

**CITY COUNCIL MEETING
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October 16, 2018**

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**City of Dundee
City Council Meeting Minutes
October 16, 2018**

Call to Order

Mayor David Russ called the meeting to order at 7:00 P.M.

Council and Staff Attendance

Present: Mayor David Russ; Council President Kristen Svicarovich; Councilors Storr Nelson, Doug Pugsley, Ted Crawford, Tim Weaver, and Jeannette Adlong. Staff members: Rob Daykin, City Administrator; Dan Olsen, City Attorney; Cheryl Caines, City Planner; Greg Reid, City Engineer; Melissa Lemen, Administrative Assistant; Chuck Simpson & Michael Lord, Public Works; John Stock, Fire Chief; Fire Fighters Beth Tint, Chad Jones, and Jeff Myers; and Volunteer Fire Fighters Doug Stewart and Bradley Donahoe.

Public Attendance

Andrew Estroff; Don Lowe; Diana Lowe; John Bridges, Attorney at Law, Brown, Tarlow, Bridges & Palmer, P.C.; Matt McCaw; Stacey Goldstein, Goldstein Planning, LLC; William Kehrli, CWK2 Land Development Consultants; Jim Omundson, Omundson Construction Company; Bruce Dickson; Michelle Connor; Steve Weiler; Cynthia Stevenson; John Stevenson; Elizabeth Seeberger; Vania Craw; Michael Lester; and Tatum Tint.

Agenda Changes

None.

Public Hearing: AP18-19, Appeal of Planning Commission Decision for McCaw Subdivision (S17-26)

Mayor Russ opened the public hearing for Appeal of the Planning Commission Decision for McCaw Subdivision approval, a continuation of the hearing from October 2, 2018.

Call for Declaration of Conflict, Bias, or Ex-Parte contact by any members of this body:

None.

Staff Report Updates:

None.

Applicant Presentation:

Stacey Goldstein, Goldstein Planning, introduced herself and indicated that she is the consultant planner for the McCaw Subdivision Project. She also introduced Bill Kehrli, Civil Engineer for the Project, who is also in attendance. Goldstein referenced the letter submitted into record from Attorney Bridges dated today, October 16, 2018, and indicated that unfortunately they did not receive until about 4:00 pm today. She pointed out that if the information had been received earlier they would have been able to provide a more comprehensive response. Overall, Goldstein noted that there appear to be a lot of assertions and claims included in the letter which are not supported by any evidence. In addition, she explained that there are also a number mathematical and typographical errors contained in the letter. Goldstein declared that their belief that the opening statement in the letter, "The applicant failed to submit any evidence for the City to analyze some of the approval criteria, and therefore the City cannot make findings that the criteria

is met.” is false. She discussed the record of over 200 pages and their belief that they have submitted substantial evidence and, in addition to that, at the last meeting provided additional evidence in the record in response to Council’s questions. Goldstein expressed concern that this information apparently had not been reviewed by the attorney, as well as the information provided specifically by the City Engineer dated September 27, 2018.

Goldstein responded to the following topics of discussion from John T. Bridges, Attorney at Law, letter dated October 16, 2018:

Access Spacing: Regarding Attorney Bridges’ concern that there has been an inappropriate interpretation of the Code, Goldstein claimed that this is actually language that the attorney is putting forth that it’s been too liberally defined. She referenced findings provided by City Engineer Reid. She discussed that he stated that in the 2015 TSP, specifically there is language contained which states that new streets or redeveloping properties must comply with these standards to the extent practical as determined by the City, which she indicated is in fact is what was done. Goldstein referenced the statement discussing that there was no evidence presented as to what was “practical” versus what was “not practical.” She discussed that in their findings presented to the Planning Commission in their report, the findings presented in the Staff Report, as well as supplemental information provided by the City Engineer provide substantial evidence demonstrating why this was the preferred alternative. Regarding the statement “a review of the plan clearly shows that it could be moved another 25 feet further from the new road,” Goldstein pointed out that there is no factual information supporting that as to why it could be moved and it is in the professional opinion of their Civil Engineer that that is in fact not the case. Bill Kehrli, Civil Engineer, discussed that they worked a lot with the City both with Planning and Engineering in determining where to place the access. He discussed the limitations of where the existing buildings were and setback requirements from the buildings. Kehrli explained that the location of the existing buildings dictated where the centerline of that roadway access needed to be. He discussed that the idea that the driveway could potentially be pushed 25 feet further to the west wouldn’t have allowed for a perpendicular roadway connection to the right-of-way, and would create almost an angled driveway approach into the City which he indicated would never be approved by the Fire Department or the City and is not safe for sight distance. Kehrli discussed that the way they have designed this, from an engineering and planning standpoint, is far and away the most preferable option on the table.

Storm Drainage: Regarding the Attorney’s statement that, “without a specific tool, there is no way to analyze the capacity of the tool to handle the average rainfall of 42 inches per year,” Goldstein stressed that there is sufficient evidence in the record for a preliminary plat approval. She discussed that the evidence was provided to the City concerning storm drainage, including options provided. She pointed out that there are a number of options discussed in the memo written by the City Engineer as to what can be provided. Additionally, Goldstein discussed that they have met the test for what is required of them for the preliminary plat. She also referenced what she felt was a very good discussion at the October 2, 2018 City Council meeting regarding water pressure and flow. Kehrli discussed that following the preliminary plat approval, they began the stage of doing the final engineering and constructions drawings. He discussed that he put together a design with storm water calculations. He described in detail the process by which they prepared a design that fit into the provided guidelines, as well as the extensive review process that their design underwent.

Minimum Lot Area: With regard to the statements in the letter stating “that City Staff is misinterpreting their own ordinance” and “have inappropriately added language to table 17.202.030,” Goldstein pointed out her belief that in fact the author of the letter is the one who is making the interpretation. She explained that the discussed Code section applies to post-

development conditions and that the plain reading of that Code section refers to post-development conditions; there is no language contained which discusses predevelopment conditions, and so it is their belief that this analysis is incorrect. With regard to case law provided dating back from the early to mid-1990s, specifically stating that "Oregon courts have given broad deference to cities in interpreting their own ordinances," Goldstein voiced that in her experience of being a City Contract Planning Director for a number of small cities that that is still the case and voiced her opinion that cities still have the ability to do that. Additional discussion ensued and she reiterated that it is her belief that the courts still give broad deference to the Council, to Staff and to the Planning Commission to interpret their own ordinances.

Goldstein discussed the fact that Exhibit A provided with Attorney Bridges' letter is a PDF and she is unsure who prepared it; there is no engineer stamp on it and in her view this is not appropriate evidence. Goldstein pointed out that while the attorney has made accusations that the lot grading exhibits contain errors, she in fact finds the analysis provided in the Attorney Bridges letter to be entirely incorrect. Kehrli discussed his belief that either the attorney has misread the contours or has made a mathematical error, and pointed out that no phone calls were received from him asking for further clarification which he noted he would have been happy to provide. He discussed that in their original clean exhibit that had been provided to the City they identified both existing and proposed contours. Additional detailed discussion ensued, specifically regarding Lot 2. Kehrli discussed in detail the information provided within his exhibit, Exhibit B of the attorney's letter. He confirmed that, as a professional engineer, in the hatched area the maximum grade shown is 2.5%. Additional details were discussed and he also noted that these exhibits have been submitted and reviewed by City Staff.

Private Access/Share Driveway Maximum Slope: Goldstein informed that Kehrli had a discussion today with the Fire Chief. Chief Stock had provided initial comments on the project stating that he had no conflicts. Goldstein discussed that a follow-up conversation between Kehrli and the Fire Chief today confirmed those findings to still stand; there are no objections to this application. Kehrli pointed out that the statement, "fire apparatus success roads shall not exceed 10% in grade." is an incomplete statement of what is in the Fire Code. He explained that contained within that exact same section of the Fire Code include exceptions for "Grade steeper than 10% as approved by the Fire Code official." Kehrli discussed that he had a follow up conversation today with John Stock, Fire Code Official for the City of Dundee. He explained that the slope on that road is between 12.33% and 13.73% and that Chief Stock indicated that those slopes would be adequate for an exception. He discussed that Chief Stock had explained that in this case the Building Code actually supersedes the Fire Code, and the Building Code allows for an access slope of 15%. Kehrli discussed that there are other different sections in the Fire Code that relate to fire access road exceptions, and one of those exceptions is installation of fire sprinklers in the home; Chief Stock had indicated that there are multiple avenues of this not being an issue. Additional discussion ensued.

Matt McCaw indicated that he is available to answer any questions.

C. Crawford asked for confirmation from Fire Chief Stock regarding the previously provided information. Chief Stock approached Council and confirmed Engineer Kehrli's statements to be true.

Opponents:

Don Lowe and Andrew Estroff have elected to defer their comment time to Attorney John Bridges speaking first.

John Bridges, Brown, Tarlow, Bridges & Palmer, P.C., Attorneys at Law, introduced himself to Council and explained that he will address five different areas:

Minimum Lot Size: Attorney Bridges discussed that one of Council's role today is looking at different criteria and deciding whether the application meets that criteria. He asserted that the conclusion that the application meets the criteria cannot be made because not enough data has been provided to be able to analyze it. When dealing with the minimum lot size, Attorney Bridges discussed that words should not be read into the Code that aren't there or read words out of the Code that are there. With regard to Code section, table 17.202.030, Attorney Bridges discussed the details pertaining to sloped lots as provided. Discussion ensued and Attorney Bridges explained that the first part of his argument regarding minimum lot size is that one can't read in the provision and say that the slope be looked at in an "as graded" situation because that is not what the Code says. Although in the past there had been deference, Attorney Bridges suggested that now it's clear that the City must act like a Court acts; looking at the statutory schemes and not adding to or taking away from them. He asserted that though there were previous approvals of prior subdivision applications where nobody appeared and nobody objected; that is different now. Attorney Bridges pointed out that the Code does not state "as graded" within it and thus should not be considered that.

With regard to Exhibit A and Exhibit B, Attorney Bridges explained that Engineer Larry Anderson has provided his license number, and was the engineer for the City of Newberg for approximately 25 years; and he was noted to be well respected in his field. With regard to Exhibit B, Attorney Bridges explained that they merely took the applicants scale and tried to put it onto what was being measured. Detailed discussion ensued and Attorney Bridges indicated that Engineer Anderson reviewed this exhibit and noted a 13.5% gradient change, not even taking into account the significantly greater gradient changes. Though Attorney Bridges discussed that the applicant made a conclusion, he explained that what he is arguing is that it is their obligation to look at the evidence to see if it supports that conclusion. He explained that as they used this exhibit and superimposed their own scale on it, it became obvious that the gradient is as Engineer Anderson concluded and not as the applicant's engineer had concluded. Attorney Bridges offered the conclusion that Lot #2 needs to be 10,800 square feet, not 9,008 square feet, and thus the applicant has not met their burden of showing that they can develop the lot to meeting the minimum lot size.

C. Pugsley inquired as to whether Attorney Bridges argues that from his Exhibit B that the southeast corner is 319 feet and the northeast corner is 320 feet over a 40 foot span. Attorney Bridges reviewed the information contained on Exhibit B which he believes to be mislabeled. He also discussed that another error (which was also noted in his letter) is there are eight gradient changes between the applicants notated 317 gradient and the 321 gradient, which doesn't add up correctly and thus indicates an internal error on the document. Attorney Bridges explained that Engineer Anderson has calculated this information based off of Exhibit B but also from DOGAMI Lidar, which shows 64% of the whole area to be greater than 11% slope; this he noted is consistent with the applicant's drainage report which says the whole area of the subject property has a 21.2% slope.

Driveway Slope: Attorney Bridges reviewed that he himself also spoke with Fire Chief Stock regarding this issue, and also noted in his letter that they could potentially allow a slope of that driveway up to 15%. He discussed that the applicant's burden is to bring forth the evidence to Council so that they can make an informed decision. He explained that in his conversation with Chief Stock he received the Oregon Fire Code D103.2 Grade information. Attorney Bridges alleged that the grade of the proposed location wasn't shared with Chief Stock as it should have been; the grade was greater than the standard allows and, therefore, an exception would be in

place. Additional discussion ensued. Attorney Bridges stressed the importance of this information being provided to the Fire Chief as well as the City so that they could potentially condition the approval of the subdivision in an effort to make the homes safe. Attorney Bridges provided Council with an additional Exhibit pertaining to the driveway slope, and shared his belief that the City hasn't been provided sufficient evidence to be able make decisions with regard to the driveway. He also discussed that due to the steepness of the driveway, it may merit having Chief Stock assess what is a reasonable condition to protect the upper home sites.

Storm Drainage: Attorney Bridges discussed that the City's storm drainage rules are extensive. He reviewed information contained in his letter with regard to the process of making sure the purpose of the provision can be met. Though he stressed an understanding of preliminary versus final, he discussed the importance of having calculations in order for it to be said whether the proposed is possible. He discussed that City Staff has said that they think the surrounding system is deficient to handle the four lots, though they have said that they think that some design may be sufficient. Additional discussion ensued. Attorney Bridges discussed that a potential downstream problem which could result would then be the responsibility of the City (not the developer).

Access Spacing: Attorney Bridges acknowledged that the applicant suggested they studied the private drive which will serve the three lots at length, and they said pushing that private drive to the west won't work. He discussed his belief that the applicant doesn't understand what they are suggesting. Detailed discussion ensued and Attorney Bridges explained that the distance between the driveway and the private drive is 50 feet; just looking at the distance between the driveway and the edge of the property to the east suggests that the driveway could be moved to the east 25 feet. Attorney Bridges clarified that he is not suggesting moving the shared road to the west (away from the single use residential private drive), but that there should at least be a review of all of the available options. Additional discussion ensued and Attorney Bridges suggested that there has also been a lack of consideration of the surrounding accesses on the road, including a driveway across the street, which are all things he feels Council should be considering.

Underground Utilities: Attorney Bridges discussed his belief that there isn't any factual basis for the applicant deferring undergrounding the utilities; he does not feel that they can make a finding that there's substantial evidence in the record when there really isn't anything other than the Staff said that they could defer on that.

Attorney Bridges offered to answer any questions. He discussed his opinion that in general there is lack of information for Council to make findings and that the information provided by the applicant leads to different conclusions than they suggested, in particular the minimum lot size.

C. Svcarovich informed that testimony began at approximately 7:25 PM and has lasted approximately 15 minutes. She inquired as to whether the other opponents present opt to defer their time or if they are planning to talk as well. The opponents in the audience opted to defer their time tonight to Attorney Bridges.

Staff Comments:

M. Russ inquired about details pertaining to the driveway serving the one residence potentially moving to the east, and how this would involve access to the existing garage. City Engineer Reid discussed the location of the garage on the uphill side, though as the driveway is moved downhill it really steepens. Additional detailed discussion ensued and C.E. Reid discussed that there doesn't appear to be the potential to add more accesses in that stretch; and approval of the proposed access configuration results in two driveways in the 600 feet between streets. He noted

that moving that driveway would create a difficult access that may not even meet City standards. M. Russ inquired as to how far apart the edges of the existing driveways are right now to which C.E. Reid explained depends upon how they are measured. Kehrli referenced the Existing Conditions Plan on sheet 2 of the plan set which shows the location of the two existing driveways. Their measurement on Sheet 3 from the edge of the driveway to the edge of the driveway (where the separation is shown between the new driveway as well as the driveway for Lot 3) is 50.7 feet. On Sheet 2, the existing driveway for the home on Lot 1 and the existing driveway for the home on Lot 3, edge to edge is no closer than 30 feet, so he noted that the separation between those two driveways is actually increasing by 20 feet.

M. Russ reviewed that the opponents have indicated that there are errors in Engineer Kehrli's slope draw. Though errors can happen, M. Russ inquired as to whether Kehrli still believes it to be feasible to grade the lot according to what he believes he drew there in the amount of space in that slope grade that he set. Kehrli discussed that as he mentioned previously, they show on the exhibit both existing as well as proposed contours. He explained that the purpose of showing both the existing as well as the proposed contours is so that it can be seen that the proposed contours match into the existing. Kehrli discussed that it is his belief that the opponents, after listening to their attorney, are misreading the existing ground contours and thinking those are proposed contours. Kehrli offered a detailed explanation regarding the contours, and referenced information contained on the map on Sheet 2 of the Land Use Application showing the existing conditions and page 4 of the Grading Plan in the Land Use Application (which is identical to the Lot 2 grading exhibit). Additional detailed discussion ensued regarding clarification of the map as it relates to the scale. C. Svicarovich asked for confirmation that a professional survey was done to come up with the existing slopes which Kehrli confirmed to be correct, discussed in detail and noted to be contained in the record.

C. Crawford inquired about whether the grading requirements are intended for post-development. C.E. Reid discussed that it is not specified either way in the Code; only the minimum lot size is indicated on the table provided. Detailed discussion ensued and C.E. Reid explained that Staff referenced previous reviews because when the Code was reviewed it was not specified. He discussed that upon reviewing previous developments and noting how the Code had been applied in those instances, the City opted to apply the Code in the same way for the McCaw subdivision. Discussion ensued and C.E. Reid noted his belief that Engineer Anderson misinterpreted the existing contours as the proposed. C. Nelson asked C.E. Reid if it is his belief that the Table is meant to be applied before or after grading. C.E. Reid discussed that this is not known as it is not specified; he can see both sides of the issue, though felt it may ultimately depend on the feel desired within the City. Lengthy discussion ensued regarding the issue. C.A. Daykin pointed out that there is no prohibition in the Code preventing someone from pre-grading their property before they submit an application.

C. Pugsley addressed City Attorney Olsen and inquired as to whether he is aware of any cities in Oregon that do define the pre or post-development of grading. C.A. Olsen discussed that he is not aware of that specific language though he is aware of some codes that require larger lot sizes for steeper slopes; typically his understanding of those is to protect natural areas or protect privacy when a house is being built on a steep slope that overlooks the next lot, though he is unsure of the intent of the discussed Code section. Discussion ensued and C.A. Olsen noted his belief that Council does have discretion to interpret the Code. C. Crawford inquired as to when this part of the Code was adopted. C. Adlong explained that it was preexisting from the previous Code before the last version was done approximately 15-20 years ago, and likely in place since at least 1975 per C.A. Daykin.

M. Russ inquired as to what has currently been the standard procedure that's been repeatedly used for developments happening in the City when it comes to storm water. Are fully detailed drawings reflective of every aspect of their storm water plan required with their application? C.E. Reid discussed that this is not required; in the initial phase is an evaluation of the site and show that they can meet the storm water requirements and have a plan for draining the site. The specifics of how they meet it with the specific design information is done during the next phase when the plans and specs are reviewed for the detailed plans. Regarding the McCaw subdivision C.E. Reid confirmed that he did note deficiencies downstream; the pipes are at or over capacity. He explained that he didn't say they would be required to fix them; they have the option. They were provided the option of going downstream for a mile and fix all of the deficiencies, and upgrade the pipes to accommodate their flows, or they can do onsite detention. C.E. Reid discussed that either of these options are available to them as they move forward with the design. Additional discussion ensued regarding some of the onsite options available to them, which would not increase the flow off of their site and not impacting those downstream deficiencies. Additionally, C.E. Reid explained that the details of the methods are delineated during the next phase.

Attorney Bridges discussed that what the Law requires for these sort of technical standards is that the decision maker be able to make a finding that there's substantial evidence that there are one or more feasible options, though there does not need to be technical details of exactly which option would work best or which one might now work, etc., but if there's substantial evidence that the plans submitted indicate that there are feasible options (that the amount of water is not so overwhelming that you couldn't do detention onsite)

C. Crawford inquired about undergrounding requirements for the utilities. C.E. Reid discussed that the City is allowing a non-remonstrance agreement, though they will be providing a three-quarter street improvement. C.E. Reid discussed some of the reasons a deferral may be provided, including the substantial costs involved in doing the frontage of two lots. C. Adlong inquired about the existing condition of the utility poles to which C.E. Reid confirmed that there are wires across the frontage at this time. C. Crawford pointed out that this area is the only section of the View Crest area which is not underground, though it was noted that Ninth Street is not. Discussion ensued regarding undergrounding utilities in this area, though C.E. Reid discussed that he is unsure how PGE would ultimately proceed. Clarification was provided that the Development Code provides for the exception to allow for the deferral of the undergrounding of the utilities. C.A. Daykin noted that the City provided deferrals for undergrounding the existing overhead utilities on that same side of Ninth Street further to the east as a condition of approval for two separate partitions. Additional discussion ensued.

Applicant Rebuttal

Goldstein approached Council and indicated that they feel they have provided sufficient evidence in the record demonstrating that the Code is met and the Planning Commission found in favor of the project; City professional Staff also concurred and provided findings. In addition to that, she discussed that there are conditions of approval included to ensure that the Code will be met with specific conditions that are applied.

Mayor Russ closed the hearing.

Council Deliberation

C. Adlong discussed the existing slope versus the graded slope and noted her concerns with the minimum lot size. She discussed that while it's true that standard was upheld for previous subdivisions, she explained her belief that historically the lot sizes in Dundee were based on pre-development conditions. She suggested that the decision it's up to Council's interpretation,

though doesn't feel that just because in a couple of subdivisions it was applied to modified graded conditions that the City should follow that standard. C. Adlong discussed her belief that the addition of homes in an existing development is different than building homes on bare land. She voiced her support of the standard being the natural slope rather than the graded slope, which would require this area to be a 10,800 square foot lot. Additional detailed discussion ensued. C. Adlong stressed the importance of being cognizant of what the existing circumstances are with regard to an infill development, including the neighbors, and suggested that the Code needs to be interpreted in a way that conforms to the City vision and is protective of the existing neighbors.

N. Nelson voiced agreement with C. Adlong. He discussed his belief that he does not feel the intention of the Code was to allow an owner to build a retaining wall on three sides to meet the slope requirements, and to then put five 9,000 SF lots in a 45,000 SF area in an existing area. He stated that his belief is that the intent was a pre-development condition.

C. Crawford expressed concern regarding the intent of the information when it was added to the Development Code, though this information is unknown. Regardless of the intent of the Code, M. Russ pointed out that the applicant could potentially leave tonight, apply for different permits and return with the application, though the lot would be pre-graded.

C. Svicarovich discussed the importance of meeting a certain amount of density in the community, and being able to provide and fill a housing need that is very evident. She discussed that her interpretation of this section of the Code is that it should be based off of the finished grade because otherwise the City is limiting itself as a community with the amount of developable land available and that will become available for new homes. She stressed the importance of considering this when looking at the Code section. C. Svicarovich explained that though the Code omits pre or post-graded in this area, it is in a section that implies post-development. C. Nelson pointed out that on the horizon for the City of Dundee will potentially be two very large residential tracts which could be built out with many new homes. C. Svicarovich discussed that the planning that was done for this community over a period of time was based off of a certain amount of density, and supported that the City needs to do whatever it can to achieve that density to honor what the City's commitment is to the DLCD. C. Adlong noted that there is very little developable land remaining on the hill; almost all of the lots have been built. C. Crawford pointed out that there may be a thousand potential housing units in Dundee; there is plenty of buildable land. Though the Riverside Master Plan is being addressed right now, C. Svicarovich pointed out there are many steps that need to happen before someone will actually build a home; it could potentially be 15+ years. She discussed that until that point in time there will not be many more opportunities to add more housing to the community to meet the need that there is today.

C. Nelson discussed the importance of quality of life, and supported that the intent of that Table was a predeveloped state. C. Pugsley discussed that his only concern is with regard to the minimum lot size and noted that cities are places where development should be happening; that is the design and goal of a city. He pointed out that density is an important consideration, and also expressed concern about omitting or adding language to the Code. C. Nelson pointed out that there are three different residential density zones, and discussed that if more homes were desired in this area it would have been zoned R-3 and not R-1. C. Svicarovich stated that the density of the R-1 zone is being met with the four lots that are being proposed; no density requirement is being exceeded.

Given that there have been previous land use decisions which have interpreted the Code, C. Svicarovich inquired as to whether Staff felt there would be a view that precedence has been set. C.A. Olsen voiced his belief that the prior decision would certainly reflect Staff's administrative

application of the Code which has some value, but a Planning Commission determination from a legal standpoint does not give deference by LUBA; only a City Council decision interpreting Code is given deference.

Though he discussed the decision is difficult and complex, C. Weaver explained that he is leaning more towards Staff as they have looked at all sides and are working with the developer. He voiced appreciation for what both sides are trying to accomplish.

M. Russ discussed that Building Codes are in place to protect the entire City, not just individual neighbors and people who are building. He explained that sometimes that means that decisions are different than what the individual neighbors may prefer because the Code is in place to protect everyone's rights. Furthermore, he discussed that the Code is in place to protect the landowner themselves as well, to protect them to have the right of the quiet enjoyment of their property and to do what they feel is right within the Law with their property. C. Crawford expressed concern about the consequences of making the decision one way or the other, and discussed the importance of the decision setting precedence for the future. He voiced his opinion that by accepting the application the City is creating a dangerous precedence for future developments.

M. Russ reviewed that the consensus of Council is that: 1. requirements are met with regard to the slope of the access driveway; 2. they are satisfied with storm drainage process; they voiced support of the access driveway and it was noted that this will improve it to better than existing condition; and 3. they are satisfied that criteria have been met with regard to deferral of underground utilities.

A motion was made by C. Svicarovich and seconded by C. Pugsley to approve the four lot subdivision for the property located at 920 and 960 SW Ninth Street (Tax Lots 3326DB-800 & 900) known as the McCaw Subdivision, based on the Staff Report and the discussion that has been held tonight. C. Svicarovich provided one amendment to the conditions which was raised at the previous hearing with regard to one of the conditions of approval which is still referencing "the turnaround bulb", which should be removed from the condition of approval. **The motion** passed 4:3 with C. Weaver, C. Svicarovich, M. Russ, and C. Pugsley voting in favor; C. Crawford, C. Adlong and C. Nelson voting nay.

A motion was made and seconded to continue this Hearing at the City Council meeting on November 6, 2018 at 7:00 pm to provide Staff the opportunity to submit findings reflecting the tentative decision to approve the McCaw subdivision for Council consideration and possible adoption. **The motion** passed unanimously.

Public Comment

Bruce Dixon, 18035 NE Fairview Drive, introduced himself and explained that he is present tonight because his neighbor encouraged him to come address Council with regard to the Ste Michele Winery which is going to be built on Fairview Drive. He is hopeful that the Council will be interested in hearing their concerns about the winery even though it is outside of the City limits. He explained that he has lived at his residence for thirty years and that the huge Ste Michelle Winery will be going in directly across the street from his home on the top of the hill. He discussed that the winery will be large scale with 73 parking spaces, bus turnarounds for 53 foot buses, and with a traffic study done by the County showing that over 500 cars could potentially visit the location on a given Saturday. Dixon explained that neighbors in the area are very concerned about the winery and he discussed the many potential impacts of this type of operation on their neighborhood. He is hopeful that Council will take an interest in what is happening on the outskirts of the City because if this precedence moves forward other areas may be impacted by similar situations in the future. He noted that the residents on Fairview Drive

paved their street with their own funds because the County had no plans to do so. He pointed out that there is not a lot of ground water present in the hills, with many property owners having drilled multiple wells just to have residential water use. Dixon discussed that the Water Master informed him that Ste Michelle is allowed to have 5,000 gallons per day; their application didn't specify that now they're going to apply to the Water Master for a water Right, so they will potentially use more water in an area where wells are producing 8-9 gallons a minute. The history of the discussed property was reviewed to the best of Dixon's knowledge and he indicated that County has approved the plan for the winery. C. Crawford inquired as to the size of the incoming winery to which Dixon informed that they can make up to 50,000 gallons of wine with 15 acres of vineyard as according to County ordinance.

Michael Lester, P.O. Box 56, introduced himself to Council and shared his opinion that the room has some very poor acoustics. He explained that he also has an atmospheric pressure problem and has had trouble hearing as the noise resounds in the room. He indicated that he has previously requested the addition of a headphone system to that he can be engaged in meetings. He discussed that he has lived in Dundee for almost fifty years and has enjoyed being engaged and cares about things in the community. Lester was informed that Council approved a request for headphone sound equipment at the last Council meeting on October 2, 2018; though it is unknown at this time the exact date it will be installed. Lester voiced his appreciation.

Consent Agenda

The motion was made and seconded to approve Consent Agenda Item 6.1 City Council Minutes, October 2, 2018. **The motion** passed unanimously.

Old Business

Fire Station Roof Project Update – Jim Omundson

Jim Omundson, Omundson Construction Company informed that the roof repair work got under way in early September, which was a bit of a late start. He discussed that overall the progress has been good, the cooperation has been good, and it is his belief that Porter Construction is right for the job. He indicated that very early on in the first couple of days of the work some new areas of damage were uncovered which weren't anticipated, primarily in the parapet walls. The additional work required some new design and new fixes which was some added work to the contract; this has been being performed on a time & materials basis which he fully believes to be the right approach for this repair because it's not something that could be identified ahead of time with any accuracy to enable to a formal price change proposal. Omundson discussed that he was heavily involved that first month with setting that up, watching over the crew, and trying to facilitate the design changes that were needed. This portion of the work is still in progress (low roof area), and in about two weeks more information will be available pertaining to the high roof. Omundson discussed that the bulk of the work on the project is inclusive of the whole perimeter of the roof; it makes the most sense to work around the perimeter first before moving to the work in the field, which is expected to move quite quickly, though it is unknown at this time how much overall damage is present in this area. Following the completion of that work, the actual roofing work will begin. Council inquired about a timeline for the project and Omundson discussed that the contract runs into February, though the extra work will result in a few additional weeks added. It was noted that the project is not expected to go that long unless there were some really unexpected weather delays. The bulk of the work will likely be done in the next 2-3 months. Omundson pointed out that the fire station will receive a much better PVC roof to replace the original built-up roof without added cost; this new PVC roof will last longer, have a longer warranty and facilitates the nature of the repair.

Omundson provided photos of the work completed and reviewed in detail. Omundson discussed that they are revising some of the door details at this time to try and save some money on the project. He acknowledged that they are conscious of the budget and limit funds available to pay for additions to the contract. He discussed that it's difficult to forecast right now how things will balance out; there is some jeopardy of the contingency being exceeded most likely, though it is possible that it could come in at the original price. He discussed that he has a good relationship with the team working on the project and feels they are putting forth a good effort and are completing good work given the tediousness nature of the project.

Salary & Wage Study Recommendations

C.A. Daykin offered recommendation to postpone this business item until the next meeting to which Council agreed.

State Parks Grant Agreement – Viewmont Greenway Park

A **motion** was made and seconded to authorize the City Administrator to execute the Local Government Grant Program Agreement with Oregon Parks and Recreation Department. C. Adlong voiced appreciation of C.A. Daykin, who took it upon himself to write the grant without any other assistance. **The motion** passed unanimously.

New Business

Vacation Rental Regulations

The consensus of Council was to postpone this business item until the next City Council meeting.

Meter Reader Quote

C.A. Daykin offered clarification pertaining to information in memo on page 67 with regard to the handheld device technical support and maintenance service. The correct date that the technical support and maintenance service will expire is January 1, 2020. There was discussion regarding the fact that the present handheld is very old technology and there are a lot of problems with loading the software and having the software perform properly. These issues lead to delays in meter reads, downtime, and either bringing the consultant in or shipping the device for repair. The recommendation is to replace the handheld at this time. C.A. Daykin explained the many reasons that now is a good time to make the update, especially given the incentives provided as outlined in his memo. The lifespan of the new replacement device is expected to be 8-10 years; the present handheld has been used for over 10 years. Additional discussion ensued. A **motion** was made and seconded to accept the quote from Ferguson in the amount of \$11,750 for the purchase of a Sensus handheld device, docking unit, command link, and 24 single port radios. **The motion** passed unanimously.

Outside Water Request

C.A. Daykin discussed the details of the outside water request as noted in his memo on page 73. He discussed that Ron Zipprich has made the request on behalf of his mother, Joyce Zipprich, as her well is underperforming and has requested a connection to the City system on the basis of a hardship. Brief discussion ensued. A **motion** was made and seconded to authorize a City water service request for 8331 Worden Hill Road. **The motion** passed 6:1, with C. Svicarovich voting nay.

Mayor's Report

None.

Council Concerns and Committee Reports

C. Crawford expressed concern with regard to the new construction of a relatively large garage structure off of Third Street near the elementary school property. C.A Daykin confirmed that permit approval was obtained for the structure/pole building; they did not submit for an ADU. C. Crawford noted a trench dug for the building which contains heavy duty electrical and expressed concerns pertaining to the intended use of the structure. C.A. Daykin noted that he will check to see if the intended use of the structure was provided.

City Administrator's Report

C.A. Daykin discussed that he spoke with three different ODOT officials so far regarding the marking of crosswalks on the highway though he still does not have answer yet on that issue. He reviewed that there previously were crosswalks at Tenth and Eighth Streets; with the City improvements crosswalk signs were installed for future marked crosswalks at Eleventh and Ninth Streets. In that process, C.A. Daykin discussed, that the City received approval from the ODOT manager who had discussions with the Traffic Safety Engineer; the TSE has not issued their authorization for this because they are still waiting for the design of the full project from ODOT. He also inquired with ODOT as to whether or not the crosswalk signs that have been installed are in compliance without the markings, though he does not yet know the answer to that. He also asked, despite not having the formal approval process, if the City can still have the markings installed. Additional brief discussed ensued.

M. Russ inquired as to whether or not C.A. Daykin has yet received an update on the street lights. C.A. Daykin discussed that he has been told by ODOT Project Manager Alvin Shoblom that he's now working to update the project cost estimate and make sure that the money he's defining for this project will cover all anticipated expenses for the City. C.A. Daykin discussed that Alvin has initiated the process internally with ODOT for developing the funding agreements, though it is his impression that it's still a number of months out before the City see those. Additional discussion ensued and M. Russ suggested that in the meantime the City make sure that the maintenance crews keep the cones in place.

Public Comment

None.

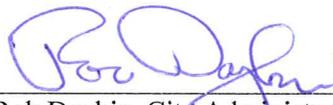
Executive Session

The City Council entered Executive Session at 9:25 P.M. in accordance with ORS 192.660 (2)(e) to conduct deliberations with persons designated by the governing body to negotiate real property transactions. Executive Session ended at 9:32 P.M. and the Council did not reconvene.



David Russ, Mayor

Attest:



Rob Daykin, City Administrator/Recorder