts received that were not spent by June 30 of each year.
 7. Total all amounts disbursed by the VCB, relating to payments received from the City, and identified in procedure 3, by the close of business on September 30 each year. Compare to the total amounts received from the City and compute the difference.
 8. Agreed upon procedures are to be undertaken by a firm of CPA's in accordance with professional standards.

SERVICES TO BE PROVIDED BY THE VISITORS AND CONVENTION BUREAU 2010-2015 (contract with city)

1. Visitor Information Center

Provide information and services for visitors to Medford at the Visitor Information Center located at Harry and David Country Village. This includes daily management, recruitment and training of volunteers, complete and updated brochures, and information provided in a friendly, attractive atmosphere.

2. Conventions, Meetings, Events

- a) Promote Medford as a convention and meeting destination by a direct sales effort to meeting planners, association and corporate executives, and local officials.
- b) Encourage major events in Medford that bring in overnight visitors.
- c) Provide services to conventions, meetings and events in Medford, which include planning, information, literature, welcome speeches, gift baskets, resources, etc.

3. Brochure Production and Distribution

Update, produce and distribute the following promotional brochures: Medford Visitors Guide (which includes dining, lodging, and attractions. Other promotional pieces include golf, convention promotion bid packet and group planners guide, Medford's historic walking tour, and Medford kid's guide. Other promotional pieces produced as needed.

4. Visitor Packet Requests

Promptly answer all correspondence and requests for information relative to recreational, cultural, tourist and convention related activities in Medford and the area.

5. Media Advertising

Develop and implement an advertising plan to position Medford as "The Center Of The Rogue Valley"... the place to stay when vacationing here. Develop partnerships with private businesses and other tourism marketing organization, (i.e., Southern Oregon Visitors Association, Travel Oregon, etc.)

6. Market Research and Analysis

- a) Conduct local industry surveys for use as economic indicators. Continue to survey visitors at the Visitor Information Center to determine the visitor profile, (i.e. why they visit, what they visit, length of stay, etc.) Participate in other state or local surveys as requested and appropriate.
- b) Conduct research and surveys to measure advertising effectiveness.

- c) Develop and keep updated statistics and data on the visitor industry in Medford, the region and statewide. Work cooperatively with SOREDI in tourism business development.

7. Public Relations

- a) Prepare articles, news stories and photographs descriptive of Medford's resources to attract travel writers and as a resource for film and video recruitment.
- b) Promote Medford to the Group Travel Market (motor coach tour operators) using the Group Tour Manual, CD's, and attend the annual tour association conferences where one-on-one meetings are held with tour operators.
- c) Participate in trade and travel shows in our primary marketing area (WA, CA, AZ & OR) in cooperation with the local tourism industry.

8. Local Community, Region, State

- a) Be an advocate for the visitor industry and build local awareness through public speaking, customer service training, and community involvement.
- b) Work with the Southern Oregon Visitors Association to provide strong regional marketing and regional publications for expanded exposure.
- c) Continue involvement with the state Tourism Commission (aka) Travel Oregon and other state and industry organizations to ensure that the voice of southern Oregon is heard.
- d) Maintain communication with legislators and awareness of legislative action as it relates to the tourism industry.

Competent and trained professional staff employed by the Chamber of Medford/Jackson County shall carry out the above services. The Chamber shall provide necessary office space, equipment and material for the purposes of carrying out the promotional program with maximum efficiency and effectiveness.

**ADDITIONAL SERVICES TO BE PROVIDED BY CHAMBER REGARDING U.S. CELLULAR COMMUNITY PARK
("USCCP")**

1. Chamber, through its Medford Visitors and Convention Bureau Department (VCB) shall budget \$10,000 to line item USCCP in 2010-11 fiscal year for use of:
 - A. Tournament Solicitation
 - B. Hosting
 - C. Promotions

2. VCB and the City of Medford Parks and Recreation Department ("MPRD") to discuss each February/March new opportunities for Tournament Solicitation, Hosting and Promotions for USCCP. At that time VCB and MPRD can discuss needs for upcoming year/years

3. Chamber, through its VCB, shall give staff support of \$15,000 in 2010-2011 fiscal year.
 - A. Committed staff resources
 - a) Convention Sales Director to reflect 20% of their described responsibilities to USCCP and its endeavors.
 - b) Visitor Center Manager to reflect 5% of their described responsibilities to USCCP and its endeavors. (i.e. Visitor booth at USCCP/Airport during selected tournaments - tournaments will be determined by VCB/MPRD.
 - c) Micro-sites / List major MPRD events on calendar of events / secure donations, promoting USCCP.

4. In the event USCCP Phase IV is completed, event hosting capacity will be increased, and future annual funding can be determined during the annual meetings prescribed in item #2.

AMENDMENT TO AGREEMENT

This amendment is made this _____ day of _____, 2016, by and between the City of Medford, hereinafter referred to as "Medford", and THE CHAMBER OF MEDFORD/JACKSON COUNTY, hereinafter referred to as "Chamber".

The Agreement entered into between Medford and Chamber on June 17, 2010, and extended on June 3, 2015 is amended as follows:

Section 1. Paragraph 1 thereof is amended as follows:

"1. Medford shall pay to Chamber from funds lawfully appropriated during the fiscal years commencing July 1, ~~2015~~**2016**, and ending June 30, ~~2016~~**2018**, or until a new contract is negotiated, twenty-five percent of the net proceeds from the transient lodging tax. * * *"

SECTION 2. Paragraph 8 thereof is amended as follows:

"8. This agreement is extended for an additional term of **two (2) years, or until a new a contract is negotiated.** * * *"

Add the following:

Section 9. Records and Accounting

- a. CHAMBER shall maintain records and accounts that will allow MEDFORD to assure a proper accounting for all funds paid for the performance of this Agreement. MEDFORD shall have the right during the term of this Agreement or within 180 days after expiration or termination of this Agreement, to audit the Travel Medford fund records for the period of three years prior to the date of the audit.
- b. The audits shall be undertaken by a qualified person or entity to be paid for by CHAMBER.
- c. CHAMBER agrees that, semi-annually, it will provide financial records from its accountants relating to the preceding six months to the MEDFORD. The financial records shall include, but not be limited to, a balance sheet and income and expense reports. CHAMBER shall maintain financial records for at least six (6) years after the expiration of the Agreement.

Section 10. Local Community, Region, State

- a. CHAMBER will promote Medford and the Rogue Valley without discrimination, and regardless of affiliation with the Chamber of Medford/Jackson County, in order to fulfill its duties to the MEDFORD as described in Exhibits A, B, and C of this Agreement.

All remaining terms and conditions of the June 17, 2010 Agreement agreed to by the parties remain unchanged.

IN WITNESS WHEREOF, the parties have executed this document as of the day and year first written above.

CITY OF MEDFORD

THE CHAMBER OF MEDFORD/
JACKSON COUNTY

By: _____
Mayor

By: _____
Authorized Representative

*NOTE: Matter in **bold** is new. Matter ~~struck-out~~ is existing language to be omitted. Three asterisks (* * *) indicate existing language which remains unchanged but was omitted for the sake of brevity.



CITY OF MEDFORD AGENDA ITEM COMMENTARY

Item No: 120.1

www.ci.medford.or.us

DEPARTMENT: Planning Department
PHONE: (541) 774-2380
STAFF CONTACT: James E. Huber, AICP, Planning Director

AGENDA SECTION: Public Hearings
MEETING DATE: March 3, 2016

COUNCIL BILL 2016-35

An ordinance amending sections 10.031, 10.146, 10.300, 10.348, 10.349, 10.350, 10.351, 10.352, 10.353, 10.354, 10.355, 10.358, 10.360, 10.365, 10.410, 10.411, and 10.414 of the Medford Code to align with the Airport's Master Plan Update. (ZC-13-079 / DCA-13-080)

SUMMARY AND BACKGROUND

Zoning Map and Code amendments to align with the Airport's Master Plan Update. Both the Planning Commission and the Site Plan and Architectural Commission voted to recommend approval.

PREVIOUS COUNCIL ACTIONS

Council adopted the Airport Master Plan Update on February 4, 2016.

ANALYSIS

These amendments serve to update Medford's Zoning Map and Land Development Code to reflect the Airport's 2013 Master Plan Update, including the addition of a new notification area called the Airport Area of Concern, changes to the Airport Approach Overlay boundary, as well as the removal of site plan review for structures within the airport's fenced area.

FINANCIAL AND/OR RESOURCE CONSIDERATIONS

None.

TIMING ISSUES

None.

STRATEGIC PLAN

Theme: Quality Public Services

Goal 9: Provide a safe, multi-modal, efficient and well-planned transportation system.

Objective 9.4: Efficient, safe, and competitive movement of people and goods to and from the Rogue Valley International-Medford Airport.

Action 9.4a: Amend the Comprehensive Plan and Land Development Code to support the Airport Master Plan.

COUNCIL OPTIONS

Approve, modify or deny the ordinance.

STAFF RECOMMENDATION

Staff recommends approval of the ordinance.

SUGGESTED MOTION

I move to approve the ordinance amending the Zoning Map and Code to reflect the airport's 2013 Master Plan Update.

EXHIBITS

Ordinance

Commission Report dated February 9, 2016

ORDINANCE NO. 2016-35

AN ORDINANCE amending sections 10.031, 10.146, 10.300, 10.348, 10.349, 10.350, 10.351, 10.352, 10.353, 10.354, 10.355, 10.358, 10.360, 10.365, 10.410, 10.411, and 10.414 of the Medford Code to align with the Airport's Master Plan Update.

THE CITY OF MEDFORD ORDAINS AS FOLLOWS:

SECTION 1. Section 10.031 of the Medford Code is amended to read as follows:

10.031 Exemptions from the Development Permit Requirement.

C. The following uses or developments do not require a development permit.

(11) Airport accessory structure(s) including hangars, aircraft storage, maintenance facilities, warehouse storage, and office buildings to be located on airport property within the secured fence area (as shown on the Medford Zoning Map) not intended for public use.

SECTION 2. 10.146 of the Medford Code is amended to read as follows:

10.146 Referral Agencies, Distribution.

2. When the proposal is within, or abutting the Airport Approach or Airport Radar Overlay Districts Area of Concern.

SCHEDULE OF REFERRAL AGENCY DISTRIBUTION

	A	B	C	D	E	F	G	H	I	J	K	L	M	N
CITY DEPTS.														

Dept. of State Lands	-	-	-	-	-	-	5	5	5	5	5	5	-	-
Federal Aviation Administration		2					2	2	2	2	2	2		2
Garbage Company	-	-	-	X	X	-	-	-	-	-	-	-	-	-

Natural Gas Company	-	-	X	X	X	X	3	-	X	X	X	X	X	-
Oregon Dept. of Aviation		2					2	2	2	2	2	2		2
Oregon Dept. of Fish & Wildlife	-	-	-	-	-	-	5	5	5	5	5	5	-	-

Rogue River Valley Irrigation	1	-	1	1	1	-	3	-	1	1	-	-	-	-

	A	B	C	D	E	F	G	H	I	J	K	L	M	N
District														
RV Rogue Valley Medford Airport	1	1	1	-	-	1	2	2	2	2	2	2	-	2

SECTION 3. Section 10.300 of the Medford Code is amended to read as follows:

10.300 Establishment of Zoning Districts.

This Code separates the city into three (3) basic use classifications, ~~sixteen (16)~~ **sixteen (16)** zoning districts, ~~eight (8)~~ **nine** overlay districts, and ~~four (4)~~ **five** administrative mapping categories as follows:

~~I.~~ **A. RESIDENTIAL**

- ~~(a)~~ SFR-00 Single-Family Residential - (1 dwelling unit per existing lot)
- ~~(b)~~ SFR-2 Single-Family Residential - (2 dwelling units per gross acre)
- ~~(c)~~ SFR-4 Single-Family Residential - (4 dwelling units per gross acre)
- ~~(d)~~ SFR-6 Single-Family Residential - (6 dwelling units per gross acre)
- ~~(e)~~ SFR-10 Single-Family Residential - (10 dwelling units per gross acre)
- ~~(f)~~ MFR-15 Multiple-Family Residential - (15 dwelling units per gross acre)
- ~~(g)~~ MFR-20 Multiple-Family Residential - (20 dwelling units per gross acre)
- ~~(h)~~ MFR-30 Multiple-Family Residential - (30 dwelling units per gross acre)

~~II.~~ **B. COMMERCIAL**

- ~~(a)~~ C-S/P Commercial, Service and Professional Office
- ~~(b)~~ C-N Commercial, Neighborhood
- ~~(c)~~ C-C Commercial, Community
- ~~(d)~~ C-R Commercial, Regional
- ~~(e)~~ C-H Commercial, Heavy

~~III.~~ **C. INDUSTRIAL**

- ~~(a)~~ I-L Industrial, Light
- ~~(b)~~ I-G Industrial, General
- ~~(c)~~ I-H Industrial, Heavy

~~IV.~~ **D. OVERLAY DISTRICTS**

I-00 Limited Industrial

- ~~(a)~~ A-A Airport Approach
- A-R Airport Radar**
- A-C Airport Area of Concern**
- ~~(b)~~ C-B Central Business
- ~~(c)~~ E-A Exclusive Agriculture
- ~~(d)~~ H-Historic
- ~~(e)~~ F Freeway
- ~~(f)~~ A-R Airport Radar
- ~~(g)~~ S-E Southeast
- ~~(h)~~ I-00 Limited Industrial

H Historic

~~V.~~ E. ADMINISTRATIVE MAPPING CATEGORIES

- (a) Downtown Parking
- (b) Limited Service
- (c) P-D Planned Unit Development
- (d) R-Z Restricted Zoning

Airport Fence Line

SECTION 4. Section 10.348 of the Medford Code is amended to read as follows:

10.348 Limited Industrial ~~Overlay District~~, I-00.

SECTION 5. Section 10.349 of the Medford Code is amended to read as follows:

10.349 Airport Approach ~~Overlay District~~, A-A.

A. Purpose of the A-A Overlay. The purpose of this **overlay** district is to ~~minimize the nuisance effects of the airport on its surroundings, to minimize the restrictions placed upon the airport operations by surrounding development, to reduce or eliminate incompatible land use development which may jeopardize the present and future operations of the airport functions. It is also the purpose of this district to recognize that the continued residential development adjacent to the airport reduces the livability of the area and adversely impacts the health, safety, and welfare of the residents. It is further recognized that certain categories of land use development are most appropriate and compatible with the airport development.~~ **reduce risks to aircraft operations as well as risks of damage or injury to persons or property on the ground near the airport. This is accomplished by limiting land uses that could create hazardous conditions, and limiting building height and density of development. A use in the A-A Overlay is considered compatible if the use does not create a bird attractant, distracting light, glare, smoke, or electrical interference. Impact from airport noise is another factor to consider in terms of compatible uses. The A-A Overlay includes an area called the Runway Protection Zone (RPZ).**

B. Location of A-A Overlay. The Airport Approach is shown on the official zoning map of the City of Medford, and is defined by Federal Aviation Regulations (FAR, Part 77, OAR 660-013, and OAR 738-070). ~~The Airport Approach District shall be described as follows:~~

~~1) Main Runway: an area extending 5000 feet beyond each end of the primary surface and 1250 feet laterally from the centerline of the main runway.~~

~~2) General Aviation Runway: an area extending 825 feet laterally from the centerline and the area at each end of the runway encompassed by a regular trapezoid, the parallel sides of which are at right angles to and bisected by the extended centerline of the general aviation runway. The base of the trapezoid shall be adjacent to the end of the primary surface of the runway and have a width of 1650 feet. The side opposite and parallel to the base shall be a distance of 2000 feet from the end of the primary surface and have a width of 650 feet.~~

C. Application of A-A Provisions.

The A-A designation shall overlay a zoning district. If any conflict in the regulation of

procedure occurs between the zoning district and the A-A Overlay, the provisions of the A-A Overlay shall govern.

D. Noise Impacts and Compatible Land Uses in the A-A Overlay. The airport's "severe" noise impact area (70 DNL and above), as illustrated in the Airport Master Plan Update, is intended to be airport property only. The "substantial" noise impact area (65-70 DNL) is an area where residential development is incompatible due to noise impacts. If public institutions are built within the substantial noise impact area, measures should be taken to reduce noise levels. Most land uses are compatible in areas impacted by noise levels less than 65 DNL.

E. Permitted Uses in the A-A Overlay. Uses in the A-A Overlay are limited in order to prevent hazardous conditions as described in subsection (A) above.

The following uses are permitted within the A-A Overlay:

- (1) Uses Permitted in the underlying zoning district.
- (2) Open land uses such as cemeteries, sod farming, truck farming, other vegetable and plant crop cultivation, landscape nursery, riding academies, picnic area, botanical gardens, paths or recreation areas.
- (3) Roadways, parking areas and storage yards located in such a manner that vehicle lights will not make it difficult for pilots to distinguish between landing lights and vehicle lights, or result in glare or in any other way impair visibility in the vicinity of the landing approach.
- (4) Customary and usual aviation- and emergency-related activities including but not limited to takeoffs, landings, aircraft hangars, tie-downs, construction and maintenance of airport facilities, fixed-base operator facilities, flight instruction, law enforcement, emergency medical flights, firefighting activities and other activities incidental to the normal operation of an airport.

F. Conditional Uses in the A-A Overlay. Any use listed as conditional in the underlying Zone.

G. Prohibited Uses in the A-A Overlay. The following uses are prohibited within the A-A Overlay:

- (1) Places of public assembly such as churches, schools, conference/convention centers, employment/shopping centers, arenas, athletic fields, stadiums, club houses, or museums.
- (2) High-density residential development.
- (3) New residential development within the Runway Protection Zone.
- (4) Water treatment plants, mining, water impoundments or wetland mitigation.
- (5) Golf courses (unless the applicant can demonstrate that management techniques will be used to reduce existing wild fowl attractants and avoid the creation of new wildlife attractants).
- (6) Any use or building material that results in glare in the eyes of the pilots using the airport (such as flat roofs that retain water, reflecting ponds, sloped glazing, use of glass on roofs, skylights, parking lots not shielded with trees, high rib metal roofing with high gloss finish, east/west facing storefronts).
- (7) Any use which makes it difficult for the pilots to distinguish between airport lights and other lights.
- (8) Any use that would cause emissions of smoke, dust or steam that would obscure visibility within the airport approach corridor (unless the applicant can demonstrate that mitigation measures will reduce the potential for safety risk or incompatibility with airport

operations to an insignificant level).

(9) Any use which creates electrical interference with navigational signals or radio communications between the airport and aircraft.

(10) Any use which would create a bird strike hazard (such as water treatment plants, golf courses, sanitary landfills, water impoundments, sewage lagoons, sewage sludge disposal facilities) if within 10,000 feet from any airport runway.

(11) Flashing, blinking signs or any lighting projected upward. Lighting shall incorporate shielding in their designs to reflect light away from airport surfaces.

(12) Any other use that would endanger or interfere with the landing, takeoff or maneuvering of aircraft intending to use the airport.

H. Height Regulations in the A-A Overlay.

Building height is limited in the A-A Overlay in order to protect airspace, and instrument approach altitudes. No structure, construction equipment, vegetation, electrical transmission lines or any other object shall be allowed to be constructed so as to penetrate the Approach Surface as defined in Federal Aviation Regulations, Part 77.19.

SECTION 6. Section 10.350 of the Medford Code is hereby repealed:

~~10.350 Application of Airport Approach Provisions.~~

~~The A-A designation shall overlay a basic zoning district. If any conflict in the regulation or procedure occurs with the basic zoning district, the provisions of the Airport Approach District shall govern.~~

~~Other required conditions:~~

~~(1) The Site Plan and Architectural Commission shall consider the purpose and objectives of the A-A District when reviewing projects located wholly or partially within the A-A District and otherwise subject to their review and approval.~~

SECTION 7. Section 10.351 of the Medford Code is hereby repealed:

~~10.351 Permitted Uses.~~

~~The following uses are permitted within the A-A District:~~

~~(1) Uses Permitted in the underlying zoning district.~~

~~(2) Open land uses such as cemeteries, reservoirs, sod farming, truck farming, other vegetable and plant crop cultivation, landscape nursery, golf courses, riding academies, picnic area, botanical gardens, paths or recreation areas.~~

~~(3) Roadways, parking areas and storage yards located in such a manner that vehicle lights will not make it difficult for pilots to distinguish between landing lights and vehicle lights, or result in glare or in any other way impair visibility in the vicinity of the landing approach.~~

~~(4) Uses consistent with the Master Airport Plan adopted by the city.~~

SECTION 8. Section 10.352 of the Medford Code is amended to read as follows:

~~10.352 Conditional Uses.—Airport Radar Overlay District, A-R.~~

~~Any use listed as conditional in the underlying zoning district.~~

- A. Purpose of the A-R Overlay. The purpose of the A-R Overlay is to ensure that development within close proximity to the radar facility does not interfere with the performance of the radar and thus affect airport operations.
- B. Location of the A-R Overlay. The Airport Radar Overlay is shown on the official zoning map of the City of Medford.
- C. Height Restriction in the A-R Overlay. No structure, construction equipment, vegetation, electrical transmission lines or any other object shall exceed 40 feet in height.

SECTION 9. Section 10.353 of the Medford Code is hereby repealed:

~~10.353 Prohibited Uses.~~

~~The following uses are prohibited within the A-A District:~~

- ~~(1) Places of public assembly such as churches and schools.~~
- ~~(2) Any use or building material that results in glare in the eyes of the pilots using the airport.~~
- ~~(3) Any use which makes it difficult for the pilots to distinguish between airport lights and other lights.~~
- ~~(4) Any use that produces smoke, dust, steam or any other substance that would impair visibility in the vicinity of the air port.~~
- ~~(5) Any use which creates electrical interference with navigational signals or radio communications between the airport and aircraft.~~
- ~~(6) Any use which would create a bird strike hazard.~~
- ~~(7) Any other use that would endanger or interfere with the landing, takeoff or maneuvering of aircraft intending to use the airport.~~

SECTION 10. Section 10.354 of the Medford Code is hereby repealed:

~~10.354 Height Regulations.~~

~~No structure, construction equipment, vegetation, electrical transmission lines or any other object shall be allowed to be constructed so as to penetrate the airport approach slopes defined in the Federal Aviation Regulations, Part 77.~~

SECTION 11. Section 10.355 of the Medford Code is amended to read as follows:

~~10.355 Airport Radar Overlay. Airport Area of Concern Overlay District, A-C.~~

~~The purpose of this district is to ensure that development within close proximity to the radar facility does not interfere with the performance of the radar and thus affect airport operations. The boundary of the overlay area is defined on the official zoning map of the City of Medford.~~

~~(1) Height Restriction.~~

~~No structure, construction equipment, vegetation, electrical transmission lines or any other object~~

~~///
///
///
///~~

shall be allowed to exceed forty (40) feet in height.

~~(2) FAA Review.~~

~~All construction within this area shall be reviewed and approved by the FAA prior to development.~~

A. Purpose of the A-C: The Airport Area of Concern is intended to reduce risks to aircraft operations and land uses within close proximity to the airport. This is accomplished by forwarding land use applications located within the A-C to the Federal Aviation Administration (FAA), Oregon Department of Aviation (ODA) and/or the airport for review as referral agencies. These agencies shall submit comments to the Planning Department if further action is necessary regarding the proposed land use.

B. Location of the A-C: The Area of Concern is a Zoning Overlay shown on the official zoning map of the City of Medford, and is defined by Federal Aviation Regulations (FAR, Part 77, OAR 660-013, and OAR 738-070) as being lands, waters and airspace, or portions thereof comprising the civil airport imaginary surfaces.

SECTION 12. Section 10.358 of the Medford Code is amended to read as follows:

10.358 Central Business District, C-B.

SECTION 13. Section 10.360 of the Medford Code is amended to read as follows:

10.360 Exclusive Agricultural Overlay District, E-A.

SECTION 14. Section 10.365 of the Medford Code is amended to read as follows:

10.365 Freeway Overlay District.

SECTION 15. Section 10.410 of the Medford Code is amended to read as follows:

10.410 Downtown Parking Administrative Mapping Category.

SECTION 16. Section 10.411 of the Medford Code is amended to read as follows:

10.411 Limited Service Administrative Mapping Category.

SECTION 17. Section 10.414 of the Medford Code is added to read as follows:

10.414 Airport Fence Line.

A. Purpose: For mapping of airport property that is not intended for public use.

B. Applicability: Airport accessory structures to be located within the secured fence area

shall be exempt from development permit per Section 10.031(C)(11).

PASSED by the Council and signed by me in authentication of its passage this ____ day of _____, 2016.

ATTEST: _____
City Recorder

Mayor

APPROVED _____, 2016.

Mayor

NOTE: Matter in **bold** is new. Matter ~~struck-out~~ is existing law to be omitted. Three asterisks (***) indicate existing law which remains unchanged by this ordinance but was omitted for the sake of brevity.



COMMISSION REPORT

to City Council for a Class-A legislative decision: **Zoning Map and Development Code Amendments**

Project Updating Zoning Map and Development Code Based on Airport’s Master Plan Update

File no. ZC-13-079 / DCA-13-080

To Mayor and City Council *for 3/3/2016 hearing*

From Praline McCormack, Planner II, Long-Range Planning

Reviewer John Adam, Principal Planner, Long-Range Planning

Date February 9, 2016

BACKGROUND

Proposal

A legislative amendment to Medford’s Zoning Map and Land Development Code updating the boundaries of the Airport Approach Overlay, adding the Airport’s fence line, adding a new zoning overlay, a notification area called the Airport Area of Concern, and removal of the requirement for site plan review for structures within the airport’s fenced area.

History

Completed in February 2013, the Update received approval from the Federal Aviation Administration (FAA) in March 2013. The 2014–2019 City of Medford Strategic Plan directs Planning “to amend the Comprehensive Plan and Land Development Code to support the Airport Master Plan” (Goal 9, Objective 9.4, Action 9.4a). The proposed amendments will meet this directive.

The Planning Commission reviewed these amendments during a study session in March 2015. There was a delay to obtain necessary map data before proceeding. The Planning Commission held a hearing on January 14, 2016 and voted 8–0 to recommend adoption of the amendments as proposed.

The Site Plan and Architectural Commission reviewed these amendments at a public hearing on February 5, 2016. After a thorough discussion regarding the proposal to exempt buildings inside the security fence from Site Plan review, they voted 7–0 to recommend their support for the code amendment.

Authority

These proposed land use actions are Class-A legislative amendments of the Zoning Map and Chapter 10 of the Municipal Code. The Planning Commission is authorized to recommend, and the City Council to approve, amendments to the Zoning Map and Chapter 10 under Medford Municipal Code Sections 10.102–122, 10.164, and 10.184.

ANALYSIS

Following is a summary of the substantive changes proposed in this amendment:

1. Revising the Airport Approach Overlay's boundaries. The east and west extensions of the Overlay have been modified to reflect the recent decommissioning of the east–west runway (see Exhibit B).
2. Exempting airport accessory structures from the development permit requirement. The exempt structures would be located within the secured fence area and would not be intended for public use. In order to administer this new provision, this amendment includes the addition of the airport fence line to the Zoning Map as an administrative mapping category (see Exhibit C).
3. Creating a new Zoning Overlay called the Airport Area of Concern (see Exhibit D). Within this area, which encompasses most of the City, a request for comment will be sent to airport authorities (Federal Aviation Administration and Oregon Department of Aviation) for all code amendments, conditional use permits, exceptions, PUDs, land divisions/partitions, site plan review and transportation facilities proposed within or abutting the Area of Concern. Airport authorities will review the proposal to determine if it constitutes a hazard or obstruction to air space. Airport authorities may recommend, if warranted, an aviation easement, deed declaration, noise abatement strategies, and/or hazard mitigation measures such as lighting.
4. Revising the Airport Approach and Airport Radar Overlays. Language has been updated per OAR 660-013.

Note: To further clarify the justification for exempting airport accessory structures from land use review/development permit requirements, it is staff's opinion that the circumstances of these structures warrant the exemption. For example, they are not visible from public rights-of-way, and they do not include landscaping, parking, streets or circulation. Therefore, the land use review/development permit requirement adds an unnecessary regulation for structures within the airport's fenced area.

RECOMMENDATION

The Planning Commission recommends adopting the proposed amendments based on the analyses, findings, and conclusions in the Commission Report dated February 9, 2016, including Exhibits A through H.

EXHIBITS

- A Findings and Conclusions
- B Proposed amendment
- C Map: Airport Approach (AA) & Runway Protection Zone
- D Map: Airport Fence
- E Map: Area of Concern (A-C) – Airport Notify Area
- F Minutes, Planning Commission Study Session, March 23, 2015
- G Minutes, Planning Commission Hearing, January 14, 2016
- H Draft Minutes, Site Plan and Architectural Commission Hearing, February 5, 2016

CITY COUNCIL AGENDA:

FEBRUARY 4, 2016

Exhibit A

Findings and Conclusions

The criteria that apply to Major Zoning Map and Land Development Code amendments can be found in Medford Municipal Code Section 10.184(2). The criteria are rendered in italics; findings and conclusions in roman type.

Land Development Code Amendment. The Planning Commission shall base its recommendation and the City Council its decision on the following criteria:

10.184 (2) (a). Explanation of the public benefit of the amendment.

Findings

The proposed amendments to the airport overlay zoning districts and the standards associated with them serve to reduce risks to both aircraft and persons/property. The mapping amendments update the City's Zoning Map to reflect current airport-related boundaries.

Conclusions

The proposed amendments update Medford's Code and mapping to match the airport's Master Plan Update and the Oregon Administrative Rules (OARs).

10.184 (2) (b). The justification for the amendment with respect to the following factors:

- 1. Conformity with goals and policies of the Comprehensive Plan considered relevant to the decision.*

Findings

The following goal is from the Environmental Element.

Goal 12: To protect the citizens of Medford from the potential damage caused by hazards such as flooding, earthquakes, noise, wildfires, and airport hazards.

The following implementation strategies are from the Transportation System Plan Element, Air Transportation.

Implementation 6-A(1): Encourage the Jackson County Airport Authority to coordinate implementation of the Rogue Valley International-Medford Airport Master Plan, and any updates, with the City.

Implementation 6-A(4): Prepare for consideration by the City Council, amendments to the Medford Comprehensive Plan that include the maps and information required by OAR 660-013 "Airport Planning". If the airport sponsor does

not provide the economic and use forecast information required by the OAR, the City may limit the airport boundary to areas currently devoted to the airport uses described in the OAR.

Implementation 6-A(5): Prepare for consideration by the City Council ordinances to carry out the requirements of OAR 660-013 "Airport Planning", which require an Airport Safety Overlay Zone to promote aviation safety, if the currently adopted Airport Approach (A-A) and Airport Radar (A-R) Overlay Zoning Districts are not in compliance.

Implementation 6-A(6): Prepare for consideration by the City Council ordinances to carry out the requirements of OAR 660-013 "Airport Planning" regarding airport compatibility, consistent with applicable statewide planning requirements.

Conclusions

The proposed amendments satisfy the environmental element goal and the air transportation implementation strategies.

2. *Comments from applicable referral agencies regarding applicable statutes or regulations.*

Findings

No comments were received.

Conclusions

This criterion does not apply.

3. *Public comments.*

Findings

No comments were received.

Conclusions

This criterion does not apply.

4. *Applicable governmental agreements.*

Findings

None.

Conclusions

This criterion does not apply.

Exhibit B

Proposed amendment

Deleted text is ~~struck through~~; added text is **bold**.

Chapter 10, Table of Contents

* * *

OVERLAY DISTRICTS (10.345 - 10.407)

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10.348	Limited Industrial Overlay District, I-00-
10.349	Airport Approach District, A-A
10.350	Application of Airport Approach Provisions
10.351	Permitted Uses
10.352	Conditional Uses
10.353	Prohibited Uses
10.354	Height Regulations
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10.355	Airport Area of Concern, A-C
10.358	Central Business District, C-B
10.360	Exclusive Agricultural Overlay District, E-A
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* * *

ADMINISTRATIVE MAPPING CATEGORIES (10.409 – 10.413)

10.409	Purpose of Administrative Mapping Categories
10.410	Downtown Parking Administrative Mapping Category
10.411	Limited Service Administrative Mapping Category
10.412	Planned Unit Development Administrative Mapping Category
10.413	Restricted Zoning Administrative Mapping Category
10.414	Airport Fence Line

* * *

ARTICLE I

* * *

10.031 Exemptions from the Development Permit Requirement.

A. An exemption from the development permit requirement does not exempt the use or development from compliance with the applicable standards of this chapter, including but not limited to access, parking, riparian protection, and landscaping.

* * *

C. The following uses or developments do not require a development permit.

* * *

(11) Airport accessory structure(s) including hangars, aircraft storage, maintenance facilities, warehouse storage, and office buildings to be located on airport property within the secured fence area (as shown on the Medford Zoning Map) not intended for public use.

* * *

ARTICLE II

10.146 Referral Agencies, Distribution.

This Chapter employs the use of referral agencies for the review of those plan authorizations indicated below, as shown on the Schedule which follows:

- A. Major Comprehensive Plan Amendment
- B. Land Development Code Amendment
- C. Minor Comprehensive Plan Amendment
- D. Annexation, except as provided in Section 10.199
- E. Vacation
- F. Zone Change, Major and Minor
- G. Conditional Use Permit
- H. Exception
- I. Planned Unit Development
- J. Land Division
- K. Site Plan and Architectural Review
- L. Transportation Facility Development
- M. Historic Review
- N. Administrative (Class D) Plan Authorizations

Numerical references in the Schedule refer to the following:

- 1. When the proposal is within, abutting, or affecting the referral agency's jurisdiction.
- 2. When the proposal is within, or abutting the Airport ~~Approach or Airport Radar Overlay Districts~~ **Area of Concern**.

3. When the proposal includes new buildings or building additions that are within the referral agency's jurisdiction.
4. When the proposal is within the Southeast Overlay District and in a Parks or Schools land use category on the Southeast Plan Map.
5. When the proposal is within or abutting a Greenway General Land Use Plan Map designation.

Referral agencies may be asked to review certain proposals not indicated on the Schedule if, in the judgment of the Planning Director, the agency may have an interest in the proposal. Additional referral agencies may be notified at the discretion of the Planning Director.

SCHEDULE OF REFERRAL AGENCY DISTRIBUTION

	A	B	C	D	E	F	G	H	I	J	K	L	M	N
CITY DEPTS.														
Building Safety	X	X	X	X	X	X	X	X	X	X	X		X	X
City Attorney	X	X	X	X	X	X	X	X	X	X	X	X	X	
City Manager	X	X	X	X										
Engineering Division	X	X	X	X	X	X	3		X	X	X	X	X	
Fire	X	X	X	X	X	X	3		X	X	X		X	X
Parks & Recreation	X	X	X	X	X	X	3		X	X	X		X	
Parks Director	4	4	4	4	4	4	4	4	4	4	4	4	4	
Planning	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Police	X		X	X	X	X			X	X	X		X	X
Public Works	X	X	X	X	X	X	3		X	X	X		X	X
AGENCIES														
Water Commission	X	X	X	X	X	X	3		X	X	X	X	X	
Army Corps of Engineers							5	5	5	5	5	5		
Landmarks & Historic Preservation Commission	1	1	1		1	1	1	1	1	1	1	1		
Cable Television Co.			X	X	X	X	3		X	X	X		X	
City of Central Point	1	1	1	1	1	1	1	1	1	1	1	1		
City of Phoenix	1	1	1	1	1	1	1	1	1	1	1	1		

	A	B	C	D	E	F	G	H	I	J	K	L	M	N
Dept. of Land Conservation & Development	X	X	X											
Dept. of State Lands							5	5	5	5	5	5		
Federal Aviation Administration		2					2	2	2	2	2	2		2
Garbage Company				X	X									
Jackson Co. Health Dept				X						X				
Jackson Co. Planning	X	X	X					1	1		1			
Medford Irrigation District	1		1	1	1		3		1	1				
Natural Gas Company			X	X	X	X	3		X	X	X	X	X	
Oregon Dept. of Aviation		2					2	2	2	2	2	2		2
Oregon Dept. of Fish & Wildlife							5	5	5	5	5	5		
Oregon Dept. of Transportation	X		1	1		1	3		1	1	1	1		
Power Company			X	X	X	X	3		X	X	X	X	X	
Rogue River Valley Irrigation District	1		1	1	1		3		1	1				
Rogue Valley Medford Airport	1	1	1			1	2	2	2	2	2	2		2
Rogue Valley Sewer Services	1		1	1	1	1	3		1	1	1		1	
Rogue Valley Transportation District	X		1	1	1	X	3		1	1	X	X	X	
Medford 549C Schools Superintendent	1		1	1		1	3		1	1				
Phoenix-Talent Schools Superintendent	4	4	4	4	4	4	4	4	4	4	4	4	4	
Telephone Company			X	X	X	X	3		X	X	X	X	X	
U. S. Post Office									X	X	X	X	X	
Urban Renewal Agency			1		1	1	1	1	1	1	1	1	1	
Water Districts	1		1	1		1			1	1				
* * *														

ARTICLE III

10.300 Establishment of Zoning Districts.

This Code separates the city into three ~~(3)~~ basic use classifications, ~~sixteen (16)~~ zoning districts, ~~eight nine (8)~~ overlay districts, and ~~four five (4)~~ administrative mapping categories as follows:

IA. RESIDENTIAL

(a) SFR-00	Single-Family Residential	-	(1 dwelling unit per existing lot)
(b) SFR-2	Single-Family Residential	-	(2 dwelling units per gross acre)
(c) SFR-4	Single-Family Residential	-	(4 dwelling units per gross acre)
(d) SFR-6	Single-Family Residential	-	(6 dwelling units per gross acre)
(e) SFR-10	Single-Family Residential	-	(10 dwelling units per gross acre)
(f) MFR-15	Multiple-Family Residential	-	(15 dwelling units per gross acre)
(g) MFR-20	Multiple-Family Residential	-	(20 dwelling units per gross acre)
(h) MFR-30	Multiple-Family Residential	-	(30 dwelling units per gross acre)

IIB. COMMERCIAL

(a) C-S/P	Commercial, Service and Professional Office
(b) C-N	Commercial, Neighborhood
(c) C-C	Commercial, Community
(d) C-R	Commercial, Regional
(e) C-H	Commercial, Heavy

IIIC. INDUSTRIAL

(a) I-L	Industrial, Light
(b) I-G	Industrial, General
(c) I-H	Industrial, Heavy

IVD. OVERLAY DISTRICTS

(ah) I-00	Limited Industrial
(ba) A-A	Airport Approach
(cf) <u>A-R</u>	<u>Airport Radar</u>
(d) A-C	Airport Area of Concern
(eb) C-B	Central Business
(fc) E-A	Exclusive Agriculture
(ge) <u>F</u>	<u>Freeway</u>
(hg) <u>S-E</u>	<u>Southeast</u>
(id) H	Historic
(e) <u>F Freeway</u>	
(f) <u>A-R Airport Radar</u>	
(g) <u>S-E Southeast</u>	

VE. ADMINISTRATIVE MAPPING CATEGORIES

- (a) Downtown Parking
- (b) Limited Service
- (c) P-D Planned Unit Development
- (d) R-Z Restricted Zoning
- (e) Airport Fence Line**

* * *

10.349 Airport Approach **Overlay** District, A-A.

A. Purpose of the A-A Overlay. The purpose of this **overlay** district is to **minimize the nuisance effects of the airport on its surroundings, to minimize the restrictions placed upon the airport operations by surrounding development, to reduce or eliminate incompatible land use development which may jeopardize the present and future operations of the airport functions. It is also the purpose of this district to recognize that the continued residential development adjacent to the airport reduces the livability of the area and adversely impacts the health, safety, and welfare of the residents. It is further recognized that certain categories of land use development are most appropriate and compatible with the airport development.** **reduce risks to aircraft operations as well as risks of damage or injury to persons or property on the ground near the airport. This is accomplished by limiting land uses that could create hazardous conditions, and limiting building height and density of development. A use in the A-A Overlay is considered compatible if the use does not create a bird attractant, distracting light, glare, smoke, or electrical interference. Impact from airport noise is another factor to consider in terms of compatible uses. The A-A Overlay includes an area called the Runway Protection Zone (RPZ).**

B. Location of A-A Overlay. The Airport Approach is shown on the official zoning map of the City of Medford, and is defined by Federal Aviation Regulations (FAR, Part 77, OAR 660-013, and OAR 738-070). ~~The Airport Approach District shall be described as follows:~~

~~1) Main Runway: an area extending 5000 feet beyond each end of the primary surface and 1250 feet laterally from the centerline of the main runway.~~

C. 10.350 Application of Airport Approach A-A Provisions. The A-A designation shall overlay a ~~basic~~ zoning district. If any conflict in the regulation or procedure occurs ~~with~~ **between** the ~~basic~~ zoning district **and the A-A Overlay**, the provisions of the ~~Airport Approach A-A Overlay District~~ shall govern.

~~Other required conditions:~~

~~(1) The Site Plan and Architectural Commission shall consider the purpose and objectives of the A-A District when reviewing projects located wholly or partially within the A-A District and otherwise subject to their review and approval.~~

- D. Noise Impacts and Compatible Land Uses in the A-A Overlay.** The airport’s “severe” noise impact area (70 DNL¹ and above), as illustrated in the Airport Master Plan Update, is intended to be airport property only. The “substantial” noise impact area (65-70 DNL) is an area where residential development is incompatible due to noise impacts. If public institutions are built within the substantial noise impact area, measures should be taken to reduce noise levels. Most land uses are compatible in areas impacted by noise levels less than 65 DNL.
- E. ~~10.351~~ Permitted Uses in the A-A Overlay.** Uses in the A-A Overlay are limited in order to prevent hazardous conditions as described in subsection (A) above. The following uses are permitted within the A-A ~~Overlay~~**District**:
- (1) Uses Permitted in the underlying zoning district.
 - (2) Open land uses such as cemeteries, ~~reservoirs~~, sod farming, truck farming, other vegetable and plant crop cultivation, landscape nursery, ~~golf courses~~, riding academies, picnic area, botanical gardens, paths or recreation areas.
 - (3) Roadways, parking areas and storage yards located in such a manner that vehicle lights will not make it difficult for pilots to distinguish between landing lights and vehicle lights, or result in glare or in any other way impair visibility in the vicinity of the landing approach.
 - (4) Customary and usual aviation- and emergency-related activities including but not limited to takeoffs, landings, aircraft hangars, tie-downs, construction and maintenance of airport facilities, fixed-base operator facilities, flight instruction, law enforcement, emergency medical flights, firefighting activities and other activities incidental to the normal operation of an airport.**
- ~~(4) Uses consistent with the Master Airport Plan adopted by the city.~~
- F. ~~10.352~~ Conditional Uses in the A-A Overlay.** Any use listed as conditional in the underlying ~~zoning district~~**zone**.
- G. ~~10.353~~ Prohibited Uses in the A-A Overlay.** The following uses are prohibited within the A-A ~~Overlay~~**District**:
- (1) Places of public assembly such as churches, ~~and~~ schools, ~~conference/convention centers, employment/shopping centers, arenas, athletic fields, stadiums, club houses, or museums.~~
 - (2) High-density residential development.**
 - (3) New residential development within the Runway Protection Zone.**
 - (4) Water treatment plants, mining, water impoundments or wetland mitigation.**
 - (5) Golf courses (unless the applicant can demonstrate that management techniques will be used to reduce existing wild fowl attractants and avoid the creation of new wildlife attractants).**

¹ DNL = Day-night average sound level.

- (62) Any use or building material that results in glare in the eyes of the pilots using the airport (**such as flat roofs that retain water, reflecting ponds, sloped glazing, use of glass on roofs, skylights, parking lots not shielded with trees, high rib metal roofing with high gloss finish, east/west facing storefronts**).
- (73) Any use which makes it difficult for the pilots to distinguish between airport lights and other lights.
- (84) Any use that ~~produces smoke, dust, steam or any other substance that would impair visibility in the vicinity of the airport~~ **would cause emissions of smoke, dust or steam that would obscure visibility within the airport approach corridor (unless the applicant can demonstrate that mitigation measures will reduce the potential for safety risk or incompatibility with airport operations to an insignificant level)**.
- (95) Any use which creates electrical interference with navigational signals or radio communications between the airport and aircraft.
- (106) Any use which would create a bird strike hazard (**such as water treatment plants, golf courses, sanitary landfills, water impoundments, sewage lagoons, sewage sludge disposal facilities**) if within 10,000 feet from any airport runway.
- (11) **Flashing, blinking signs or any lighting projected upward. Lighting shall incorporate shielding in their designs to reflect light away from airport surfaces.**
- (712) Any other use that would endanger or interfere with the landing, takeoff or maneuvering of aircraft intending to use the airport.

~~10.354~~ **H. Height Regulations in the A-A Overlay.**

Building height is limited in the A-A Overlay in order to protect airspace, and instrument approach altitudes. No structure, construction equipment, vegetation, electrical transmission lines or any other object shall be allowed to be constructed so as to penetrate the ~~airport~~ **Approach slopes defined Surface as defined** in ~~the~~ Federal Aviation Regulations, Part 77.19.

~~10.3525~~ **Airport Radar Overlay District, A-R.**

- A. Purpose of the A-R Overlay.** The purpose of ~~this the A-R Overlay district~~ is to ensure that development within close proximity to the radar facility does not interfere with the performance of the radar and thus affect airport operations.
- B. Location of the A-R Overlay.** **The Airport Radar Overlay is shown on the official zoning map of the City of Medford** ~~The boundary of the overlay area is defined on the official zoning map of the City of Medford.~~
- ~~(1)~~ **C. Height Restriction in the A-R Overlay.** No structure, construction equipment, vegetation, electrical transmission lines or any other object shall ~~be allowed to exceed forty (40) feet in height.~~
- ~~(2) FAA Review~~ **All construction within this area shall be reviewed and approved by the FAA prior to development.**

* * *

10.355 Airport Area of Concern Overlay District, A-C.

- A. Purpose of the A-C: The Airport Area of Concern is intended to reduce risks to aircraft operations and land uses within close proximity to the airport. This is accomplished by forwarding land use applications located within the A-C to the Federal Aviation Administration (FAA), Oregon Department of Aviation (ODA) and/or the airport for review as referral agencies. These agencies shall submit comments to the Planning Department if further action is necessary regarding the proposed land use.**
- B. Location of the A-C: The Area of Concern is a Zoning Overlay shown on the official zoning map of the City of Medford, and is defined by Federal Aviation Regulations (FAR, Part 77, OAR 660-013, and OAR 738-070) as being lands, waters and airspace, or portions thereof comprising the civil airport imaginary surfaces.**

* * *

10.414 Airport Fence Line.

- A. Purpose: For mapping of airport property that is not intended for public use.**
- B. Applicability: Airport accessory structures to be located within the secured fence area shall be exempt from development permit per Section 10.031(C)(11).**

Exhibit C

Map: Airport Approach Overlay and Runway Protection Zone Overlay

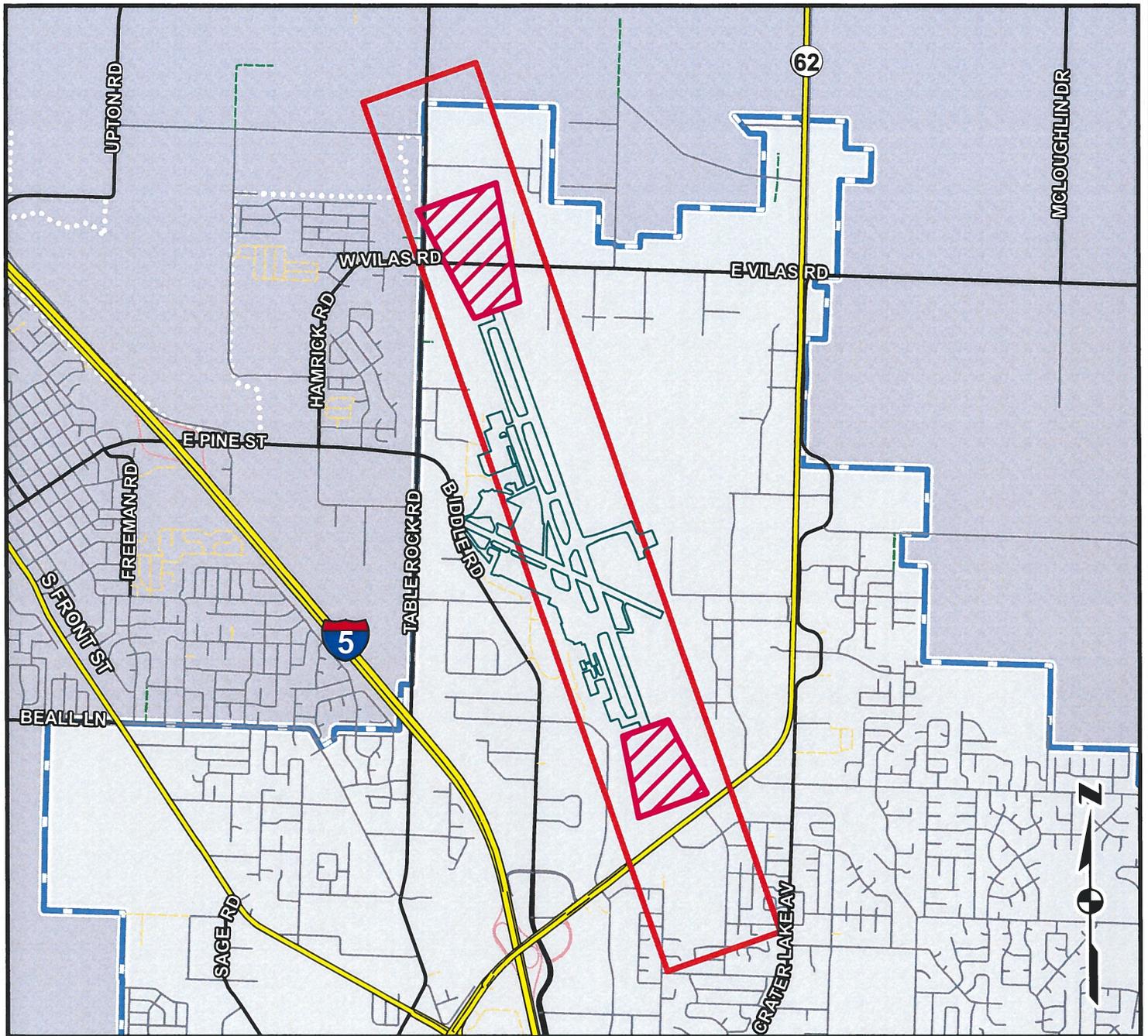
[cover sheet]



Airport Master Plan Update

ZC-13-079

Airport Approach (AA) & Runway Protection Zone (RPZ)



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-  Airport Approach (AA)
-  Runway Protection Zone (RPZ)
-  Airport Runways
-  Medford UGB
-  Central Point UGB



12/30/2015

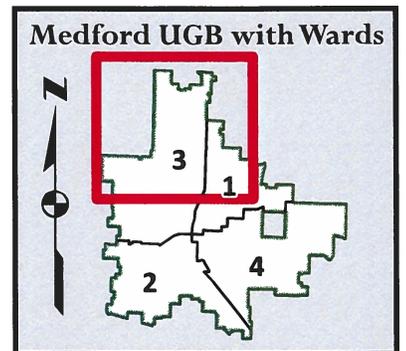


Exhibit D

Map: Airport Fence

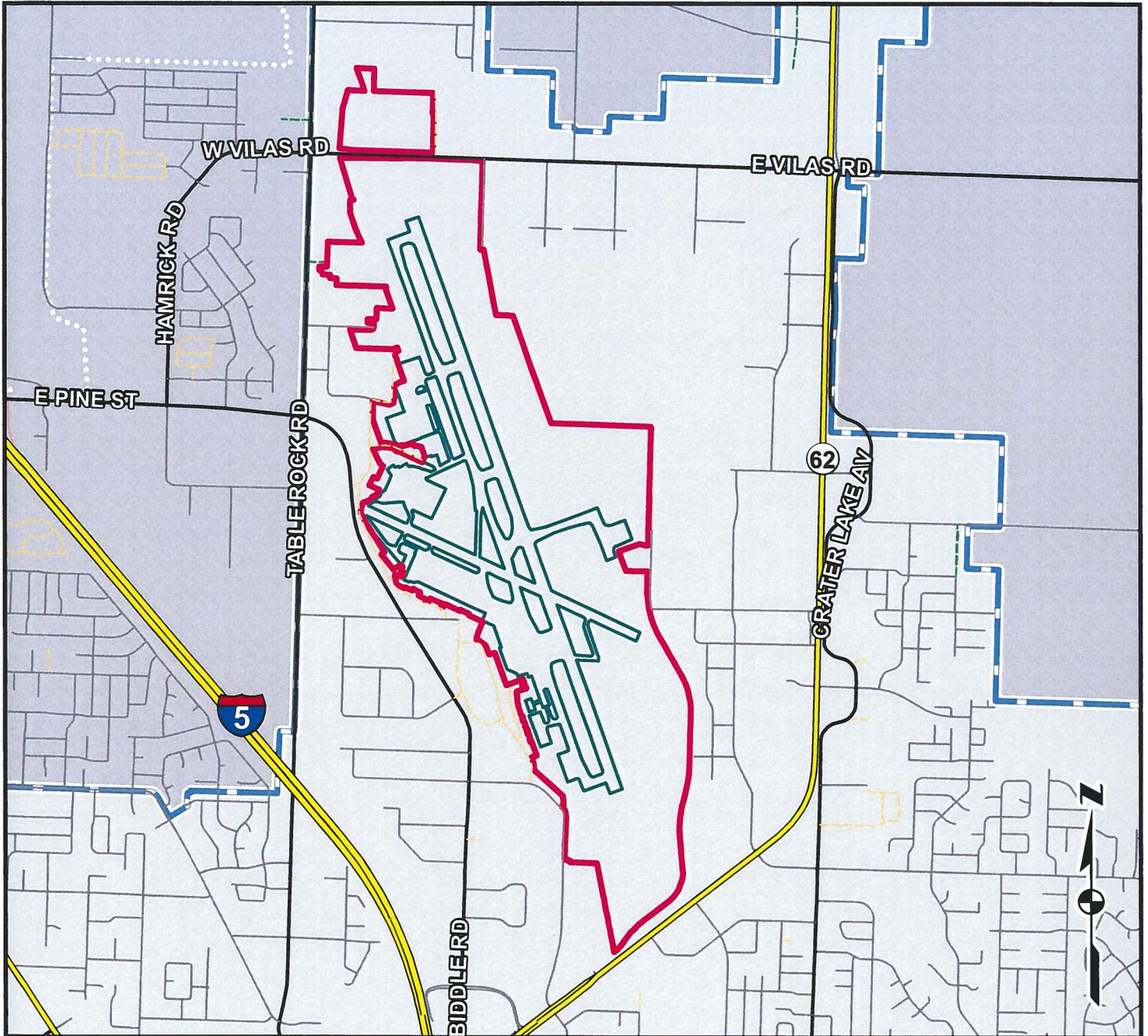
[cover sheet]



Airport Master Plan Update

Airport Fence

ZC-13-079



LEGEND

-  Airport Fence
-  Airport Runways
-  Medford UGB
-  Central Point UGB

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12/31/2015

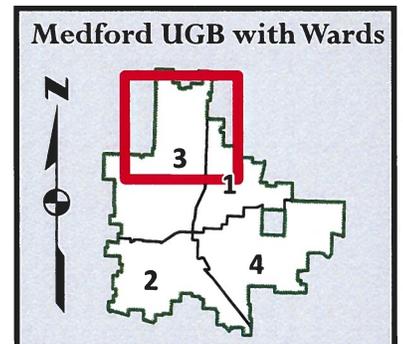


Exhibit E

Map: Area of Concern (airport notification area)

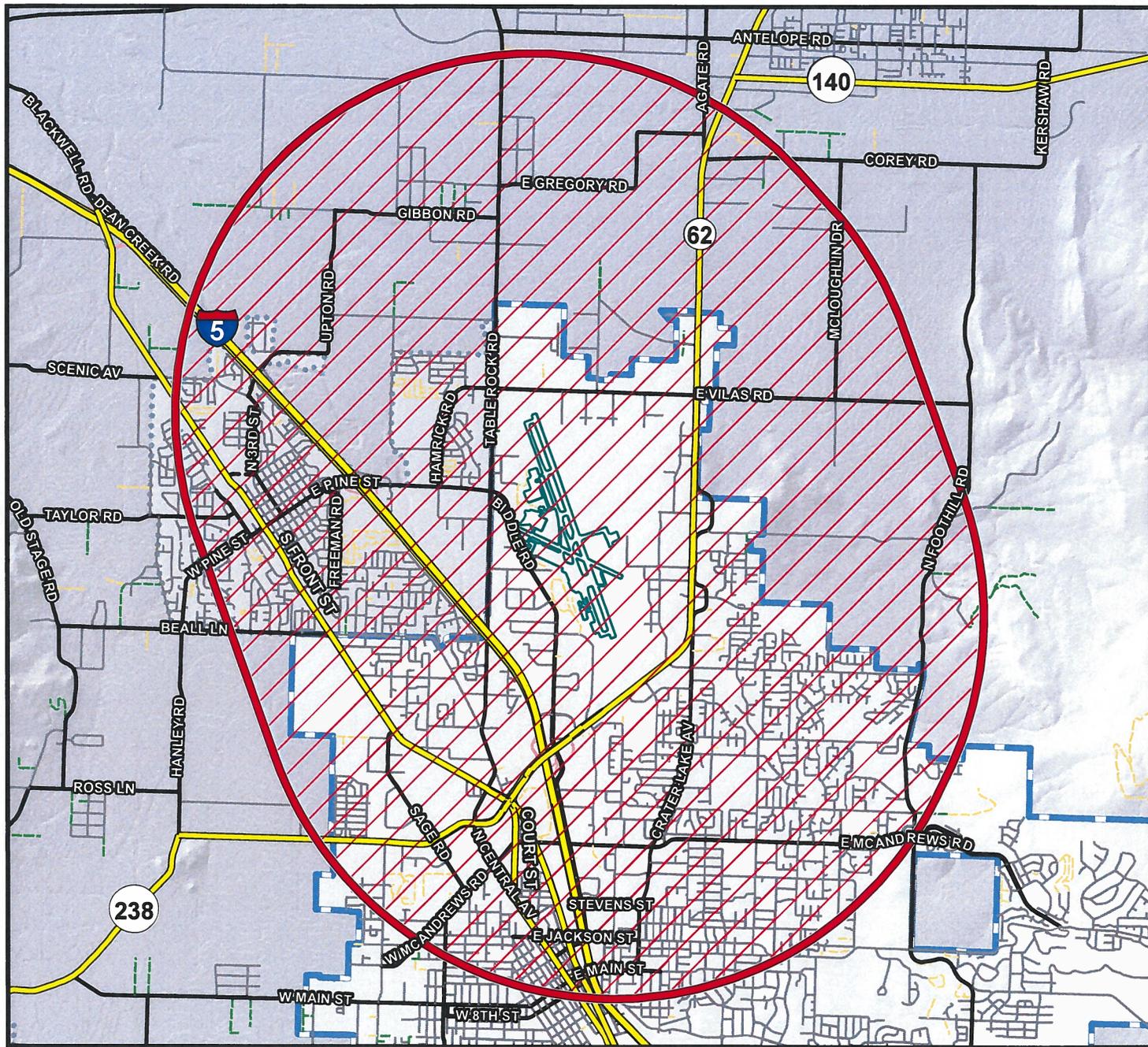
[cover sheet]



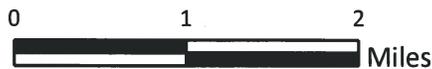
Airport Master Plan Update

Area of Concern (A-C) - Airport Notify Area

ZC-13-079



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D**
- Area of Concern (A-C) - Airport Notify Zone
 - Airport Runways
 - Medford UGB
 - Central Point UGB



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12/30/2015

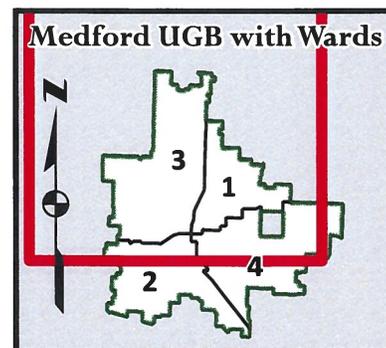


Exhibit F

Minutes, Planning Commission study session, 3-23-2015

[excerpt]

1. DCA-13-080/ZC-13-079 – A-A/A-R Overlays Code Amendment

2. CP-13-076/CP-13-077/CP-13-078 – Airport Master Plan Adoption

John Adam, Senior Planner, reported that the airport has developed a new master plan and typically the City adopts the master plan and elements into the Comprehensive Plan by reference. The other item for discussion is beekeeping. A citizen petitioned beekeeping to the City Council for the Planning Department for a Code amendment.

Carla Paladino, Planner III, stated that the City will adopt the airports new master plan by reference into the City's Comprehensive Plan. Also, making adjustments to the development code related to the overlays (i.e. airport approach, airport radar and a new mapping category called the airport area of concern). In addition there will be zone map amendments. The General Land Use Plan Map shows the majority of the airport under the "Airport" map designation. There is outlying property owned by the County with different General Land Use Plan Map designations that will be changed from the current designation to the Airport designation. The Airport Master Plan's focus is the aviation facility and its surroundings along with meeting future demand needs.

There are three elements that will be amended in the Comprehensive Plan to incorporate the new airport update: 1) Environmental Element (aviation easements, deed restrictions and noise abatement); 2) Transportation Element; and Transportation System Plan.

The Development Code amendments would affect sections:

- 10.031 – Exemptions
- 10.146 – Referral Agencies
- 10.300 – Zoning Districts
- 10.349 – Airport Approach (application requirements)
- 10.350 – Airport Radar Overlay
- 10.414 – Airport Area of Concern (NEW) (application requirements)

Chair McFadden asked if developments outside the airports fence would still come before the City? Ms. Paladino replied yes.

Chair McFadden asked if has reviewed the tall sign ordinance such as freeway signs, etc. that there are no existing conflicts with the airport master plan update?

The City's text changes were provided to the airport. Maps were not included. Staff received positive feedback from Bern Case, Airport Director. He agrees with the changes including aviation easements and the noise abatement changes.

Staff's next step is to update the maps and make sure the airport concurs with those changes. There is a scheduled hearing before the Planning Commission on Thursday, April 23, 2015. It will be presented to the City Council in June.

Exhibit G

Minutes, Planning Commission hearing, 1-14-2016

[excerpt]

50. Public Hearings – New Business

50.1 CP-13-076 / CP-13-077 Consideration of a Class A legislative amendment to revise the Transportation System Plan, the Environmental Element, and the Transportation Element of the Comprehensive Plan and incorporate and adopt by reference the 2013 Rogue Valley International-Medford Airport Master Plan. (City of Medford, Applicant)

Carla Paladino, Planner IV, reviewed the proposal, read criteria 10.184 (1), presented background information and gave a staff report.

The public hearing was opened.

Chair McFadden congratulated Mr. Bern Case for reaching a new service high.

a. Bern Case, Rogue Valley International-Medford Airport, 1000 Terminal Loop Parkway, Medford, Oregon, 97504. Mr. Case reported that it has been a tremendous year. Mr. Case reported that master plans are very important to an airport. Mr. Case expressed his appreciation for the work that City staff has done.

The public hearing was closed.

Motion: Based on the findings and conclusions that all of the applicable criteria are either satisfied or not applicable, the Planning Commission forwards a favorable recommendation for approval of CP-13-076 and CP-13-077 to the City Council per the staff report dated January 7, 2016, including Exhibits A through F.

Moved by: Vice Chair Miranda

Seconded by: Commissioner Foley

Voice Vote: Motion passed, 8–0.

50.2 ZC-13-079 / DCA-13-080 An ordinance amending the Medford Zoning Map to update the Airport Approach boundary, add the airport fence line, and create a new Overlay District called the Airport Area of Concern. (City of Medford, Applicant)

Praline McCormack, Planner II, reviewed the proposal, history, read the approval criteria reviewed the findings and gave a staff report.

Commissioner Fincher asked why is the the Area of Concern overlay such a large area? Ms. McCormack replied that is what the airport has created. Their concern would be with tall structures within the overlay.

Commissioner Fincher asked what are some of the things the airport is looking for in the review process? Ms. McCormack stated that it mainly has to do with height of structures, glass or other reflective surfaces. They will not request changes in the structure but require a noise or avigation easement or some kind of mitigation such as red lights on the structure where airplanes can see the structure.

Chair McFadden asked does staff feel that the City is protected from structures within the properties that may affect properties outside the airport? Is it strictly building and structure, signage and lights or noise? Ms. McCormack replied that it is building structures that would normally go through Site Plan and Architectural review. They usually do not have landscaping or parking requirements inside the fence line. It is a limited review.

The public hearing was opened.

a. Bern Case, Rogue Valley International-Medford Airport, 1000 Terminal Loop Parkway, Medford, Oregon, 97504. Mr. Case reported that there were concerns regarding the tower with signage a few years back. They do not look at this as a way to bypass the signage ordinance. He would not object to tweaking a word here or there if the Planning Commission wanted to do that. Very few buildings of consequence go inside the fence. There are some that are usually equipment buildings. The new Fire Station will probably be in between the two runways. The tower is inside the fence. The impact area is very big. The airport gets concerned with cell towers, glare and things that can create glare. They are more interested in areas at the end of the runways. They take a closer look if a structure is tall they like the ability to be able to refer them to the FAA to ask questions and usually it is to add a beacon unless there is something really out of place.

Mr. Huttl stated that he was not sure he understood Chair McFadden's question earlier regarding the review of buildings by the Site Plan and Architectural Commission within the airport overlay.

Chair McFadden reported that Mr. Case saw where he was going with the question such as what happens if a building gets a large sign or the height of a structure inside the security fence. It is amazing how many items can be looked at sometimes have to be mitigated in terms of their effects on surrounding areas. If there was something on the airport property that affects something off the airport property, unless the airport brings it before the City there would be no other way to handle it.

Mr. Huttl asked staff if these changes to the airport overlay intend to relieve all airport construction from Site Plan and Architectural review? Ms. McCormack reported that on

pages 129 and 130 of the January 5, 2016, staff report Section 10.031 Exemptions from the Development Permit Requirement item (11) language has been added that addresses this issue.

Mr. Huttli asked what policy this is carrying out for the City? Ms. McCormack reported that the structures that will be exempt from site plan review are structures not intended for public use, they do not include landscaping, circulation, or streets. It is staff's opinion that they do not require a review. Mr. Huttli asked if they would be viewable by the public? Ms. McCormack stated they will not be used by the public. They are basic standard buildings. They will still have to get building permits.

The public hearing was closed.

Motion: The Planning Commission adopts the amendments and recommends approval to the City Council per the staff report dated January 5, 2016, including Exhibits A through D.

Moved by: Vice Chair Miranda

Seconded by: Commissioner Mansfield

Roll Call Vote: Motion passed, 8-0.

Exhibit H

Minutes, Site Plan and Architectural Commission hearing, 2-5-2016

[excerpt]

80. New Business.

80.1 DCA-13-080 Airport Revisions – §10.031

John Adam, Principal Planner, gave a staff report and slideshow presentation on the proposed exemption from the development permit requirement for buildings inside the airport security fence, saying this item had already gone through the Planning Commission for recommendation to City Council.

Commissioner Whitlock asked if staff was comfortable with the “public use” reference in the proposal. He said he struggled at the last meeting with a reference to an “office building” in the list of structures and said it’s hard to imagine there isn’t some public use of an office building.

Mr. Adam responded that he didn’t know what nature of office building might go in there but it would seem that somebody who wanted regular visitors, that didn’t need to go through TSA screening, would probably not locate there.

Commissioner Whitlock stated he wasn’t sure what the term “public use” really meant and said he couldn’t find a definition for it in City code. Mr. Adam replied that in this case they would be relying on native wisdom to interpret that. He noted they could change the term to “general public use” which might be more illustrative. He said he could work with the legal department on an appropriate term.

Commissioner Whitlock stated he wanted to make certain that City Council is aware of ambiguities and other potential issues that might be related to those ambiguities. He commented it would be a good idea to make sure staff and the City Attorney’s office are comfortable with that reference and make sure it’s specific enough to provide effective notice to the airport about what types of structures do, or don’t, need to be reviewed.

Commissioner Whitlock wanted to know what entity or public official would have decision-making authority for architectural issues at the airport. Mr. Adam replied that in most cases it would probably be the airport director. He added if there was ever a building that had a high public profile, then the Board of Commissioners would probably weigh in. He added in that case the building would be outside the exemption and not exempt. He noted that anything within is going to

be subject to FAA regulations and also whatever aesthetic bearing they can bring to a warehouse or new hangar.

Commissioner Catt asked for clarification that anybody who used an office building for general public use would have to be screened by TSA. Mr. Adam answered if someone goes through the security fence then yes, they would have to be screened.

Chair Bender commented it seemed in almost all cases there's little doubt that those buildings within the security line could be easily exempted. He said buildings that have both a public and an airport presence would be the buildings that might bear some scrutiny. Mr. Adam responded if a building was built across the line, and the security was within the building itself, they would probably have a deliberate public entrance for general use and fall outside the exemption.

Commissioner Catt stated he felt if a building had both a public use and an airport presence then this Commission should be involved in the review.

Motion: This Commission recommends that City Council approve the proposed addition of sub-paragraph (11) to City Code §10.031 sub-section C.

Moved by: Commissioner Whitlock Seconded by: Commissioner Chmelir

Discussion: Commissioner Whitlock reiterated his concerns about a large structure such as an airport maintenance facility that may not be intended for public use but simply used as a structure to house some sort of aviation-type activity and the aesthetic impact it could have. He said there seems to be a potential for some adverse impact. He added it might accomplish most of what the Planning Department wants to accomplish by simply having this Commission maintain jurisdiction and responsibility to review aesthetics and not the other issues. He noted there's going to be very little staff comment or much that staff can do about it.

Chair Bender stated he felt the language, as it's written, covers most all of the bases.

Commissioner D'Alessandro said he had passed along this Commission's comments from the last meeting to the Planning Commission. He said there had been some agreement from a few Planning Commissioner's to Commissioner Whitlock's concern with the ambiguity of the language.

Commissioner D'Alessandro commented that a larger safety area would be set up at the airport and most of the eastern area cannot be built upon with maybe the exception of the northeast area. He said there is obviously some risk but it's

very minimal if talking about existing structures versus building new structures inside the fence and what the exposure would be to potentials outside the fence. He clarified that the airport wanted to buy additional buffer property on the northeast portion.

Commissioner Whitlock asked if the airport were to change the fence boundary as a result of future expansion and additional purchases, would this proposed language remain effective to within the fence as it might be established in the future as opposed to as it exists currently. Mr. Adam answered yes; it's anything within the security fence so if the fence were to move, the language would follow it.

Commissioner Whitlock said he would like to amend his motion.

Proposed amendment to the original motion: This Commission further recommends that City Council modify the language of sub-paragraph (11) with text approved by the City Attorney's office providing that this Commission retain its authority and responsibility to review the aesthetic adequacy of development within the secured fence area at the airport.

Moved by: Commissioner Whitlock Seconded by: Commissioner Catt

Discussion: Commissioner Whitlock commented that if Bern Case were to live forever and make decisions at the airport, or even the current administration at the county, he wouldn't have any concerns, but it seemed to him that what's really being talked about is potentially moving goal posts if that fence area can be expanded and it's an airport and/or county decision. He added if we can minimize the impact on staff and simply have this Commission looking at architectural issues and aesthetic issues within the fence; if it's a small hanger he thought it would be a relatively simple approval this Commission could make; if it's a huge aircraft maintenance facility that could impact the neighboring properties to the west he could see fairly minimal impact in terms of staff work and this Commission, and a great benefit to those property owners to the west.

Commissioner Whitlock stated he felt it's appropriate to at least make City Council aware that this Commission has concerns about the expansion of that fence line at some point and the potential adverse impacts that may occur as a result of that expansion.

Chair Bender said that a great deal of the effort for these applications, even if it is merely talking about aesthetics, is the noticing requirements and everything else that happens to facilitate the public hearing and the time that is injected into the process was the bulk of staff's concern. Being able to take that off the ta-

ble was one of the many reasons from staff's perspective to put this language forth.

Kelly Akin, Principal Planner, confirmed that part of the intent of the proposed exemption is to reduce some of the processing time that's required.

Commissioner D'Alessandro stated he's not so concerned with what's inside the existing fence line but instead looking at a language change regarding how the fence sits now versus what it could potentially go out to in the future and having this Commission be able to weigh in at the point the fence line expands out.

Mr. Adam stated they might be able to put in some sort of trigger if there's a significant change.

Ms. Akin pointed out the language actually notes that the fence would be located on the City's zoning map which would require an action to amend that boundary. She said it would be like a zoning overlay.

Commissioner Whitlock commented that from his perspective the zone change would need to occur and the question would be whether someone would be attuned to the fact that it would impact effectively this Commission's jurisdiction to review. He said it seemed to him to be a fairly tenuous connection and likely to be missed by staff or the decision makers.

Commissioner Whitlock asked if the proposed amendment, which retains some jurisdiction for architectural review, would be of any assistance to staff in reducing workload or would it just leave it pretty much status quo even though some of the required review by this Commission would be removed. Mr. Adam answered the workload would remain the same with respect to noticing, setting up the times, and getting the meetings ready. He reiterated what Ms. Akin had said about the fence being located on the City's zoning map and if the airport expanded the fence in the future they would have to come back to the City. He said at that point it might open things up for the City to revisit the whole topic. Mr. Adam noted that staff thought a fellow public entity that has minimal impact could be saved some time as well with the exemption.

Commissioner Whitlock asked about the staff time that goes into providing articulate and excellent reports, and would the exception save staff time. Mr. Adam responded that in the grand scheme of things when it's all taken in collectively together, the time that's devoted to looking at circulation and interaction with the public right-of-way, that component of it is probably minimal. He stated if you separate out the circulation component and just retain the aesthetic component, then you've probably not saved anything at the end of the day.

After Commissioner Whitlock clarified both his motions, Commissioner Catt withdrew his second of the proposed amendment to the original motion. Mr. Catt stated that after hearing staff's report and not relieving them of any more duties, he felt if there were to be a re-zoning of the fence area, the application would automatically come back to this Commission. He said that solved his issue of aesthetics.

Vice Chair Quinn then seconded Commissioner Whitlock's proposed amendment to his original motion.

Proposed amendment to the original motion: This Commission further recommends that City Council modify the language of sub-paragraph (11) with text approved by the City Attorney's office providing that this Commission retain its authority and responsibility to review the aesthetic adequacy of development within the secured fence area at the airport.

Moved by: Commissioner Whitlock Seconded by: Vice Chair Quinn

Roll Call Vote: Motion failed, 2–5, with Commissioners Bender, Catt, Chmelir, D'Alessandro and Turner voting "no".

Original Motion: This Commission recommends that City Council approve the proposed addition of sub-paragraph (11) to City Code §10.031 sub-section C.

Moved by: Commissioner Whitlock Seconded by: Commissioner Chmelir

Commissioner D'Alessandro thanked Commissioner Whitlock for his thoughtfulness in this process and really looking at the future of the airport. He stated he felt the proposed language was enough to mitigate further risk for the most part. Chair Bender concurred with Commissioner D'Alessandro.

Roll Call Vote: Motion passed 7–0.



CITY OF MEDFORD
AGENDA ITEM COMMENTARY

Item No: 120.2

www.ci.medford.or.us

DEPARTMENT: Planning Department

PHONE: 541-774-2380

STAFF CONTACT: James E. Huber, AICP, Planning Director

AGENDA SECTION: Public Hearings

MEETING DATE: March 3, 2016

COUNCIL BILL 2016-36

An ordinance vacating an approximate 8,080 square feet of public right-of-way located north of Dakota Avenue between Park and S. Oakdale Avenues. (SV-15-160)

SUMMARY AND BACKGROUND

An ordinance vacating approximately 8,080 square feet of public right-of-way, located north of Dakota Avenue between Park and S. Oakdale Avenues.

PREVIOUS COUNCIL ACTIONS

On January 7, 2016, the City Council adopted Resolution No. 2016-05 initiating the vacation of the subject right-of-way and setting the public hearing for March 3, 2016.

ANALYSIS

On February 11, 2016, the Planning Commission held a public hearing on the proposal and forwarded a recommendation for approval to the City Council per the attached Commission Report. Two of the affected property owners are opposed to the vacation.

FINANCIAL AND/OR RESOURCE CONSIDERATIONS

If approved, the applicant will be responsible for the applicable County recording fees.

TIMING ISSUES

None.

STRATEGIC PLAN

Theme: Quality Public Services

Goal 9: Provide a safe, multi-modal, efficient, and well planned transportation system.

COUNCIL OPTIONS

Approve, modify, or deny the ordinance

STAFF RECOMMENDATION

Staff recommends approval of the ordinance.

SUGGESTED MOTION

I move to adopt the ordinance approving the alley vacation.

EXHIBITS

Ordinance

Commission Report dated February 25, 2016, including Exhibits A through Q

A copy of the slideshow presentation is on file in the Planning Department

ORDINANCE NO. 2016-36

AN ORDINANCE vacating an approximate 8,080 square feet of public right-of-way located north of Dakota Avenue between Park and S. Oakdale Avenues.

WHEREAS, the City Council of the City of Medford, Oregon, by Resolution No. 2016-05 initiated proceedings for the vacation; and

WHEREAS, the City Council fixed 7:00 p.m. on March 3, 2016, in the Medford City Council Chambers, 411 W. 8th St., Medford, Oregon, as the time and place for hearing any objections to the proposed vacation of said area; and

WHEREAS, the City Recorder has given notice of the time and place for said hearing as required by law; and

WHEREAS, at the time and place set for hearing the City Council heard all objections to the proposed vacation; and

WHEREAS, on the basis of the facts and conclusions stated in the Staff Report dated February 25, 2016, on file in the Planning Department, the City Council has deemed it to be in the public interest that said area be vacated; now, therefore,

THE CITY OF MEDFORD ORDAINS AS FOLLOWS:

Section 1. That an approximate 8,080 square feet of public right-of-way located north of Dakota Avenue between Park and S. Oakdale Avenues, described in Exhibit A and Exhibit B attached hereto and incorporated herein, is hereby vacated and the ownership of the said area hereby vacated shall become vested as provided by law; and retain an easement for the existing public utilities.

Section 2. The Council finds and determines that written objections were not received from the owners of a majority of the area affected by the vacation.

Section 3. The Council finds and determines that the vacation of said area in the city of Medford is in the public interest and does not damage or cause a deterioration of the market value of any real property of non-consenting owners (if any) abutting the same or any portion thereof and that no damage on account thereof shall be allowed.

Section 4. The City Recorder is hereby directed to cause a certified copy of this ordinance, together with any map, plat or other record showing the area, to be filed with the County Surveyor of Jackson County, Oregon.

PASSED by the Council and signed by me in authentication of its passage this _____ day of _____, 2016.

ATTEST: _____
City Recorder

Mayor

APPROVED _____, 2016.

Mayor

State of Oregon)
County of Jackson)

On this _____ day of _____, 2016, Gary H. Wheeler, as Mayor for the City of Medford, personally appeared before me and is known to me to be the person whose name is signed to this document, and acknowledges that he signed the document.

Notary Public for Oregon
My Commission expires:

RECEIVED

NOV 19 2015

PLANNING DEPT.



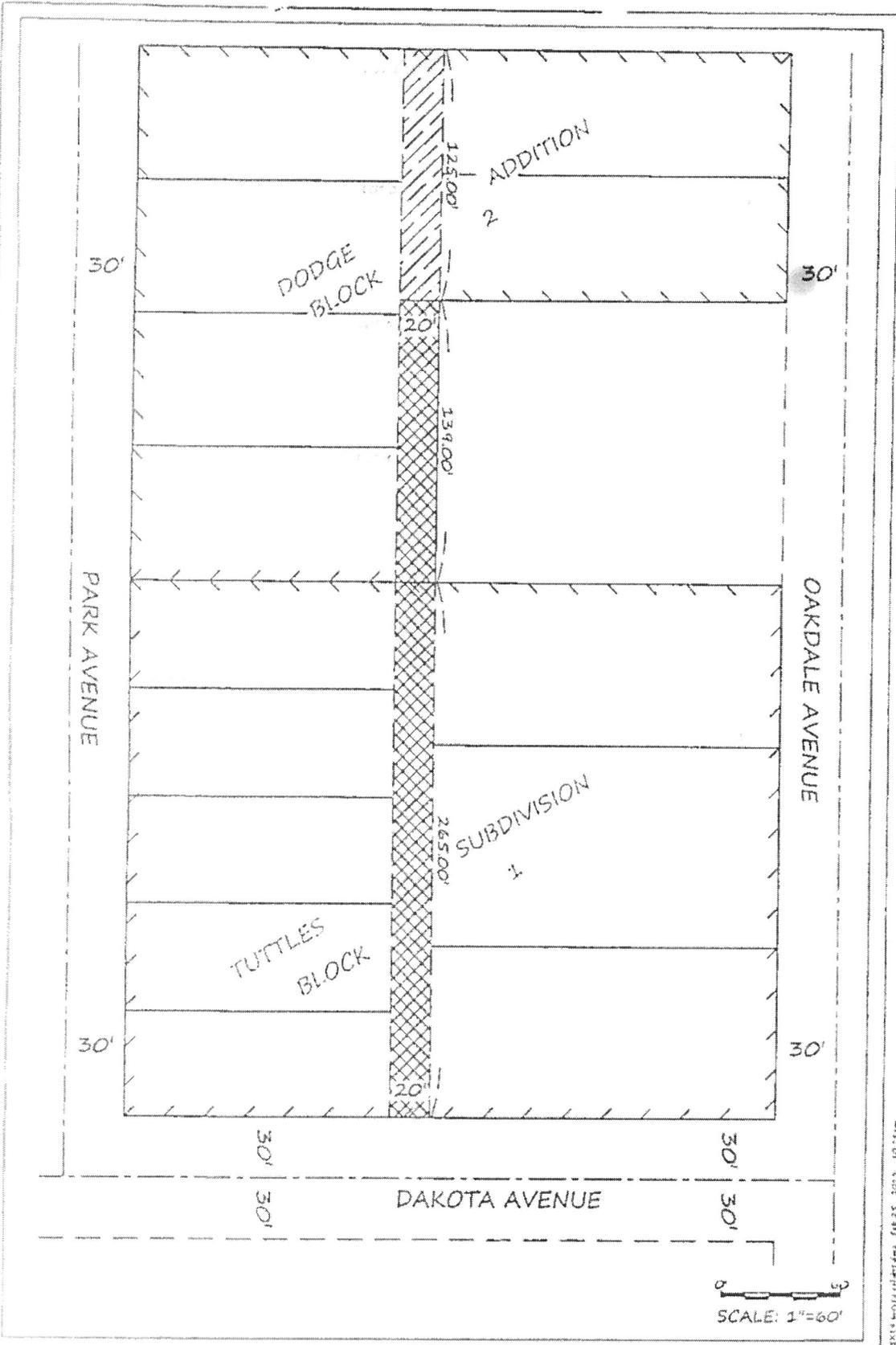
EXHIBIT A

ALLEY TO BE VACATED
FROM 371W30CC, CITY OF MEDFORD
March 16, 2015

THE 20 FOOT WIDE ALLEY EXTENDING FROM THE NORTH RIGHT-OF-WAY LINE OF DAKOTA AVENUE, NORTH 404 FEET TO THE SOUTHERLY LINE OF CITY OF MEDFORD ORDINANCE NUMBER 3802 RECORDED AS VOLUME 257 PAGE 50 OF THE JACKSON COUNTY OFFICIAL RECORDS, BEING 7 FEET NORTH OF THE EXTENDED COMMON SOUTH LINE OF LOTS 2 AND 3 OF BLOCK 2 IN DODGE ADDITION TO THE CITY OF MEDFORD AS SHOWN ON THE OFFICIAL PLAT AS RECORDED IN VOLUME 1, PAGE 42 OF PLATS, IN JACKSON COUNTY, OREGON. THE INTENT OF THIS DESCRIPTION IS TO VACATE THE SOUTH 139 FEET OF ALLEY AS DEDICATED IN BLOCK 2 OF SAID DODGE ADDITION, AND THE ENTIRE ALLEY DEDICATED IN BLOCK 1 OF TUTTLES SUBDIVISION AS SHOWN ON THE OFFICIAL PLAT AS RECORDED IN VOLUME 1, PAGE 161 OF PLATS, IN JACKSON COUNTY, OREGON.

THE GRAPHIC DEPICTION OF THE ABOVE DESCRIPTION IS SHOWN ON EXHIBIT "B" ATTACHED HERETO.

REGISTERED
PROFESSIONAL
LAND SURVEYOR
[Signature]
3/17/15
OREGON
Jan 9, 2007
JON M. PROUD
No. 77652 LS
RENEWAL DEC. 31 2016



LEGEND



AREA TO BE VACATED



AREA VACATED BY ORDINANCE NUMBER 3802, RECORDED AS VOLUME 257 PAGE 50 OF THE JACKSON COUNTY OFFICIAL RECORDS

CITY OF MEDFORD - SURVEYING DEPARTMENT

EXHIBIT "B"

VACATION OF ALLEY
20' WIDE ALLEY VACATION

WRITTEN DESCRIPTION ATTACHED AS EXHIBIT "A"

DRAWN BY	SPM	DATE	3-16-15	PROJECT NO.	
CHECKED BY	JMP	DATE	3-16-15		N/A
CITY OF MEDFORD ALLEY NUMBER X-18				SHEET NO.	
					1 OF 1

DATE FOR RECORDS: 3/16/15

History

The alley is located in southwest Medford and borders the South Oakdale Historic District on the west. The existing public right-of-way is adjacent to the rear or side yards of twelve properties, five of which are in the historic district. The surface of the alley is unpaved, covered in grass, and includes fences and trees along its borders. Overhead power lines serve the residences and a gas line is located underneath. The Public Works Department seeks to vacate the alley and remove it from the City's right-of-way inventory. The alley serves the adjacent property owners but does not provide a transportation network to the neighborhood as it has no outlet other than Dakota Avenue.

Per comments received from Avista gas representatives, if the alley is vacated a perpetual public utility easement will need to be maintained over the entire area of the alley. It is requested the construction of structures including fences be prohibited in order to keep the alley free and clear for passage. The action of vacating will revert the land back to the property owners and an easement will be retained to accommodate the needs of public utilities. (Photos, Exhibits D & E)

The City Council adopted Resolution No. 2016-05 initiating the vacation of the subject right-of-way and setting the public hearing date. The Planning Commission held a hearing on February 11, 2016, and voted 5-0-1 to recommend adoption to the Council. (Exhibit B) The findings in support of this amendment are contained in Exhibit A at the end of this report.

Committee Comments

The proposal was presented to both the Landmarks and Historic Preservation Commission (LHPC) and the Bicycle and Pedestrian Advisory Committee (BPAC) for feedback and comments. The LHPC asked questions about the benefit of returning this land back to the adjacent property owners and the property owners' responsibility for keeping the alleyway free of obstructions. They do not want issues related to possible dumping of garbage or materials to negatively impact the historic district or become a financial burden to the homeowners.

The discussion of the proposal with the BPAC led to a suggestion to maintain a pedestrian and bicycle easement for future use.

Agency Comments

The following agencies did not have any concerns or issues with the proposal: Medford Fire Department, Rogue Valley Sewer Services, Medford Water Commission, and the Oregon Department of Transportation. Pertinent comments received from Avista Gas, Medford Public Works Department, and the Jackson County Assessor's office are incorporated in the report and attached. (See Exhibits F-H)

Authority

This proposed project is a Class-B application for the vacation of an alley. The Planning Commission is authorized to recommend, and the City Council to approve vacations under Medford Municipal Code §§10.102–122, 10.165, and 10.185.

ANALYSIS

The Public Works Department has requested vacating the alley and returning the land to the adjacent property owners. This alley is 20 feet wide and dead-ends 404 feet north from its starting point at Dakota Avenue. The existing unpaved green space provides function and access to property owners and several utility companies but does not serve a larger transportation network in the neighborhood. Testimony in the record from Avista gas requests the retention of an unobstructed easement (which would include no fences being built) over the land being vacated in order to accommodate servicing and maintaining the existing utilities along the alley.

Planning staff concurs with the utility company's request to maintain unobstructed access to their services however recognizes the inherent conflict between access for the utilities and use of the land by individual property owners. It is difficult to accommodate both sides if the land is returned to the property owners.

The Planning Commission discussed the easement language with public works and legal staff to assess the protections afforded to the utility companies. The Planning Commission appeared comfortable with the answers given and recommended approval of the alley vacation to the City Council. Two of the twelve property owners affected by the proposal have spoken in opposition to the request.

RECOMMENDATION

The Planning Commission recommends approving the alley vacation based on the analyses, findings, and conclusions in the Commission Report dated February 25, 2016, including Exhibits A through Q.

EXHIBITS

- A Findings and Conclusions
- B Minutes, Planning Commission, February 11, 2015
- C Legal description and map showing alley location
- D Photo of the alley looking north
- E Photo of the alley looking south
- F Avista Utilities comments
- G Public Works Department comments
- H Jackson County Assessor's office comments
- I Applicant's findings of fact

- J Map showing property owner responses to request
- K E-mail dated July 15, 2015, from Aaron Thayer opposing the vacation
- L Consent form from Ursula Robichaud
- M Consent form from Arthur Peterson Jr.
- N Consent form from Jeff & Susan Fish
- O Letter dated February 10, 2016, from Alison & Dimitrios Kalemkeris
- P Consent form from Alison & Dimitrios Kalemkeris (since revoked)
- Q Consent form from Phyllis Couch
Vicinity Map

CITY COUNCIL AGENDA: March 3, 2016

Exhibit A

Findings and Conclusions

The criteria that apply to code amendments are in Medford Municipal Code §10.202. The criteria are rendered in italics; findings and conclusions in roman type.

A request to vacate shall only be approved by the approving authority (City Council) when the following criteria have been met:

10.202(1). Compliance with the Public Facilities Element of the Comprehensive Plan, including the Transportation System Plan.

Findings

A review of the goals and policies in the Comprehensive Plan that relate to public facilities and transportation do not specifically address the topic of right-of-way vacation. In general, the proposal will not impact the greater transportation system or governmental utility lines such as water, sewer, or storm drain. The effect of the vacation reverts the public right-of-way back to adjacent property owners for ownership and maintenance and retains an easement for use by the utility companies. One utility company has requested unobstructed access be maintained and noted in the easement language over the land. The applicant's findings identify transportation goals and policies that support the alley vacation. (Exhibit I)

Conclusions

Generally, the goals and policies support the vacation of the alley as there are no direct links to vacating right-of-way. The criterion is satisfied.

10.202 (2). If initiated by petition under ORS 271.080, the findings required by ORS 271.120.

Findings

The application was not initiated by petition; therefore the findings required by ORS 271.120 are not applicable.

Conclusions

This criterion is not applicable to the project.

10.202 (3). If initiated by the Council, the applicable criteria found in ORS 271.130.

The proposal will comply with the requirement of ORS 271.130 if the City Council can make the following findings:

- a. That the owners of more than 50% of the affected area do not object in writing; and*
- b. That the vacation will not substantially affect the market value of any abutting property where the owner objects, unless the City provides for paying damages to the owner.*

Findings

The City Council initiated the vacation on Thursday, January 7, 2016, by Resolution 2016-05. The Public Works Department mailed letters and consent forms to affected property owners in July and November 2015. Originally, five consent forms were received in favor and one e-mail was received in opposition of the vacation request. The day of the Planning Commission hearing a letter was received from the Kalemkeris residence removing their consent form (Exhibit O). A map showing the updated location of property owner responses is attached. (Exhibit J) The City has heard from half of the twelve affected property owners with the majority of responses received in favor of the alley vacation. (Exhibits K–N; P)

Based on a preliminary discussion with the Jackson County Assessor's office, the alley vacation should not have a substantial effect on the market values of the subject properties. (Exhibit H)

Conclusions

Due to an increase in land area to the individual properties adjacent to the alley, an increase in market value is possible but a substantial effect positively or negatively is not likely. The criterion is satisfied.

Exhibit B

Planning Commission Minutes, 2/11/2016

(Excerpt)

50.1 SV-15-160 Consideration of a request to vacate a public alley located between Oakdale Avenue and Park Avenue that extends northerly 402 feet from Dakota Avenue. (City of Medford, Public Works Department, Applicant/Agent)

Chair Miranda inquired whether any Commissioners have a conflict of interest or ex parte communication they would like to disclose. Vice Chair McFadden stated that he did not have a conflict of interest or ex parte communication but he submitted testimony for his employer regarding this application. Due to that issue he recused himself.

Chair Miranda inquired whether anyone in attendance wishes to question the Commission as to conflicts of interest or ex-parte contacts. None were disclosed.

Jennifer Jones, Planner III, read the street vacation criteria and gave a staff report. Ms. Jones reported that a letter in opposition of the application was received today. It was emailed to the Planning Commissioners and they have a copy of the letter at their places. It will be submitted into the record as Exhibit O.

Commissioner D'Alessandro asked if there was a precedence set for other properties or areas that the City has done this. The concern is from Avista in their testimony and the opposing property owners. Ms. Jones reported that the City has done other vacations. The last vacation she brought to the Planning Commission was for additional area of right-of-way. There was an easement placed on that particular area. It was less of an issue regarding the fencing. The Public Works Department may want to speak to that further. It is her understanding that it is typical to have an easement in the case of any utilities.

Commissioner Foley asked where will the utilities go? Is it correct that it ends on personal property at the end? He is assuming the utilities do not stop at 400 feet. Ms. Jones stated that she would assume they continue underneath and the overhead power as well. It is common to have easements through the rear of properties. In this particular case that is what Avista asked for.

Commissioner Foley stated that if it is good for the people at the end of the alley to have fences on that property, why is it not good for the affected properties? Ms. Jones deferred the question to the City Engineer.

Alex Georgevitch, City Engineer, stated that there will be a series of alley vacations coming forward over the next year or two. These are all paper alleys. That means they were never improved. Often utilities go down an alley and just stop because that is the end of their service line. They could continue with a private easement through someone's property or they may not have an easement. Public Works does not have information on public utilities that are not City owned facilities. Public Works often recommends an easement because they may have utilities in that area along with other utilities. Avista is making a recommendation because they want to make sure they have clear access. Utilities are in the back of lots that are fenced. As a recommendation, if the Planning Commission chooses to forward a recommendation of not following Avista's request, the Commission could include language in the easement agreement that if there are any costs associated with moving the fence it is the burden of the property owner.

Commissioner Pulver reported that Mr. Georgevitch mentioned modifying the easement language that moving the fence would be the burden of the property owner. Is that common, uncommon or case-by-case? Mr. Georgevitch replied that it is case-by-case. The standard form does not include that language. A fence is not considered a structure under the Oregon Residential Specialty Code if it is less than 7 feet high. Therefore, under the Code no permit is required. The reason he suggested that language is that someone could build a fence without the City knowing.

Mr. McConnell reported that he does not see any problem with that language. If there is a public utility easement required by the City per the Code, the Planning Commission could include that language or leave it silent. If a property owner builds a fence where there is a recorded public utility easement they take a risk that a utility company could access their property at the burden of the property owner's cost. Mr. McConnell recommended using the general language and not to add anything special.

Commissioner Pulver asked if Mr. McConnell believes it is clear as who bears the cost of repairing a fence if a utility company needs to access the property. Mr. McConnell stated that it is clear under the law.

The public hearing was opened.

a. Aaron R. Thayer, 705 Park Avenue, Medford, Oregon, 97501. Mr. Thayer objects to vacating the property on the condition that it could be blocked off. There is an Avista gas line, Pacific Power has the power line and Charter has their cable line. Approximately every two years Pacific Power has a company trim the trees back from the power line. He is unsure of how an easement will affect his property taxes. The Assessor's office has told him that it should not have a significant affect. If his taxes go up because 700 feet of the easement is now his property he is adversely affected. He did not buy 700 feet, does not want ownership of that 700 feet and he certainly does not want his taxes raised because of an action of the parties. He objects to the vacation of the alley.

Commissioner D'Alessandro asked if Mr. Thayer currently utilizes the alley. Mr. Thayer stated that he does not utilize the alley frequently. He has several large trees that hang over that property. In order for an arborist to come in and take care of the trees it is essential they have access for their vehicles and equipment. The City has never maintained the alley.

The public hearing was closed.

Motion: Based on the findings and conclusions that all of the approval criteria are met or are not applicable, the Planning Commission forwards a favorable recommendation to the City Council for approval of the alley vacation, SV-15-160, per the staff report dated February 4, 2016, including Exhibits A through N and adding Exhibit O into the record.

Moved by: Commissioner Pulver Seconded by: Commissioner Fincher

Voice Vote: Motion passed, 5-0-1, with Vice Chair McFadden recusing himself.

Exhibit C

Legal Description and Map showing alley location

[Cover sheet]

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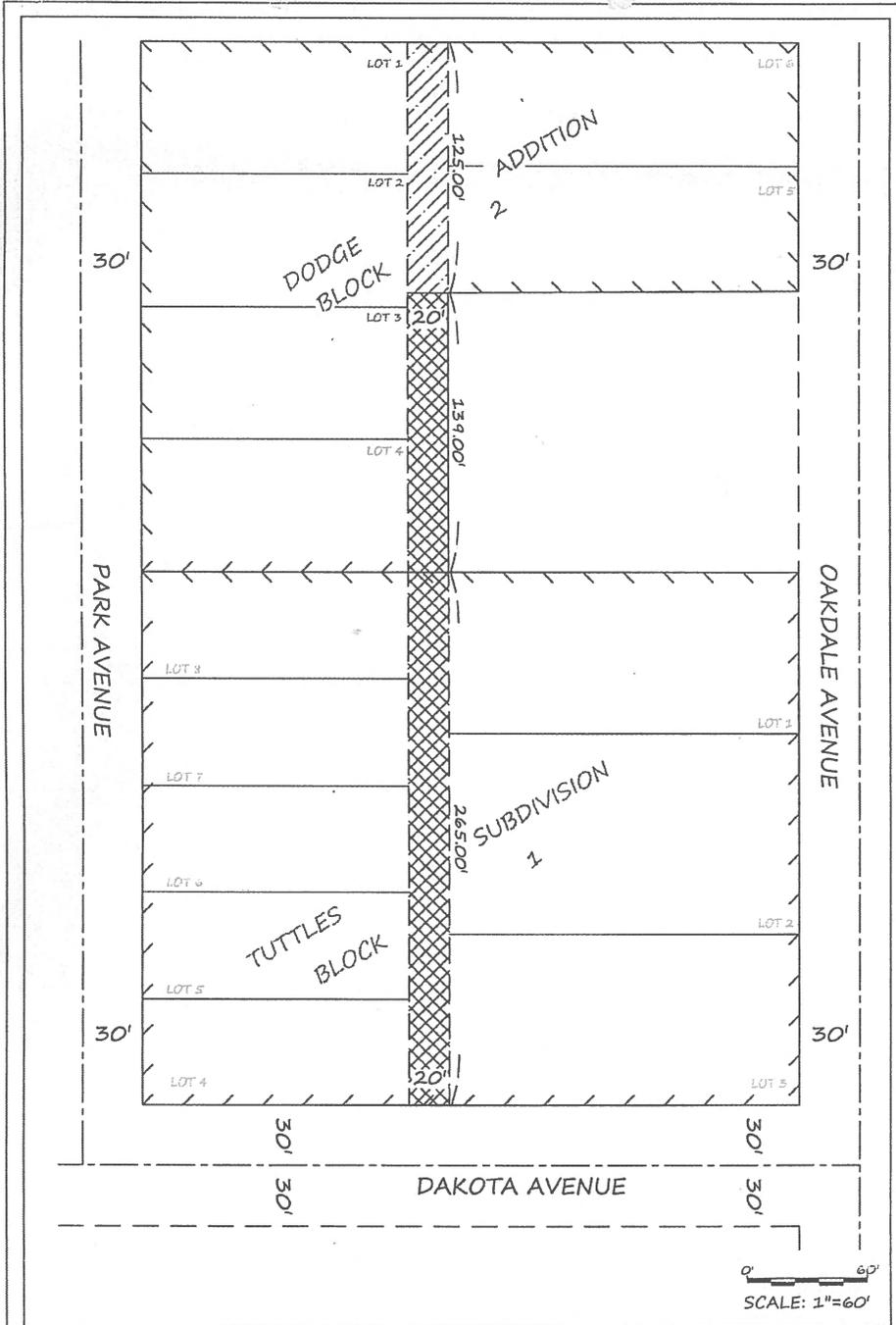
EXHIBIT A

ALLEY TO BE VACATED
FROM 371W30CC, CITY OF MEDFORD
March 16, 2015

THE 20 FOOT WIDE ALLEY EXTENDING FROM THE NORTH RIGHT-OF-WAY LINE OF DAKOTA AVENUE, NORTH 404 FEET TO THE SOUTHERLY LINE OF CITY OF MEDFORD ORDINANCE NUMBER 3802 RECORDED AS VOLUME 257 PAGE 50 OF THE JACKSON COUNTY OFFICIAL RECORDS, BEING 7 FEET NORTH OF THE EXTENDED COMMON SOUTH LINE OF LOTS 2 AND 5 OF BLOCK 2 IN DODGE ADDITION TO THE CITY OF MEDFORD AS SHOWN ON THE OFFICIAL PLAT AS RECORDED IN VOLUME 1, PAGE 42 OF PLATS, IN JACKSON COUNTY, OREGON. THE INTENT OF THIS DESCRIPTION IS TO VACATE THE SOUTH 139 FEET OF ALLEY AS DEDICATED IN BLOCK 2 OF SAID DODGE ADDITION, AND THE ENTIRE ALLEY DEDICATED IN BLOCK 1 OF TUTTLES SUBDIVISION AS SHOWN ON THE OFFICIAL PLAT AS RECORDED IN VOLUME 1, PAGE 161 OF PLATS, IN JACKSON COUNTY, OREGON.

THE GRAPHIC DEPICTION OF THE ABOVE DESCRIPTION IS SHOWN ON EXHIBIT "B" ATTACHED HERETO.





LEGEND

- AREA TO BE VACATED
- AREA VACATED BY ORDINANCE NUMBER 3802, RECORDED AS VOLUME 257 PAGE 50 OF THE JACKSON COUNTY OFFICIAL RECORDS

371W30CC

CITY OF MEDFORD - SURVEYING DEPARTMENT			
EXHIBIT "B"			
VACATION OF ALLEY			
20' WIDE ALLEY VACATION			
WRITTEN DESCRIPTION ATTACHED AS EXHIBIT "A"			
DRAWN BY: SPM	DATE: 3-16-15	PROJECT NO.	
CHECKED BY: JMP	DATE: 3-16-15		N/A
DATE:	DATE:		
NOTE: CITY OF MEDFORD ALLEY NUMBER X-18		SHEET NO.	
			1 OF 1

Drawing name: P:\STAFF_FOLDERS\Glen\AUTOCAD\2015\2015-10-25\2015-10-25.dwg PLOT DATE: 2/25/2016 10:25am

Exhibit D

Photo of Alley looking North



Exhibit E

Photo of Alley looking South



Exhibit F

Avista Utilities Comments (12/18/2015)

Carla G. Paladino

From: McFadden, David <David.McFadden@avistacorp.com>
Sent: Friday, December 18, 2015 2:01 PM
To: Carla G. Paladino
Subject: SV-15-160 Comments Avista

Ms Paladino

Avista Utilities has a natural gas service main and at least 15 services to the residences that are adjacent and contiguous to this alley-way. I believe the City refers to this as being alley "A-99-X-18". FYI, The City's "Exhibit B" does not match the lot-line configurations provided Avista by the County.

Avista asks that if the City approves this Alley Vacation; that the City follow standard procedures; and create a Public Utility Easement over the whole area of the alley. This PUE should prohibit the construction of buildings, sheds, and fences on or over the vacated alley way, and require that the homeowners keep this alley passable.

Thank You
David McFadden,
Avista, Medford

A THOUGHT FOR TODAY:

A man of courage never needs weapons, but he may need bail. -Lewis Mumford, writer and philosopher (19 Oct 1895-1990)

A man is like a fraction whose numerator is what he is and whose denominator is what he thinks of himself. The larger the denominator, the smaller the fraction. -Leo Tolstoy, novelist and philosopher (9 Sep 1828-1910)

Wise sayings often fall on barren ground; but a kind word is never thrown away. -Arthur Helps, writer (10 Jul 1813-1875)

"A great nation is not saved by wars, it is saved 'by acts without external picturesqueness; by speaking, writing, voting reasonably; by smiting corruption swiftly; by good temper between parties; by the people knowing true men when they see them, and preferring them as leaders to rabid partisans or empty quacks.' ---William James, American Philosopher & Psychologist, 1842-1910

Exhibit G

Public Works Department Comments (01/20/2016)



Continuous Improvement Customer Service

CITY OF MEDFORD

Date: 1/20/2016
File Number: SV-15-160

PUBLIC WORKS DEPARTMENT STAFF REPORT Dakota Alley Vacation

- Project:** Request to vacate a public alley located between Oakdale Avenue and Park Avenue that extends northerly 402 feet from Dakota Avenue.
- Applicant:** City of Medford Public Works, Applicant (Peter Mackprang, Agent). Carla Paladino, Planner.

Public Works concurs with the request to vacate the subject existing right-of-way, with the condition that an easement over the entire area shall be reserved for unidentified public utilities that may exist therein. The easement shall include the right to access, maintain, and construct these utilities within the easement area.

Prepared by: Doug Burroughs

P:\Staff Reports\SV\2015\SV-15-160 Alley off Dakota\SV-15-160 Staff Report.docx

Page 1

PUBLIC WORKS DEPARTMENT
ENGINEERING & DEVELOPMENT DIVISION
200 S. IVY STREET
MEDFORD, OREGON 97501
www.ci.medford.or.us

TELEPHONE (541) 774-2100
FAX (541) 774-2552

Exhibit H

Jackson County Assessor's Office Comments (01/29/2016)

Carla G. Paladino

To: Angela Stuhr
Subject: RE: Alley Vacation

From: Angela Stuhr [<mailto:StuhrAA@jacksoncounty.org>]
Sent: Friday, January 29, 2016 12:00 PM
To: Carla G. Paladino
Subject: RE: Alley Vacation

Carla,
It appears that some of the lots will see very small increases in market value assuming their lots increase. They are:

705 Park Av (Thayer)
706 Oakdale Av (Curphey)
704 Oakdale Av (Fish)
620 Oakdale Av (Defty)

Because I don't know the amount of land that could possibly accrue to them (and we haven't completed our analysis of values for the current year), I can't be specific. The remaining lots do not appear to be subject to an increase in value, but again, without knowing how much land would accrue, we can't be certain. What I feel confident about is that, if these lots each accrue land according to their frontage on the alley, there should be no substantial affect on their market values.

Hope this helps,

ANGELA STUHR
PROPERTY APPRAISER III
LEAD RESIDENTIAL APPRAISER
JACKSON COUNTY OREGON
DEPARTMENT OF ASSESSMENT
10 S OAKDALE AV, ROOM 300
MEDFORD, OR 97501
(541) 774-6051 PHONE
(541) 774-6701 FACSIMILE

From: Carla G. Paladino [<mailto:Carla.Paladino@cityofmedford.org>]
Sent: Friday, January 29, 2016 10:51 AM
To: Angela Stuhr <StuhrAA@jacksoncounty.org>
Subject: Alley Vacation

Hi Angela,

Thank you for your time this morning to discuss market value regarding vacation of an alley. The project I am working on is a north/south public alley that starts on Dakota Avenue in between Park and S. Oakdale Avenues in Medford.

I am trying to understand and answer the following criterion:
"That the vacation will not substantially affect the market value of any abutting property where the owner objects, unless the City provides for paying damages to the owner."

To date, I have one property owner who objects.

Exhibit I

Applicant's Findings of Fact

BEFORE THE PLANNING COMMISSION AND CITY COUNCIL FOR THE CITY OF MEDFORD, OREGON:
IN THE MATTER OF: An Application for Vacation of a Public Right-of-Way

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FINDINGS OF FACT

I. Factual Evidence Pertaining to the Application:

Applicant: City of Medford
411 W. 8th St.
Medford, OR 97501

Legal Description: A 20 foot wide alley located in the southwest quarter of Section 30, Township 37 South, Range 1 West of the Willamette Meridian, Jackson County, Oregon in the City of Medford, Jackson County, Oregon lying between Dakota Avenue, 11th Street, Oakdale Avenue, and Park Avenue, and more particularly described as follows:

The 20 foot wide alley extending from the north right of way line of Dakota Avenue, north 404 feet to the southerly line of City of Medford Ordinance Number 3802 recorded as volume 257 page 50 of the Jackson County official records, being 7 feet north of the extended common south line of lots 2 and 5 of block 2 in Dodge Addition to the City of Medford as shown on the official plat as recorded in Volume 1, page 42 of plats, in Jackson County, Oregon.

Agent: Cory Crebbin, P.E., Director of Public Works
City of Medford
411 W. 8th St.
Medford, OR 97501

Location: Mid-block parallel and between South Oakdale Avenue and South Park Avenue, extending from its South terminus at Dakota Avenue to its North terminus 404 feet North of Dakota Avenue.

Zoning: The zoning designation in this area is SFR-10.

Area to be Vacated: 20-feet in width and approximately 404 feet in length measured from the North edge of the Dakota Avenue right-of-way to the southerly line of lots 2 and 5 in the Dodge Addition.

Public Facilities: Public facilities apparently in place are overhead electric power, and possibly overhead communications cables. Underground facilities apparently in place are Avista Gas There are no other apparent underground facilities such as water, storm drainage, or sanitary sewer. A public utility easement will be reserved for existing public utilities.

BEFORE THE PLANNING COMMISSION AND CITY COUNCIL FOR THE CITY OF MEDFORD, OREGON:

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City of Medford
411 W. 8th St.
Medford, OR 97501

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Zoning: The zoning designation in this area is SFR-10.

Area to be Vacated: 20-feet in width and approximately 404 feet in length measured from the North edge of the Dakota Avenue right-of-way to the southerly line of lots 2 and 5 in the Dodge Addition.

Public Facilities: Public facilities apparently in place are overhead electric power, and possibly overhead communications cables. Underground facilities apparently in place are Avista Gas There are no other apparent underground facilities such as water, storm drainage, or sanitary sewer. A public utility easement will be reserved for existing public utilities.

(3) Assessor's maps of the proposed vacation area identifying abutting and affected properties. The assessor's maps shall identify those parcels for which consents to vacate have been acquired.

(4) Consent to vacate forms completed and signed by all consenting property owners within the abutting and/or affected area.

(5) Names and addresses of all abutting and/or affected property owners, including map and tax lot numbers typed on mailing labels.

(6) Findings prepared by the applicant or applicant's representative.

[Amd. Sec. 27, Ord. No. 7659, June 2, 1994.]”

Section 10.202 allows the request for vacation to be favorably considered if the following criteria have been addressed:

“A request to vacate shall only be favorably considered by the approving authority (City Council) when the following criteria have been addressed:

(1) Compliance with the Public Facilities Element of the Comprehensive Plan.

(2) If initiated by petition under ORS 271.080, the Council shall make the findings required by ORS 271.120.

(3) If initiated by the Council, applicable criteria are found in ORS 271.130.

[Amd. Sec. 28, Ord. No. 7659, June 2, 1994.]”

Subparagraph (2) of Section 10.202 does not apply to this application because this request is for Council initiation of a vacation.

IV. Demonstration of Compliance:

This application is initiated by City Council under the authority of ORS 271.130 in accordance with Medford Land Development Code 10.200.

The notices and postings required by ORS 271.110 were accomplished not less than 14 days prior to the public hearing.

Approval of this vacation will not substantially affect the market value of any abutting property. All properties abutting the alley have access to public streets.

FINDING:

The City Council finds that the City has the authority to initiate vacation without a petition as authorized by ORS 271.130.

APPLICATION FORM:

Medford Land Development Code 10.201 requires that a vacation application include:

1. Vicinity Map drawn at a scale of 1" = 1,000' identifying the proposed area of vacation.
2. Legal description of area proposed to be vacated emailed or on a CD, in Microsoft Word format.
3. Assessor's maps of the proposed vacation area identifying abutting and affected properties. The assessor's maps shall identify those parcels for which consents to vacate have been acquired.
4. Consent to vacate forms completed and signed by all consenting property owners within the abutting and/or affected area.
5. Names and addresses of all abutting and/or affected property owners, including map and tax lot numbers typed on mailing labels.
6. Findings prepared by the applicant or applicant's representative.

FINDING:

The City Council finds that the required information has been submitted.

NOTICE REQUIREMENTS AND MARKET VALUE EFFECT:

ORS 271.130 authorizes the governing body to initiate vacation proceedings authorized by ORS 271.080 and make such vacation without a petition or consent of property owners. ORS 271.130 requires:

- (1) Notice to be given as provided by 271.110, and
- (2) Vacation shall not be made before the date set for hearing.

In order to vacate, ORS 271.130 requires that the following conditions be met:

(a) The owners of a majority of the area affected, computed on the basis provided in ORS 271.080, do not object in writing thereto, and

(b) Consent of any abutting properties is required if the vacation will substantially affect the market value of such property unless the city governing body provides for paying damages.

FINDING:

The City Council finds that the notice requirements of ORS 271.110 have been fulfilled based on the evidence in the record.

The City Council finds that a majority of the affected property owners as determined by ORS 271.080 have not objected in writing to proposed vacation based on the lack of such objections filed at the conclusion of the public hearing on this matter.

The City Council finds that the market value of no abutting properties will be substantially affected by the proposed vacation. All properties abutting the alley have access to public streets.

COMPREHENSIVE PLAN:

Medford Municipal Code 10.202 requires compliance with the Public Facilities Element of the Comprehensive Plan in order to favorably consider a vacation.

Applicable goals and policies of the Transportation System Plan Element of the Comprehensive Plan are:

Goal 1: To provide a multi-modal transportation system for the Medford planning area that supports the safe, efficient, and accessible movement of all people and goods, and recognizes the area's role as the financial, medical, tourism, and business hub of Southern Oregon and Northern California.

Discussion - All affected properties are served by interconnected local streets. The right-of-way proposed for vacation does not currently support the transportation system.

Goal 2: To provide a comprehensive street system that serves the mobility and multi-modal transportation needs of the Medford planning area.

Policy 2-A: The City of Medford shall classify streets so as to provide an optimal balance between mobility and accessibility for all transportation modes consistent with street function.

Implementation 2-A(3): Provide a grid network of interconnected lower order (local) streets that disperses traffic and supplies connections to higher order streets, employment centers, and neighborhood activity centers, and provides appropriate emergency access.

Discussion - The affected area is presently served by a grid network of lower order streets in the absence of transportation improvements on the right-of-way proposed for vacation. All affected properties currently have appropriate access to existing improved lower order streets.

Policy 2-C: The City of Medford shall design the street system to safely and efficiently accommodate multiple travel modes with public rights-of-way.

Implementation 2-C(4): Involve affected citizens in an advisory role in transportation project design.

Discussion - All travel modes currently are safely and efficiently served on existing improved streets. Additional transportation improvements to the right-of-way proposed for vacation will not enhance any mode of travel. All affected citizens (e.g. 'affected properties' defined by state law) have been notified in writing of this proposed right-of-way vacation. Public Works Department staff have contacted all property owners abutting the alley by letter requesting that they fill out and return a consent form. To date three consent forms were returned and one email in opposition.

Implementation 2-C(9): Limit cul-de-sac streets, minimum access streets, and other "dead end" development to situations where access cannot otherwise be made by a connected street pattern due to topography or other constraints.

Discussion - The proposed vacation will not create cul-de-sac, minimum access, or dead end development; and access is currently provided by a connected street pattern.

SUMMARY AND CONCLUSIONS

Based upon an analysis of the Medford Comprehensive shown above, and information included in the application, the Medford City Council can conclude:

This vacation does not prejudice the public interests, and the City of Medford hereby vacates the described public right-of-way consistent with the information contained in these findings. Furthermore, the vacation is in the public interest.

Respectfully submitted this ___ day of _____, 2015.

City of Medford Public Works Department
Cory J. Crebbin, P.E., Public Works Director

P:/STAFF FOLDERS/PETER/Alley Vacations/Alley X-18

Exhibit J

Map showing Property Owner responses to request

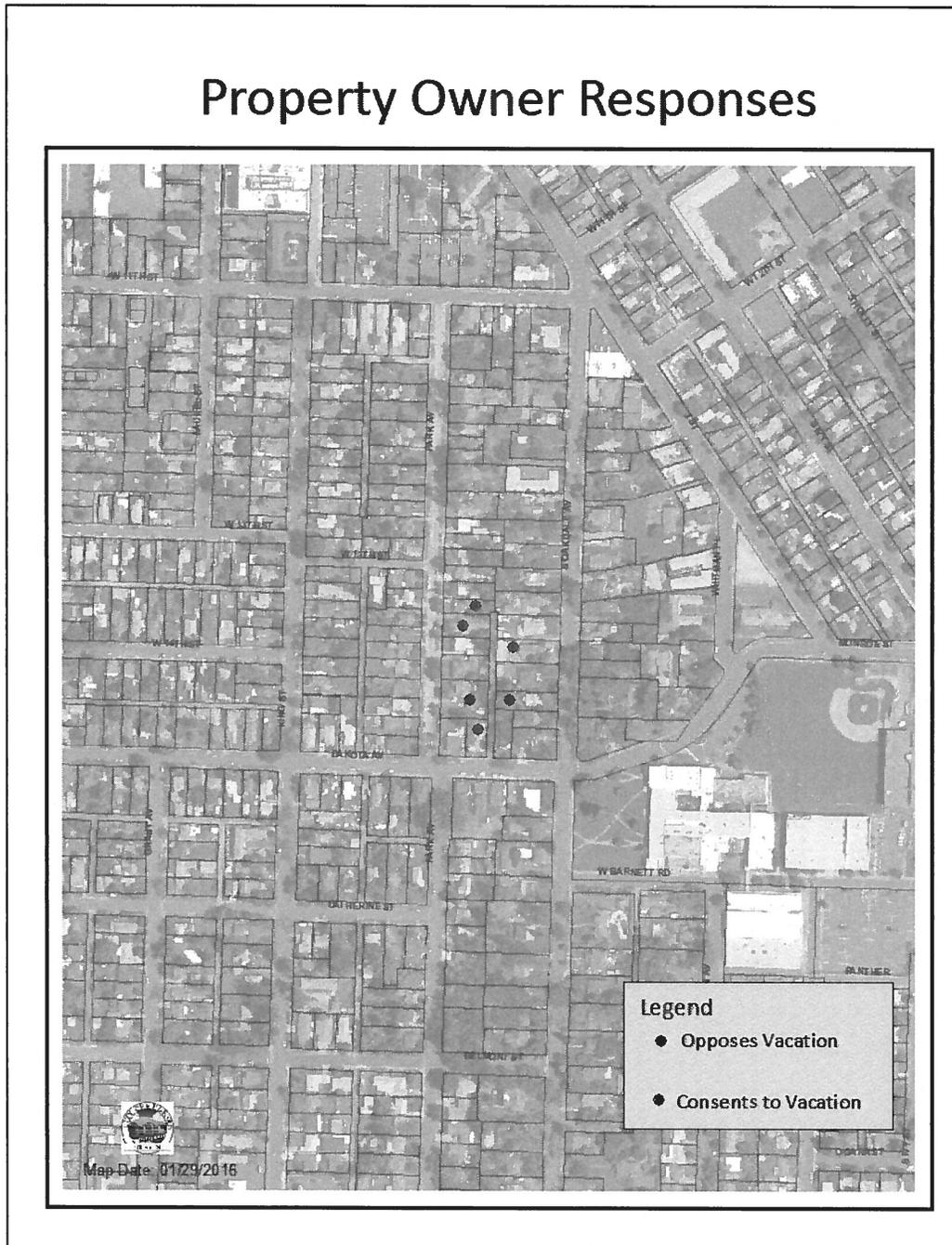


Exhibit K

E-mail dated July 15, 2015, from Aaron Thayer opposing the vacation

Peter T. Mackprang

From: Aaron Thayer <athayersbd@gmail.com>
Sent: Wednesday, July 15, 2015 6:06 PM
To: Peter T. Mackprang
Subject: Proposed vacating of alley

RECEIVED

NOV 19 2015

PLANNING DEPT.

Dear Sir,

I am very much opposed to the city vacating the alley as described in your letter of July 13, 2015. It may not be of value to the City of Medford Transportation system but it still has value to the property owners who abut it.

You state in your letter that the adjoining property owners could extend fences to the center of the alley. You also state correctly that it must remain a utility easement. There is a natural gas feeder line located down the approximate center of the alley and Pacific Power has a power line running on the east edge of the alley. If fences were to be moved it would effectively close off access to these utilities for maintenance and repair. Further, there are many large trees on each side of the alley which must be kept trimmed away from the power line on a periodic basis. Trees Inc. (the contractor for Pacific Power) could not get access for their bucket trucks and chipper if there are fences in the way.

In addition, some of the adjoining property owners use the alley as a means of access to the back of their properties for such purposes as unloading of firewood, disposal of downed limbs, etc.

If the City of Medford has considered these issues and can give a rational, logical explanation of how they would be handled I would be interested in seeing it in writing. I personally maintain the alley (mowing grass, trimming trees, etc.) where it abuts my property and would very much like to keep access.

Thank you for your consideration.

Aaron R. Thayer
705 Park Ave.
Medford, OR 97501

Exhibit L

Consent form from Ursula Robichaud

Consent

The undersigned hereby gives full consent to vacation by the City of Medford through its City Council of an alley approximately 404 feet in length located north of Dakota Ave between Oakdale Ave and Park Ave, described as:

THE 20 FOOT WIDE ALLEY EXTENDING FROM THE NORTH RIGHT-OF- WAY LINE OF DAKOTA AVENUE, NORTH 404 FEET TO THE SOUTHERLY LINE OF CITY OF MEDFORD ORDINANCE NUMBER 3802 RECORDED AS VOLUME 257 PAGE 50 OF THE JACKSON COUNTY OFFICIAL RECORDS, BEING 7 FEET NORTH OF THE EXTENDED COMMON SOUTH LINE OF LOTS 2 AND 5 OF BLOCK 2 IN DODGE ADDITION TO THE CITY OF MEDFORD AS SHOWN ON THE OFFICIAL PLAT AS RECORDED IN VOLUME 1, PAGE 42 OF PLATS, IN JACKSON COUNTY, OREGON. THE INTENT OF THIS DESCRIPTION WAS TO VACATE THE SOUTH 139 FEET OF ALLEY AS DEDICATED IN BLOCK 2 OF SAID DODGE ADDITION, AND THE ENTIRE ALLEY DEDICATED IN BLOCK 1 OF TUTTLES SUBDIVISION AS SHOWN ON THE OFFICIAL PLAT AS RECORDED IN VOLUME 1, PAGE 161 OF PLATS, IN JACKSON COUNTY, OREGON.

THE GRAPHIC DEPICTION OF THE ABOVE DESCRIPTION IS SHOWN ON EXHIBIT "B" ATTACHED HERETO.

Property owner(s) signature Ursula Robichaud

STATE OF Oregon)
COUNTY OF Jackson) ss.

Personally appeared the above named Ursula Robichaud

And acknowledged the forgoing instrument to be a voluntary act and deed.



Sheila M. Giorgetti
Notary Public for Oregon
My commission expires 3-13-16

Exhibit M

Consent form from Arthur Peterson Jr.

Consent

The undersigned hereby gives full consent to vacation by the City of Medford through its City Council of an alley approximately 404 feet in length located north of Dakota Ave between Oakdale Ave and Park Ave, described as:

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THE GRAPHIC DEPICTION OF THE ABOVE DESCRIPTION IS SHOWN ON EXHIBIT "B" ATTACHED HERETO.

Property owner(s) signature

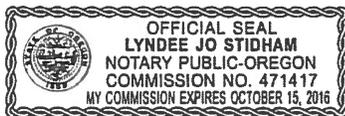
Arthur G. Peterson Jr.

STATE OF Oregon)

COUNTY OF Jackson) ss.

Personally appeared the above named Arthur G. Peterson Jr.

And acknowledged the forgoing instrument to be a voluntary act and deed.



Lyndee Jo Stidham
Notary Public for _____

My commission expires October 15, 2016

Exhibit N

Consent form from Jeff and Susan Fish

RECEIVED

NOV 19 2016

PLANNING DEPT.

Consent

The undersigned hereby gives full consent to vacation by the City of Medford through its City Council of an alley approximately 404 feet in length located north of Dakota Ave between Oakdale Ave and Park Ave, described as:

THE 20 FOOT WIDE ALLEY EXTENDING FROM THE NORTH RIGHT-OF- WAY LINE OF DAKOTA AVENUE, NORTH 404 FEET TO THE SOUTHERLY LINE OF CITY OF MEDFORD ORDINANCE NUMBER 3802 RECORDED AS VOLUME 257 PAGE 50 OF THE JACKSON COUNTY OFFICIAL RECORDS, BEING 7 FEET NORTH OF THE EXTENDED COMMON SOUTH LINE OF LOTS 2 AND 5 OF BLOCK 2 IN DODGE ADDITION TO THE CITY OF MEDFORD AS SHOWN ON THE OFFICIAL PLAT AS RECORDED IN VOLUME 1, PAGE 42 OF PLATS, IN JACKSON COUNTY, OREGON. THE INTENT OF THIS DESCRIPTION WAS TO VACATE THE SOUTH 139 FEET OF ALLEY AS DEDICATED IN BLOCK 2 OF SAID DODGE ADDITION, AND THE ENTIRE ALLEY DEDICATED IN BLOCK 1 OF TUTTLES SUBDIVISION AS SHOWN ON THE OFFICIAL PLAT AS RECORDED IN VOLUME 1, PAGE 161 OF PLATS, IN JACKSON COUNTY, OREGON.

THE GRAPHIC DEPICTION OF THE ABOVE DESCRIPTION IS SHOWN ON EXHIBIT "B" ATTACHED HERETO.

Property owner(s) signature _____

Jeff Fish

STATE OF Oregon)

COUNTY OF Jackson) ss.

Personally appeared the above named Jeff Fish and Susan Fish

And acknowledged the forgoing instrument to be a voluntary act and deed.



Sheila M. Giorgetti

Notary Public for Jackson County

My commission expires 3-13-16

Exhibit O

Letter from Kalemkeris residence dated January 10, 2016

RECEIVED

FEB 11 2016

PLANNING DEPT.

File No.: SV-15-160

2-10-16

To Whom It May Concern:

We would like to remove our consent form from the proposal. We are no longer in favor of the public alley vacation located between Oakdale Ave. and Park Ave. that extends northerly from Dakota Ave. We feel we have been misled by this proposal after reviewing some of the documents submitted online in the agenda packet in preparation for the public hearing on 2-11-16.

Originally, after receiving two very similar letters dated 7-13-15 and a second letter dated 11-17-15 from the City of Medford Public Works Department, Engineering & Development Division (signed by Associate Traffic Engineer Peter Mackprang), we were excited at the possibility of installing a fence at the rear of our property to enclose an additional 10 ft. which would be awarded to us after the City had vacated the alley. As stated in both letters "If vacated, half of the alley width would revert to your property. It would still be a utility easement so you could not build permanent structures on it, but you could extend your fences to the center of the alley." We also met with Peter Mackprang to discuss the details of the proposal in July 2015, including the ability to install a fence, and thereafter had our signatures notarized in favor of the proposal (Exhibit M).

However, our excitement quickly disappeared and we developed concerns after seeing some items in the agenda packet available for view 7 days prior to the public hearing date: According to documents viewed online, we would no longer be able to build anything on this newly inherited property, not even a fence.

In an email submitted by David McFadden of Medford's AVISTA (Exhibit D) he notes: "Avista Utilities asks that if the City approves this Alley Vacation; that the City follow standard procedures; and create a Public Utility Easement over the whole area of the alley. This PUE should prohibit the construction of buildings, sheds, and fences on or over the vacated alley way, and require that the homeowners keep this alley passable."

Upon receiving this email, the Public Works Department (comments posted in a staff report on 1-20-16 by Carla Paladino, Planner - Exhibit E) concurs with this advice and therefore would move to eliminate the

CITY OF MEDFORD
EXHIBIT # O
File # SV-15-160

possibility of landowners being able to construct a fence to protect their newly acquired usable property.

As a result, the *Findings* from the Public Works Department on page 49 formally state that as property owners abutting the alley, we would be responsible for "ownership and maintenance." That "the overall look of the alley will remain the same as other utility providers (e.g. Avista Gas) have lines within the boundaries. The encroachment and use of the land by property owners will need to remain free of obstructions or structures including fences."

After a careful reading of those items, it seemed to us that the promise of a fence in the original letters dated 7-13-15 and 11-17-15 was completely out of the question and now non-existent.

Another cause for our concern comes after reading page 15 of 27 *Exhibits* in the Staff Report (page 61) where it states: "Vacations of streets and public rights-of-way are a means to return unneeded public streets and alleys to adjacent property owners, thus reducing the amount of land the City is responsible and liable for."

On that note, when an arsonist was on the loose and setting fires along alleyways in our south Medford neighborhood back in 2014, we were concerned and wished our backyard did not border an alley or even that somehow our alley was closed to the public. If the City vacates the alley, but allows it to remain open to the public for utility requirements, our concerns would grow and we would certainly feel even more vulnerable without the ability to protect our property by constructing a secure, fenced-in boundary.

Furthermore, students up to mischief have accessed our alley, as well as some of our neighbor's front yards along our street, as they travel to and from the adjacent Central Medford High School, continuation program.

With two small boys to care for, we don't want to wonder and worry anymore about who might be causing trouble back there in the alley. We don't want to be responsible for something happening on our 10 ft. of newly acquired alleyway property, left open for public use, that we are not able to enclose within a fence.

Another reason for our change of heart lies in finding the statement (page 50 *Conclusions*) "Due to an increase in land area to the

individual properties adjacent to the alley, an increase in market value is possible”.

Then, comments collected in Exhibit F (dated 1-29-16 from a Lead Residential Property Appraiser of the Jackson County Assessor’s Office) were alarming, since even though they didn’t have our property (710 S. Oakdale Ave.) on the list, it is said that the office didn’t really have time to evaluate the properties abutting the alley entirely “we haven’t completed our analysis” and can say only that there will be “no substantial affect on their market values.”

We feel an annual property tax increase of \$100 per say, might not be “substantial” to some, but it could affect a pocketbook “substantially” for a family with two small boys, such as ourselves.

Additionally, on page 61 (under item *III. Approval Criteria*), “b. The vacation will not substantially affect the market value of any abutting property where the owner objects, unless the City provides for paying damages to the owner.”

After reading this information, we have changed our minds and want to be property owners that “object” so we can be compensated later by the City, paying monetary damages if this 10 ft. of property acquired increases our annual property taxes.

In closing, if we could be allowed to build a fence just 4 ft. out, instead of the full 10 ft., and enclose our existing carriage house structure that abuts the alley, we would happily change our minds back in favor of the said proposal. But, as it stands, we have too much to lose by not revoking our initial proposal agreement.

Thank you for your time,



Alison Kalemkeris Date 2-10-16
710 S. Oakdale Ave. Medford, OR 97501



Dimitrios Kalemkeris Date 2-10-16
710 S. Oakdale Ave. Medford, OR 97501

Exhibit P

Consent form from Alison & Dimitrios (revoked)

RECEIVED

NOV 19 2015

PLANNING DEPT.

Consent

The undersigned hereby gives full consent to vacation by the City of Medford through its City Council of an alley approximately 404 feet in length located north of Dakota Ave between Oakdale Ave and Park Ave, described as:

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THE GRAPHIC DEPICTION OF THE ABOVE DESCRIPTION IS SHOWN ON EXHIBIT "B" ATTACHED HERETO.

Property owner(s) signature AKalemkeris
DA

STATE OF Oregon)
COUNTY OF Jackson) ss.

Personally appeared the above named Alison Kalemkeris and Dimitrios Kalemkeris

And acknowledged the forgoing instrument to be a voluntary act and deed.



Sheila M Giorgetti
Notary Public for Jackson County, Oregon
My commission expires 3-13-16

Exhibit Q

Consent form from Phyllis Couch

RECEIVED
NOV 19 2015
PLANNING DEPT.

Consent

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THE GRAPHIC DEPICTION OF THE ABOVE DESCRIPTION IS SHOWN ON EXHIBIT "B" ATTACHED HERETO.

Property owner(s) signature Phyllis Couch

STATE OF Oregon)

COUNTY OF Jackson) ss.

Personally appeared the above named Phyllis Couch

And acknowledged the forgoing instrument to be a voluntary act and deed.



Sheila M. Giorgetti
Notary Public for Jackson Co., Oregon
My commission expires 3-13-16

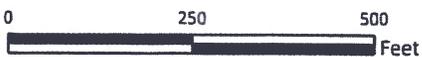
Vicinity Map

	City of Medford Planning Department	Vicinity Map	File Number: SV-15-160
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Project Name:
**Medford Public Works Department -
Alley Vacation**

Map/Taxlot:
N/A



11/24/2015

-  Subject Area
-  Medford Zoning
-  Historic
-  Tax Lots

