

RESOLUTION 2019-26

A RESOLUTION FORMING THE ASPEN GROVE REIMBURSEMENT DISTRICT AND MAKING PROVISIONS THEREFOR

Whereas, reimbursement districts under SRC 200.310-200.385 may be formed if the public improvement required to be constructed as a condition of development approval can provide service to property other than property being developed; and

Whereas, reimbursement districts may be used to provide a fair and proportional reimbursement to the developer for the cost of improvements that will be used to serve such benefitted properties; and

Whereas, Hans Thygeson (“Developer”) constructed sewer improvements (“Improvements”) as a condition of development of a multi-family residential development located at 1950 Wallace Road NW; and

Whereas, the cost of the Improvements eligible for reimbursement pursuant to SRC 200.350 totals \$87,730.25; and

Whereas, the Developer has submitted an application to form a reimbursement district to collect the eligible costs of the Improvements (Exhibit 1); and

Whereas, the application for a reimbursement district was submitted within 180 days of the City’s acceptance of the District Main and certification of cost; and

Whereas, the Public Works Director has evaluated whether the proposed reimbursement district should be formed and prepared a report (“Director’s Report”) dated June 18, 2019, recommending a reimbursement fee methodology, which is submitted with this resolution as the staff report and incorporated herein by reference; and

Whereas, not less than ten days prior to the hearing, Developer and all persons owning property within the proposed district were notified by first class mail of the public hearing and the purpose thereof; and

Whereas, the public hearing was held on September 9, 2019, at which time any person was given the opportunity to comment on the formation of the proposed reimbursement district; and

Whereas, the City Council hereby approves the recommendations contained in the Public Works Director’s report;

NOW, THEREFORE, THE CITY OF SALEM RESOLVES AS FOLLOWS:

Section 1. Reimbursement District Formed. To provide reimbursement for the Improvements, the Aspen Grove Reimbursement District (Reimbursement District) is hereby formed, the boundaries of which are shown on “Exhibit 2,” and is more specifically described on “Exhibit 3,” both of which are attached hereto and incorporated herein by reference.

Section 2. Reimbursement Fee Methodology. The total maximum reimbursement available to the Developer shall not exceed \$51,856.88. The apportionment of costs among properties within the district is as follows:

Tax Lot	Reimbursement Fee
073W1500401	\$16,705.12
073W1500402	\$18,518.82
073W1500403	\$4,581.98
073W1500501	\$2,386.45
073W1500601	\$4,586.55
073W1500603	\$2,538.98
073W1500700	\$2,538.98
Maximum Reimbursement	\$51.856.88

The total eligible cost for the sewer main \$87,730.25 and the maximum reimbursement amount is \$51,856.88; the remaining unreimbursed eligible costs are \$35,873.37. Therefore, approximately 41 percent of the eligible costs will not be reimbursed. This unreimbursed cost ratio of 41 percent is a reasonable proportion of the developer's share of the sewer main because the developer receives benefit from the sewer main along with the other properties within the reimbursement district.

Section 3. Administration Cost. The reasonable costs to adequately reimburse the City for administration of the Reimbursement District are 1 percent of the total reimbursement fee. One percent of each reimbursement fee payment shall be collected by the City for an administration fee. The remaining balance of the district fee (ninety-nine percent of what is collected) will be reimbursed to the Developer.

Section 4. Payment of Reimbursement Fee Precondition of Permits. Payment of the Reimbursement Fee, as designated for all real property located in the Reimbursement District, is a precondition of receiving any City permits applicable to development on such real property. Notwithstanding the foregoing, the reimbursement fee shall not apply to a development that receives no benefit from the Improvements.

Section 5. Recording the Resolution. The City Recorder shall record this resolution with the Clerk of Polk County.

Section 6. Appeal of Formation of Reimbursement District. No legal action intended to contest the formation of the Reimbursement District or the reimbursement fee, including the amount of the charge designated for each parcel, shall be filed after sixty days following the adoption of this resolution. Any challenge or appeal to the formation of the Reimbursement District shall be solely by writ of review pursuant to ORS 34.010-ORS 34.102, and not otherwise.

Section 7. Reimbursement Fee Not a Tax or a Lien. Formation of the Reimbursement District shall not result in an assessment upon or lien against real property and reimbursement fees collected by the City on behalf of a Developer are not taxes subject to the property tax limitations of Article XI, section 11(b) of the Oregon Constitution.

Section 8. Effective Date. This Resolution is effective upon adoption, and the date of formation of the Reimbursement District shall be the effective date of this Resolution.

ADOPTED by the City Council this 9th day of September 2019.

ATTEST:

City Recorder

Approved by City Attorney: _____

Checked by: G. Davis