

ORDINANCE No. 2013

An Ordinance Authorizing the Sale of Excess Park Land Through a Land Swap With Charlotte Wertgen, Declaring approximately 0.12 Acres of Eliot Park to be Surplus to the City's Needs, and Retaining Certain Easements for Continued Public Access and Utilities.

The City Council of the City of Hood River finds as follows:

WHEREAS, the Hood River Parks and Recreation District, in conjunction with the City of Hood River, own and operate an urban park and trail system within and outside of the city that includes the Indian Creek Trail; and

WHEREAS, several segments of the Indian Creek Trail are interrupted by privately owned parcels that disrupt the trail's continued connectivity along Indian Creek; and

WHEREAS, on such private in-holding is owned by Charlotte Wertgen who desires to swap approximately 1 acre of her property along Indian Creek for a 0.12-acre piece of land currently owned by the City as part of the Eliot Park access off of Eighth Street; and

WHEREAS, Ms Wertgen requires ownership of at least 50 feet of frontage on a public right-of-way, such as Eighth Street, to enable her to develop her property under City development regulations, and she is willing to trade her 1-acre parcel for ownership of the 0.12-acre parcel, allowing the City to retain full public access and utility easement rights over the smaller parcel; and

WHEREAS, ORS 226.350 (Sale of excess land; restrictive covenants in deed of resale) authorizes the city to sell or trade surplus parkland and to retain any and all necessary easements on the parcels sold to protect the public's interest in park property; and

WHEREAS, the City Council considered this land swap at its regular meeting on October 27, 2014, at which time it allowed public testimony and comment on the proposed transaction as reflected in the drawing and two draft proposed Statutory Warranty Deeds that describe the two parcels involved and the retained easements for each, attached to this Ordinance as Exhibit A and incorporated herein by this reference.

NOW THEREFORE, based on the foregoing Findings, the City Council Ordains as follows:

Section 1 – Land Transfer from City to Wertgen. The City Council authorizes the sale of approximately 0.12 acres of Eliot Park to C.J. Wertgen as shown in Exhibit A attached to this Ordinance and incorporated herein by this reference. The Mayor is authorized to execute a Statutory Warranty Deed similar to the one included Exhibit A on behalf of the City of Hood River. The approximately 0.12 acres parkland shown in Exhibit A is hereby declared to be surplus to the City's needs, so long as this parcel is conveyed to

C.J. Wertgen as part of a like-kind trade of real property that retains an easement for public ingress, egress and utilities on, over, under and through the 0.12-acre parcel.

Section 2 – Land Transfer from Wertgen to City. The City Council authorizes the acquisition of approximately 1.0 acres of land along Indian Creek from C.J. Wertgen as shown in Exhibit A attached to this Ordinance and incorporated herein by this reference. The Mayor is authorized to execute a Statutory Warranty Deed similar to the one included Exhibit A acquiring this approximately 1.0 acre parcel on behalf of the City of Hood River. The consideration for this acquisition is a like-kind trade of real property.

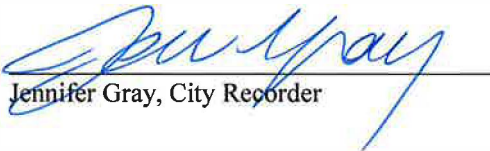
Read for the First Time this 27th day of October 2014.

Read for the Second Time and approved this 10th day of November 2014. This Ordinance shall take effect on the 31st day following the second reading.

AYES: 6
NAYS: 0
ABSTAIN: 0
ABSENT: 1


Arthur Babitz, Mayor

ATTEST:


Jennifer Gray, City Recorder

Approved as to form:


Daniel Kearns, City Attorney

After recording return to:

C.J. Wertgen
515 Oak St., #11
Hood River, OR 97031

STATUTORY WARRANTY DEED

The CITY OF HOOD RIVER ("Grantor"), Oregon municipal corporation, hereby conveys and warrants to C.J. WERTGEN, an individual ("Grantee"), the following described real property, situated in Hood River County Oregon: Exhibit A, attached hereto and incorporated herein by this reference (the "Property"). The Property is free of encumbrances except for the following, which are expressly retained and encumber the Property:

1. Setback lines, powers of special districts, easements of record; and
2. An easement for public right-of-way purposes, including public ingress, egress and utilities on, over, under and through all portions of the Property.

Consideration for this conveyance is a like-kind trade of real property.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336.

DATED this _____ day of October 2014.

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Grantor City of Hood River:

By: _____
Arthur Babitz, Mayor

Date: _____

STATE OF OREGON)
) ss.
COUNTY OF HOOD RIVER)

The foregoing instrument was acknowledged before me this ____ day of October 2014
by Arthur Babitz, as the authorized and duly elected Mayor of the City of Hood River.

DATED this ____ day of October 2014.

NOTARY PUBLIC in and for the State of Oregon,
My commission expires: _____

Exhibit A

A portion of the land described in Exhibit A and in the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 36, T.3N., R.10E., WM., City of Hood River, Hood River County, State of Oregon described as follows;

Beginning at the Northwest corner of Lot 1 of Piltz Court Subdivision, which is monumented by an Iron Rod as shown in County Survey #98074;

thence North $00^{\circ}36'19''$ East, a distance of 61.95 feet;

thence North $34^{\circ}28'42''$ West, a distance of 92.20 feet to the West line of the NE $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 36;

thence South $00^{\circ}36'19''$ West along said line, a distance of 137.97 feet;

thence North $89^{\circ}59'18''$ East, a distance of 53.00 feet to the Point of Beginning;

Containing 0.12 ACRES, more or less.

After recording return to:

Hood River City Recorder
211 Second Street
Hood River, OR 97031

STATUTORY WARRANTY DEED

C.J. WERTGEN, an individual ("Grantor"), conveys and warrants to the CITY OF HOOD RIVER, an Oregon municipal corporation ("Grantee"), the following described real property, situated in Hood River County Oregon: Exhibit A, attached hereto and incorporated herein by this reference (the "Property"). The Property is free of encumbrances except for the following, which are expressly retained and encumber the Property:

1. Setback lines, powers of special districts, easements of record; and
2. A 20-foot wide easement for placement of an underground stormwater drainage pipe which Grantor may install at Grantor's sole expense. The specific location and installation of the stormwater drainage pipe shall be with the informed advice and consent of Grantee so as to not interfere with Grantee's use of the Property. Such consent shall not be unreasonably withheld.

Consideration for this conveyance is a like-kind trade of real property.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336.

DATED this _____ day of October 2014.

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Grantor C.J. Wertgen:

**Conveyance accepted by Grantee,
City of Hood River:**

By: _____
C.J. Wertgen

By: _____
Arthur Babitz, Mayor

Date: _____

Date: _____

STATE OF OREGON)
) ss.
COUNTY OF HOOD RIVER)

The foregoing instrument was acknowledged before me this ____ day of October 2014
by C.J. Wertgen.

DATED this ____ day of October 2014.

NOTARY PUBLIC in and for the State of Oregon,
My commission expires: _____

Exhibit A

A portion of Lot 1 of the Eliot Woods Business Park Plat, County Survey #99037, as recorded in Hood River County Records on January 1, 1999. Said Lot 1 is located in the Northwest Quarter of the Southwest Quarter of Section 36 Township 3 North, Range 10 East, Willamette Meridian, in the City of Hood River, Hood River County, Oregon.

Beginning at a point on the East line of Elliot Woods Business Park, which is North 0°36'19" East and a distance of 35.81 feet from a 5/8" iron Rod with a plastic cap as per said County Survey # 99037 and which is the most easterly and southerly corner of Lot 1 of Eliot Woods Business Park, said point is South 00°36'19" West a distance of 251.59 feet from the NE corner of the NW quarter of the SW quarter of said Section 36;

thence North 00°36'19" East along the East line of said Eliot Woods Business Park, a distance of 156.29 feet, more or less, to the line that is Southerly of the Northerly meander line of Indian Creek;

thence westerly along said line 372 feet, more or less;

thence South 39°32'17" East, a distance of 116.98 feet;

thence North 61°55'33" East, a distance of 78.71 feet;

thence South 86°57'58" East, a distance of 73.80 feet;

thence South 72°05'30" East, a distance of 88.90 feet;

thence South 65°40'11" East, a distance of 30.00 feet to the point of beginning.

Containing 1.0 acre, more or less.