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October 1, 2020

Re: Classic St and Dorcus Storm Drain

City Council,

In late May I was approached by Jim Pentz about storm water drainage that was flowing across his property located at the southeast corner of the intersection of Dorcus Ln. and Classic St. A city outfall was installed on the south side of the Classic St property sometime between 1999 and 2005. Over the years the City has completed street projects that have added flow to this outfall. Although the outfall is on city property, stormwater from the outfall flows on to Mr. Pentz property.

Oregon's drainage laws aim to prevent property owners from impacting adjacent properties unintentionally during development projects. The Oregon Department of Transportation (ODOT) prepared the following primer for its engineers on the State's drainage laws.

"Oregon drainage law, which originates from common law or case law, has developed without legislative action, and it is embodied in the decisions of the courts. Therefore, there are no Oregon Revised Statutes to cite pertaining to Oregon drainage law.

Oregon has adopted the civil law doctrine of drainage. Under this doctrine, adjoining landowners are entitled to have the normal course of natural drainage maintained. The lower owner must accept water that naturally comes to his land from above, but he is entitled to not have the normal drainage changed or substantially increased. The lower landowner may not obstruct the runoff from the upper land if the upper landowner is properly discharging the water.

For a landowner to drain water onto lands of another in the State of Oregon, one or two conditions must be satisfied initially: (1) the lands must contain a natural drainage course; or, (2) the landowner must have acquired the right of drainage supported by valuable consideration (i.e. a purchased drainage easement). In addition, because Oregon has adopted the civil law doctrine of drainage, the following three basic elements must be followed.

- 1. A landowner may not divert water onto adjoining land that would not otherwise have flowed there. "Divert water" includes but is not necessarily limited to:
  - a. Water diverted from one drainage area to another, and,

b. Water collected and discharged which normally would infiltrate into the ground, pond, and/or evaporate.

- 2. The upper landowner may not change the place where the water flows onto the lower owner's land. (Most of the diversions not in compliance with this element result from grading and paving work and/or improvements to water collection systems.)
- 3. The upper landowner may not accumulate a large quantity of water, then release it, greatly accelerating the flow onto the lower owner's land. This does not mean that the upper landowner cannot accelerate the water at all; experience has found the drainage to be

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improper only when the acceleration and concentration were substantially increased." [Oregon Hydraulics Manual for ODOT].

Since notification of the problem, staff has been working with Kyle Ares of OTAK and affected property owners on multiple different concepts to resolve the issue. Current preliminary design is to construct an 18" stormwater main from the intersection of 3<sup>rd</sup> St S. and Edmund Ln. to Classic St and Dorcus Ln. Please see appendix A for preliminary design.

The Classic St. and Dorcus Ln. outfall service area collects stormwater from Dorcus Ln between Division St and Hwy 101 north to Manzanita Ave. Please see appendix B. The new stormwater main line is designed to service a much larger area that has historically had stormwater issues. Many of these areas can be connected at a later time by City Staff or contracted services. Please see appendix C for service area.

As an alternative to just installing a stormwater main and patching over the ditch line. I have requested Kyle provide preliminary cost for the storm main and storm main plus reconstruction of Dorcus Ln from 4<sup>th</sup> St to Classic intersection. The Dorcus Ln road surface has been patched multiple times due to a lack of road base. Dorcus Ln is also a narrow road-way with limited to no safe walking areas along road edges. See attached photos as appendix E. It will be explored to add possible a walking path along Dorcus Ln along with improved off-street parking. This is possible by removing storm ditches in the area.

The City has also delt with catastrophic water main failures on the 4inch asbestos concrete main. At least one of these failures resulted in an insurance claim against the city. With the use of arial imagery, it is assumed the water main was installed between 1960 & 1965. Leak repairs and maintenance requires a large shut do to lack of valves and dead in lines.

At the time of this report preliminary costs are being developed and will be sent out prior to the October 7<sup>th</sup> Council meeting. Council will also receive a proposal from Kyle Ares of Otak to fully design the Dorcus St. Project.

This project is time sensitive by Mr. Pentz. and he has requested a timeline for completion of removing City storm water from his property. Please see appendix D for timeline proposed by staff. Please note that City Staff proposed no street projects for the 20-21 Budget year. Based on projected estimates a supplemental budget will be required.

After completion of the project, Mr Pentz has requested that the City conduct a Phase 1 Environmental Review of the current outfall area. A Phase 1 environmental site assessment is a report prepared for a real estate holding that identifies potential or existing environmental contamination liabilities. The analysis, often called an ESA, typically addresses both the underlying land as well as physical improvements to the property

The actual sampling of soil, air, groundwater and/or building materials is typically not conducted during a Phase I ESA. The Phase I ESA is generally considered the first step in the process of environmental due diligence. Standards for performing a Phase I site assessment have been promulgated by the US EPA and are based in part on ASTM in Standard E1527-13.

If the site is considered contaminated, a Phase II environmental site assessment may be conducted and a more detailed investigation involving chemical analysis for hazardous substances and/or petroleum hydrocarbons will need to be completed.

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Sincerely,

Dan Weitzel

Dan Weitzel Director of Manzanita Public Works Dept.



















