



## Staff Report

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**File #:** 19-409

**Version:** 1

**Date:** 9/9/2019

**Item #:** 4. b.

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**TO:** Mayor and City Council

**THROUGH:** Steve Powers, City Manager

**FROM:** Peter Fernandez, PE, Public Works Director

**SUBJECT:**

Reconsideration of City Council's denial to form the Aspen Grove Reimbursement District.

Ward(s): 8

Councilor(s): Jim Lewis

Neighborhood(s): West Salem Neighborhood Association

Result Area(s): Safe, Reliable and Efficient Infrastructure.

**ISSUE:**

Shall Council adopt Resolution No. 2019-26 (Attachment 1), approving the formation of Aspen Grove Reimbursement District to collect funds for reimbursement of the developer's costs associated with constructing public infrastructure?

**RECOMMENDATION:**

Adopt Resolution No. 2019-26, approving the formation of Aspen Grove Reimbursement District to collect funds for reimbursement of the developer's costs associated with constructing public infrastructure.

**SUMMARY:**

On August 12, 2019, Council voted to reconsider formation of the Aspen Grove Reimbursement District, which Council had voted to deny on July 22, 2019. The developer of Aspen Grove Apartments, located at 1950 Wallace Road NW, constructed a sewer main that benefits neighboring properties and has filed an application for reimbursement district pursuant to SRC Chapter 200.310 through 200.385. Resolution 2019-26 establishes a boundary of benefited properties. A reimbursement fee is paid by any property within this boundary at the time that property connects to the sewer main.

## FACTS AND FINDINGS:

1. The Improvements proposed for reimbursement through the Aspen Grove Reimbursement District were constructed in conjunction with a multi-family residential development located at 1950 Wallace Road NW. The Improvements were required as Condition A1a of the Preliminary Declaration for Urban Growth Area Development Permit No. 11-01 and affirmed by City Council Order No. 2011-04-UGA.
2. The developer, Hans Thygeson, filed a reimbursement district application on July 9, 2014. (See Attachment 2.) The district application process was extended because of time-consuming delays experienced between City staff and the applicant while compiling the information needed to complete the application. The current reimbursement district application meets the criteria of SRC 200.310.
3. The Improvements were constructed by the developer and accepted by the City. The applicant submitted a certification of costs that are eligible for reimbursement pursuant to SRC 200.350. The applicant requested \$203,575.82 in total reimbursement. As shown on the Certification of Costs (Attachment 5), City staff is recommending that \$87,730.25 of the costs are eligible. Ineligible costs include engineering and construction costs that are not related to sewer main infrastructure, costs exceeding fair market value related to acquisition of an off-site sewer easement, and other related expenses not eligible pursuant to SRC 200.350.
4. Pursuant to SRC 200.320, all persons owning property within the proposed district were notified by first class mail of the public hearing and purpose thereof, mailed on August 28, 2019. A public notice was published on August 28, 2019.
5. SRC 200.315 specifies that the Public Works Director is to prepare a report considering the following elements: developer financing, the district boundary, apportionment of construction costs, administrative needs of the City, and whether it is in the public interest to establish the district. Based on these criteria, the Director shall make a recommendation on whether the reimbursement district should be formed. The criteria are considered below:
  - A. Developer Financing:  
The Developer funded the entire construction cost of the Improvements. For the purpose of allocating costs, the total eligible costs are divided into two subareas (See Attachment 6): the linear footage area costs are \$50,497.20 and the square footage area costs are \$37,233.05, for a total eligible cost amount of \$87,730.25.
  - B. District Boundary:  
The proposed district boundary includes those properties most likely to benefit from the sewer main and is located southeast of the Wallace Road/Harritt Drive intersection as shown on Attachment 3. Tax lot 602 is removed from the district boundary because the property has already been connected to the sewer main.
  - C. Apportionment of Construction Cost:

Costs are apportioned in the linear footage area based on the length of pipe located within each property within the district. The cost per linear foot of pipe is \$95.46 based on a cost of \$50,497.20 for 529 feet of pipe. The following table shows how the costs are apportioned to each parcel in the linear footage area.

Tax Lot	Length (LF)	Apportionment
501	25	\$ 2,386.45
401	175	\$16,705.12
403	48	\$ 4,581.98
Marine Drive	87	\$ 8,304.83
<u>402</u>	<u>194</u>	<u>\$18,518.82</u>
Total	529	\$50,497.20

The apportionment of \$8,304.83 within Marine Drive NW is not reasonably allocated to any one property in the linear footage area. Therefore, the \$8,304.83 allocated to Marine Drive NW is added to the costs being apportioned to the square footage area as described below.

The costs allocated to the square footage area include \$37,233.05 for the square footage area costs plus \$8,304.83 for Marine Drive NW. The square footage area costs are being apportioned at \$8,190.27 per acre based on a total cost of \$45,537.88 and 5.56 acres of land. The following table shows how the costs are apportioned to each parcel in the square footage area.

Tax Lot	Area (Acres)	Apportionment
Aspen Grove	4.11	\$33,622.00
601	0.56	\$ 4,586.55
602	0.27	\$ 2,211.37
603	0.31	\$ 2,538.98
<u>700</u>	<u>0.31</u>	<u>\$ 2,538.98</u>
Total	5.56	\$45,537.88

The Aspen Grove property and tax lot 602 are included within the apportionment in order to establish a fair and equitable calculation based on benefited area. However, no reimbursement fees are assigned to the Aspen Grove property or tax lot 602 because those properties are already connected to the sewer main.

The table below summarizes all reimbursement fees to be collected within the district boundary and the maximum reimbursement due to the developer.

Tax Lot	Reimbursement Fee
401	\$16,705.12
402	\$18,518.82
403	\$ 4,581.98
501	\$ 2,386.45
601	\$ 4,586.55
603	\$ 2,538.98

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<u>700</u>	<u>\$ 2,538.98</u>
Maximum Reimbursement	\$51,856.88

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The total eligible cost for the sewer main is \$87,730.25 and the maximum reimbursement amount is \$51,856.88; the remaining unreimbursed eligible costs are \$35,873.37. Therefore, approximately 59 percent of the eligible costs are anticipated to be reimbursed to the developer, and 41 percent 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.

D. Administration Cost:

A one percent administration fee will be collected out of each payment of the reimbursement district fee in order to cover Public Works staff for administrative costs. The remaining balance of the district fee (99 percent of what is collected) will be reimbursed to the Developer.

E. Public Interest:

SRC 200.315 specifies that the Public Works Director shall make a recommendation regarding whether the creation of the district is in the public interest. The Public Works Director recommends creation of the district based on the following criteria:

- (1) Improvements funded by the Developer provide direct benefit to properties within the district that would have been a condition of development on those properties in the future.
- (2) The reimbursement district provides a mechanism to fairly distribute the costs of the improvements among the properties within the district. No other funding sources are available for the construction of these facilities.
- (3) The Improvements will not likely provide incidental benefit to other properties because an existing trunk main is available to serve the area.

6. Based on the criteria, the Director recommends a finding that the reimbursement district is in the public interest and should be formed.
7. Property owners and developers are required to pay the reimbursement district fee at the time development occurs on the property as described in SRC 200.355.
8. Public Works staff supports the formation of the Aspen Grove Reimbursement District to include the benefitted properties within the Director's recommended district boundary.

**BACKGROUND:**

Council held a public hearing on July 22, 2019, to consider formation of the Aspen Grove

Reimbursement District. Following the public hearing, Council voted to deny formation of the district. During deliberation, Council was concerned about lack of clarity regarding eligible construction costs and unavailability of the applicant to answer questions about those costs. On August 12, 2019, Council decided to reconsider their decision on July 22, 2019, and reopen the public hearing. The basis for reconsideration was that the developer testified that he failed to appear because did not receive timely notice for the hearing on July 22.

On August 26, 2019, the City mailed and emailed notice to the developer (Hans Thygeson), the developer's representative (Bob Sanders), in addition to mailing notice to all property owners within the proposed district, which includes all persons who testified at the July 22, 2019 hearing. Lastly, notice of the hearing was posted on the City's website.

The reimbursement district was originally filed because as a condition of developing the Aspen Grove Apartments at 1950 Wallace Road NW the City required construction of 850 feet of public sewer main ("Improvements"). These Improvements benefit both the development project and any neighboring properties should those properties connect to the Improvements. Hans Thygeson ("Developer") filed a reimbursement district application on July 9, 2014.

When a developer is required to construct public improvements that benefit neighboring properties and the improvements are not otherwise eligible for full reimbursement from SDCs or other sources, *Salem Revised Code* allows the developer to create a reimbursement district. Reimbursement districts allow the developer to recoup some portion of the cost of construction of the public improvements from the neighboring properties that are benefitted by the improvements. Reimbursement districts identify and account for the benefitted area and provide a fair and proportional reimbursement to the developer for the cost of improvements that will be used by, and are necessary to serve, the neighboring properties.

Glenn J. Davis, PE, CFM  
Chief Development Engineer

**Attachments:**

1. Resolution 2019-26
2. Exhibit 1 of Resolution (Aspen Grove Reimbursement Application)
3. Exhibit 2 of Resolution (Reimbursement District Boundary)
4. Exhibit 3 of Resolution (Properties within District Boundary)
5. Aspen Grove Sewer Reimbursement Certification of Costs
6. Cost Allocation Map