

July 13, 2020

TO: Honorable Mayor and City Council through City Administrator

FROM: Jim Row, Assistant City Administrator

McKenzie Granum, Assistant City Attorney

SUBJECT: Draft Utility Services Ordinance

RECOMMENDATION:

That the City Council review and provide feedback to staff regarding the attached draft Utility Services Ordinance, which establishes guidelines and a permitting process for regulating utility services providers' use of the City's Rights-of-Way (ROW).

BACKGROUND:

Earlier this year, staff initiated a review of the City's process for regulating utility services providers' use of the City's ROW. Historically, this has been accomplished through the issuance of non-exclusive franchise agreements. However, there are many drawbacks to this approach, including the following:

- Management of the City's ROW is divided among multiple departments
- Franchises are generally issued to providers that own the infrastructure in the ROW and are generally not issued to many other unknown providers that use that same infrastructure for profit
- The City is not receiving compensation from the many unknown providers operating throughout the City
- Individually negotiating franchise agreements is an extremely time consuming and costly process
- Enforcement is challenging, since each franchise contains different terms and unknown providers are utilizing the ROW
- Franchise agreements are issued for long terms, which limits the City's and utility providers' ability to adapt to changes in technology and FCC regulations

The program that would be created through draft Utility Services Ordinance has many advantages over the traditional franchise system, including:

Agenda Item Review:	City Administrator	Χ	Citv Attornev	Χ	Finance	Χ

- Staff will now manage a uniform licensing program, as opposed to individually negotiated franchises with varying terms and conditions
- Reduction in legal fees and staff time
- The City will actively identify and license every utility provider it discovers utilizing the City's ROW for profit
- Centralizes oversight, which aids in administration and enforcement
- Creates a system that can quickly adapt to new technologies and regulations
- Creates an equitable and just compensation system by ensuring that every utility service provider utilizing the ROW is subject to the same terms and fees, and not just the owners of the infrastructure
- While not subject to the requirements of this ordinance, it is worth noting that the City charges its own water and sewer utilities a 5% ROW charge

DISCUSSION:

By adopting the Services Provider Ordinance at a future meeting, the City will join roughly one dozen other municipalities in Oregon that have implemented a uniform ROW licensing system.

Given the complexity of developing and implementing the proposed ROW management program, staff has contracted with ROW Consultants LLC to develop the program and assist in its implementation. Principal Reba Crocker has significant experience implementing similar programs in numerous other cities in Oregon.

The draft ordinance that is presented to the Council for its review tonight, is based upon the League of Oregon Cities model ordinance, which was developed the law firm Berry, Elsner and Hammond. The City Attorney's office believe that this ordinance/ ROW management program has been well tested by other municipalities and is legally defensible. In fact, it is believed to be more defensible than the current franchise model, because it ensures that the public receives fair and just compensation from utility providers utilizing the ROW for a profit.

After the City adopts the new Utility Services Ordinance, utility service providers will be actively identified and subjected to the new licensing program. The six (6) providers that are currently operating under franchise agreements will not be subject to the new ROW management/ licensing program until their existing agreements expire.

Pertinent provisions of the enclosed draft Utility Services Ordinance include:

- Utilities operated by the City and other municipalities are exempted from the requirements of the ordinance
- Providers are required to maintain a City of Woodburn Business Registration
- Providers with existing franchises agreements are exempted until their agreements expire
- Preserves the City's right to enter into franchise agreements with individual providers in situations where the public interest warrants
- Wire line cable television providers will continue to operate under franchise agreements due to protections under FCC law
- Each license with utility providers will be for a term of five (5) years
- Licenses are transferrable upon the written consent of the City, provided the transfers are consistent with state and federal law
- Providers seeking license renewals shall submit license applications at least thirty (30) days, but not more than ninety (90) days prior to expiration
- Includes provisions under which the City may terminate licenses
- Includes requirements providers must comply with related to the location, construction, maintenance and removal of facilities in the ROW
- Provides for ROW license and usage fees to be established by resolution

The ROW use fee structure will be implemented through the enclosed draft resolution.

Staff expects implementation of the program to occur according to the following timeline:

- June 2020: contracted with ROW Consultants LLC
- June July: ordinance drafted
- July 13: draft ordinance presented to City Council
- July August: outreach to providers
- August: discussions with providers
- September 14: public hearing & ordinance adoption
- October 1: ordinance effective
- Ongoing: revisions, housekeeping, and edits

FINANCIAL IMPACT:

The development of a uniform utility service provider licensing program is anticipated to result in an increase in ROW usage fees, formally referred to as franchise fees. The amount of the increase is unknown at this time and will depend on the number of utility service providers the City is able to determine are utilizing the ROW.

Enclosures:

Draft Utility Services Ordinance Draft Utility Licensing Fee Resolution

UTILITY SERVICES ORDINANCE

Section 1. Title.

The ordinance will be known and may be referenced as the Utility Service Ordinance.

Section 2. Purpose and Intent.

The purpose and intent of this Ordinance is to:

- A. Permit and manage reasonable access to and use of the City's rights-of-way for utility purposes and conserve the limited physical capacity of those rights-of-way held in trust by the City consistent with applicable state and federal law;
- B. Assure that the City's current and ongoing costs of granting and regulating access to, the use of the rights-of-way and utility services provisioned in the City, are fully compensated by the persons seeking such access and causing such costs;
- C. Secure fair and reasonable compensation to the City and its residents for permitting use of the rights-of-way by persons who generate revenue by placing, owning, controlling, using or operating facilities therein or generate revenue for utility services;
- D. Assure that all utility companies, persons and other entities owning, operating facilities, using facilities, or providing services within the City comply with the ordinances, rules and all regulations of the City heretofore or hereafter amended or adopted;
 - 1. For the purposes of this Ordinance, all utility services owned or operated by the City are excluded.
 - 2. For the purposes of this Ordinance, all utility services owned or operated by other municipalities are excluded.
- E. Assure that the City can continue to fairly and responsibly protect the public health, safety and welfare of its residents;
- F. Encourage the provision of advanced and competitive utility services on the widest possible basis to businesses and residents of the City by;
 - 1. Allow the City to enter into other or additional agreements with Utility Providers and Operators, if the public's interest is served, and to amend the requirement of this Ordinance and the City regulations, as new technology is developed;
 - 2. Allow the City to be resilient and adaptive to changes in technology; and
- G. Comply with applicable provisions of state and federal law.

Section 3. Jurisdiction and Management of the Public Rights-of-way.

- A. The City has jurisdiction and exercises regulatory management over, all rights-of-way within the City and provision of services, under authority of the City Charter and Oregon law.
- B. The City has jurisdiction and exercises regulatory management over each right-of-way whether the City has a fee, easement, or other legal interest in the right-of-way, and whether the legal interest in the right-of-way was obtained by grant, dedication, prescription, reservation, condemnation, annexation, foreclosure or other means.
- C. The exercise of jurisdiction and regulatory management of a right-of-way by the City is not official acceptance of the right-of-way and does not obligate the City to maintain or repair any part of the right-of-way.
- D. The provisions of this Ordinance are subject to and will be applied consistent with applicable state and federal laws, rules and regulations, and, to the extent possible, will be interpreted to be consistent with such laws, rules and regulations.

Section 4. Regulatory Fees and Compensation Not a Tax.

- A. The fees and costs provided for in this Ordinance, and any compensation charged and paid for use of the rights-of-way and the provision of services provided for in this Ordinance, are separate from, and in addition to, any and all other federal, state, local, and City charges, including but not limited to: any permit fee, or any other generally applicable fees, tax, or charge on business, occupations, property, or income as may be levied, imposed, or due from a utility operator, utility provider, franchisee or licensee, its customers or subscribers, or on account of the lease, sale, delivery, or transmission of utility services.
- B. The City has determined that any fee or tax provided for by this Ordinance is not subject to the property tax limitations of Article XI, Sections 11 and 11b of the Oregon Constitution. These fees or taxes are not imposed on property or property owners.
- C. The fees and costs provided for in this Ordinance are subject to applicable federal and state laws.

Section 5. Definitions.

For the purpose of this Ordinance the following terms, phrases, words and their derivations will have the meaning given herein. When not inconsistent with the context, words not defined herein will be given the meaning set forth in the Communications Act of 1934, as amended, the Cable Act, and the Telecommunications Act. If not defined in those statues, the words will be given their common and ordinary meaning. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number and words in the singular number include the plural number. The words "shall" and "will" are mandatory and "may" is permissive.

"Cable Act" means the Cable Communications Policy Act of 1987, 47 U.S.C., Section 521, et seq., as now and hereafter amended.

"Cable service" is to be defined consistent with federal laws and means the one-way transmission to subscribers of: (i) video programming, or (ii) other programming service; and subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.

"Calendar year" means January 1 to December 31, unless otherwise noted.

"City" means the city of Woodburn, an Oregon municipal corporation, and individuals authorized to act on the City's behalf.

"City council" means the elected governing body of the city of Woodburn, Oregon.

"City facilities" means City or publicly owned structures or equipment located within the right-ofway or public easement used for governmental purposes.

"City standards" means the all ordinances, codes, regulations and rules of the City of Woodburn, in effect at the time of any work.

"City property" means and includes all real property owned by the City, other than public rightor-way and utility easement as those are defined herein, and all property held in proprietary capacity by the City.

"Communications services" means any service provided for the purpose of transmission of information including, but not limited to, voice, video, or data, without regard to the transmission protocol employed, whether or not the transmission medium is owned by the provider itself. Communications service includes all forms of telephone services and voice, video, data or information transport, but does not include: (1) cable service; (2) open video system service, as defined in 47 C.F.R. 76; (3) private communications system services provided without using the public rights-of-way; (4) public communications systems; (5) over-the-air radio or television broadcasting to the public-at-large from facilities licensed by the Federal Communications Commission or any successor thereto; and (6) direct-to-home satellite service within the meaning of Section 602 of the Telecommunications Act.

"Construction" means any activity in the public right-of-way resulting in physical change thereto, including excavation or placement of structures.

"Control" or "Use of Facilities" means actual working control over utility facilities in whatever manner exercised, whether or not the facility is owned. For example, but not limitation, Control means and includes leased capacity, transport, or any other use.

"Days" mean calendar days unless otherwise specified.

"Emergency" means a circumstance in which immediate work to repair damaged or malfunctioning facilities is necessary to restore lost service or prevent immediate harm to persons or property. "Federal Communications Commission" or "FCC" means the federal administrative agency, or its lawful successor, authorized to regulate and oversee telecommunications carriers, services and providers on a national level.

"Gross Revenue" means any and all amounts, of any kind, nature or form, without deduction for expense, less net uncollectable, derived from the operation (including revenue derived from a leases or other agreements allowing use of facilities to other utility operators or providers), or use of utility facilities in the City, operation of a Communications Services or the provision of utility service(s) in the City, subject to all applicable limitations in federal or state law.

"License" or "Utility License" means the authorization granted by the City to a utility operator or utility provider pursuant to this Ordinance.

"Licensee" or "Utility Licensee" means any person that has a valid Utility licensed issued by the City.

"Person" means and includes any individual, firm, sole proprietorship, corporation, company, partnership, co-partnership, joint-stock company, trust, limited liability company, association, municipality, special district, government entity or other organization, including any natural person or any other legal entity.

"Private communications system" means a system, including the construction, maintenance or operation of the system, for the provision of a service or any portion of a service which is owned or operated exclusively by a person for their use and not for sale or resale, including trade, barter or other exchange of value, directly or indirectly, to any person.

"Public communications system" means any system owned or operated by a government entity or entities for its exclusive use for internal communications or communications with other government entities, and includes services provided by the state of Oregon pursuant to ORS 283.140. "Public communications system" does not include any system used for sale or resale, including trade, barter or other exchange of value, of communications services or capacity on the system, directly or indirectly, to any person.

"Public utility easement" means the space in, upon, above, along, across, over or under an easement for the constructing, reconstructing, operating, maintaining, inspecting, and repairing of utilities facilities. "Public utility easement" does not include an easement (i) that has been privately acquired by a utility operator, (ii) solely for the constructing, reconstructing, operating, maintaining, inspecting, and repairing of city facilities, or (iii) where the proposed use by the utility operator is inconsistent with the terms of any easement granted to the City.

"Right-of-way", "Rights-of-Way", "Public right-of-way", or "ROW" means and includes, but is not limited to, the space in, upon, above, along, across, over or under the public streets, roads, highways, lanes, courts, ways, alleys, boulevards, bridges, trails, paths, sidewalks, bicycle lanes, public utility easements and all other public ways or areas, including the subsurface under and air space over these areas, but does not include parks, parkland, or other city property not generally

open to the public for travel. This definition applies only to the extent of the City's right, title, interest and authority to grant a license to occupy and use such areas for utility facilities.

"Small Cell Wireless Facility" means Facilities owned or operated for the provision of communications that are shorter ranged, wireless systems affixed to a structure with generally smaller components than traditional Macro Wireless Facilities and are deployed where suitable in flexible configurations to provide capacity and coverage. Small Cell Wireless Facilities means a facility that meets each of the following conditions per 47 C.F.R § 1.6002(l), as may be amended or superseded:

- (1) The facilities (i) are mounted on structures 50 feet or less in height including the antennas, or (ii) are mounted on structures no more than 10 percent taller than other adjacent structures, or (iii) do not extend existing structures on which they are located to a height of more than 50 feet or by more than 10 percent, whichever is greater; and,
- (2) Each antenna associated with the deployment, excluding associated antenna equipment, is no more than three cubic feet in volume; and,
- (3) All other wireless equipment associated with the structure, including wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is no more than 28 cubic feet in volume; and,
- (4) The facilities do not result in human exposure to radio frequency in excess of the applicable safety standards specified in 47 C.F.R. § 1.1307(b).

"Structure" means any facility a Utility Provider or Utility Operator places in the ROW, including but not limited to poles, vaults or manholes, hand holds, or junction boxes, conduit, direct bury cable, wires, pedestals, aerial cables or wires and transformers.

"Telecommunications Act" means the Communications Policy Act of 1934, as amended by subsequent enactments including the Telecommunications Act of 1996 (47 U.S.C., 151 et seq.) and as hereafter amended.

"Utility facility" or "facility" means any physical component of a system, including but not limited to the poles, pipes, mains, conduits, ducts, cables, wires, transmitters, plant, equipment and other facilities, located within, under or above the rights-of-way, any portion of which is used or designed to be used to deliver, transmit or otherwise provide utility service.

[&]quot;State" means the state of Oregon.

"Utility operator" or "operator" means any person who owns, places, controls, operates or maintains a utility facility within the City.

"Utility provider" or "Provider" means any person who provides utility service or communication services to customers within the City limits, whether or not any facilities in the ROW are owned by such provider.

"Utility service" means the provision, by means of utility facilities permanently located within, under or above the rights-of-way, whether or not such facilities are owned by the service provider, of electricity, natural gas, communications services, or cable services, to or from customers within the City limits, or the transmission or provision of any of these services through the City whether or not customers within the City are served by those transmissions and whether or not the facilities used for transmission are owned by the service provider.

"Work" means the construction, demolition, installation, replacement, repair, maintenance or relocation of any utility facility, including but not limited to any excavation and restoration required in association with such construction, demolition, installation, replacement, repair, maintenance or relocation.

Section 6. Business Registration

Business Registration Required. Every person that desires to use, operate or control utility facilities, or provide utility services to customers within the City will register with the City prior to use, operation, control of utility facilities, or providing any utility services to any customer in the City, in compliance with Ordinance No. 2399. Every person using, operating, controlling, or providing utility services to customers within the City as of the effective date of this Ordinance will obtain a Business Registration within thirty (30) days of the effective date of this Ordinance. Every person subject to this Ordinance will renew and maintain a Business Registration as required in Woodburn's Ordinances that are heretofore or hereafter amended, at all times that the person, uses, operates, controls, provides or operates a utility services, to customers within the City.

Section 7. Utility License.

A. License Required.

Except those utility operators and utility providers with a valid franchise or other valid agreement from the City, every person will obtain a Utility License from the City prior to conducting any work in or use of the ROW, or providing utility services or communication services to or from customers within the City limits, or the transmission or provision of any of these services through the City whether or not customers within the City are served by those transmissions and whether or not the facilities used for transmission are owned by the service provider.

1. Every person that owns, or controls, provides utility services, or uses utility facilities in the rights-of-way as of the effective date of this Ordinance will apply for a Utility License from the City within thirty (30) days of the later of: (1) the effective date of this Ordinance, or (2) the expiration of a valid agreement granted by the City, unless a new agreement is

- granted by the City (3) for a person that is not a utility operator, providing utility services within the City.
- 2. The provisions of this section do not apply to any person subject to and in compliance with the cable television franchise requirement, except that subsection K will apply to the extent such person provides multiple services, subject to applicable law.
- B. Utility License Application. The license application will be on a form provided by the City, and will be accompanied by any additional documents required by the application or the City, in the City's sole discretion, to identify the applicant, its legal status, including its authorization to do business in Oregon, a description of the type of utility service provided or to be provided by the applicant, a description of the facilities over which the utility service will be provisioned, and other information necessary to determine the applicant's ability to comply with the terms of this Ordinance.
- C. Utility License Application & Renewal Fee. The application and renewal application will be accompanied by a nonrefundable fee or deposit set by resolution of the City Council.
- D. Determination by City. The City will issue, within a reasonable period of time, a written determination granting or denying the Utility License in whole or in part. If the Utility License is denied, the written determination will include the reasons for denial. The Utility License will be evaluated based upon the provisions of this Ordinance, the information contained on the Utility License application, the continuing capacity of the rights-of-way to accommodate the applicant's proposed utility facilities and the applicable federal, state and local laws, rules, regulations and policies.
- E. Changes to information contained on the Utility License application. Within thirty (30) days of a change to the information contained in the license application, the Licensee will notify the City in writing of such change(s).
- F. Franchise Agreements. If the public interest warrants, as determined by the City in its sole discretion, the City and any communications provider including cable providers, utility operator or utility provider, excluding Small Cell wireless providers, may enter into a written franchise or other agreement that includes terms that clarify, enhance, expand, waive or vary the provisions of this Ordinance, consistent with applicable state and federal law. The agreement may conflict with the terms of this Ordinance with the review and approval of City Council. The franchisee will be subject to the provisions of this Ordinance to the extent such provisions are not in conflict with the express provisions of any such franchise or agreement. In the event of a conflict between the express provisions of a franchise or other agreement and this Ordinance, the franchise or other agreement will control.
 - 1. The provider requesting a franchise agreement will deposit a refundable fee, as set by resolution of the City Council before negotiations occur. The City will deduct any of the City's expense from such deposit and return any remaining funds to the depositor.
- G. Rights Granted.

- 1. The Utility License granted hereunder will authorize and permit the licensee, subject to the provisions of the City regulations and ordinance and other applicable provisions of the City, state or federal law, in effect and as may be subsequently amended, to construct, place, maintain, upgrade, repair and operate, control or use utility facilities in the rights-of-way for the term of the license for the provision of utility service(s) authorized in the license. In the event the licensee offers different service(s) than those authorized in the license, the licensee will inform the City of such changes no later than thirty (30) days after the change.
- 2. Any Utility License granted pursuant to this Ordinance will not convey equitable or legal title in the rights-of-way and may not be assigned or transferred except as permitted in subsection L of this section.

Neither the issuance of the Utility License nor any provisions contained therein will constitute a waiver or bar to the exercise of any governmental right or power, including without limitation, the police power or regulatory power of the City, in existence at the time the license is issued or thereafter obtained.

- H. Term. Subject to the termination provisions in subsection N of this section, the Utility License granted pursuant to this Ordinance will be effective as of the date it is issued by the City or the date services began, whichever comes first, and will have a term of five (5) calendar years beginning: (1) January 1st of the year in which the license took effect for licenses that took effect between January 1st and June 30th; or (2) January 1st of the year after the license took effect for licenses that become effective between July 1st and December 31st.
- I. Utility License Nonexclusive. No license granted pursuant to this section will confer any exclusive right, privilege, license or franchise to occupy or use the rights-of-way for delivery of utility services or any other purpose. The City expressly reserves the right to grant licenses, franchises or other rights to other persons, as well as the City's right to use the rights-of-way, for similar or different purposes. The license is subject to all recorded deeds, easements, dedications, conditions, covenants, restrictions, encumbrances, and claims of title of record that may affect the rights-of-way. Nothing in the license will be deemed to grant, convey, create, or vest in licensee a real property interest in land, including any fee, leasehold interest or easement.
- J. Reservation of City Rights. Nothing in the Utility License will be construed to prevent the City from grading, paving, repairing and/or altering any rights-of-way, constructing, laying down, repairing, relocating or removing City facilities or establishing any other public work, utility or improvement of any kind, including repairs, replacement or removal of any city facilities. If any of licensee's utility facilities interfere with the construction, repair, replacement, alteration or removal of any rights-of-way, public work, city utility, city improvement or city facility, except those providing utility services in competition with a licensee, licensee's facilities will be removed or relocated as provided in subsections C, D and E of Section 9, in a manner acceptable to the City and consistent with City standards, industry standard engineering and safety codes in effect at the time the work is required.

K. Multiple Services.

- 1. A utility operator that provides or transmits or allows the provision or transmission of utility services and other services over its facilities is subject to the license and Usage fee requirements of this Ordinance for the portion of the facilities and extent of utility services delivered over those facilities. Nothing in this subsection J (1) requires a utility operator to pay the Usage use fee, if any, owed to the City by another person using the utility operator's facilities.
- 2. A utility operator that provides or transmits more than one utility service to customers in the City may not be required to obtain a separate Utility License or franchise for each utility service, but is required to file separate reports, remittances and submit any Usage fees due for each service provided.
- L. Transfer or Assignment. To the extent permitted by applicable state and federal laws, the Utility Licensee will obtain the written consent of the City prior to the transfer or assignment of the license. The license will not be transferred or assigned unless;
 - 1. The proposed transferee or assignee is authorized under all applicable laws to own or operate the utility facilities and/or provide the utility service authorized under the license; and
 - 2. The transfer or assignment is approved by all agencies or organizations required or authorized under federal and state laws to approve such transfer or assignment.

The Utility Licensee requesting the transfer or assignment will fully cooperate with the City and provide requested documentation, as the City deems necessary, in the City's sole discretion, at no cost to the City, to sufficiently understand the transferees' ability to perform under the license.

If the City approves such transfer or assignment, the transferee or assignee will become responsible for fulfilling all obligations under the Utility License. A transfer or assignment of a license does not extend the term of the license.

M. Renewal. At least thirty (30) days, but no more than ninety (90) days prior to the expiration of a Utility License granted pursuant to this section, a licensee seeking renewal of its license will submit a license application to the City, including all information required in subsection B of this section and applicable fees fee required in subsection C of this section. The City will review the application as required by subsection D of this section and grant or deny the license. If the City determines that the licensee is in violation of the terms of this Ordinance, or other City Ordinances, rules or regulations, at the time it submits its application, the City may require that the licensee cure the violation or submit a detailed plan to cure the violation within a reasonable period of time, as determined by the City, before the City will consider the application and/or grant the license. If the City requires the licensee to cure or submit a plan to cure a violation, the City will grant or deny the license application within ninety (90) days of confirming that the violation has been cured or of accepting the licensee's plan to cure the violation.

N. Termination.

- 1. Revocation or Termination of a Utility License. The City may terminate or revoke the license granted pursuant to this Ordinance for any of the following reasons:
 - a. Violation of any of the provisions of this Ordinance;
 - b. Violation of any provision of the license;
 - c. Misrepresentation in a license application;
 - d. Failure to pay taxes, compensation, fees or costs due the City after final determination by the City, of the taxes, compensation, fees or costs;
 - e. Failure to restore the rights-of-way after construction as required by this Ordinance or other applicable state and local laws, ordinances, rules and regulations;
 - f. Failure to comply with technical, safety and engineering standards related to work in the rights-of-way; or
 - g. Failure to obtain or maintain any and all licenses, permits, certifications and other authorizations required by state or federal law for the placement, maintenance and/or operation of the utility facilities.
- 2. Standards for Revocation or Termination. In determining whether termination, revocation or some other sanction is appropriate, the following factors will be considered:
 - a. The egregiousness of the misconduct;
 - b. The harm that resulted:
 - c. Whether the violation was intentional;
 - d. The Licensee's history of compliance; and/or
 - e. The Licensee's cooperation in discovering, admitting and/or curing the violation.
- 3. Notice and Cure. The City will give the Utility Licensee written notice of any apparent violations before terminating a Utility License. The notice will include a short and concise statement of the nature and general facts of the violation or noncompliance and provide a reasonable time (no less than twenty (20) and no more than forty (40) days) for the Licensee to demonstrate that the Licensee has remained in compliance, that the Licensee has cured or is in the process of curing any violation or noncompliance, or that it would be in the public interest to impose a penalty or sanction less than termination or revocation. If the Licensee is in the process of curing a violation or noncompliance, the Licensee must demonstrate that it acted promptly and continues to actively work on compliance. If the Licensee does not respond or if the City determines that the Licensee's response is inadequate, the City may revoke and/or terminate the Utility License.
- 4. Termination by Utility Licensee. If a licensee ceases to be required to have a Utility License, as defined under this Ordinance, the licensee may terminate or surrender its license, with a thirty (30) day notice to the City. Licensee may reapply for a Utility License at any time. No refunds or credits will be given for licenses terminated by the licensee or the City.
 - a. Within thirty (30) days of surrendering a Utility License, the licensee will file a final remittance form with the City stating, "final remittance" and will remit any funds due.
 - b. Upon surrendering a Utility License, the licensee will file a written statement that it has removed, or will remove within 60 days, any and all facilities from the City and no longer provides Utility Services, as defined in this ordinance.

Section 8. Construction and Restoration.

A. Construction Codes. Utility facilities will be constructed, installed, operated, repaired and maintained in accordance with all applicable federal, state and local codes, rules and regulations, including but not limited to the National Electrical Code and the National Electrical Safety Code and the City Standards, in effect at the time of the work. When a utility operator, utility provider or licensee, or any person acting on its behalf, does any work in or affecting the rights-of-way, the utility operator will, at its own expense, promptly restore the rights-of-way as directed by the City consistent with applicable city codes, rules and regulations, in effect at the time of the work. A utility operator, utility provider, licensee or other person acting on its behalf will use suitable barricades, flags, flagging attendants, lights, flares and other measures as required for the safety of all members of the general public and to prevent injury or damage to any person(s), vehicle or property by reason of such work in or affecting the rights of way or property.

B. Construction Permits.

1. No person will perform any work on utility facilities within the rights-of-way without first obtaining all required permits. The City will not issue a permit for the construction, installation, maintenance or repair of utility facilities unless the utility operator of the facilities has applied for and received a valid license, franchise agreement or other valid agreement (if applicable), required by this Ordinance, and all applicable fees have been paid. No permit is required for routine maintenance or repairs to customer service drops where such, repairs or maintenance do not require cutting, digging, or breaking of, or damage to, the right of way and do not result in closing or blocking any portion of the travel lane for vehicular traffic, bicycle lanes or sidewalks.

Section 9. Location of Facilities.

- A. Location of Facilities. Unless otherwise agreed to in writing by the City:
 - 1. All utility operators are required to make good faith effort to both cooperate with and coordinate their construction schedule with those of the City and other users.
 - 2. Utility facilities will be installed underground in all areas of the City where there are no existing poles in the ROW, there is no space on existing poles in the ROW, or where the only poles in the ROW are used only for high voltage lines (as defined below). This requirement will not apply to facilities used for transmission of electric energy at nominal voltages in excess of thirty-five thousand (35,000) volts or to antennas, pedestals, cabinets or other above-ground equipment of any utility operator for which the utility operator has written authorization to place above-ground.
 - 2. Whenever any existing electric utilities, cable facilities or communications facilities are located underground within the ROW of the City, the utility operator with permission to occupy the same ROW will install all new facilities underground at no cost to the City. This requirement will not apply to facilities used for transmission of electric energy at nominal voltages in excess of thirty-five thousand (35,000) volts ("high voltage lines") or to antennas, pedestals, cabinets or other above-ground equipment of any utility operator.

The City reserves the right to require written approval of the location of any such above-ground equipment in the ROW.

B. Interference with the Rights-of-Way. No utility operator or other person may locate or maintain its facilities so as to unreasonably interfere with the use of the rights-of-way by the City, by the general public or by other persons authorized to use or be present in or upon the rights-of-way. Utility facilities will not be located in area of restricted sight distance nor interfere with the proper function of traffic control signs, signals, lighting, or other devices that affect traffic operation. All use of the rights-of-way will be consistent with City codes, ordinances, rules and regulations in effect and as may be subsequently amended.

C. Relocation of Utility Facilities.

- 1. A utility operator will, at no cost to the City, temporarily or permanently remove, relocate, change or alter the position of any utility facility within the ROW, including relocation of aerial facilities underground, when requested to do so in writing by the City.
 - a. If relocation is required by the City, the City will bear no responsibility or incur any costs, to provide or in any way secure alternate locations.
- 2. Nothing herein will be deemed to preclude the utility operator from requesting reimbursement or compensation from a third party, pursuant to applicable laws, regulations, tariffs or agreements, provided that the utility operator will timely comply with the requirements of this section regardless of whether or not it has requested or received such reimbursement or compensation.
- 3. The City may coordinate the schedule for relocation of utility facilities and based on such effort will provide written notice of the time by which the utility operator must remove, relocate, change, alter or underground its facilities. If a utility operator fails to remove, relocate, change, alter or underground any utility facility as requested by the City by the date reasonably established by the City, the utility operator will pay all costs incurred by the City due to such failure, including but not limited to costs related to project delays, and the City may cause, using qualified personnel or contractors consistent with applicable state and federal safety laws and regulations, the utility facility to be removed, relocated, altered, or undergrounded at the utility operator's sole expense. Upon receipt of an invoice from the City, the utility operator will reimburse the City for the costs the City incurred within thirty (30) days.
- 4. The City will cooperate with the utility operator in securing alternate locations. However, the City will bear no responsibility or costs for securing alternate locations. The City will bear no responsibility to obtain, compensate, or otherwise assist the utility operator in relocation of is facilities to location not in the control of the City.

D. Removal of Unauthorized Facilities.

1. Unless otherwise agreed to in writing by the City, within thirty (30) days following written notice from the City or such other time agreed to in writing by the City, a utility operator and any other person that owns, controls, or maintains any abandoned or unauthorized

utility facility within the rights-of-way will, at its own expense, remove the facility and restore the affected area.

- 2. A utility system or facility is unauthorized under any of the following circumstances:
 - a. The utility facility, or any portion of the facility, is outside the scope of authority granted by the City under the Utility License, franchise or other written agreement. This includes facilities that were never licensed or franchised and facilities that were once licensed or franchised but for which the license or franchise has expired or been terminated. This does not include any facility for which the City has provided written authorization for abandonment in place.
 - b. The facility has been abandoned and the City has not provided written authorization for abandonment in place. A facility is abandoned if it is not in use and is not planned for further use. A facility will be presumed abandoned if it is not used for a period of twelve (12) consecutive months. A utility operator may overcome this presumption by presenting plans for future use of the facility.
 - c. The utility facility is improperly constructed or installed or is in a location not permitted by the construction permit, license, franchise or this Ordinance.
 - d. The utility operator is in violation of a material provision of this Ordinance and fails to cure such violation within thirty (30) days of the City sending written notice of such violation, unless the City extends such time period in writing.

E. Removal by City.

- 1. The City retains the right and privilege to cut or move any utility, without notice, as the City determines, at its sole discretion to be necessary, appropriate or useful in response to a public health or safety emergency. The City will use qualified personnel or contractors consistent with applicable state and federal safety laws and regulations to the extent reasonably practicable without impeding the City's response to the emergency. The City will use best efforts to provide the utility operator with notice prior to cutting or moving facilities. If prior notice is not possible, the City will provide such notice as soon as reasonably practicable after resolution of the emergency.
- 2. If the utility operator fails to remove any facility when required to do so under this Ordinance, the City may remove the facility using qualified personnel or contractors consistent with applicable state and federal safety laws and regulations, and the utility operator will be responsible for paying the full cost of the removal and any administrative costs incurred by the City in removing the facility and obtaining reimbursement. Upon receipt of an invoice from the City, the utility operator will reimburse the City for the costs the City incurred within thirty (30) days. The obligation to remove will survive the termination of the license or franchise.
- 3. The City will not be liable to any utility operator for any damage to utility facilities, or for any incidental or consequential losses resulting directly or indirectly therefrom, by the City or its contractor in removing, relocating or altering the facilities pursuant to subsections B, C or D of Section 9 or undergrounding its facilities as required by subsection A of Section 9, or resulting from the utility operator's failure to remove, relocate, alter or underground

its facilities as required by those subsections, unless such damage arises directly from the City's negligence or willful misconduct.

- F. Engineering Record Drawings. The utility operator will provide the City with two complete sets of record drawings in a form acceptable to the City showing the location of all its utility facilities after initial construction if such plan changed during construction. The utility operator will provide updated complete sets of as built plans upon request of the City, but not more than once per year.
- G. Utility operator, Utility provider and Utility Licensee will provide, at no cost to the City, a comprehensive map showing the location of any facility in the City. Such map will be provided in a format acceptable to the City, with accompanying data sufficient enough for the City to determine the exact location of facilities, currently in Shapefile or Geodatabase format. The Utility Operator, Utility Provider and Utility Licensee will provide such map yearly by February 1.

Section 10. Leased Capacity.

A utility operator may lease capacity on or in its facilities to others, provided that the utility operator requires and has verified with the City, that the proposed lessor has obtained proper authority from the City prior to leasing capacity or allowing use of its facilities. Upon request, at no cost to the City, the utility operator will provide a complete list with the name, business address and contact information of any lessee. If requested by the City, the utility operator will also provide exact details of any attachment by lessee. A utility operator is not required to provide such information if disclosure is expressly prohibited by applicable law.

Section 11. Maintenance.

- A. Every utility operator will install and maintain all facilities in a manner that complies with applicable federal, state and local laws, rules, regulations and policies. The utility operator will, at its own expense, repair and maintain facilities from time to time as may be necessary to accomplish this purpose.
- B. If, after written notice from the City of the need for repair or maintenance as required in subsection A of this section, a utility operator fails to repair and maintain facilities as requested by the City and by the date reasonably established by the City, the City may perform such repair or maintenance using qualified personnel or contractors consistent with applicable state and federal safety laws and regulations at the utility operator's sole expense. Upon receipt of an invoice from the City, the utility operator will reimburse the City for the costs the City incurred within thirty (30) days.

Section 12. Vacation.

If the City vacates any ROW, or portion thereof, that a utility operator uses, the utility operator will, at its own expense, remove its facilities from the ROW unless the City reserves a public utility easement, which the City will make a reasonable effort to do provided that there is no expense to the City, or the utility operator obtains an easement for its facilities. If the utility operator fails to remove its facilities within thirty (30) days after a ROW is vacated, or as otherwise directed or agreed to in writing by the City, the City may remove the facilities using qualified personnel or contractors consistent with applicable state and federal safety laws and regulations at the utility operator's sole expense. Upon receipt of an invoice from the City, the utility operator will reimburse the City for the costs the City incurred within thirty (30) days.

Section 13. Usage Fee.

A. Except as set forth in subsection B of this section, every person that owns utility facilities in the City's rights-of-way and every person that uses or controls utility facilities in the City's rights-of-way to provide utility service, whether or not the person owns the utility facilities used to provision the utility services and every person that provides utility services within the City, will pay the usage fee for every utility service provided in the amount determined by resolution of the City Council.

- B. A utility operator whose only facilities in the ROW are facilities mounted on above-ground structures within the ROW, which structures are owned by another person, and with no facilities strung between such structures or otherwise within, under or above the ROW (other than equipment necessary to operate the mounted facilities that has been expressly approved by the City to be placed in the ROW), will pay the attachment fee set by City Council resolution for each attachment, or such other fee set forth in the license granted by the City. Unless otherwise agreed to in writing by the City, the fee will be paid quarterly, in arrears, within thirty (30) days after the end of each calendar quarter and will be accompanied by information sufficient to illustrate the calculation of the amount payable.
- C. No acceptance of any payment will be construed as accord that the amount paid is in fact the correct amount, nor will such acceptance of payment be construed as a release of any claim the City may have for further or additional sums payable.
- D. Usage fee payments required by this section will be reduced by any franchise fees or privilege taxes, due to the City, but in no case will be less than zero dollars (\$0).
- E. Unless otherwise agreed to in writing by the City, the Usage fee set forth in subsection A of this section will be paid quarterly, in arrears, within thirty (30) days after the end of each calendar quarter. Each payment will be accompanied by an accounting of gross revenues, if applicable, and a calculation of the amount payable (a remittance form will be provided by the City). The City may request and will be provided at no cost to the City, any additional reports or information it deems necessary, in its sole discretion, to ensure compliance by the utility provider, utility operator or licensee. Such information may include, but is not limited to: chart of accounts, total revenues by categories and dates, list of products and services, narrative documenting calculation, details on number of customers within the City limits, or any other information needed for the City to easily verify compliance.

- F. The calculation of the Usage fee required by this section will be subject to all applicable limitations imposed by federal or state law in effect and as may be subsequently amended.
- G. The City reserves the right to enact other fees and taxes applicable to the utility providers, utility operators and licensee subject to this Ordinance. Unless expressly permitted by the City in enacting such fee or tax, or required by applicable state or federal law, no utility operator may deduct, offset or otherwise reduce or avoid the obligation to pay any lawfully enacted fees or taxes based on the payment of the Usage fees or any other fees required by this Ordinance

Section 14. Penalties and Interest on Usage Fee

Penalties and interest imposed by this section are in addition to any penalties that may be assessed under other ordinances or regulations of the City.

- 1. Any person who has not submitted the required remittance forms or remitted the correct fees when due as provided in Section 13 will pay a penalty listed below in addition to the amount due:
 - a. First occurrence during any one calendar year; Ten percent (10%) of the amount owed, or Twenty-five dollars (\$25.00), whichever is greater.
 - b. Second occurrence during any one calendar year; Fifteen percent (15%) of the amount owed, or Fifty dollars (\$50.00), whichever is greater.
 - c. Third occurrence during any one calendar year; Twenty percent (20%) or the amount owed, or Seventy-five dollars (\$75.00), whichever is greater.
 - d. Fourth occurrence during any one calendar year; Twenty-five percent (25%) of the amount owed, or One hundred dollars (\$100.00), whichever is greater.
- 2. If the City determines that the nonpayment of any remittance due under this section is due to fraud or intent to evade the provisions hereof, an additional penalty of twenty-five percent (25%) of the amount owed, or Five hundred dollars (\$500.00), whichever is greater, will be added thereto in addition to other penalties stated in section 14.
- 3. In addition to the penalties imposed, any person who fails to remit any fee when due as provided in Section 13 will pay interest at the rate of 1.5% per month or fractions thereof, without proration for portions of a month, on the total amount due (including penalties), from the date on which the remittance first became delinquent, until received by the City.
- 4. Every penalty imposed, and such interest as accrues under the provision of this section, will be merged with, and become part of, the fee required to be paid.

The City or its designee, in their sole discretion, will have the authority to reduce or waive the penalties and interest due under Section 14.

Section 15. Audits and Records Requests.

- A. Within thirty (30) days of a written request from the City, or as otherwise agreed to in writing by the City:
 - 1. Every Utility Licensee, Utility Operator and Utility Provider will furnish the City, at no cost to the City, with information sufficient to demonstrate compliance with all the

- requirements of this Ordinance, any franchise agreements or other agreements, if any, including but not limited to payment of any applicable Business Registration fee, licensing fee, usage fee, attachment fee, franchise fee or privilege taxes.
- 2. Every Utility Operator, Utility Provider and Utility Licensee will make available for inspection by the City at reasonable times and intervals all maps, records, books, diagrams, plans and other documents, maintained by the utility operator with respect to its facilities or use of facilities, within the rights-of-way. Access will be provided within the City unless prior arrangement for access elsewhere has been made and approved by the City.
- B. If the City's audit of the books, records and other documents or information of the Utility Licensee, Utility Operator or Utility Provider demonstrate that there has been underpaid the usage fee, licensing fee, attachment fee or franchise fee or any other fee or payment by two percent (2%) or more in any one (1) year, the licensee, utility operator, or utility provider will reimburse the City for the cost of the audit, in addition to any interest owed pursuant to Section 14 or as specified in other agreements or franchises with the City.
- C. Any underpayment, including any interest or audit cost reimbursement, will be paid within thirty (30) days of the City's notice of such underpayment.
- D. The Licensee, Utility Provider or Utility Operator is not required to maintain records for more than six (6) years. The City is not required to maintain records beyond the State retention schedules.

Section 16. Insurance and Indemnification.

A. Insurance.

- 1. All utility operators will maintain in full force and effect the following liability insurance policies that protect the utility operator and the City, as well as the City's officers, agents, and employees:
 - a. Comprehensive general liability insurance with limits not less than:
 - i. Three million dollars (\$3,000,000.00) for bodily injury or death to each person;
 - ii. Three million dollars (\$3,000,000.00) for property damage resulting from any one accident; and
 - iii. Three million dollars (\$3,000,000.00) for all other types of liability.
 - b. Commercial Automobile liability insurance for owned, non-owned and hired vehicles with a limit of one million dollars (\$1,000,000.00) for each person and three million dollars (\$3,000,000.00) for each accident.
 - c. Worker's compensation within statutory limits and employer's liability with limits of not less than one million dollars (\$1,000,000.00).
 - d. If not otherwise included in the policies required by subsection a. above, maintain comprehensive form premises-operations, explosions and collapse hazard, underground hazard and products completed hazard with limits of not less than three million dollars (\$3,000,000.00).
 - e. Utility operator may utilize primary and umbrella liability insurance policies to satisfy the preceding insurance policy limit requirements.

- 2. The limits of the insurance will be subject to statutory changes as to maximum limits of liability imposed on municipalities of the state of Oregon. The insurance will be without prejudice to coverage otherwise existing and will name, or the certificate of insurance will name, with the exception of worker's compensation, as additional insureds the City and its officers, agents, and employees. The coverage must apply as to claims between insureds on the policy. The insurance will not be canceled or materially altered without thirty (30) days prior written notice first being given to the City, and the certificate of insurance will include such an endorsement. If the insurance is canceled or materially altered, the utility operator will obtain a replacement policy that complies with the terms of this section and provide the City with a replacement certificate of insurance. The utility operator will maintain continuous uninterrupted coverage, in the terms and amounts required. The utility operator may self-insure, or keep in force a self-insured retention plus insurance, for any or all of the above coverage.
- 3. The utility operator will maintain on file with the City a certificate of insurance, or proof of self-insurance acceptable to the City, certifying the coverage required above.
- B. Financial Assurance. Unless otherwise agreed to in writing by the City, before a franchise is granted or license issued pursuant to this Ordinance is effective, and as necessary thereafter, the utility operator will provide a performance bond or other financial security or assurance, in a form acceptable to the City, as security for the full and complete performance of the franchise or license, if applicable, and compliance with the terms of this Ordinance, including any costs, expenses, damages or loss the City pays or incurs because of any failure attributable to the utility operator to comply with the codes, ordinances, rules, regulations or permits of the City. This obligation is in addition to the performance surety required under this Ordinance.

C. Indemnification.

1. Each utility licensee will defend, indemnify and hold the City and its officers, employees, agents and representatives harmless from and against any and all liability, causes of action, claims, damages, losses, judgments and other costs and expenses, including attorney fees and costs of suit or defense (at both the trial and appeal level, whether or not a trial or appeal ever takes place) that may be asserted by any person in any way arising out of, resulting from, during or in connection with, or alleged to arise out of or result from the negligent, careless, or wrongful acts, omissions, failure to act, or other misconduct of the utility licensee or its affiliates, officers, employees, agents, contractors, subcontractors, or lessees in the construction, operation, maintenance, repair, or removal of its facilities, and in providing or offering utility services over the facilities, whether such acts or omissions are authorized, allowed, or prohibited by this Ordinance or by a franchise agreement. The acceptance of a Utility license, or of a franchise granted by the City, will constitute such an agreement by the applicant whether the same is expressed or not, unless expressly stated otherwise in the license or franchise. Upon notification of any such claim the City will notify the utility operator and provide the utility operator with an opportunity to provide defense regarding any such claim.

2. Every utility licensee will also indemnify the City for any damages, claims, additional costs or expenses assessed against or payable by the City arising out of or resulting, directly or indirectly, from the utility licensee's failure to remove or relocate any of its facilities in a timely manner, unless the utility licensee's failure arises directly from the City's negligence or willful misconduct.

Section 17. Compliance.

Every Utility licensee, utility operator and utility provider will comply with all applicable federal and state laws and regulations, including regulations of any administrative agency thereof, as well as all applicable ordinances, resolutions, rules and regulations of the City, heretofore or hereafter adopted or established during the entire term of any Utility License granted under this Ordinance.

Section 18. Confidential/Proprietary Information.

If any person is required by this Ordinance to provide books, records, maps or information to the City that the person reasonably believes to be confidential or proprietary, and such books, records, maps or information are clearly marked as confidential at the time of disclosure to the City ("confidential information"), the City will take reasonable steps to protect the confidential information to the extent permitted by Oregon Public Records Laws. In the event the City receives a public records request to inspect any confidential information and the City determines that it will be necessary to reveal the confidential information, to the extent reasonably possible the City will notify the person that submitted the confidential information of the records request prior to releasing the confidential information. The City will not be required to incur any costs to protect any confidential information, other than the City's routine internal procedures for complying with the Oregon Public Records Law.

Section 19. Penalties.

- A. Any person found in violation of any of the provision of this Ordinance or the Utility License will be subject to a penalty of not less than one hundred fifty dollars (\$150), nor more than twenty-five hundred dollars (\$2,500) for each offense. A violation will be deemed to exist separately for each and every day during which a violation exists.
- B. Nothing in this Ordinance will be construed as limiting any judicial or other remedies the City may have at law or in equity, for enforcement of this Ordinance.
- C. The City or its designee, in their sole discretion, will have the authority to reduce or waive the penalties and interest due under this subsection 19.

Section 20. Severability and Preemption.

- A. The provisions of this Ordinance will be interpreted to be consistent with applicable federal and state law, and will be interpreted, to the extent possible, to cover only matters not preempted by federal or state law.
- B. If any article, section, subsection, sentence, clause, phrase, term, provision, condition or portion of this Ordinance is for any reason declared or held to be invalid or unenforceable by any court of competent jurisdiction or superseded by state or federal legislation, rules, regulations or

decision, the remainder of this Ordinance will not be affected thereby but will be deemed as a separate, distinct and independent provision, and such holding will not affect the validity of the remaining portions hereof, and each remaining section, subsection, clause, phrase, term, provision, condition, covenant and portion of this Ordinance will be valid and enforceable to the fullest extent permitted by law. In the event any provision is preempted by federal or state laws, rules or regulations, the provision will be preempted only to the extent required by law and any portion not preempted will survive. If any federal or state law resulting in preemption is later repealed, rescinded, amended or otherwise changed to end the preemption, such provision will thereupon return to full force and effect and will thereafter be binding without further action by the City.

Section 21. Application to Existing Agreements.

To the extent that this Ordinance is not in conflict with and can be implemented consistent with existing franchise agreements, this Ordinance will apply to all existing franchise agreements granted to utility operators and utility providers by the City.

WHEREAS, the City of Woodburn has constitutional and charter authority to manage its rights-of-way and utility usage within the City; and

WHEREAS, the Woodburn City Council adopted an ordinance regulating utilities operating within the City and exercising the City's authority to secure compensation to the City and its residents for utility use;

WHEREAS, per the ordinance the Woodburn Council shall by resolution establish Utility Licensing fees;

WHEREAS, per the ordinance the Woodburn Council shall by resolution establish a Franchise negotiations fee; and

WHEREAS, per ordinance the Woodburn City Council shall by resolution establish Usage fees.

Now, Therefore, be it Resolved by the City of Woodburn, Oregon:

Section 1: The Utility License application fee shall be \$300.00 (excluding Small Cell Wireless Facilities) and shall include an initial five-year license (if approved);

Section 2: Utility License application fee for Small Cell Wireless Facilities, as they involve both access to rights-of-way and vertical infrastructure shall be \$500.00 for up to 5 sites and \$100.00 for each additional site, plus any additional reasonable fees the City must incur for outside expertise to evaluate such applications, including compliance with the Federal Communication Commission "RF" standards;

Section 3: The Utility License renewal fee (excluding Small Cell Wireless Facilities) shall be \$250.00 for a five-year license;

Section 4: The refundable franchise negotiation deposit shall be \$5,000.00;

Section 5: The usage fee shall be as follows, to the extent permitted under applicable law;

Service	Usage Fee Rate
Electric	5% of gross revenue
Natural Gas	5% of gross revenue
Cable Television	5% of gross revenue
Communications (other than	7% of gross revenue
Small Cell Wireless Facilities)	
Attachment fee (other than	\$5,000 per attachment per year
Small Cell Wireless* Facilities)	
Small Cell Wireless*	\$270.00 per attachment per year
Communications Facilities	
Usage of facilities the rights-of-	\$3.00 per linear foot of Utility Facilities in the rights-of-way or a
way for purposes other than	minimum annual fee of \$5,000.00, whichever is greater. The per-
generating revenue within the	linear-foot fee and the minimum fee shall increase 3% annually on
City.	July 1st of each year, beginning July 1, 2022

"Gross Revenue" shall have the meaning defined in the Utility Services Ordinance.

Section 6: The annual attachment fee (excluding Small Cell Wireless Facilities) shall be \$5,000.00 per attachment. The attachment fee shall increase 3% annual on July 1st of each year, beginning on July 1, 2022 and

Page 1 of 2 - Resolution No.

Section 7: The annual attachment fee for Small Cell Wireless Facilities shall be the fair market value of such attachments, but until the Federal Communications Commission September 26, 2018 small cell order is overturned, City staff are directed to establish what the reasonable approximation of costs for such attachment are, but it no case less than \$270.00 per attachment, per year.

*Small Cell Wireless Facilities shall have the meaning defined in Woodburn's Utility Service Ordinance.

Introduced and adopted by the City Council	l on
This resolution is effective on October 1, 202	20.
	Mayor
ATTEST:	APPROVED AS TO FORM:
City Recorder	City Attorney

<u>DATE</u> COUNCIL CHAMBERS, CITY HALL, CITY OF WOODBURN, COUNTY OF MARION, STATE OF OREGON, JUNE 8, 2020

CONVENED The meeting convened at 7:00 p.m. with Mayor Swenson presiding.

ROLL CALL

Mayor Swenson	Present
Councilor Carney	Present -via video conferencing
Councilor Cornwell	Present -via video conferencing
Councilor Schaub	Present -via video conferencing
Councilor Morris	Present -via video conferencing
Councilor Ellsworth	Present -via video conferencing
Councilor Cabrales	Present -via video conferencing

Staff Present (via video conferencing): City Administrator Derickson, City Attorney Shields, Assistant City Administrator Row, Economic Development Director Johnk, Community Development Director Kerr, Police Chief Ferraris, Operations Director Stultz, Finance Director Turley, Engineering Director Liljequist, City Recorder Pierson

PROCLAMATIONS/PRESENTATIONS

COVID-19 Coordination & Communication Team Presentation – Parks and Recreation Manager Cuomo and Irene Konev, a consultant that has been brought on to the team, provided information on what the Covid-19 response team has been working on.

CONSENT AGENDA

- A. Woodburn City Council minutes of May 11, 2020,
- **B.** Intergovernmental Agreement for School Resource Officers,
- C. Liquor License Application for Red Robin International, Inc.,
- **D.** Liquor License Application for Abby's Inc.,
- E. Crime Statistics through April 2020,
- **F.** Building Activity for May 2020.

Carney/Ellsworth... adopt the Consent Agenda. The motion passed unanimously.

PUBLIC HEARINGS

Fiscal Year (FY) 2020-21 City Budget Adoption

A Public Hearing to consider input on the Fiscal Year (FY) 2020-21 City Budget Adoption. Mayor Swenson declared the hearing open at 8:11 p.m. for the purpose of hearing public input on the Fiscal Year (FY) 2020-21 City Budget Adoption. City Administrator Derickson provided a staff report. Mayor Swenson asked if anyone from the public would like to speak on this subject. No members of the public wished to speak in either support or opposition of the Fiscal Year (FY) 2020-21 City Budget Adoption. Mayor Swenson declared the hearing closed at 8:15 p.m.

Fiscal Year 2020-21 Resolution Regarding State Revenue Sharing

A Public Hearing to consider input on Fiscal Year (FY) 2020-2021 State Revenue Sharing. Mayor Swenson declared the hearing open at 8:18 p.m. for the purpose of hearing public input on Fiscal Year (FY) 2020-21 State Revenue Sharing. City Administrator Derickson

provided a staff report. Mayor Swenson asked if anyone from the public would like to speak on this subject. No members of the public wished to speak in either support or opposition of Fiscal Year (FY) 2020-21 State Revenue Sharing. Mayor Swenson declared the hearing closed at 8:19 p.m.

COUNCIL BILL NO. 3126 – A RESOLUTION ADOPTING THE FISCAL YEAR (FY) 2020-21 BUDGET; MAKING BUDGET APPROPRIATIONS; AND CATEGORIZING TAXES

City Administrator Derickson provided a staff report. **Carney** introduced Council Bill No. 3126. City Recorder Pierson read the bill by title only since there were no objections from the Council. On roll call vote for final passage, the bill passed unanimously. Mayor Swenson declared Council Bill No. 3126 duly passed.

COUNCIL BILL NO. 3127 – A RESOLUTION DECLARING THE CITY OF WOODBURN'S ELIGIBILITY AND ELECTION TO RECEIVE STATE REVENUE SHARING

City Administrator Derickson provided a staff report. **Carney** introduced Council Bill No. 3127. City Recorder Pierson read the bill by title only since there were no objections from the Council. On roll call vote for final passage, the bill passed unanimously. Mayor Swenson declared Council Bill No. 3127 duly passed.

COUNCIL BILL NO. 3128 – A RESOLUTION CONTINUING THE DECLARATION OF STATE OF LOCAL EMERGENCY IN THE CITY LIMITS OF THE CITY OF WOODBURN FOR PURPOSES OF COMMUNITY RECOVERY FROM THE COVID-19 PANDEMIC

City Administrator Derickson provided a staff report. **Carney** introduced Council Bill No. 3128. City Recorder Pierson read the bill by title only since there were no objections from the Council. On roll call vote for final passage, the bill passed unanimously. Mayor Swenson declared Council Bill No. 3128 duly passed.

COUNCIL BILL NO. 3129 – A RESOLUTION AUTHORIZING AN EMERGENCY BUSINESS ASSISTANCE GRANT PROGRAM TO SUPPORT LOCAL BUSINESSES IMPACTED BY COVID-19 AND THE GOVERNOR'S EXECUTIVE ORDERS 20-12

City Administrator Derickson provided a staff report. Economic Development Director Johnk provided information on how the program will work. **Carney** introduced Council Bill No. 3129. City Recorder Pierson read the bill by title only since there were no objections from the Council. On roll call vote for final passage, the bill passed unanimously. Mayor Swenson declared Council Bill No. 3129 duly passed.

APPROVAL OF PROPERTY LINE ADJUSTMENT AGREEMENT BETWEEN THE CITY OF WOODBURN AND THE WOODBURN SCHOOL DISTRICT TO FACILITATE THE NEW CITY PRODUCTION WELL

Carney/Ellsworth...approve the attached Property Line Adjustment Agreement between the City of Woodburn and the Woodburn School District (WSD) and authorize the City Administrator to sign the Agreement. The motion passed unanimously.

CDBG Revolving Loan Funds

City Administrator Derickson provided a staff report. Carney/Ellsworth... authorize the

City Administrator to submit a letter to Business Oregon requesting the reallocation of Community Development Block Grant (CDBG) Housing Rehab program income to a qualified non-profit agency for use to establish a mortgage assistance revolving loan program for eligible low to moderate income Woodburn residents. The motion passed unanimously.

PLANNING COMMISSION OR ADMINISTRATIVE LAND USE ACTIONS

- A. Call-Up Briefing: Planning Division Staff Approval of a Preliminary Partition of Parcel 3, Partition Plat 2019-069 (Phase 3B of Smith Creek).
- B. Call-Up Briefing: Planning Commission Approval of Design Review, Phasing Plan, Property Line Adjustment, Street Exception, and Variance Applications for Allison Way Apartments on three lots with no street addresses and located at the intersection of Stacy Allison Way & Hooper Street (DR 2019-05, PP 2019-01, PLA 2019-04, EXCP 2020-05, & VAR 2019-04).

Councilor Carney asked to call up Item B. Planning Director Kerr provided the City Council with information on the Item B.

Carney/Cabrales...call this project up for review. The motion passed with 5-1 with Councilor Ellsworth voting no.

CITY ADMINISTRATOR'S REPORT

The City Administrator reported the following:

- Noted that what has happened to George Floyd has been upsetting to a lot of the people in the City including staff. He added that he and the Chief put out a statement that tried to express how they felt about what has happened.
- Protest is scheduled for this Friday beginning at Centennial Park. He stated that the City encourages and supports peaceful first amendment expression.

MAYOR AND COUNCIL REPORTS

Councilor Ellsworth stated that these are difficult times with everything that is going on in our communities. She stated that she appreciates the letter from the City Administrator and the Chief and the Woodburn is Open video also really touched her heart. She added that anyone that wants to speak with her to please contact her, she welcomes anyone to call her and sit down and talk to anyone who feels that their voice is not being heard.

Councilor Carney stated that he would like to reinforce the letter provided by the City Administrator and Police Chief. He added that he is reminded that we are a community that welcomes people who have been marginalized and he echoed the sentiments of Councilor Ellsworth welcoming people to talk with him.

Councilor Cornwell concurred with Councilor Ellsworth and Councilor Carney. She added that she welcomes people reaching out to her.

Councilor Morris concurred with the other Councilors. He added that he is trying to find tangible things that can be done as representatives of our City and one of those things might

be 8 can't wait.

Chief Ferrari provided some information on the 8 can't wait policy and how Woodburn's policies compare.

Councilor Schaub echoed the comments made by other Councilors and appreciates the questions her constituents have asked her. She added that our City Administrator, Chief of Police, staff and Mayor have done a great job of reaching out and supplying information to our community. She looks forward to attending the protest on Friday.

Councilor Cabrales echoed the other comments from the City Councilors. She thanked the Chief for answering her tough questions. She added that she will also be at the protest on Friday.

Mayor Swenson stated that he is thankful that the City is stepping up to help those in need. He added that he and Councilor Schaub will be participating in a parade through Senior Estates and by the assisted living.

ADJOURNMENT

Ellsworth/Carney... meeting be adjourned. The motion passed unanimously. The meeting adjourned at 9:46 p.m.

APPROV	ED
	ERIC SWENSON, MAYOR
ATTEST	
Heather Pierson, City Recorder	
City of Woodburn Oregon	

COUNCIL SPECIAL MEETING MINUTES JUNE 25, 2020

<u>DATE</u> COUNCIL CHAMBERS, CITY HALL, CITY OF WOODBURN, COUNTY OF MARION, STATE OF OREGON, JUNE 25, 2020

CONVENED The meeting convened at 12:00 p.m. with Mayor Swenson presiding.

ROLL CALL

Mayor Swenson Present Councilor Carney Present

Councilor Cornwell Present -via video conferencing
Councilor Schaub Present -via video conferencing
Councilor Morris Present -via video conferencing
Councilor Ellsworth Present -via video conferencing

Councilor Cabrales Present

Staff Present (via video conferencing): City Administrator Derickson, City Attorney Shields, Assistant City Administrator Row, Assistant City Attorney Granum, Community Development Director Kerr, Police Chief Ferraris, Communications Coordinator Moore, City Recorder Pierson

EXECUTIVE SESSION

Mayor Swenson entertained a motion to adjourn into executive session under the authority of ORS 192.660 (2)(h) and ORS 192.660 (2)(f). **Morris/Carney**... move into executive session. The motion passed unanimously. The Council adjourned to executive session at 12:02 p.m. and reconvened at 12:48 p.m. Mayor Swenson stated that no action was taken by the Council while in executive session.

Carney/Ellsworth... that the City Council authorize City staff to initiate against Marion County whatever enforcement action is necessary, up to and including litigation, to ensure that Marion County is in compliance with the Woodburn land use regulations applicable to 821 Evergreen Road.

Lorrie Cox stated that she thinks TOT money that would come in from this agreement would be great however, she has concerns about it being located next to rehab facilities that our 55 plus environments. She added that she wanted safety and security monitored at this location and hopes that complacency doesn't set it.

Councilor Ellsworth stated that she wanted to make it clear that this is not a joint venture between the City and Marion County and added that Marion County did this without consulting the City, coming before the City Council or allowing any community input.

Councilor Carney stated that a public process should of occurred.

Councilor Cabrales stated that this is a good idea and needed but that there was a lack of communication on this and she has a lot of questions for the County.

Councilor Morris stated that he doesn't think it is a bad idea to have a Covid isolation facility but he is disappointed with the process. He added that he received around 40 emails stating that this is not good for the community. As community leaders we need to listen to

COUNCIL SPECIAL MEETING MINUTES JUNE 25, 2020

the population and do what's right for the community.

Councilor Schaub stated that she lives in Woodburn Estates and Golf near the Super 8 hotel and she has received quite a few emails as well. Her constituents are extremely concerned about this and hopes that the community realizes that we were not informed of this and were taken by surprise. She added that there is a peaceful protest at the hotel today at 3:00.

City Administrator Derickson stated that they recently spoke with Marion County about the City's concerns and questions on this issue and that he invited the Commissioners to a meeting in July to start this process with the City.

Councilor Ellsworth stated that she is also concerned that the migrant farmer population is being thrown in with parolees. She also has concerns about who is cleaning the rooms or delivering food and possibly getting infected and bringing it into the community.

Councilor Cornwell stated that she is okay with using this for community members who need to self-isolate there but has concerns about bringing people in.

Councilor Cabrales stated she would like to ask the County if they are going to put community members first for these rooms at the facility.

City Administrator Derickson added that there is going to have to be a plan in place for first responders and how they are going to be responding to any issues at this location.

Chief Ferraris stated that they are still waiting for some details on what their responsibility might be and impacts on public safety. He added that he has not seen the security plan yet.

Councilor Cabrales asked how moving forward we can make sure there is better communication with the County.

Mayor Swenson stated that he was disappointed when the conversations went from homeless people and migrant workers being housed to then throwing in parolees. He also was disappointed that nothing was said by the Commissioners. He thanked the City Administrative, City Attorney, Chief of Police and Planning Director for their work on this.

On roll call vote the motion passed unanimously.

ADJOURNMENT

Ellsworth/Schaub... meeting be adjourned. The motion passed unanimously. The meeting adjourned at 1:31 p.m.

APPROVI	ED
	ERIC SWENSON, MAYOR
ATTEST	
Heather Pierson, City Recorder	
City of Woodburn, Oregon	

EXECUTIVE SESSION COUNCIL MEETING MINUTES JUNE 25, 2020

<u>DATE</u> WOODBURN PUBLIC LIBRARY, CITY OF WOODBURN, COUNTY OF MARION, STATE OF OREGON, JUNE 25, 2020

CONVENED The Council met in executive session at 12:02 p.m. with Mayor Swenson.

ROLL CALL

TODE CITED	
Mayor Swenson	Present
Councilor Carney	Present
Councilor Cornwell	Present -via video conferencing
Councilor Schaub	Present -via video conferencing
Councilor Morris	Present -via video conferencing
Councilor Ellsworth	Present -via video conferencing
Councilor Cabrales	Present

Mayor Swenson reminded Councilors and staff that information discussed in executive session is not to be discussed with the public.

Media Present: KGW News

Staff Present: City Administrator Derickson, City Attorney Shields, Assistant City Administrator Row, Community Development Director Kerr, Police Chief Ferraris, Assistant City Attorney Granum, City Recorder Pierson

The executive session was called:

To consult with counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed pursuant to ORS 192.660 (2)(h).

To consider records that are exempt by law from public inspection pursuant to ORS 192.660 (2)(f).

ADJOURNMENT

The executive session adjourned at 12:48 p.m.

	APPROVED_		
		Eric Swenson, Mayor	
ATTEST			
Heather Pierson, City Recorder			
City of Woodburn, Oregon			

Page 1 – Executive Session, Council Meeting Minutes, June 25, 2020



Azenda Item

July 13, 2020

TO: Mayor and City Council through City Administrator

FROM: James C. Ferraris, Chief of Police

SUBJECT: Redflex Contract Extension Amendment

RECOMMENDATION:

Authorize the City Administrator to sign the attached Sixth Extension of the Agreement with Redflex Traffic Systems, Inc. to provide Red Light Photo Enforcement Services.

BACKGROUND:

In 2010, the City entered into an Agreement with Redflex Traffic Systems, Inc. to provide Red Light Photo Enforcement Services. The initial terms of the Agreement expired on June 30, 2015. Under the terms and conditions of the Original Agreement, the City had, and continues to have the option to elect to extend the contract for up to seven (7) additional one (1) year periods. Since 2015, there have been 5 extensions authorized by the City Council. The current extension expired June 30, 2020. The city has (2) 1-year extensions available.

The City has the legal right to renew the Agreement for another one (1) year period at its discretion, and Staff believes that it is in the City's interest to exercise this option.

DISCUSSION:

Red Light Photo Enforcement Services currently include the maintenance of, and violation processing for equipment and program services located at the intersection of State Hwy. 99E and State Hwy. 211/Mt. Hood Ave. The City and Redflex have enjoyed a professional working relationship and Redflex has provided exceptional service. Redflex has already agreed to the proposed extension of the Agreement.

Agenda Item Review: City Administrator __x___ City Attorney __x__ Finance __x__

FINANCIAL IMPACT:

Contract terms remain unchanged and Redflex receives a portion of fines collected from violations captured by the system. There is no direct cost to the City Budget.

SIXTH EXTENSION OF THE AGREEMENT WITH REDFLEX TRAFFIC SYSTEMS, INC. TO PROVIDE RED LIGHT PHOTO ENFORCEMENT SERVICES TO THE CITY OF WOODBURN, OREGON

THIS SIXTH AMENDMENT to the Agreement with Redflex Traffic Systems, Inc. to provide Red Light/Speed Photo Enforcement Services to the City of Woodburn, Oregon is entered in to this 1st day of July, 2020 (the "Effective Date") by and between the City of Woodburn, Oregon (the "City"), and Redflex Traffic Systems, Inc. ("Redflex") (collectively referred to as the "Parties")

- A. In 2010, the Parties entered into an Agreement (the "Original Agreement") with Redflex Traffic Systems, Inc. to provide Red Light Photo Enforcement Services to the City of Woodburn, Oregon. In 2019, the Parties agreed to amend the original agreement to include photo speed enforcement; and
- B. The Initial Term of the Original Agreement expired on June 30, 2015. Under the Original Agreement, the City had the option to elect to extend the contract for up to seven (7) additional one (1) year periods. Since 2015, there have been 5 extensions authorized by the City Council. The current extension expired June 30, 2020. The city currently has (2) 1-year extensions available.
- C. The City has the right to renew the Agreement for an additional one (1) year period at its discretion; and
- D. The City has determined that it is in the City's interest to exercise its renewal option;

NOW THEREFORE, in consideration of the mutual covenants and agreements set forth herein:

- 1. Pursuant to Article II, Section 2, the City exercises its option to extend the Agreement for an additional one (1) year period until June 30, 2021.
- 2. Except as expressly amended in this Sixth Amendment, the terms and conditions of the Original Agreement shall remain in full force and effect. To the extent that this Sixth Amendment conflicts with the terms and conditions of the Original Agreement, this Sixth Amendment shall control.

CITY OF WOODBURN	REDFLEX TRAFFIC SYSTEMS, INC
By:	By:
Scott Derickson, City Administrator	Mark Talbot, Group CEO

SIXTH EXTENSION OF REDFLEX AGREEMENT



Azenda Item

July 13, 2020

TO: Honorable Mayor and City Council through City Administrator

FROM: Eric Liljequist, Public Works Projects & Engineering Director

SUBJECT: Acceptance of a Warranty Deed at 270 Montgomery Street,

Woodburn, OR 97071 (Tax Lot 051W18BA06400)

RECOMMENDATION:

Authorize a variable-width right-of-way dedication granted by the City of Woodburn for the property located at 270 Montgomery Street, Woodburn, OR 97071 (Tax Lot 051W18BA06400).

BACKGROUND:

The ADA ramp located at the NW quadrant of N. First Street/Cleveland Street intersection was recently reconstructed as part of the N. First Street Improvements Project. In order to incorporate the entire ADA ramp within the public right-of-way, the City of Woodburn is providing a variable-width right-of-way dedication for property owned at Tax Lot 051W18BA06400.

DISCUSSION:

The variable-width public right-of-way dedication is located at the southeast property corner, at the NW corner of N First Street and Cleveland Street. The variable-width public right-of-way provides the area of land needed to fully incorporate the newly constructed ADA ramp.

FINANCIAL IMPACT:

There is no cost to the City for the Warranty deed, with the exception of Marion County recording fees.

ATTACHMENTS

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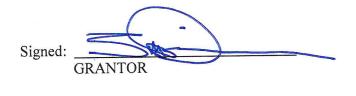
Agenda Item Review: City Administrator __x___ City Attorney __x___ Finance __x__

After Recording Return to: City Recorder City of Woodburn 270 Montgomery Street Woodburn, Oregon 97071

Send Tax Statements to: City Recorder City of Woodburn 270 Montgomery Street Woodburn, Oregon 97071

STATUTORY WARRANTY DEED

<u>City of Woodburn</u> , Grantor, conveys and warrants to CITY OF WOODBURN, a municipal corporation of the State of Oregon, Grantee, the following described real property free of encumbrances except as specifically set forth herein: Description: <u>See attached Exhibit "A" and Exhibit "B"</u>
Exceptions: The true and whole consideration for this conveyance is \$0.00
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 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. 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 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.
Dated this day of, 201



STATE OF OREGON)) ss
County of Marion)
This instrument was acknowledged before me on May 6, 201, by
SIND DOLLARS
OFFICIAL STAMP HEATHER PIERSON NOTARY PUBLIC-OREGON COMMISSION NO. 971941 MY COMMISSION EXPIRES MARCH 4, 2022 By: The first of the commission of the commis
City of Woodburn 270 Montgomery Street Woodburn, OR 97071
(Grantee's Name and Address)
By Signature below, the City of Woodburn, Oregon, Approves and Accepts this Conveyance Pursuant to ORS 93.808.
City Recorder:
Heather Pierson

EXHIBIT "A"

RIGHT-OF-WAY DEDICATION
City of Woodburn, Oregon
February 6, 2020

A tract of land located in the Northeast One-Quarter of the Northwest One-Quarter of Section 18, Township 5 South, Range 1 West, of the Willamette Meridian, City of Woodburn, Marion County, Oregon, said tract being a portion of Lot 2, Block 1, in the Plat of "J.H. Settlemier's Addition to the Town of Woodburn", recorded in Volume 1, Page 65, Book of Town Plats, Marion County, Oregon, said tract also being a portion of that tract of land as described by Warranty Deed to the City of Woodburn, a Municipal Corporation, recorded November 14, 1974 in Reel 3, Pages 1980-1981, Marion County Deed Records, said tract being more particularly described as follows:

Beginning at the most westerly corner of Lot 2, Block 1, of the Plat of "J.H. Settlemier's Addition to the Town of Woodburn", recorded in Volume 1, Page 65, Book of Town Plats, Marion County, Oregon, said point also being at the intersection of the easterly right-of-way line of 1st Street and the northerly right-of-way line of Cleveland Street;

Thence N42°55'44"E, along the easterly right-of-way line of said 1st Street, 18.38 feet to the beginning of a 15.00 foot radius non-tangent curve to the left, having a central angle of 101°34'31", the radius point of which bears S47°04'16"E;

Thence southeasterly along the arc of said non-tangent curve to the left (the long chord of which bears S7°51'32"E, 23.24 feet) 26.59 feet to a point on the northerly right-of-way line of said Cleveland Street;

Thence N58°38'48"W, along the northerly right-of-way line of said Cleveland Street, 18.38 feet to the **Point of Beginning**.

The tract of land to which this description applies contains 76 square feet, more or less.

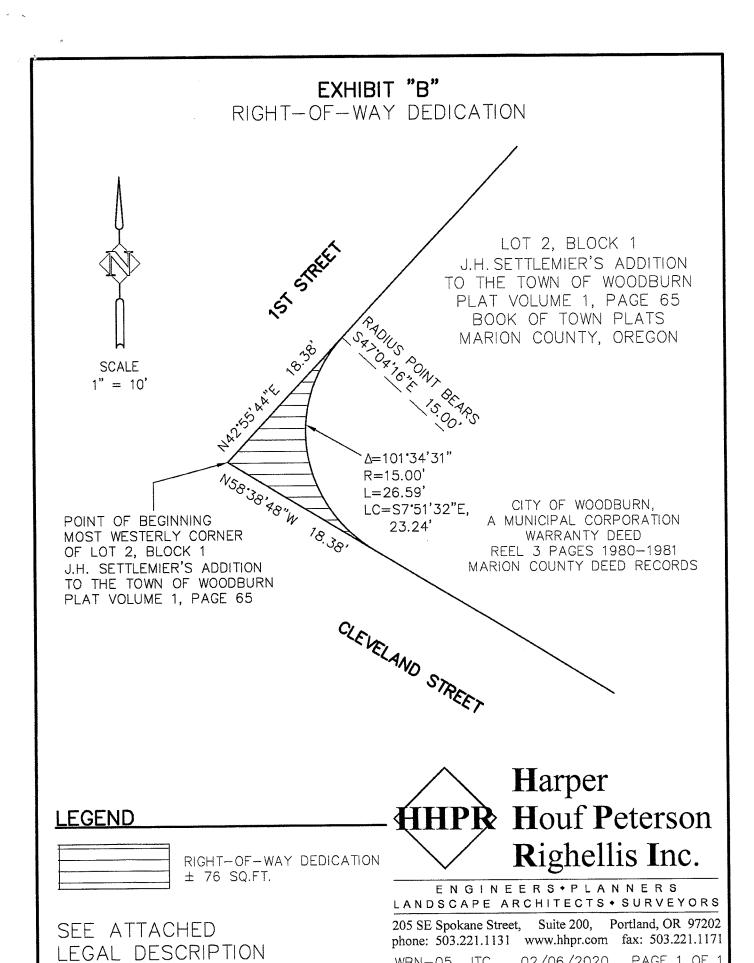
This legal description and the Basis of Bearings thereof is based upon MCSR 38773, Marion County Survey Records.

REGISTERED
PROFESSIONAL
AND SURVEYOR

OREGUN JULY 15, 2003 JOHN T. CAMPBELL 60070 LS

EXPIRES: 12-31-21

Exhibit "A" 1 of 1



41

WBN-05 JTC

PAGE 1 OF 1

02/06/2020



Agenda Item

July 13, 2020

TO: Honorable Mayor and City Council

FROM: Jamie Johnk, Economic Development Director

SUBJECT: Marion County Cooperation Agreement for Community

Development Block Grant Funds

RECOMMENDATION:

Authorize the City Administrator to sign the 3-year Cooperation Agreement with Marion County for Community Development Block Grant (CDBG) funds.

BACKGROUND:

The Housing and Community Development (HUD) Act of 1974, as amended (24 U.S.C. 93-383 et seq.), provides that Community Development Block Grant (CDBG) funds may be used for the support of activities that provide decent housing and suitable living environments and expanded economic opportunities principally for persons of low- and moderate-income. CDBG regulations allow contiguous units of general government to join together to qualify as an urban county under the CDBG program and any urban county and metropolitan city located within that county can ask HUD to approve the inclusion of the metropolitan city as part of the urban county for purposes of planning and implementing a joint community development and housing assistance program

DISCUSSION:

Marion County has requested from HUD designation as an entitlement county to directly receive CDBG funding for distribution to qualifying projects within participating communities.

The City of Woodburn supports Marion County's designation as a CDBG entitlement county. The City supports entering in to a three-year Cooperation Agreement with Marion County for joint participation in the CDBG Program.

FINANCIAL IMPACT:

There is no direct financial impact as a result of entering into this Agreement.

Agenda Item Review:	City Administratorx	City Attorneyx	Financex_
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DRAFT 6/16/20

This Cooperation Agreement For Community Development Block Grant Funds "AGREEMENT" is	
made and entered into this day of, 2020, by and between Marion County, a	
subdivision of the State of Oregon, hereinafter referred to as "COUNTY", and the City of,	, a
municipal corporation within County, hereinafter referred to as "CITY".	

WHEREAS, the Housing and Community Development (HUD) Act of 1974, as amended (24 U.S.C. 93-383 et seq.), "ACT", provides that Community Development Block Grant, hereinafter referred to as "CDBG", funds may be used for the support of activities that provide decent housing and suitable living environments and expanded economic opportunities principally for persons of low- and moderate-income; and,

WHEREAS, CDBG regulations allow contiguous units of general government to join together to qualify as an urban county under the CDBG program; and,

WHEREAS, any urban county and metropolitan city located within that county can ask HUD to approve the inclusion of the metropolitan city as part of the urban county for purposes of planning and implementing a joint community development and housing assistance program; and,

WHEREAS, HUD requires that the County and City enter into a Cooperation Agreement for joint participation in the CDBG Program, the HOME Investment Partnership Program, and Emergency Solutions Grants Program (ESG) for Fiscal Years 2021 through 2023 to define their rights and obligations as a prerequisite to participation in the CDBG program; and

WHEREAS, the CDBG regulations issued pursuant to the Act provide qualified urban counties must submit an application to HUD for funds, and cities and smaller communities within the metropolitan area not qualifying as metropolitan cities may join County in said application and thereby become a part of a more comprehensive County effort; and

WHEREAS, City and County wish to enter an Agreement for a successive three-year period effective in 2021; and

WHEREAS, the proposed Agreement is consistent with City and County policies encouraging cooperation between parties on issues of regional significance such as affordable housing; and

WHEREAS, it is the desire of County and City that this Agreement be automatically renewed every three years unless County or City elect not to participate in the urban county program in an upcoming qualification period; and

WHEREAS, the United States Department of Housing and Urban Development, will review and certify this Agreement in order to assure compliance with HUD requirements; and,

WHEREAS, as the urban county applicant, County must take responsibility and assume all obligations of an applicant under federal statues, including: the analysis of needs, the setting of objectives, the development of community development and housing assistance plans, the consolidated plan, and the assurances of certifications; and

Marion County - City of	

WHEREAS, by executing this Agreement, the Parties hereby give notice of their intention to participate in the urban county CDBG, HOME, and ESG Programs.

NOW THEREFORE, in consideration of the mutual promises, recitals and other provisions hereof, the parties agree as follows:

1. GENERAL

County and City agree to cooperate to undertake, or assist in undertaking, community renewal and lower income housing assistance activities, specifically urban renewal and publicly assisted housing; economic development, neighborhood facilities, housing rehabilitation, and other appropriate housing assistance to primarily benefit lower and moderate income people. This Agreement includes participation in the Community Development Block Grant (CDBG), the HOME Investment Partnership Program and the Emergency Solutions Grants (ESG) Program.

2. TERM

The term of this Agreement shall be for Federal Fiscal Years 2021, 2022, and 2023 after which the term shall be automatically renewed unless action is taken by City to terminate this Agreement. As provided by HUD rules and regulations, this Agreement shall automatically be renewed for participation in successive three-year qualification periods, unless County or City provides written notice it elects not to participate in a new qualification period, provided however, that this Agreement shall remain in effect until CDBG, HOME and ESG funds and income received with respect to the three-year qualification period are expended and the funded activities completed. County and City cannot terminate or withdraw from this Agreement while the Agreement remains in effect. County and City may not withdraw from this Agreement prior to expiration of Federal Fiscal Year 2023.

By the date specified in HUD's urban county qualification notice for a subsequent qualification period, County will notify City in writing of its right not to participate. Should there be changes necessary to meet the requirements for cooperation agreements set forth in the urban county qualification notice applicable for a subsequent three-year urban county qualification period, amendment(s) to this Agreement shall be executed between County and City. Such amendment(s) shall be submitted to HUD; failure to do so will void the automatic renewal of such qualification period.

3. APPLICANT RESPONSIBILITY

a. County has final responsibility for selecting CDBG, HOME, and ESG activities and submitting the Consolidated Plan to the Department of Housing and Urban Development.

County and City shall take all actions necessary to assure compliance with the urban county's certifications under Sections 104(b) of Title I of the Housing and Community Development Act of 1974, that the grant will be conducted and administered in conformity with Title VI of the Civil Rights Act of 1964 and the Fair Housing Act and will affirmatively further fair housing. See 24 CFR 91.225(a) and 5.105(a). County and City will comply with

2
,

section 109 of Title I of the Housing and Community Development Act of 1974, which incorporates Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act, the Age Discrimination Act of 1975, and Section 3 of the Housing and Urban Development Act of 1968. County and City agree to comply with all other applicable laws.

County shall not provide CDBG, HOME or ESG funds for activities in, or in support of, any cooperating city that does not affirmatively further fair housing within its own jurisdiction or for activities that impede County's actions to comply with its fair housing certification.

- b. Further, pursuant to 24 CFR 570.501(b), County, as applicant, has the responsibility for ensuring that CDBG, HOME and ESG funds are used in accordance with all program requirements, for determining the adequacy of performance under agreements and procurement contracts, and for taking appropriate action when performance problems arise. Therefore, before disbursing any CDBG, HOME or ESG funds to City or projects in the City, County will require City, and City agrees to enter into a written agreement for each individual project.
- c. City may not sell, trade, or otherwise transfer all or any portion of such funds to another such metropolitan city, urban county, unit of general local government, or Indian tribe, or insular area that directly or indirectly receives CDBG funds in exchange for any other funds, credits or non-Federal considerations, but, must use such funds for activities eligible under Title I of the Act. This new requirement is contained in the Transportation, Housing and Urban Development, and Related Agencies Appropriation Act, 2014, pub. L113-76.

4. CITY SUBJECT TO SAME REQUIREMENTS AS SUBRECIPIENTS:

Pursuant to 24 CFR 570.501(b), the City is subject to the same requirements applicable to sub recipients, including the requirements of a written agreement set forth in 24 CFR 570.503.

5. THE CITY AFFIRMS THAT IT HAS ADOPTED AND IS ENFORCING:

- a. A policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in non-violent civil rights demonstrations;
- b. A policy of enforcing applicable state and local laws against physically barring entrance to or exit from a facility or location which is the subject of such non-violent civil rights demonstrations within jurisdictions.

6. BY EXECUTING THIS AGREEMENT, THE CITY UNDERSTANDS THAT IT:

May not apply for grants from appropriations under the Small Cities or State CDBG
 Programs for fiscal years during the period in which it participates in the urban county's
 CDBG program;

Marion County – City of	

3

- b. May receive a formula allocation under the HOME Program only through the urban county. Thus, even if Marion County does not receive a HOME formula allocation, City cannot form a HOME consortium with other local governments. This does not preclude County or City from applying to the state for HOME funds, if the state allows; and
- c. May receive a formula allocation under the ESG Program only through the urban county, although this does not preclude the urban county or a unit of government participating with the urban county from applying to the State for ESG funds, if the state allows.

7. COUNTY'S RESPONSIBILITY TO CITY

In addition to the foregoing obligations, County agrees:

- a. County shall, in preparing future plans under the Act, solicit to the extent allowed by the Act and all lawful HUD regulations, City's participation in the development of such future plans which refer to City's activities under the Act.
- b. In accordance with instructions from HUD, County agrees to permit City to carry out the essential community development and housing assistance activities provided for in the application and in future plans.
- c. County agrees to distribute funding it receives in accordance with the terms and provisions therein contained, or in accordance with such terms and conditions as required by the Act of HUD.

8. CITY'S RESPONSIBILITIES TO COUNTY

In addition to the foregoing obligations:

- a. City agrees to expend any funds received by virtue of any of urban county's plans only in accordance with the terms and conditions stated therein, or amended by HUD.
- b. City agrees to cooperate with urban county on the development of future plan applications for funds under the Act, with regard to housing and community development activities to be continued or undertaken by City within its boundaries.

9. PROGRAM INCOME

- a. City must inform County of any income generated by the expenditure of CDBG, HOME or ESG funds received by City.
- b. Any such program income must be paid to the County, or City may retain the program income subject to requirements set forth in this Agreement.
- c. Any program income City is authorized to retain may only be used for eligible activities in accordance with all CDBG, HOME or ESG requirements as may then apply.

Marion	County -	- City of		

- d. County has the responsibility for monitoring and reporting to HUD on the use of any such program income and County shall require appropriate recordkeeping and reporting by City as may be needed for this purpose.
- e. In the event of close-out or change in status of City, any program income that is on hand or received subsequent to the close-out or change in status shall be paid to County.

10. ACQUISITION, CHANGE IN USE, AND DISPOSITION OF REAL PROPERTY ACQUIRED OR IMPROVED WITH CDBG FUNDS

- a. City shall notify County of any change in use including disposition of real property, within the control of City, which was acquired or improved in whole or in part with CDBG funds, from that approved at the time CDBG funds were authorized for acquisition or improvement.
- b. City shall reimburse County in an amount equal to the current fair market value (less any portion thereof attributable to expenditures of non-CDBG funds) of property acquired or improved with CDBG funds that is sold or transferred for a use which does not qualify under the CDBG regulations at any time prior to or subsequent to the close-out, change of status or termination of this Agreement between the County and City.

11. MINOR AMENDMENTS TO THE AGREEMENT

Notwithstanding, Section 2 above, should it become necessary to change the language of this Agreement to meet HUD approval, without making major changes and without altering the intent of the Agreement, such changes may be made administratively by the city administrator of City. All remaining provisions of said Agreement shall remain in full force and effect for the term provided herein.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first above written.

MARION COUNTY, OREGON	CITY of	
 Jan Fritz	Name	
Chief Administrative Officer	City Administrator	
Dated:	Dated:	

5

APPROVED AS TO FORM AND CERTIFIED THAT THE TERMS AND PROVISIONS OF THIS AGREEMENT ARE FULLY AUTHORIZED UNDER STATE AND LOCAL LAWS AND THAT THIS AGREEMENT PROVIDES FULL LEGAL AUTHORITY FOR THE COUNTY TO UNDERTAKE THE ACTIONS DESCRIBED HEREIN.
Jane Vetto County Counsel
Dated:

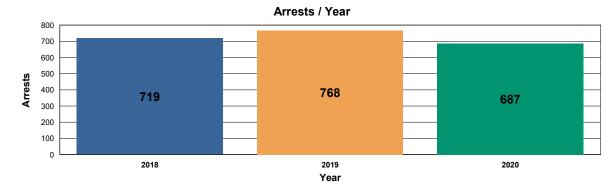
MONTHLY ARRESTS BY OFFENSES 2020 Year to Date

						Total
AGGRAVATED ASSAULT	2	0		_		6
ANIMAL CRUELTY	0	0	_	_		1
ANIMAL ORDINANCES	2	2				
ARSON	1	0				
ASSAULT SIMPLE	14	7				
BURGLARY - BUSINESS	0	1				
BURGLARY - OTHER STRUCTURE	0	1		_		
BURGLARY - RESIDENCE	0	1				
CHILD NEGLECT	0	0				1
CRIME DAMAGE-NO VANDALISM OR ARSON	2	2				
CURFEW	0	0			_	-
CUSTODY - MENTAL	4	0	_			
DISORDERLY CONDUCT	8	9				
DRINKING IN PUBLIC	0	0	_			4
DRIVING UNDER INFLUENCE	5	9				
DRUG LAW VIOLATIONS	16	17				73
DWS/REVOKED-MISDEMEANOR	2	1	_			
ELUDE	0	0		_		
ESCAPE FROM YOUR CUSTODY	1	1			0	
EXTORTION/BLACKMAIL	0	1	0			
FAIL TO DISPLAY OPERATORS LICENSE	0	3			1	5 2 1
FAILURE TO REGISTER AS SEX OFFENDER	0	0		_		2
FORCIBLE RAPE	0	0				
FORGERY/COUNTERFEITING	0	1				2 2 2
FRAUD - BY DECEPTION/FALSE PRETENSES	0	2				2
FRAUD - CREDIT CARD/AUTOMATIC TELLER MACHINE	0	1	_	1	l	
FUGITIVE ARREST FOR ANOTHER AGENCY	47	24	_			
GARBAGE LITTERING	0	0	_			1
HIT AND RUN-MISDEMEANOR	4	4	_	_		13
IDENTITY THEFT	0	1	_			2
INTIMIDATION /OTHER CRIMINAL THREAT	5	4				19
KIDNAP - FOR ADDITIONAL CRIMINAL PURPOSE	0	2 1				2
MINOR IN POSSESSION	0 2				7	4
MOTOR VEHICLE THEFT	4	4		1		31
OTHER	0	3			0	
PROPERTY RECOVER FOR OTHER AGENCY			_	.		1
RECKLESS DRIVING RECKLESSLY ENDANDERING	3	4				-
RESTRAINING ORDER VIOLATION	3	2				8 8
	0	0				1
ROBBERY - BUSINESS ROBBERY - OTHER	1	1				
ROBBERY - RESIDENCE	1	0		_		
RUNAWAY	0	1		1		
SEX CRIME - EXPOSER	1	0				
SEX CRIME - EXPOSER SEX CRIME - FORCIBLE SODOMY	0	0				
SEX CRIME - I ORCIBLE SODOM I	0	0				
SEX CRIME - INCEST SEX CRIME - MOLEST (PHYSICAL)	2	1				
STALKER	1	0				
STALKER STOLEN PROPERTY - RECEIVING, BUYING, POSSESSING		2				
THEFT - BUILDING	0	0				3
THEFT - BOILDING THEFT - FROM MOTOR VEHICLE	1	1				- Δ
THEFT - PROM MOTOR VEHICLE THEFT - MOTOR VEHICLE PARTS/ACCESSORIES	2	0				2
THEFT - MOTOR VEHICLE PARTS/ACCESSORIES THEFT - OTHER	2	7				
THEFT - SHOPLIFT	4	4				
IIILI I - SHUFLIF I	4	4] 3	1 0		14

MONTHLY ARRESTS BY OFFENSES 2020 Year to Date

	Jan	Feb	Mar	Apr	May	Total
TRAFFIC VIOLATIONS	7	4	4	1	5	21
TRESPASS	8	3	7	7	5	30
UNAUTHORIZED ENTRY INTO MOTOR VEHICLE	C	1	2	3	1	7
VANDALISM	C	1	0	1	1	3
VEHICLE RECOVERD FOR OTHER AGENCY	C	0	0	1	3	4
WEAPON - CARRY CONCEALED	1	1	2	1	2	7
WEAPON - EX FELON IN POSSESSION	C	1	0	C	1	2
WEAPON - OTHER	C	0	0	1	0	1
WEAPON - POSSESS ILLEGAL	1	1	3	3	1	9
WEAPON - SHOOTING IN PROHIBITED AREA	1	0	2	C	0	3

	Jan	Feb	Mar	Apr	May	Total
2020 Total	161	139	105	133	149	687
2019 Total	178	115	157	146	172	768
2018 Total	187	111	138	136	147	719

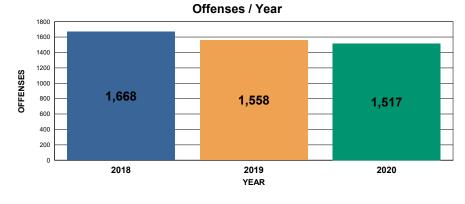


MONTHLY CRIMINAL OFFENSES 2020 Year to Date

CHARGE DESCRIPTION	lon	Eah	Mar	۸	Mari	Total
CHARGE DESCRIPTION AGGRAVATED ASSAULT	Jan 2	гер 4	_			Total 13
ANIMAL CRUELTY	0		_			13
ANIMAL ORDINANCES	2	_	_			_
ARSON	1	1	C			
ASSAULT SIMPLE	18			_		
BURGLARY - BUSINESS	10	5			3	
BURGLARY - OTHER STRUCTURE	1	1				6
BURGLARY - RESIDENCE	2	8			0	13
CHILD NEGLECT	0				_	1
CITY ORDINANCE	0				0	
CRIME DAMAGE-NO VANDALISM OR ARSON	9					
CRIMINAL MISTREATMENT	1	0		-		
CURFEW	0	0		_	0	
CUSTODY - MENTAL	5					
DISORDERLY CONDUCT	8					
DRINKING IN PUBLIC	0	0				1
DRIVING UNDER INFLUENCE	5			_	3	
DRUG LAW VIOLATIONS	13					
DWS/REVOKED-MISDEMEANOR	2		2			55
ELUDE						
ESCAPE FROM YOUR CUSTODY	1	2			-	10
	1	1	_		0	
EXTORTION/BLACKMAIL	0	0		_		3 5
FAIL TO DISPLAY OPERATORS LICENSE	0	3			1	
FAILURE TO REGISTER AS SEX OFFENDER	0	0		_		2
FORCIBLE RAPE	2				2	
FORGERY/COUNTERFEITING	2			_	_	
FRAUD - BY DECEPTION/FALSE PRETENSES	3					
FRAUD - CREDIT CARD/AUTOMATIC TELLER MACHINE	3				1	11
FRAUD - NOT SUFFICIENT FUNDS CHECK	0	0	_		_	2
FRAUD - WIRE	0	0	_		0	
FUGITIVE ARREST FOR ANOTHER AGENCY	35					
GARBAGE LITTERING	0		_		-	1
HIT AND RUN FELONY	0	1	_	_	_	1
HIT AND RUN-MISDEMEANOR	18		_		_	
IDENTITY THEFT	3				3	
INTIMIDATION /OTHER CRIMINAL THREAT	3					
KIDNAP - FOR ADDITIONAL CRIMINAL PURPOSE	1	1			1	
MINOR IN POSSESSION	0				1	
MISCELLANEOUS	24					
MOTOR VEHICLE THEFT	8					
NON CRIMINAL DOMESTIC DISTURBANCE	15					
OTHER	3					
PROPERTY - FOUND LOST MISLAID	5					
PROPERTY RECOVER FOR OTHER AGENCY	0					
PUBLIC HEALTH AND SAFETY ORDINANCES	0					
RECKLESS DRIVING	4					
RESTRAINING ORDER VIOLATION	5	2	C	2	1	10
ROBBERY - BUSINESS	0	1	С	0	1	2 1
ROBBERY - HIGHWAY	0	0	1	0	0	1
ROBBERY - OTHER	4	2	С	0	0	6
RUNAWAY	1	4	1	2	0	8
SEX CRIME - CONTRIBUTE TO SEX DELINQUENCY	1	1	С	0	0	6 8 2 3
SEX CRIME - EXPOSER	0					3
SEX CRIME - FORCIBLE SODOMY	1					
SEX CRIME - INCEST	0					
SEX CRIME - MOLEST (PHYSICAL)	3					
SEX CRIME - NON-FORCE RAPE	0				-	
	5			<u> </u>		
Page 1 of 2	J	1				

MONTHLY CRIMINAL OFFENSES 2020 Year to Date

	Jan	Feb	Mar	Apr	May	Total
SEX CRIME - OTHER	1	0	0	0	0	1
SEX CRIME - PORNOGRAPHY/OBSCENE MATERIAL	0	0	1	0	0	
STALKER	1	0	_		0	_
STOLEN PROPERTY - RECEIVING, BUYING, POSSESSING	1	2	l	_		5
THEFT - BICYCLE	2		3	3	3	13
THEFT - BUILDING	2			4	0	11
THEFT - COIN OP MACHINE	0	_		_		4
THEFT - FROM MOTOR VEHICLE	14	15		_		
THEFT - MOTOR VEHICLE PARTS/ACCESSORIES	4			5	8	27
THEFT - OTHER	15	23	13	7	18	76
THEFT - PICKPOCKET	0	1	0	_	_	_
THEFT - SHOPLIFT	12	_	_	I		
TRAFFIC VIOLATIONS	8			I	5	
TRESPASS	11				7	
UNAUTHORIZED ENTRY INTO MOTOR VEHICLE	2			_		_
VANDALISM	14	15	14	- 22	20	85
VEHICLE RECOVERD FOR OTHER AGENCY	1	1	1	7	14	24
WEAPON - CARRY CONCEALED	1	1	1	1	2	6
WEAPON - EX FELON IN POSSESSION	0	1	1	2	0	
WEAPON - OTHER	0	0	-	0	0	-
WEAPON - POSSESS ILLEGAL	1	2	2	2	1	8
WEAPON - SHOOTING IN PROHIBITED AREA	1	0	1	1	3	6
	Jan	Feb	Mar	Apr	May	Total
2020 Total	307	322	249	278	361	1,517
2019 Total	330	235	325	297	371	1,558
2018 Total	409	284	317	342	316	1,668
		-	-	1		, ,

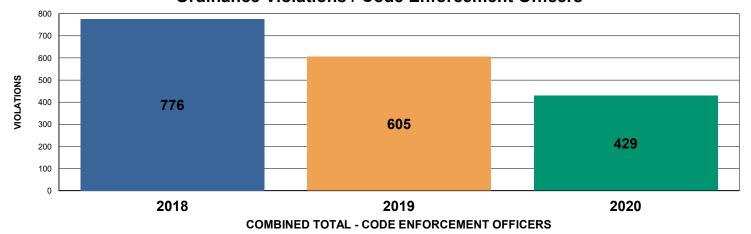


ORDINANCE VIOLATIONS 2020 Year to Date

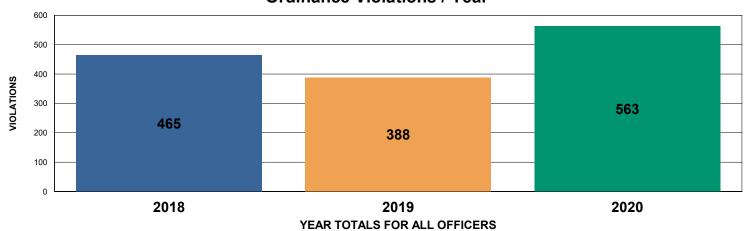
6/16/2020

Ordinance Discription		Feb	Mar	Apr	Мау	Total
Animal Complaint		43	35	26	45	198
Ordiinance - Abate/Nuisances		0	1	2	0	3
Ordinance - Abandoned Vehicles		47	34	17	21	140
Ordinance - Abate Graffiti	4	1	0	1	0	6
Ordinance - Land Use Violations	1	2	2	4	7	16
Ordinance - Oth Violation	34	28	25	30	26	143
Ordinance - Tall Grass	0	0	0	0	57	57
2020 Total	109	121	97	80	156	563
2019 Total	141	99	148	116	205	709
2018 Total	176	133	156	182	223	870

Ordinance Violations / Code Enforcement Officers



Ordinance Violations / Year



CITY OF WOODBURN

Economic and Development Services Department

MEMORANDUM

270 Montgomery Street

Woodburn, Oregon 97071

(503) 982-5246

Date:

July 1, 2020

To:

Chris Kerr, Community Development Director

From:

Ted Cuno, Building Division

Subject: Building Activity for June 2020

		2018	2018 2019			2020
	No.	Dollar Amount	No.	Dollar Amount	No.	Dollar Amount
Single-Family Residential	0	\$0	0	\$0	18	\$3,788,425
Multi-Family Residential	1	\$13,000	0	\$0	0	\$0
Assisted Living Facilities	0	\$0	0	\$0	0	\$0
Residential Adds & Alts	5	\$70,323	6	\$171,647	3	\$41,801
Industrial	0	\$0	0	\$0	0	\$0
Commercial	8	\$671,708	3	\$1,924,650	7	\$4,063,834
Signs and Fences	1	\$23,200	0	\$0	0	\$0
Manufactured Homes	3	\$85,481	0	\$0	0	\$0
TOTALS	18	\$863,712	9	\$2,096,297	28	\$7,894,060
Fiscal Year to Date (July 1 – June 30)		\$49,429,664		\$39,155,344	,	\$51,994,665



Permits Issued

WOODBURN BUILDING DEPARTMENT

270 Montgomery Street Woodburn, OR 97071 503-982-5246 FAX: 503-980-2496

6/1/2020 through 6/30/2020

building.dept@ci.woodburn.or.us

www.ci.woodburn.or.us

Includes all valuations

Record Types Selected:

-All-

Commercial Alarm or Suppression Systems

971-20-000209-FIRE

Issued: 6/12/20 Address: 1195 N PACIFIC HWY, WOODBURN, OR 97071

Owner: SAMOILOV, MIKE & SAMOILOV, MARIA

Licensed Prof:

Category of Construction:

Commercial

Type of Work:

New

Work Description:

Type 1 Hood Kitchen Fire Suppression System Install

971-20-000237-FIRE

Issued: 6/4/20

Fees:

Fees:

Parcel: 051W08CD05800

\$2,036.79

\$362.32

Valuation:

Valuation:

\$75,000.00

\$4,500.00

Address:

1041 N BOONES FERRY RD, WOODBURN, OR 97071

Parcel:

Owner:

Licensed Prof:

Category of Construction:

Commercial

Type of Work:

Addition

Work Description:

Installation of underground fire system and vault

Commercial Alarm or Suppression Systems

2 permits issued

\$2,399.11

\$79,500.00

Commercial Mechanical

971-20-000258-MECH

Issued: 6/24/20

Fees:

\$324.36 Valuation: \$6,038.00

Address: Owner:

195 S BIRDS EYE AVE, WOODBURN, OR 97071 LONG BROTHERS PROPERTIES LLC 50% & JANET LONG TR 50% & LONG, JANET TRE

Parcel: 051W17CB00600

Licensed Prof:

ADVANTAGE HEATING AND AIR CONDITIONING LLC

Category of Construction:

Commercial

Type of Work:

Addition

Work Description:

Install Ductless Mini-split Heat Pump

Commercial Mechanical

1 permits issued

\$324.36

\$6,038.00

7/1/20

Page 1 of 12

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Permits Issued

WOODBURN BUILDING DEPARTMENT

270 Montgomery Street Woodburn, OR 97071 503-982-5246

FAX: 503-980-2496

www.ci.woodburn.or.us

6/1/2020 through 6/30/2020

Includes all valuations

New

building.dept@ci.woodburn.or.us

Record Types Selected:

-All-

Commercial Alarm or Suppression Systems

971-20-000209-FIRE

1195 N PACIFIC HWY, WOODBURN, OR 97071

Owner: SAMOILOV, MIKE & SAMOILOV, MARIA

Licensed Prof:

Work Description:

Address:

Category of Construction:

Commercial

Type of Work:

971-20-000237-FIRE

Type 1 Hood Kitchen Fire Suppression System Install

Address: 1041 N BOONES FERRY RD, WOODBURN, OR 97071

Issued: 6/4/20

Issued: 6/12/20

Fees: Parcel:

Fees:

Parcel: 051W08CD05800

\$2,036.79

\$362.32

Valuation:

Valuation:

\$75,000.00

\$4,500.00

Owner:

Licensed Prof:

Category of Construction:

Commercial

Type of Work:

Addition

Work Description:

Installation of underground fire system and vault

Commercial Alarm or Suppression Systems

2 permits issued

\$2,399.11

\$79,500.00

Commercial Mechanical

971-20-000258-MECH

Issued: 6/24/20

Fees:

Parcel: 051W17CB00600

\$324.36

Valuation:

\$6,038.00

Address: Owner:

195 S BIRDS EYE AVE, WOODBURN, OR 97071

LONG BROTHERS PROPERTIES LLC 50% & JANET LONG TR 50% & LONG, JANET TRE

Licensed Prof:

ADVANTAGE HEATING AND AIR CONDITIONING LLC

Category of Construction:

Commercial

Type of Work:

Addition

Work Description:

Install Ductless Mini-split Heat Pump

Commercial Mechanical

1 permits issued

\$324.36

\$6,038.00

7/1/20

Page 1 of 12

C:\myReports/reports//production/01 STANDARD REPORTS/std_Permits_Issued_v3_pr.rpt Permits Issued: Page 2 of 12

Commercial Structural

971-20-000123-STR **Issued:** 6/18/20 Fees: \$945.10 Valuation: \$34.844.00

Address: 1200 COUNTRY CLUB RD, WOODBURN, OR 97071 Parcel: 051W07BA00500

VILLAGE BY THE GREEN LLC C/O STAN FISHER Owner:

Licensed Prof:

Category of Construction: Multi-family Type of Work: Replacement

Work Description: Building B roofing and decking replacement

971-20-000128-STR **Issued:** 6/18/20 Fees: \$724.40 Valuation: \$23,442.00

1200 COUNTRY CLUB RD, WOODBURN, OR 97071 Address: Parcel: 051W07BA00500

Owner: VILLAGE BY THE GREEN LLC C/O STAN FISHER

Licensed Prof:

Category of Construction: Multi-family Type of Work: Replacement

Work Description: BLD "D" Removing old roofing and underlayment. Install 7/16 OSB and new roofing

971-20-000134-STR **Issued:** 6/10/20 Fees: \$611.58 Valuation: \$16,500.00

2020 BEN BROWN LN, WOODBURN, OR 97071 Address: Parcel: 052W13 00108

Owner: SMITH CREEK LLC

Licensed Prof:

Category of Construction: Commercial Type of Work: New

Work Description: Smith 1A Plaza Picnic Shelter.

971-20-000150-STR **Issued:** 6/2/20 Fees: \$303,465.41 Valuation: \$2,291,048.00

1800 W HAYES ST, WOODBURN, OR 97071 Address: Parcel: 052W12DD06300

Owner: WOODBURN SCHOOL DISTRICT 103

Licensed Prof:

Category of Construction: Commercial Type of Work: Addition

Work Description: Addition of (5) classrooms and various support spaces to school classroom annex.

971-20-000152-STR **Issued:** 6/17/20 Fees: \$85,436.30 Valuation: \$1,438,000.00

Address: 2775 N FRONT ST, WOODBURN, OR 97071 Parcel: 051W05D 01902

CIRRUS NORTHWEST LLC Owner:

Licensed Prof: Oregon Pacific Construction

Category of Construction: Industrial Type of Work: Addition Work Description:

18,750 sq. ft. addition to existing facility plus 5,280 sq. ft. canopy.

971-20-000233-STR **Issued:** 6/3/20 Fees: \$418.96 Valuation: \$10,000.00

1785 N FRONT ST, WOODBURN, OR 97071 Address: Parcel: 051W07A 00600

Owner: WOODBURN SCHOOL DISTRICT 103

Licensed Prof:

Category of Construction: Commercial Type of Work: Replacement

Work Description: Relocation of Modular Classrooms Permits Issued: Page 2 of 12

Commercial Structural

971-20-000123-STR **Issued:** 6/18/20 Fees: \$945.10 Valuation: \$34.844.00

Address: 1200 COUNTRY CLUB RD, WOODBURN, OR 97071 Parcel: 051W07BA00500

VILLAGE BY THE GREEN LLC C/O STAN FISHER Owner:

Licensed Prof:

Category of Construction: Multi-family Type of Work: Replacement

Work Description: Building B roofing and decking replacement

971-20-000128-STR **Issued:** 6/18/20 Fees: \$724.40 Valuation: \$23,442.00

1200 COUNTRY CLUB RD, WOODBURN, OR 97071 Address: Parcel: 051W07BA00500

Owner: VILLAGE BY THE GREEN LLC C/O STAN FISHER

Licensed Prof:

Category of Construction: Multi-family Type of Work: Replacement

Work Description: BLD "D" Removing old roofing and underlayment. Install 7/16 OSB and new roofing

971-20-000134-STR **Issued:** 6/10/20 Fees: \$611.58 Valuation: \$16,500.00

2020 BEN BROWN LN, WOODBURN, OR 97071 Address: Parcel: 052W13 00108

Owner: SMITH CREEK LLC

Licensed Prof:

Category of Construction: Commercial Type of Work: New

Work Description: Smith 1A Plaza Picnic Shelter.

971-20-000150-STR **Issued:** 6/2/20 Fees: \$303,465.41 Valuation: \$2,291,048.00

1800 W HAYES ST, WOODBURN, OR 97071 Address: Parcel: 052W12DD06300

Owner: WOODBURN SCHOOL DISTRICT 103

Licensed Prof:

Category of Construction: Commercial Type of Work: Addition

Work Description: Addition of (5) classrooms and various support spaces to school classroom annex.

971-20-000152-STR **Issued:** 6/17/20

Fees: \$85,436.30 Valuation: \$1,438,000.00 Address: 2775 N FRONT ST, WOODBURN, OR 97071 Parcel: 051W05D 01902

CIRRUS NORTHWEST LLC Owner:

Licensed Prof: Oregon Pacific Construction

Category of Construction: Industrial Type of Work: Addition

Work Description: 18,750 sq. ft. addition to existing facility plus 5,280 sq. ft. canopy.

971-20-000233-STR **Issued:** 6/3/20 Fees: \$418.96 Valuation: \$10,000.00

1785 N FRONT ST, WOODBURN, OR 97071 Address: Parcel: 051W07A 00600

Owner: WOODBURN SCHOOL DISTRICT 103

Licensed Prof:

Category of Construction: Commercial Type of Work: Replacement

Work Description: Relocation of Modular Classrooms Permits Issued: Page 3 of 12

Commercial Structural

971-20-000246-STR Issued: 6/19/20 Fees: \$4,000.84 Valuation: \$250,000.00

Address: 2020 BEN BROWN LN, WOODBURN, OR 97071 Parcel: 052W13 00108

Owner: SMITH CREEK LLC

Licensed Prof:

Category of Construction: Commercial Type of Work: New

Work Description: Modular Bathroom

 Commercial Structural
 7 permits issued
 \$395,602.59
 \$4,063,834.00

Permits Issued:
Page 4 of 12

Residential 1 & 2 Fam Dwelling (New Only) Limited

971-20-000181-DWL Issued: 6/17/20 Fees: \$16,093.99 Valuation: \$212,709.12

Address: 1420 FOXGLOVE ST, WOODBURN, OR 97071 Parcel: 051W18C 01403

Owner: WOODBURN DEVELOPMENT LLC

Licensed Prof:

Category of Construction: Single Family Dwelling Type of Work: New

Work Description: NSFR Construction

971-20-000183-DWL Issued: 6/17/20 Fees: \$16,621.32 Valuation: \$269,935.26

Address: 1430 FOXGLOVE ST, WOODBURN, OR 97071 Parcel: 051W18C 01403

Owner: WOODBURN DEVELOPMENT LLC

Licensed Prof:

Category of Construction: Single Family Dwelling Type of Work: New

Work Description: NSFR Contruction

971-20-000185-DWL Issued: 6/17/20 Fees: \$15,957.62 Valuation: \$206,886.18

Address: 1440 FOXGLOVE ST, WOODBURN, OR 97071 Parcel: 051W18C 01403

Owner: WOODBURN DEVELOPMENT LLC

Licensed Prof:

Category of Construction: Single Family Dwelling Type of Work: New

Work Description: NSFR Construction

971-20-000186-DWL Issued: 6/8/20 Fees: \$15,876.97 Valuation: \$200,887.56

Address: 1450 FOXGLOVE ST, WOODBURN, OR 97071 Parcel: 051W18C 01403

Owner: WOODBURN DEVELOPMENT LLC

Licensed Prof:

Category of Construction: Single Family Dwelling Type of Work: New

Work Description: NSFR Construction

971-20-000187-DWL Issued: 6/1/20 Fees: \$16,121.99 Valuation: \$212,926.47

Address: 1460 FOXGLOVE ST, WOODBURN, OR 97071 Parcel: 051W18C 01403

Owner: WOODBURN DEVELOPMENT LLC

Licensed Prof:

Category of Construction: Single Family Dwelling Type of Work: New

Work Description: NSFR Construction

971-20-000188-DWL Issued: 6/8/20 Fees: \$16,205.14 Valuation: \$220,057.14

Address: 1470 FOXGLOVE ST, WOODBURN, OR 97071 Parcel: 051W18C 01403

Owner: WOODBURN DEVELOPMENT LLC

Licensed Prof:

Category of Construction: Single Family Dwelling Type of Work: New

Work Description: NSFR Construction

Permits Issued: Page 5 of 12

Residential 1 & 2 Fam Dwelling (New Only) Limited

971-20-000189-DWL **Issued:** 6/1/20 \$15,963.60 Fees: Valuation: \$210,449.46

Address: 1480 FOXGLOVE ST, WOODBURN, OR 97071 Parcel: 051W18C 01403

Owner: WOODBURN DEVELOPMENT LLC

Licensed Prof:

Category of Construction: Single Family Dwelling Type of Work: New

Work Description: **NSFR** Construction

971-20-000190-DWL **Issued:** 6/1/20 Fees: \$16,093.99 Valuation: \$212,709.12

1492 FOXGLOVE ST, WOODBURN, OR 97071 Address: Parcel: 051W18C 01403

WOODBURN DEVELOPMENT LLC Owner: Licensed Prof: DAVIS BUILT HOMES LLC

Category of Construction: Single Family Dwelling Type of Work: New

Work Description: NSFR Construction

971-20-000191-DWL **Issued:** 6/8/20 Fees: \$15,821.97 Valuation: \$200,911.71

Address: 1496 FOXGLOVE ST, WOODBURN, OR 97071 Parcel: 051W18C 01403

Owner: WOODBURN DEVELOPMENT LLC

Licensed Prof:

Category of Construction: Single Family Dwelling Type of Work: New

Work Description: **NSFR** Construction

971-20-000204-DWL **Issued:** 6/26/20 Fees: \$16,267.99 Valuation: \$227,107.68

Address: 1414 DAHLIA ST, WOODBURN, OR 97071 Parcel: 051W18C 01403

Owner: WOODBURN DEVELOPMENT LLC

Licensed Prof:

Category of Construction: Single Family Dwelling Type of Work: New

Work Description: New Single Family Construction

971-20-000206-DWL **Issued:** 6/5/20 Fees: \$15,984.32 Valuation: \$210,705.18

1396 DAHLIA ST, WOODBURN, OR 97071 Parcel: 051W18C 01403

Owner: WOODBURN DEVELOPMENT LLC

Licensed Prof:

Category of Construction: Single Family Dwelling Type of Work: New

Work Description: New single family construction

971-20-000208-DWL **Issued:** 6/24/20 Fees: \$16,267,99 Valuation: \$227,131.83 Address:

1320 DAHLIA ST, WOODBURN, OR 97071 Parcel: 051W18C 01403

Owner: WOODBURN DEVELOPMENT LLC

Licensed Prof:

Category of Construction: Single Family Dwelling Type of Work: New

Work Description: New single family construction Permits Issued: Page 5 of 12

Residential 1 & 2 Fam Dwelling (New Only) Limited

971-20-000189-DWL Issued: 6/1/20 Fees: \$15,963.60 Valuation: \$210,449.46

Address: 1480 FOXGLOVE ST, WOODBURN, OR 97071 Parcel: 051W18C 01403

Owner: WOODBURN DEVELOPMENT LLC

Licensed Prof:

Category of Construction: Single Family Dwelling Type of Work: New

Work Description: NSFR Construction

971-20-000190-DWL Issued: 6/1/20 Fees: \$16,093.99 Valuation: \$212,709.12

Address: 1492 FOXGLOVE ST, WOODBURN, OR 97071 Parcel: 051W18C 01403

Owner: WOODBURN DEVELOPMENT LLC
Licensed Prof: DAVIS BUILT HOMES LLC

Category of Construction: Single Family Dwelling Type of Work: New

Work Description: NSFR Construction

971-20-000191-DWL Issued: 6/8/20 Fees: \$15,821.97 Valuation: \$200,911.71

Address: 1496 FOXGLOVE ST, WOODBURN, OR 97071 Parcel: 051W18C 01403

Owner: WOODBURN DEVELOPMENT LLC

Licensed Prof:

Category of Construction: Single Family Dwelling Type of Work: New

Work Description: NSFR Construction

971-20-000204-DWL Issued: 6/26/20 Fees: \$16,267.99 Valuation: \$227,107.68

Address: 1414 DAHLIA ST, WOODBURN, OR 97071 Parcel: 051W18C 01403

Owner: WOODBURN DEVELOPMENT LLC

Licensed Prof:

Category of Construction: Single Family Dwelling Type of Work: New

Work Description: New Single Family Construction

971-20-000206-DWL Issued: 6/5/20 Fees: \$15,984.32 Valuation: \$210,705.18

Address: 1396 DAHLIA ST, WOODBURN, OR 97071 Parcel: 051W18C 01403

Owner: WOODBURN DEVELOPMENT LLC

Licensed Prof:

Category of Construction: Single Family Dwelling Type of Work: New

Work Description: New single family construction

971-20-000208-DWL Issued: 6/24/20 Fees: \$16,267.99 Valuation: \$227,131.83

Address: 1320 DAHLIA ST, WOODBURN, OR 97071 Parcel: 051W18C 01403

Owner: WOODBURN DEVELOPMENT LLC

Licensed Prof:

Category of Construction: Single Family Dwelling Type of Work: New

Work Description: New single family construction

Permits Issued: Page 6 of 12

Residential 1 & 2 Fam Dwelling (New Only) Limited

971-20-000211-DWL Issued: 6/5/20 Fees: \$15,209.52 Valuation: \$123,670.00

Address: 1377 DAHLIA ST, WOODBURN, OR 97071 \$123,670.

Owner: WOODBURN DEVELOPMENT LLC Parcel: 051W18C 01403

Licensed Prof:

Category of Construction: Single Family Dwelling Type of Work: New

Work Description: New single family construction

971-20-000213-DWL Issued: 6/24/20 Fees: \$16,267.99 Valuation: \$227,131.83

Address: 1401 DAHLIA ST, WOODBURN, OR 97071 Parcel: 051W18C 01403

Owner: WOODBURN DEVELOPMENT LLC

Licensed Prof:

Category of Construction: Single Family Dwelling Type of Work: New

Work Description: New single family construction

971-20-000214-DWL Issued: 6/26/20 Fees: \$16,015.47 Valuation: \$208,378.14

Address: 1415 DAHLIA ST, WOODBURN, OR 97071 Parcel: 051W18C 01403

Owner: WOODBURN DEVELOPMENT LLC

Licensed Prof:

Category of Construction: Single Family Dwelling Type of Work: New

Work Description: New single family construction

971-20-000228-DWL Issued: 6/17/20 Fees: \$15,920.39 Valuation: \$204.876.18

Address: 1497 FOXGLOVE ST, WOODBURN, OR 97071 Parcel: 051W18C 01403

Owner: WOODBURN DEVELOPMENT LLC

Licensed Prof:

Category of Construction: Single Family Dwelling Type of Work: New

Work Description: New house 1518 sq. ft.

971-20-000229-DWL Issued: 6/17/20 Fees: \$15,847.66 Valuation: \$201,073.08

Address: 1451 FOXGLOVE ST, WOODBURN, OR 97071

Parcel: 051W18C 01403

Owner: WOODBURN DEVELOPMENT LLC

Licensed Prof:

Category of Construction: Single Family Dwelling Type of Work: New

Work Description: New house 1483 sq ft.

971-20-000231-DWL Issued: 6/17/20 Fees: \$15,964.25 Valuation: \$210,879.27

Address: 1596 FOXGLOVE ST, WOODBURN, OR 97071 Parcel: 051W18C 01403

Owner: WOODBURN DEVELOPMENT LLC

Licensed Prof:

-

Category of Construction: Single Family Dwelling Type of Work: New

Work Description: New house 1512 sq ft.

Permits Issued: Page 6 of 12

Residential 1 & 2 Fam Dwelling (New Only) Limited

971-20-000211-DWL **Issued:** 6/5/20 Fees: \$15,209.52 Valuation: \$123,670.00

Address: 1377 DAHLIA ST, WOODBURN, OR 97071

Parcel: 051W18C 01403 Owner: WOODBURN DEVELOPMENT LLC

Licensed Prof:

Category of Construction: Single Family Dwelling Type of Work: New

Work Description: New single family construction

971-20-000213-DWL **Issued:** 6/24/20 Fees: \$16,267.99 Valuation: \$227,131.83

Address: 1401 DAHLIA ST, WOODBURN, OR 97071 Parcel: 051W18C 01403

Owner: WOODBURN DEVELOPMENT LLC

Licensed Prof:

Category of Construction: Single Family Dwelling Type of Work: New

Work Description: New single family construction

971-20-000214-DWL **Issued:** 6/26/20 Fees: \$16,015.47 Valuation: \$208,378.14

Address: 1415 DAHLIA ST, WOODBURN, OR 97071 Parcel: 051W18C 01403

Owner: WOODBURN DEVELOPMENT LLC

Licensed Prof:

Category of Construction: Single Family Dwelling Type of Work: New

Work Description: New single family construction

971-20-000228-DWL **Issued:** 6/17/20 Fees: \$15,920.39 Valuation: \$204.876.18

Address: 1497 FOXGLOVE ST, WOODBURN, OR 97071 Parcel: 051W18C 01403

Owner: WOODBURN DEVELOPMENT LLC

Licensed Prof:

Category of Construction: Single Family Dwelling Type of Work: New

Work Description: New house 1518 sq. ft.

971-20-000229-DWL **Issued:** 6/17/20 Fees: \$15,847.66 Valuation: \$201,073.08

Address: 1451 FOXGLOVE ST, WOODBURN, OR 97071 Parcel: 051W18C 01403

WOODBURN DEVELOPMENT LLC Owner:

Licensed Prof:

Category of Construction: Single Family Dwelling Type of Work: New

Work Description: New house 1483 sq ft.

971-20-000231-DWL **Issued:** 6/17/20 Fees: \$15,964.25 Valuation: \$210,879.27

Address: 1596 FOXGLOVE ST, WOODBURN, OR 97071 Parcel: 051W18C 01403

Owner: WOODBURN DEVELOPMENT LLC

Licensed Prof:

Category of Construction: Single Family Dwelling Type of Work: New

Work Description: New house 1512 sq ft.

Permits Issued:

Residential 1 & 2 Fam Dwelling (New Only) Limited

Page 7 of 12

18 permits issued

\$288,502.17

\$3,788,425.21

Permits Issued:
Page 8 of 12

Residential Mechanical

Address: 888 OGLE ST, WOODBURN, OR 97071 Parcel: 051W18CB07600

Owner: GONZALES, MATILDE S

Licensed Prof:

Category of Construction: Single Family Dwelling Type of Work: Alteration

Work Description: Installing Air Conditioner

971-20-000238-MECH Issued: 6/5/20 Fees: \$100.80 Valuation: \$4,000.00

Address: 546 E CLACKAMAS CIR, WOODBURN, OR 97071 Parcel: 052W13AA04900

Owner: DAVID G & NANCY K MASTALSKI FAM TR & MASTALSKI, DAVID G TRE & MASTALSKI, NANCY K T

Licensed Prof:

Category of Construction: Single Family Dwelling Type of Work: Addition

Work Description: install gas fireplace

971-20-000239-MECH Issued: 6/5/20 Fees: \$100.80 Valuation: \$0.00

Address: 1550 RAINIER RD, WOODBURN, OR 97071 Parcel: 052W12DA01400

Owner: CROW, SUZANNE M

Licensed Prof:

Category of Construction: Single Family Dwelling Type of Work: Alteration

Work Description: Extend gasline to new meter location, new dryer vent

971-20-000240-MECH Issued: 6/7/20 Fees: \$100.80 Valuation: \$4,952.00

Address: 1647 COUNTRY CLUB CIR, WOODBURN, OR 97071 Parcel: 051W07BB18000

Owner: HINKLE, NATHAN & HINKLE, BERNICE

Licensed Prof:

Category of Construction: Single Family Dwelling Type of Work: Alteration

Work Description: Installing Air Conditioner

971-20-000243-MECH Issued: 6/10/20 Fees: \$100.80 Valuation: \$8,798.00

Address: 2139 CAMELLIA WAY, WOODBURN, OR 97071 Parcel: 051W06CC18200

Owner: WALCOTT, GUY T & WALCOTT, JOAN K

Licensed Prof:

Category of Construction: Single Family Dwelling Type of Work: Alteration

Work Description: Installing Gas Furnace & Air Conditioner

971-20-000244-MECH Issued: 6/10/20 Fees: \$100.80 Valuation: \$6,086.00

Address: 1508 AZTEC DR, WOODBURN, OR 97071 Parcel: 051W17BA05500

Owner: MONTESINOS, HONORILDA & HERRERA, WILFRIDO

Licensed Prof:

Category of Construction: Single Family Dwelling Type of Work: Alteration

Work Description: Installing Air Conditioner

Permits Issued:

Residential Mechanical

971-20-000247-MECH Issued: 6/11/20 Fees: \$100.80 Valuation: \$2,700.00

Address: 464 W CLACKAMAS CIR, WOODBURN, OR 97071 Parcel: 052W12DC08000

Owner: EVENHUS, DAVID D & EVENHUS, NANCY C

Licensed Prof:

Category of Construction: Single Family Dwelling Type of Work: Replacement

Work Description: Replace air conditioner

971-20-000248-MECH Issued: 6/15/20 Fees: \$100.80 Valuation: \$4,132.00

Address: 1585 UMPQUA RD, WOODBURN, OR 97071 Parcel: 051W07BB08500

Owner: LEYVA, DORA V

Licensed Prof:

Category of Construction: Single Family Dwelling Type of Work: Alteration

Work Description: Installing Gas Furnace

971-20-000249-MECH Issued: 6/15/20 Fees: \$100.80 Valuation: \$0.00

Address: 1360 WALTON WAY, WOODBURN, OR 97071 Parcel: 051W07BC03900

Owner: STELLE, KELLY & LAZOTT, RUTH

Licensed Prof:

Category of Construction: Single Family Dwelling Type of Work: Alteration

Work Description: replace furnace

971-20-000250-MECH Issued: 6/15/20 Fees: \$100.80 Valuation: \$0.00

Address: 529 WARREN WAY, WOODBURN, OR 97071 Parcel: 051W18CA00900

Owner: RAMIREZ, JUAN CARLOS PARRA

Licensed Prof:

Category of Construction: Single Family Dwelling Type of Work: Addition

Work Description: Add one (1) bathroom exhaust fan in addition

971-20-000252-MECH Issued: 6/17/20 Fees: \$100.80 Valuation: \$8,265.00

Address: 2287 OREGON CT, WOODBURN, OR 97071 Parcel: 052W12DB04800

Owner: HOYT, LAWRENCE K & HOYT, SHARON

Licensed Prof:

Category of Construction: Single Family Dwelling Type of Work: Alteration

Work Description: Install heat pump and air handler

971-20-000256-MECH Issued: 6/19/20 Fees: \$100.80 Valuation: \$6,086.00

Address: 3144 MYRTLE ST, WOODBURN, OR 97071 Parcel: 052W12BC06800

Owner: GUNDERSON, ALAN D & GUNDERSON, GLENDA A

Licensed Prof:

Category of Construction: Single Family Dwelling Type of Work: Alteration

Work Description: INSTALL MINI-SPLIT HEAT PUMP

Permits Issued:

Residential Mechanical

971-20-000257-MECH Issued: 6/20/20 Fees: \$100.80 Valuation: \$3,765.00

Address: 1217 INDEPENDENCE CT, WOODBURN, OR 97071 Parcel: 051W07BA05500

Owner: MAYFIELD, CHARLOTTE & PAGE, ELMA

Licensed Prof:

Category of Construction: Single Family Dwelling Type of Work: Alteration

Work Description: Install gas furnace

971-20-000260-MECH Issued: 6/23/20 Fees: \$100.80 Valuation: \$8,223.00

Address: 620 S CASCADE DR, WOODBURN, OR 97071 Parcel: 052W13AA00700

Owner: LAYTON, KEITH R & LAYTON, MARIE E

Licensed Prof:

Category of Construction: Single Family Dwelling Type of Work: Replacement

Work Description: Remove existing heat pump and install new Trane XR15 heat pump

971-20-000262-MECH Issued: 6/25/20 Fees: \$112.00 Valuation: \$4,500.00

Address: 596 WILSON ST, WOODBURN, OR 97071 Parcel: 051W18CA00100

Owner: BRAVO, EFRAIN MORALES & GARCIA, LUCRECIA MARCELINO

Licensed Prof:

Category of Construction: Single Family Dwelling Type of Work: Alteration

Work Description: Installing a new furnace, A/c, all new duct work, run gas line to furnace. Vent furnace.

971-20-000265-MECH Issued: 6/25/20 Fees: \$100.80 Valuation: \$464.00

Address: 643 BROWN ST, WOODBURN, OR 97071 Parcel: 051W18CA03800

Owner: VALDEZ,BENITO V & VALDEZ,BENITA A

Licensed Prof:

Category of Construction: Single Family Dwelling Type of Work: Alteration

Work Description: Air text main gas line for leaks, per NWN request after car hit meter.

971-20-000267-MECH Issued: 6/26/20 Fees: \$100.80 Valuation: \$4,000.00

Address: 3540 SWEETWATER AVE, WOODBURN, OR 97071 Parcel: 052W13BC03500

Owner: HANSEN, GARY & NIZZI, KELLY

Licensed Prof:

Category of Construction: Single Family Dwelling Type of Work: Replacement

Work Description: Air conditioner install

971-20-000269-MECH Issued: 6/29/20 Fees: \$100.80 Valuation: \$0.00

Address: 1357 QUINN RD, WOODBURN, OR 97071 Parcel: 052W12AA11700

Owner: JOERDING, DEAN & JOERDING, MELODY S

Licensed Prof:

Category of Construction: Single Family Dwelling Type of Work: Replacement

Work Description: Replace A/C unit

Permits Issued: Page 11 of 12

Residential Mechanical

971-20-000276-MECH Issued: 6/30/20 Fees: \$100.80 Valuation: \$0.00

Address: 3170 JONAH PL, WOODBURN, OR 97071

Owner: JOHNS,MICAH J & JOHNS,CHRISTIANNA R

Parcel: 052W12CD02700

Licensed Prof:

Category of Construction: Single Family Dwelling Type of Work: Replacement

Work Description: REPLACE GAS FURNACE AND AIR CONDITIONER

971-20-000277-MECH Issued: 6/30/20 Fees: \$100.80 Valuation: \$10,413.00

Address: 1235 GREENVIEW DR, WOODBURN, OR 97071 Parcel: 051W08DD02500

Owner: CAMACHO-OTERO, SANDRA

Licensed Prof:

Category of Construction: Single Family Dwelling Type of Work: Alteration

Work Description: INSTALL AIR HANDLER & HEAT PUMP

971-20-000278-MECH Issued: 6/30/20 Fees: \$100.80 Valuation: \$4,697.00

Address: 582 TUKWILA DR, WOODBURN, OR 97071 Parcel: 051W07AA09200

Owner: WHILES, MICHAEL P & MERCER, HOLLIS A

Licensed Prof:

Category of Construction: Single Family Dwelling Type of Work: Alteration

Work Description: INSTALL AIR CONDITIONER

971-20-000279-MECH Issued: 6/30/20 Fees: \$100.80 Valuation: \$5,288,00

Address: 419 MCLAUGHLIN DR, WOODBURN, OR 97071 Parcel: 051W18BB04000

Owner: COTTER, JERRY F III & COTTER, LAURIE E

Licensed Prof:

Category of Construction: Single Family Dwelling Type of Work: Alteration

Work Description: Installing Air Conditioner

Residential Mechanical 22 permits issued \$2,228.80 \$90,931.00

Permits Issued: Page 12 of 12

Residential Structural

971-20-000199-STR **Issued:** 6/9/20 Fees: \$192.04 Valuation: \$6,000.00

Address: 980 W LINCOLN ST, WOODBURN, OR 97071 Parcel: 051W07CD06000

Owner: SCHERBAKOV, LEONTY & SCHERBAKOV, MARINA

Licensed Prof:

Category of Construction: Single Family Dwelling Type of Work: Repair

Work Description: dryrot repair in exsisting kitchen area

971-20-000245-STR **Issued:** 6/19/20 Fees: \$336.00 Valuation: \$22,207.54

Address: 3126 JONAH PL, WOODBURN, OR 97071 Parcel: 052W12CD02900

RAMSEY, KEVIN R & RAMSEY, KRISTINA R Owner:

Licensed Prof:

Category of Construction: Other Type of Work: Alteration

Work Description: INSTALLATION OF UTILITY INTERACTIVE PHOTOVOLTAIC SOLAR SYSTEM 10.395 kW DC PHOTOVOLTAIC SOLAR ARRAY ROOF

TYPE: Comp Shingle MODULES: (33) Jinko Solar JKM315M-60L INVERTER(S): Enphase Energy - IQ7-60-2-US,---- RACKING:

Unirac SFM Infinity

971-20-000253-STR **Issued:** 6/19/20 Fees: \$336.00 Valuation: \$13,594.00

Address: 3034 JONAH PL, WOODBURN, OR 97071 Parcel: 052W12CD03400

Owner: BARBER, ROSEMARY P

Licensed Prof:

Category of Construction: Single Family Dwelling Type of Work: Alteration Work Description:

INSTALLATION OF UTILITY INTERACTIVE PHOTOVOLTAIC SOLAR SYSTEM

5.67 kW DC PHOTOVOLTAIC SOLAR ARRAY

ROOF TYPE: Comp Shingle MODULES: (18) Jinko 315

INVERTER(S): Enphase IQ7 Microinverters,----

RACKING: Unirac SFM Infinity

Residential Structural 3 permits issued \$864.04 \$41,801.54

53 permits issued \$689,921.07 \$8,070,529.75



Azenda Item

July 13, 2020

TO: Honorable Mayor and City Council

FROM: Jamie Johnk, Economic Development Director

Maricela Guerrero, Community Relations Manager

SUBJECT: 2020 Community Development Block Grant (CDBG) from Business

Oregon for the Farmworker Housing and Development Corporation (FHDC) Family Resource Center and Educational Facility in Woodburn

RECOMMENDATION:

- 1) Hold a public hearing to consider the City's application for a 2020 Community Development Block Grant in the amount of \$1.5 million to fund proposed renovations and improvements to the Farmworker Housing Development Corporation's (FHDC) Family Resource Center and Educational Facility.
- 2) Approve a Resolution authorizing submission of the application for the Community Development Block Grant and authorizing the City Administrator to execute any and all documents related to the grant application and to effectuate an award of the grant.

BACKGROUND:

The City of Woodburn is eligible to apply for a 2020 Community Development Block Grant (CDBG) from Business Oregon. CDBG funds come from the U.S. Department of Housing and Urban Development. Grants can be used for public facilities and housing improvements, primarily to benefit persons with low and moderate incomes. In this case, the City is proposing to apply for CDBG funding for the proposed renovation and improvement of the current FHDC Family Resource and Educational Facility which primarily benefits low to moderate income populations.

Through Business Oregon, approximately \$12 million in CDBG funding will be awarded to Oregon non-metropolitan cities and counties in 2020. The maximum grant that a city or county can receive is \$1,500,000.

Agenda Item Review: City Administrator __X___ City Attorney __X__ Finance _X___

DISCUSSION:

The City of Woodburn is proposing to prepare an application for a 2020 Community Development Block Grant from Business Oregon for the proposed renovation and improvement of FHDC's Family Resource Center and Educational Facility in Woodburn. The current facility accommodates activities and services primarily or exclusively for low to moderate income clientele, and includes an essential preschool and after-school program in Woodburn. Other programs and services provided at the Center include, health and nutrition education, leadership training, civic engagement programs, and employment and workforce training.

It is expected that as part of the grant application, the City will enter into a Memorandum of Understanding with FHDC, the local non-profit entity that currently owns, manages, and oversees the operation of the Family Resource Center and Educational Center.

Council approval at this meeting means that City staff will move forward with submitting the CDBG application by the September 30, 2020 deadline, with any awarded funds expected to be received in spring 2020.

The City does not believe the proposed project will result in the displacement or relocation of any persons or businesses.

FINANCIAL IMPACT:

The City will be seeking a CDBG funding request of approximately \$1.5 million for the proposed renovation of FHDC's Family Resource Center and Educational Facility. If awarded, FHDC will provide a 1% (\$15,000) match per federal funding requirements.



Azenda Item

July 13, 2020

To: Honorable Mayor and City Council through City Administrator

From: Chris Kerr, Community Development Director CK.

Colin Cortes, AICP, CNU-A, Senior Planner

Subject: Council Call-up of Planning Commission approval of Allison Way

Apartments (Design Review DR 2019-05, Phasing Plan PP 2019-01, Property Line Adjustment PLA 2019-04, Street Exception EXCP 2020-05,

and Variances 2019-04)

RECOMMENDATION:

Consider the staff memo and its attachments and testimony and uphold the Planning Commission approval with conditions.

Alternate Outcomes

The Council may instead act on the consolidated land use applications package or individual applications to:

- 1. Approve with modified conditions; or
- 2. Deny, based on Woodburn Development Ordinance (WDO) criteria or other City provisions.

BACKGROUND:

On June 8, 2020, the Council called up the Planning Commission decision of May 28, 2020 for review as authorized by WDO 4.02.02.

On May 28, 2020, the Planning Commission held a public hearing and <u>approved</u> by 3-2 vote the land development project, including six variances subject to the conditions found in the final decision document (Attachment 1).

The Commission approval differed slightly from the recommendation in the staff report (Attachment 2) in three ways:

- 1. Removed the requirement for the "Evergreen Path", a bicycle/pedestrian path within the unimproved Evergreen right-of-way (ROW) and extending from Smith Creek Development Phase 1A Tract 'D" boundary north to the existing bicycle/pedestrian path that connects to Baylor Drive at Citadel Street:
- 2. Determined that a landscaped median along a portion of the Stacy Allison Way extension would not be required; and,
- 3. Approved the variance to allow a reduction in the number of parking spaces provided on-site to be 1.77 stalls per dwelling (rather than 2.0 per dwelling unit).

The Planning Commission approved all the other recommended conditions of approval from the staff report.

The Commission split vote resulted from disagreement not about the overall project, but instead about justifications of the variance and Street Exception requests.

Planning Commission Testimony

Two parties testified not in opposition to the project but instead to voice concerns about:

- Parking, because of property management of Cascade Meadows Apartments (311 Evergreen Rd)
- Semi-truck drivers that ignore a no-truck sign in the direction Walmart (3002 Stacy Allison Way; staff believes he meant the no-truck sign on Stacy Allison Way for westbound traffic and located just west of the Walmart truck driveway that is near Harvard Dr)
- Wanting a second I-5 interchange (in the direction of Salem)
- Wanting extension of Evergreen Road south (to Parr Rd)
- Wanting a second grocery store besides Walmart to have a nearby alternative instead of Safeway (1520 N. Pacific Hwy)
- School capacity
- Rising cost of living in the area; and
- Traffic.

Both final minutes and a recording of the Commission hearing are available through the <u>Commission May 28 meeting webpage</u>.

None of the applicant or the two testifiers who had established legal standing appealed the Commission final decision.

Project Summary:

See the next few pages for an aerial photo, a site plan, and a three-dimensional artist's rendering.



Aerial map (2016) with site outlined in yellow





Applicant's artist's rendering: bird's eye perspective looking northwest (Gray bands represent carports)

Project Description: General:

The project is site development of 19.03 acres into 586 apartments across 23 buildings in two phases, Phase 1 being 179 apartments across 7 buildings on 5.93 acres north of Hooper Street and the remainder constituting Phase 2 south of Hooper.

Each phase includes common facilities: a clubhouse / leasing office / recreation building, small plaza adjacent to the common building, and a barbeque (BBQ) pit. Phase 2 adds a children's play area. The developer estimates build-out to the year 2024.

The buildings are three-story walk-ups, conventional for new construction of apartments.

Since application in June 2019, the applicant and staff worked together to revise the project to include:

- Benches in common areas
- Bicycle parking: Lots of it for residents and visitors (over 600 stalls and over 50 of them sheltered)
- Buildings framing Hooper Street, which is a quiet local street, and set back farther from Stacy Allison Way and I-5, which are wider, louder, and more heavily trafficked ways
- Electric vehicle (EV) stalls (36) with charging stations for resident benefit
- Landscaping to acoustically and visually buffer residents from I-5
- Larger middle landscaped islands in the parking courts
- Well-landscaped courtyards among buildings
- Looped vehicular circulation both for fire truck access and resident and visitor wayfinding
- Speed table, also known as a raised crossing, within a walkway crossing of a drive aisle near the children's play area
- Walkway crossings of drive aisles that are visually distinct with different pavement as well as striping; and
- Public plaza along Hooper Street
- Street improvements see the next section.

Project Description: Street Improvements:

Street improvements for this project are upgrades of street frontages to bring existing Stacy Allison Way – which has curb-tight sidewalk – and Hooper Street into greater conformance with the model / standard cross sections of WDO Figures 3.01D & G and to have the Stacy Allison Way extension south/southwest from Hooper Street to the south site development boundary conform more with Figure 3.01D.

The chief visible results will be on-street parallel parking on Hooper and, along Stacy Allison, planter strips with street trees and wide sidewalk.

There are additional public off-site street improvements the developer will construct in the area between the subject property and Oregon Highway 214 to (a) fill gaps in sidewalk and (b) provide curb ramps where lacking for better accessibility per the federal Americans with Disabilities Act (ADA).

Off-site improvements provide safer and more dignified walking and cycling routes between the project and attractions in the highway commercial area and east along through-street W. Hayes Street, particularly for the many cyclists staff continually notices who prefer sidewalk to street.

Project Description: Variances:

The six variance requests were to vary from WDO:

- Driveway width minimum:
 To have driveways narrower than 24 feet (ft), typically either 20 ft or wider where and as Oregon Fire Code requires;
- 2. Parking ratio minimum: To have off-street parking equal a rate less than 2.0 spaces or stalls per dwelling, specifically 1.77 per dwelling;
- 3. Compact parking percentage maximum: To have the percentage of minimum off-street parking that is compact parking be more than 20%, specifically 60%;
- 4. Drive aisle width minimum:
 To have drive aisles narrower than 25 ft, typically either 20 ft or wider where and as Oregon Fire Code requires;
- Parking area curb height minimum:
 To have on-site curbs smaller than 6 inches, specifically 4 inches; and
- 6. Architectural Wall:
 To not have a buffer or screen wall that the WDO terms an "Architectural Wall", specifically instead to plant a landscaped buffer and, along the closest parking areas, treated cedar wood fence about 6 ft high.

DISCUSSION:

The Council hearing will be holding a quasi-judicial public hearing "de novo", or "as new". The role of the Council to consider the entire record including the Commission decision and staff report as well as any testimony received at the hearing, and then apply the applicable criteria to determine if the application meets the requirements of the WDO. If the application meets the approval

criteria, the Council must approve it. If the application fails to meet the approval criteria, the Council must deny it. The format of the hearing is outlined below.

Public Hearing Procedures:

- 1. Open public hearing
- 2. Declarations:
 - a. Potential conflicts of interest
 - b. Ex parte contacts
 - c. Site visits
 - d. Challenges
- 3. Public hearing statement
- 4. Staff report
- 5. Testimony by applicant
- 6. Testimony by proponents (those in favor)
- 7. Testimony by opponents (those against)
- 8. Rebuttal by applicant
- 9. Public hearing closed
- 10. Council discussion
- 11. Decision

FINANCIAL IMPACT:

The land development has no direct effect on a budgeted City project.

Attachments:

- 1. Planning Commission final decision (May 28, 2020) with attachments:
 - 101. Tax Maps Marked (2 sheets)
 - 101A. Town Center at Woodburn Subdivision Plat, Sheet 1 (2004)
 - 102A. Public Works Comments May 21, 2020 (2 pages)
 - 104. Transportation System Plan (TSP) Figure 7-1 (2005)
 - 105. Site plans excerpted (submitted Mar. 25, 2020; 16 sheets)
 - 106. Applicant's narrative page 12 (submitted Mar. 25, 2020)
- 2. Planning Commission staff report (May 28, 2020) with attachments:
 - 102. Analyses & Findings
 - 102B. Allison Way Apartments Traffic Impact Analysis Review Memo by transportation consultant contracted by the City (May 20, 2020; 8 pages)
 - 103. Agency commentary: ODOT (May 1, 2020; 2 pages)



Final Decision

Planning Commission

File number(s): DR 2019-05, EXCP 2020-05, PP 2019-01, PLA 2019-04, & VAR 2019-04

Project name: Allison Way Apartments

Date of decision: May 28, 2020

Date of mailing: June 5, 2020

Applicant: Leeb Architects; attn Robert Leeb, Principal in Charge & Doug Hamilton, 308 SW

1st Avenue, Suite 200 Portland, OR 97204-3567

Landowner: Stacy Allison Way Holdings, Attn: Eugene Labunsky, 25030 SW Parkway Avenue,

Suite 110, Wilsonville, OR 97070-9816

Site location: 0 Hooper St & 0 Stacy Allison Way NE; Tax Lots 052W14 02000, 2100, & 2300

Summary: The Planning Commission held a public hearing on May 28, 2020 and approved by 3-2 vote the consolidated applications package (Type III) with the conditions recommended by staff through the staff report published May 21, except for three revision items:

1. Striking transportation Condition T-BP9 that would have required the Evergreen Path, a bicycle/pedestrian path approximately 350 feet (ft) long within the unimproved Evergreen right-of-way (ROW) and extending from Smith Creek Development Phase 1A Tract 'D" boundary north to the existing Montebello 2 subdivision bicycle/pedestrian path that connects to Baylor Drive at Citadel Street per the image below:



Exhibit T-BP9A. Location and Conceptual Alignment

2. Revising Street Exception Condition EX2 to omit a landscaped median from the required custom cross section of the Stacy Allison Way extension to maintain a continuous two-way left turn lane along and between Interstate 5 and the approximately 800 ft of site development frontage that has no driveways; and

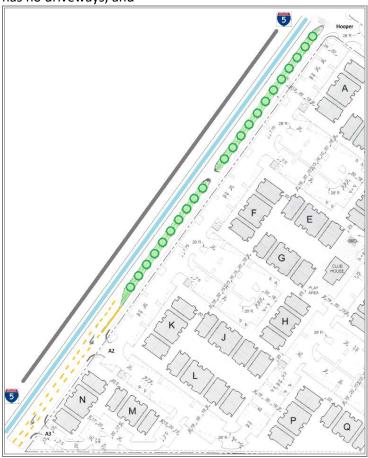


Exhibit EX2b revised June 2 (Median example concept not to scale.)

3. Approving variance request 2 regarding parking ratio minimum (WDO Table 3.05A, Residential 1) and setting a minimum average of 1.77 stalls per dwelling. (See Condition V9-2.)

Two (2) parties testified not in opposition to the project but instead to voice concerns about its perceived effects. They are listed at bottom.

The request was for site development of three lots totaling 19.03 acres into 586 apartments across 23 buildings across Phases 1 & 2 such that the one parcel north/northeast of Hooper Street (5.93 acres) would be 180 apartments across 7 buildings as Phase 1 and the two parcels south/southwest of Hooper (13.1 acres) would have 406 apartments across 16 buildings as Phase 2.

The buildings are three-story walk-ups, conventional for new construction. Each phase has a common building and landscaped and paved common areas.

Regarding street improvements, Phase 1 includes for existing Stacy Allison Way removal of curb-tight sidewalk to install a planter with street trees and construct new, wide sidewalk. Phase 2 includes extension of Stacy Allison Way that relocates the dead-end from Hooper Street south/southwest along Interstate 5 (I-5) to city limits.

The subject property is in the Commercial General (CG) zoning district.

Section references are to the Woodburn Development Ordinance (WDO).

Conditions of Approval:

General

- G1. As part of building permit application, the applicant shall submit revised site plans meeting the conditions of approval and obtain Planning Division approval through sign-off on permit issuance.
- G2. The applicant or successors and assigns shall develop the property in substantial conformance with the final plans submitted and approved with these applications, except as modified by these conditions of approval. Were the applicant to revise plans other than to meet conditions of approval or meet building code, even if Planning Division staff does not notice and signs off on building permit issuance, Division staff retains the right to obtain restoration of improvements as shown on an earlier land use review plan set in service of substantial conformance.
- G3. References: The descriptions below define certain words, phrases, and assumptions in the context of the conditions of approval:
 - "Access way" means an on-site walkway paved at least eight (8) feet wide to serve as a bicycle/pedestrian path to and from sidewalk — or to and from an off-street public bicycle/pedestrian path — and that is ADA-compliant.
 - "ADA" refers to the federal Americans with Disabilities Act of 1990.
 - "Allison" refers to Stacy Allison Way.
 - "A1, "A2", & "A3" driveways refer to the three Allison driveways from north to south. A1 is in Phase 1, and A2 & A3 are in Phase 2.
 - "County" refers to Marion County.
 - "Courtyard" refers to each of five places two in Phase 1 and three in Phase 2 that is a landscaped linear central common area framed by three buildings forming a "U" shape or four buildings enclosing the common area.
 - "Director" refers to the Community Development Director.
 - "EV" refers to electric vehicle.
 - "Evergreen" with a capital "E" refers to Evergreen Road, especially south from OR 214.
 - "ft" refers to feet.
 - "Hooper" refers to Hooper Street.
 - "H1,"H2", "H3," & "H4" driveways refer to the four Hooper driveways clockwise from the northwest. H1 & H2 are in Phase 1, and H3 & H4 are in Phase 2.
 - "Lawson" refers to Lawson Avenue.
 - "Modal share" means the percentage of travelers using a particular type of transportation or number of trips using a type, as examples walking, cycling, riding transit, and driving.
 - "Modal shift" means a change in modal share.
 - "MUTCD" refers to Manual on Uniform Traffic Control Devices of the U.S. Department of Transportation (U.S. DOT) Federal Highway Administration (FHWA).
 - "NE means northeast.
 - "NW" means northwest.
 - "OAR" refers to Oregon Administrative Rules.
 - "o.c." refers to on-center spacing, such as of trees or shrubs.
 - "ODOT" refers to the Oregon Department of Transportation.

- "OR 214" refers to Oregon Highway 214 / Newberg Highway.
- "Oxford" refers to Oxford Street.
- "Parking court" means each of three peninsulas of on-site surface parking extending southeast and framed by a "U" of five buildings. Phase 1 has one and Phase 2 has two.
- "Phase 1" or "Phase I" encompasses Tax Lot 052W14 02300 (Town Center at Woodburn subdivision Lot 9) and the full extents of adjacent Allison and Hooper and the whole of their intersection.
- "Phase 2" or "Phase II" encompasses Tax Lots 052W14 02000 & 2100 (Town Center at Woodburn subdivision Lots 7 & 8) to be consolidated and the full extent of adjacent Allison from Hooper.
- "PLA" refers to property line adjustment.
- "PUE" refers to public utility easement.
- "PW" refers to Public Works (the department) or public works (civil infrastructure) depending on context.
- "Root barrier" refers to that illustrated by PW SS&Ds, <u>Drawing No. 1 "Street Tree Planting New Construction"</u>.
- "ROW" refers to right-of-way.
- "SDCs" refers to system development charges, also known as impact fees.
- "SE" means southeast.
- "Speed table" means a walkway crossing of a drive aisle that: is concrete; with a tabletop that is
 raised at least four (4) inches above drive aisle grade, at least six (6) ft wide, flat, and stamped or
 otherwise treated to have a pattern; and, with the vehicular ramps striped in compliance with
 MUTCD Figure 3B-30, Option A, and with minimum and maximum slope ratios of 1:25 and 1:10
 respectively.
- "SS&Ds" refers to PW <u>standard specifications and drawings</u>.
- "Street trees" refer to trees that conform to the WDO, including 3.06.03A and Table 3.06B.
- "SW" means southwest.
- "TSP" means the Woodburn Transportation System Plan.
- "VCA" refers to vision clearance area as WDO 1.02 and 3.03.06 establish.
- "WDO" refers to the Woodburn Development Ordinance.
- "W. Hayes" refers to W. Hayes Street.
- "WTS" refers to the Woodburn Transit System.

G4. Due dates / public improvements:

- a. By application: Unless a condition specifies otherwise, conditions including those relating to any of final subdivision, final partition, property line adjustment or lot consolidation recordation are due by building permit application. Prior to both any recordation of any final subdivision, final partition, or property line adjustment and building permit application, the applicant shall submit and obtain approval of an <u>Address Assignment Request</u>.
- b. By issuance: Unless a condition specifies otherwise, ROW and easement dedications and recordation(s), construction of frontage/street improvements, and construction of off-site, park, and other public improvements are due by building permit issuance. Where phasing is relevant, building permit issuance means issuance for the phase in which the conditioned improvement is located. See also the Phasing Plan (PP) condition(s).

- G5. Recordation due dates: The applicant shall apply to the County for recordations of items that the City requires no later than six (6) months past an anticipated Planning Commission tentative decision date, i.e. by December 30, 2022, and shall complete recordations no later than almost three years past, i.e. by May 25, 2023. The due date to complete recordations shall not supersede when recordations are due relative to the building permit stage.
- G6. Public Improvements Civil Plan Review: The process by which to receive, review, and approve drawings and other documents related to public improvements required by these conditions of approval may be paired with or incorporated into building permit review, or, if directed by the City Engineer, through a civil engineering plans (CEP) review process led by the Engineering Division. If opting for CEP, the applicant shall not only follow the direction of the Engineer Division, but also take some actions to facilitate tracking by Planning staff and coordination with Engineering:
 - a. Cover letter: Upon submitting application to the Engineering Division, simultaneously alert the Planning Division through a cover letter to the attention of the Planning Division referencing the intended or, if known, actual submittal date as well as the project name, project phase, tax lot number(s), street address(es), and the land use / planning / zoning final decision conditions of approval that require the public improvement that is the subject of the civil engineering plans. Referencing conditions may be by quotation or citing the identification numbers (e.g., T-A1). Identify the specific sheet (by number) or document page number that illustrates or notes how each subpart of a condition is met.
 - b. Contact information: State the applicant's name, company, phone number, e-mail, and desired date for City staff to respond with review comments. The cover letter may include these.
 - c. Plan copies: Submit to the attention of the Planning Division at least two plan size copies of plan sets (24 by 36 inches). Within the cover sheet title block(s), include the phrase "civil engineering plans" or "public improvements civil plans". Submit also Adobe PDFs using a fileshare service.
 - d. Re-submittal fee: If there are multiple re-submittals, beginning with a third submittal / second revised submittal and continuing with each subsequent submittal, the applicant shall pay through the Planning Division into City general revenue a fee of \$100.

G-PW. Public Works: Follow the appended Public Works comments (May 19, 2020; Attachment 102A). If conflict arises between implementation of public works conditions and referenced standards in that document with implementation of the remaining conditions in this document, the Assistant City Administrator would arbitrate or mediate based on guidance from legal counsel, the Director, the Public Works Engineering Director, and the City Engineer.

Design Review 2019-05

D1. PUE(s): To meet WDO Figures 3.01D "Service Collector" & G "Local ...", as part of PLA recordation the applicant shall resolve existing easements with newly required easements so as to conform to the streetside PUE minimum width of five (5) ft per WDO 3.02.01B, conform to all other conditions, and follow the direction of the City Engineer per WDO 3.02.01A.

D2. Driveways:

a. Number: To meet WDO 3.04.03B.1 regarding access management, the number of driveways is limited as follows:

ROW	Phase 1	Phase 2
Allison	1 joint (A1)	2 (A2 & A3)
Hooper	2 (H1 & H2)	2 (H3 & H4)

- b. Approach / apron / curb cut: Driveways shall conform to PW SS&Ds, Section 4150.
- c. Traffic control: To meet WDO 3.05.02J:
 - (1) Parking on site: The central and narrowest drive aisle in each of the parking courts and between Buildings P & R shall have one-way traffic to the northwest, and the applicant shall:
 - (a) Stripe on the pavement an arrow at each of the beginning and end of each aisle; and
 - (b) Install at the end of each aisle a do-not-enter sign that complies with *MUTCD* Figure 2B-11, sign R5-1.



(2) Allison: Outbound left turns are prohibited from driveway A3, and the applicant shall install a no left turn sign that complies with *MUTCD* Figure 2B-4, sign R3-2.



- D3. Cross access / joint driveway A1: To meet WDO 3.04.03B, the applicant shall:
 - a. On Tax Lot 052W14 02300 (Town Center of Woodburn subdivision Lot 9; Phase 1):
 - (1) Spur the easterly northeast-southwest drive aisle to the north property line of Tax Lot 052W13 01600 (subdivision Lot 10) at minimum width of twenty (20) ft minimum width between face of curb, and
 - (2) Spur the westerly northeast-southwest drive aisle to the north property line of Tax Lot 052W13 01600 (subdivision Lot 10) at minimum width of twenty (20) ft minimum width between face of curb.
 - b. To meet WDO 3.04.03B.1 & 3, dedicate a public access and utility easement that is to the satisfaction of the Director, revocable only with the concurrence of the Director, and connects the two bulges with driveway A1.
 - c. Have the easement width be either (i) minimum twenty (20) ft and centered on the drive aisle centerlines or (ii) minimum twenty-eight and a half (28½) ft measured southwest from the north lot line.

- d. Have the easement text include a paragraph that states that the delineated easement area serves as a public access easement to the benefit of Lot 10 of the Town Center at Woodburn subdivision plat (Tax Lot 052W13 01600), and such cross access to and from the joint driveway at Stacy Allison Way shall not be revoked without concurrence of the City Community Development Director in conformance with Woodburn Development Ordinance (WDO) 3.04.03B.3. Place such text under a Cross Access & Joint Driveway Easement header.
- D4. Parking signage/striping: To meet WDO 3.05.02J, the applicant shall designate compact stalls "COMPACT" in lettering one (1) foot high minimum and stripe them as such in the field prior to building permit final inspection.
- D5. Parking stall double striping: To meet WDO 3.05.02K, the applicant shall delineate parking stalls with double parallel lines pursuant to Figure 3.05C and stripe them as such in the field prior to building permit final inspection.
- D6. Bicycle parking near main entrance: To meet WDO 3.05.03E, prior to building permit final inspection the applicant shall provide bicycle parking within fifty (50) ft of a main entrance. In the context of a new construction apartment complex with conventional three-story buildings with open stairwells, each apartment building has two main entrances as follows:
 - a. In all apartment buildings except Phase 1 B & C and Phase 2 B, C, J, & L there are four points where a building main wall plane intersects the walkway serving building ground floor entrances and the stairwell to upper floor entrances;
 - b. In Phase 1 Buildings B & C and Phase 2 Buildings B, C, J, & L there are six such points;
 - c. Each building has either (a) two walkways with two points each totaling the four or (b) three walkways with six points total; and so
 - d. The condition shall apply to three points minimum for each of Phase 1 Buildings B & C and Phase 2 Buildings B, C, J, & L and two points minimum for remaining buildings and apply to one point minimum per walkway.
- D7. Patios: Visual separation shall conform to WDO 3.07.05B.1a as follows:
 - a. Pavement: As proposed, patios shall be paved with brick, concrete pavers, or poured concrete.
 - b. Railings/fencing & gate: The outermost edges of patio concrete slabs that do not abut building walls shall have either metal or wood railings or cedar wood fencing at least three (3) ft high. If the latter, then opacity shall be full, but if fencing is higher than the minimum height, it shall be no more than ninety percent (90%) opaque, such as by being fully opaque from grade but from the top having a lattice pattern. The railings or fencing shall have a gated opening at least two (2) ft and four (4) inches wide.
 - c. Height maximum: the railings or fencing maximum height shall be either five (5) ft or, where a patio faces a courtyard, three and a half (3½) ft.
 - d. Shrubbery: Evergreen shrubbery shall line fully the outermost edges of patio concrete slabs, except along the gated opening.

Phasing Plan 2019-01

PP1. Phases / Phasing:

- a. Number and extent: As Condition G3 defines.
- b. Order / ordering: The applicant shall construct Phase 1 first.
- c. Improvements: Improvements within a phase are due by that phase.
- d. Vesting: Construction of Phase 1 shall vest land use / planning / zoning entitlement for Phase 2; but, were the applicant (or successors and assigns) to fail to make use of any of the two provisions of WDO 4.02.04B.1 or 3 to avoid expiration, expiration shall occur upon one of the two following events:
 - (1) The arrival of July 1, 2030; or
 - (2) City adoption of a unified development ordinance replacing the WDO were to have intervened on or between July 24, 2023 and June 24, 2030, approximately 3 to 10 years from the anticipated land use final decision date.

Property Line Adjustment 2019-04

PLA-1. Recording: To meet WDO 5.01.08B.5., upon City approval of the subject PLA, the applicant shall revise the drawing or drawings as needed and record the re-plat (or whatever it is that the County terms it) with the County. The expiration date is per WDO 4.02.04B, and were subsection 2 that refers to "the activity approved in the decision has commenced" to become relevant, that provision would mean recordation of the subject PLA, and to this end the applicant shall apply to Marion County for recordation by December 30, 2022 and complete recordation by May 25, 2023. In any case, the applicant shall record the re-plat prior to both City assignment of street addresses, which would follow the applicant submitting an address assignment request, and building permit application.

Street Exception

EX1. Hooper:

- a. Existing improvements: The planter strips, including curb widths, may remain 6½ ft instead of 7 ft, sidewalks may remain 5½ ft instead of 5 ft, and existing curbs may remain in place where not otherwise disturbed by newer improvements.
- b. Curb extensions: The applicant shall construct the proposed four curb extensions that cap the onstreet parking aisles.
- c. Mid-block crossing: The applicant shall construct of the proposed two mid-block crossings of Hooper Street only the southeastern one and shall:
 - (1) Construct it of poured concrete minimum width of eight (8) ft;
 - (2) Stamp or otherwise treat the concrete to have a pattern that drivers would sense tactilely as well as visually.
 - (3) Install ADA-compliant curb ramps and pave connections to the sidewalks.
 - (4) Provide signage and striping per PW SS&Ds, or, if none exist for a given topic, per the direction of the City Engineer. Required signage may include two advance warning signs for drivers; and

- (5) Meet federal or state criteria or guidelines that the City Engineer may establish in writing as standards for the mid-block crossing.
- d. Crosswalk upgrade: Instead of the proposed northwestern of the two proposed mid-block crossings, the applicant shall traffic calm the crosswalk of the southeast leg of the T-intersection of Allison & Hooper. The applicant shall construct a poured concrete crosswalk at minimum width of eight (8) ft and that is either stamped or otherwise treated to have a pattern tactilely that drivers would sense tactilely as well as visually. The applicant shall stripe the crosswalk.
- e. Street trees: The applicant shall plant trees at 1 per 30 ft of frontage, equaling fourteen (14) trees per frontage (instead of 1 per 50 typical, 9 trees per frontage). For up to no more than two (2) of the absolute number of trees required along each frontage (4 total), the applicant may pay a fee in-lieu of \$125 per tree. This fee provision is intended to substitute for the applicant invoking 3.06.03A.3 (Director modification/relocation).

EX2. Allison: The City modifies and approves the street exception request as follows regarding improvements and that applies to both phases:

a. Phase 1:

- (1) Northbound travel lane: Either narrow from twelve (12) to eleven (11) ft, or, restripe the center left turn lane from twelve (12) to eleven (11) and shift the travel lane accordingly. However, were the sidewalk described below within this list were to overlap the PUE by at least one and a half (1½) ft, if the bicycle lane is removed, or by up to four and a half (4½) ft, if the bicycle lane remains, no lane narrowing would be required.
- (2) Bicycle lane: Remove or narrow to five (5) ft.
- (3) Planter strip: Install a planter strip six (6) ft wide and landscape with street trees at 1 per 30 ft of frontage, equaling twenty (20) trees along the Phase 1 frontage (instead of 1 per 50 typical). The total number shall be divided evenly between either *Betula pendula* [silver or European white birch] or another *Betula* [birch] species and an evergreen species among any of *Magnolia grandiflora* "Victoria" cultivar [magnolia cultivated for the Pacific Northwest], *Arbutus menziesii* [Pacific madrone], and *Tsuga heterophylla* [Western hemlock]. Ninety-seven percent (97%) of the remainder of the strip shall be medium size category shrubbery to the minimum size at planting per Table 3.06B and at maximum size that maintains conformance with VCA, and at least two (2) distinct openings in the shrubbery that total the remaining area of three percent (3%) shall be lawn grass.
- (4) Sidewalk: Construct a sidewalk as a bicycle/pedestrian path at minimum width of eight (8) ft (whether or not a northbound bicycle lane remains) that the City shall allow to overlap the streetside PUE by at least a half (½) ft and as much as four and a half (4½) ft from edge of ROW. If and where sidewalk would need to deflect or meander, such as at driveway A1 or at the northeast corner of Allison & Hooper, it may fully overlap a streetside PUE.

(5) Striping:

- (a) Bicycle: At the Phase 1 north end where the existing bicycle lane will continue at the north side of driveway A1, at the opening of the bicycle lane the developer shall stripe an *MUTCD*-compliant bicycle lane symbol or symbols.
- (b) Turn: The applicant shall stripe a turn arrow within the existing center left turn lane southbound at Hooper.

- (6) Utilities: Relocate underground/subsurface utilities that would conflict with street trees, such as a potable water line, and surface utilities such as street light poles and boxes to be within either or both of the planter strip and a streetside PUE. Existing covered vaults may be incorporated within altered or additional sidewalk if meeting PW SS&Ds.
- (7) NW side landscaping: The following applies between the project north end and the south end of the existing stormwater detention pond fencing a point approximately 330 ft southwest along Allison ROW from Hooper centerline. The applicant shall plant at least two hundred and forty-eight (248) woody shrubs of large size category as WDO Table 3.06B defines, of one or more evergreen species capable of growing to a mature minimum height of ten (10) ft (preferably *Taxus brevifolia* var. *reptaneta* [English yew reptaneta variant]), and with average o.c. spacing of four (4) ft.

b. Phase 2 / extension:

- (1) Lanes, travel: Minimum width twelve (12) ft.
- (2) Lane, center left turn lane and turn pockets: Width eleven (11) ft.
- (3) Bicycle lane: Northbound: none; and, southbound, either none or minimum five (5) ft.
- (4) Planter strip: Install a planter strip six (6) ft wide and landscape with street trees at 1 per 30 ft of frontage, equaling forty-one (41) trees along the Phase 2 frontage (instead of 1 per 50 typical). The total number shall be divided evenly between *Betula pendula* [silver or European white birch] or another Betula [birch] species and an evergreen species among any of *Magnolia grandiflora* "Victoria" cultivar [magnolia cultivated for the Pacific Northwest], *Arbutus menziesii* [Pacific madrone], and *Tsuga heterophylla* [Western hemlock]. Ninety-five percent (95%) of the remainder of the strip shall be medium size category shrubbery to the minimum size at planting per Table 3.06B and at maximum size that maintains conformance with VCA, and at least six (6) distinct openings in the shrubbery that total the remaining area of five percent (5%) shall be lawn grass.
- (5) Sidewalk: Construct a sidewalk as a bicycle/pedestrian path at minimum width of eight (8) ft (whether or not there is a northbound bicycle lane) that the City shall allow to overlap the streetside PUE by at least a half (½) ft and as much as four and a half (4½) ft from edge of ROW. If and where sidewalk would need to deflect or meander, such as at driveways A2 and A3 or at the southeast corner of Allison & Hooper, it may farther overlap a streetside PUE.
- (6) Median: ... [struck]
- (7) Turn areas: At the north, the median shall ... [struck]
- (8) NW side landscaping: The following applies between the fencing south end and the south end of extended Allison. The applicant shall plant at least two hundred and fifty-two (252) woody shrubs of large size category as WDO Table 3.06B defines, of one or more evergreen species capable of growing to a mature minimum height of ten (10) ft (preferably *Taxus brevifolia* var. *reptaneta* [English yew reptaneta variant]), and with average o.c. spacing of four (4) ft.:
- (9) Interim signage: Signed barricades remain required per WDO 3.01.05A.2.b & c. and to PW SS&Ds. The developer shall also install an *MUTCD*-compliant dead-end sign, either W14-1 or W14-2, at the intersection of Allison & Hooper for southbound drivers. The City Engineer may require the developer to install either (a) also at the intersection either a W14-1a or a W14-2a sign to warn drivers turning south from Hooper that Allison ends in the left direction as the arrow within the sign copy would indicate, or (b) a sign or signs serving similar purpose.



Design Review 2019-05: Transportation

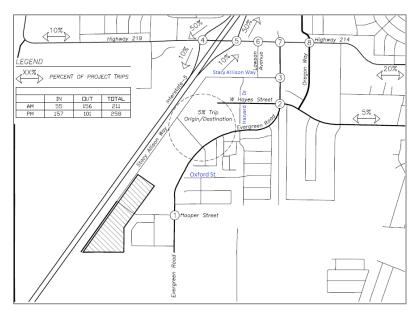


Exhibit T Vicinity map

T-A1. Evergreen & W. Hayes: The developer shall:

- a. Mitigation fee / Fee in-lieu: Pay a mitigation fee or fee in-lieu of \$33,000 to fund a transportation study. This is due by Phase 2, building permit issuance. [TIA]
- b. Evergreen sidewalk west: See Condition T-BP2.

T-A2. <u>Allison & Evergreen</u>: The developer shall pay a mitigation fee or fee in-lieu of \$33,000 to fund a transportation study. This is due by Phase 2, building permit issuance. [TIA]

T-A3. OR 214 & Evergreen: The developer shall pay a mitigation fee or fee in-lieu of \$15,000 to fund a transportation study, specifically to investigate corridor signal timing and coordination adjustments in coordination with ODOT. This is due by Phase 1, building permit issuance. [R10]

T-BP1. Allison & Lawson: The developer shall upgrade the T-intersection so that the south landing of either the east or west leg crosswalk has an ADA-compliant curb ramp and the crosswalk is striped. This is due by Phase 1, building permit issuance.

T-BP2. Evergreen sidewalk west: The developer shall fill in the sidewalk gap along the Evergreen frontage of Tax Lot 052W12C 01600 (601 Evergreen Road). The sidewalk shall be minimum eight (8) feet wide and located no closer than one (1) ft from edge of ROW and no more than six (6) ft from edge of ROW. The developer shall to the extent feasible meander the sidewalk as needed to save existing trees in or partially within existing ROW, upgrade the intersection west leg crosswalk by installing an ADA-compliant north curb ramp, and stripe the crosswalk. This is due by Phase 1, building permit issuance. [P6]

T-BP3. Evergreen sidewalk east: The developer shall fill in the sidewalk gap along the Evergreen frontage of Tax Lots 052W12DC01400 (2333 W. Hayes Street), 052W12DC01200 & 1300, and 052W12DB04400 (2330, 2340, & 2343 Oregon Court). The sidewalk shall be minimum six (6) feet wide and located no closer than one (1) ft from edge of ROW and no more than six (6) ft from edge of ROW. The applicant shall to the extent feasible meander the sidewalk as needed to save existing trees in or partially within existing ROW, upgrade the W. Hayes intersection east leg crosswalk by installing an ADA-compliant north curb ramp, and stripe the crosswalk. This is due by Phase 2, building permit issuance. [P6]

T-BP4. W. Hayes sidewalk: The developer shall fill in the sidewalk gap along the W. Hayes frontage of Tax Lot 052W12C 01600 (601 Evergreen Road). The sidewalk shall be minimum six (6) feet wide. The applicant shall to the extent feasible meander the sidewalk as needed to save existing trees in or partially within existing ROW, including to align sidewalk curb-tight. Within the parameters of this condition, the sidewalk placement shall otherwise reasonably conform to WDO Figure 3.01G, particularly regarding placement relative to centerline and establishing a planter strip with street trees where they can fit. This is due by Phase 2, building permit issuance.

T-BP5. Harvard curb ramp(s): At the T-intersection with W. Hayes, the developer shall install at least one ADA-compliant curb ramp at the west end of either the north or south leg crosswalk, pave new sidewalk minimum six (6) ft wide that connects to existing sidewalk, and stripe the crosswalk. The applicant shall to the extent feasible save existing trees in or partially within existing ROW, including by using returned curbs instead of flares along ramps. This is due by Phase 2, building permit issuance.



Exhibit T-BP North: This exhibit illustrates locations and represents improvements related to Conditions T-BP1 through 5. Sidewalk is in blue dashes and ADA ramps are in yellow trapezoids.

T-BP6. Evergreen sidewalk south: The developer shall fill in the sidewalk gap along the Evergreen frontage of Tax Lot 052W12C 02400 (0 Evergreen Road NE). The minimum width and placement shall conform to WDO Figure 3.01C, and within the planter strip the applicant shall plant at least two (2) street trees with root barriers, one each near Harvard and the driveway and to allow future adjacent site development to add trees to conform fully with the quantity required by WDO 3.06.03A (1 per 50 ft typical). This is due by Phase 2, building permit issuance.

T-BP7. Evergreen / Walmart driveway curb ramp: The developer shall fill in the sidewalk gap along the Evergreen frontage of the pole of the flag lot that is Tax Lot 052W12C 01900 (3002 Stacy Allison Way) and install an ADA-compliant curb ramp at the west side of the driveway. This is due by Phase 2, building permit issuance.

T-BP8. Evergreen curb ramp(s): At the T-intersection with Oxford, the developer shall install at least one ADA-compliant curb ramp at the west end of either the north or south leg crosswalk, pave new sidewalk minimum six (6) ft wide that connects to existing sidewalk, and stripe the crosswalk. The applicant shall to the extent feasible save existing street trees, including by using returned curbs instead of flares along ramps. This is due by Phase 1, building permit issuance.



Exhibit T-BP South: This exhibit illustrates locations and represents improvements related to Conditions T-BP6 through 8. Sidewalk is in blue dashes and ADA ramps are in yellow trapezoids.

T-BP9. Evergreen Path: ... [struck]

T-BP10. BP fee in-lieu option: In order for the City to construct any of the bicycle/pedestrian improvements that Condition T-A1b (Evergreen sidewalk west) and the T-BP conditions above describe, a developer may pay a fee in-lieu as follows:

- a. Percentage: Equal to at least one hundred and twenty (120%) of a licensed civil engineer's cost estimate.
- b. Estimate: An estimate shall have construction cost item estimates based on the improvements being bid on as a "Public Works Project" paying prevailing wages. The City Engineer shall review and approve a construction estimate prior to acceptance of a fee in-lieu payment.
- c. Bond/bonding/performance guarantee: If the applicant were to bond, then the above condition subparts a. and b. about percentage and estimate shall apply also to a bond.

T-T. Bus transit fee: The developer shall pay a mitigation fee that is a total of a fixed base amount plus a rate per dwelling of \$208.28. The fixed base amount shall be \$12,510.20 for Phase 1 and \$46,750 for Phase 2. (This condition relates to TSP projects T1, 2, 4, 16, 18 &, TSP Fig. F5, and TPU projects 9, 11, 12, & 20.)

Variance 2019-04

V1-1. Driveway (WDO Table 3.04A):

a. The minimum driveway widths shall be per the table below (instead of 24 feet typical):

Minimum Driveway Width (feet)

One-way Travel		Two-way Travel				
Single Lane	Paired Lanes	Paired Lanes	With Left Turn Lane			
10	9 per lane; 18 total	20	30 total			

b. The maximum driveway widths shall be per the table below (instead of 38 feet typical):

Maximum Driveway Width (feet)

One-way Travel		Two-way Travel		
Single Lane	Paired Lanes	Paired Lanes	With Left Turn	
			Lane	
11	10 per lane; 20 total	22*	31 total	

^{*}Except 26 ft where required by Oregon Fire Code (OFC) Appendix D

c. The condition applies within ROW, and may apply outside ROW along driveway throat length, so as not to interfere with the drive aisle width provisions of WDO Table 3.05C.

V2-4. Drive aisle (WDO Table 3.05C):

a. The minimum drive aisle widths shall be per the table below (instead of 24 feet typical):

Parking Context	M	h (feet)	
	One-way Travel		Two-way Travel
	Single Lane	Paired Lanes	
Standard or ADA-	18	10 per lane; 20 total	20
compliant stalls			
Compact stalls	16	9 per lane; 18 total	20
No adjacent stalls	10	9 per lane; 18 total	20

b. The condition applies up to newly dedicated ROW so as not to interfere with the driveway minimum width provisions of WDO Table 3.04A.

V3-5. Curb dimensions, parking area (WDO 3.06.02I): Curb or curbing that delineates on-site walkways and landscaped, parking, and vehicular circulation areas shall have a minimum height and width each of four (4) inches (instead of 6 inches typical).

- a. Speed table: The applicant shall construct a speed table along the walkway crossing nearest and between the Phase 2 clubhouse, play area, and Building R. (See Condition G3 for specifications.)
- b. Wheel stops: Wherever required or proposed, wheel stops shall be four (4) inches high maximum.

V4-6. Architectural Wall (WDO Table 3.06D & 3.06.06):

- a. The property lines subject to the Architectural Wall provisions of Table 3.06D and 3.06.06 are exempt from those provisions.
- b. Landscaping:
 - (a) Along the Phase 2 southeast and east lot lines, the applicant shall landscaped a buffer of minimum width five (5) ft to the minimum planting density of WDO Table 3.06A, row "Buffer yards".
 - (b) The landscaping shall include evergreen shrubbery planted at the large category minimum size per WDO Table 3.06B.
 - (c) The applicant shall include within fifteen (15) ft of the lot lines at least twenty-one (21) trees. The applicant shall add at least four (4) trees of large category per WDO Table 3.06B for a total of 25 trees. The four additional trees shall be in the lawns near Buildings Q & R, within sixty (60) ft of the lot lines, and with one (1) near Building Q and three (3) near Building R. The proposed site perimeter tree closest to the east/northeast corner of Building R shall be changed to a coniferous or evergreen species.
 - (d) Transformer box: Any on-site at-grade electrical transformer box shall be screened with evergreen shrubbery on all sides except the panel door side.
- c. Fence, cedar: Along the two segments of the Phase 2 southeast and east lot lines within six (6) ft of parking stalls that face the lot lines, the applicant shall install a treated cedar wood fence at least five (5) ft, ten (10) inches high and with boards arranged for opacity, except that the highest foot may be mostly opaque lattice pattern. Fence height shall not supersede applicable height limits per WDO 2.06.02.
- d. Lighting: If proposed, exterior light fixtures shall be full cut-off or fully shielded and limited in height as follows:
 - (a) Full cut-off: Exterior lighting fixtures shall be full cut-off or fully shielded models.
 - (b) Heights: As measured to the underside of the fixture:
 - a. Wall: Exterior wall-mounted fixtures shall be no higher than ten (10) feet above walkway finished grade. (This height limit is not applicable to emergency egress lighting and permanent wall signs allowed through WDO 3.10 were they to have interior illumination.)
 - b. Parking pole: Exterior pole-mounted fixtures within four (4) feet of or in parking, loading, and vehicular circulation areas shall be no higher than fourteen-and-a-half (14½) feet above vehicular finished grade.
 - c. Other pole: Remaining exterior pole-mounted fixtures, if any, shall be no higher than twelve (12) feet above grade.

V5-3-1. Compact parking (WDO 3.05.03C):

- a. Percentage: The compact parking maximum as a percentage of the required minimum amount of parking shall be sixty percent (60%; instead of 20% typical) and hundred percent (100%) of any amount in excess of the minimum required. For each phase, at least twenty percent (20%) of the minimum amount of stalls shall be compact
- b. Striping: The applicant shall stripe each stall with the word "COMPACT" in lettering one (1) foot high minimum.
- c. Wheel stops: Where used, wheel stops shall be four (4) inches high maximum.

V6-3-2. Off-street parking provisions:

- a. Bicycle parking amount and distribution: For each phase unless otherwise specified, the applicant shall provide a minimum number of bicycle parking stalls as follows:
 - (1) At least one (1) per dwelling in each dwelling in the outdoor closet of the balcony or patio in which the applicant shall install a wall-mounted folding or retractable hook designed for the hanging of a bicycle;
 - (2) At least one (1) stall at the base of each building stairwell, with each of these locations having a bicycle parking sign with minimum face dimensions of (1) foot wide by one-and-a-half (1½) feet high;
 - (3) Phase 1: Guest: Excluding outdoor closet and stairwell stalls, a set of at least two (2) stalls within five to fifteen (5-15) ft of Hooper ROW and near or along the access way;
 - (4) Phase 2: Guest: Excluding outdoor closet and stairwell stalls, at least two sets of at least two (2) stalls each, one northwesterly within five to fifteen (5-15) ft of Hooper and one southeasterly within ninety (90) ft of Hooper ROW.
 - (5) Phase 1: Common: Excluding outdoor closet, stairwell, and guest stalls, there shall be at least twenty (20) outdoor stalls. Of these at least four (4) shall be among the clubhouse / leasing office, clubhouse plaza, or barbeque (BBQ) area, and sixteen (16) shall be covered/sheltered.
 - (6) Phase 2: Common: Excluding outdoor closet, stairwell, and guest stalls, there shall be at least fifty-six (56) outdoor stalls. Of these at least four (4) shall among the clubhouse / leasing office, clubhouse plaza, BBQ area and play area, two (2) shall be northeast of Building F and within ninety (90) ft of Allison ROW, two (2) shall be northeast of Building K and within ninety (90) ft of Allison ROW, and thirty-two (32) shall be covered/sheltered.
 - (7) At least two (2) stalls outside and near each apartment building spaced to conform to the 50-foot distance provision of WDO 3.05.03E as applied through a Design Review (D) condition.
 - (8) In no case shall the total number of bicycle parking stalls equal fewer than 1.2 per dwelling, and in no case shall the minimum coverage/sheltering from precipitation of bicycle parking be for fewer than forty-eight (48) stalls excluding outdoor closet and stairwell stalls.
- b. Bicycle standards: Stalls shall conform to City of Portland <u>Title 33</u>, <u>Chapter 33.266.220</u>C (amended 5/24/2018), except that the applicant may ignore subsections C6, C7, & C5c, and that C4b does not apply to the outdoor storage closets for which the minimum stall depth from wall instead shall be four (4) feet minimum. Vertical clearance instead shall be eight (8) feet or, where a stall is under stairs, six (6) feet.

c. Access ways:

- (1) Phase 1: At least one access way shall remain as proposed that extends from Hooper sidewalk at least one-hundred and fifty (150) ft to the plaza between the clubhouse and the barbeque (BBQ) shelter.
- (2) Phase 2: At least one access way shall remain as proposed that extends from Hooper sidewalk at least five-hundred and fifty (550) ft from to the clubhouse southwest doors / play area.

d. Walkways:

- (1) Courtyards: The applicant shall revise Sheets SP-1 through 3 (Exhibits 10-12; civils) and each Note 6 to illustrate and note the proposed decorative pavement of the segments of courtyard walkways that the landscape plans (Exhibits 38-42) illustrate.
- (2) Drive aisle crossings: The shall revise Sheets SP-1 through 3 (Exhibits 10-12; civils) and install in the field at least six (6) walkway drive aisle crossings not only as striping but also as extensions of poured concrete, listed north to south clockwise:
 - (a) Phase 1, north of Building A
 - (b) Phase 2, north of Building R
 - (c) Phase 2, north of Building P
 - (d) Phase 2, south of Building L
 - (e) Phase 2, east of Building M, and
 - (f) Phase 2, SW of Building K.
- (3) Parking courts: The applicant shall pour concrete or lay concrete pavers to form a pedestrian shortcut up and over the curbed landscaped strip island within each parking court, in order to pass amid groundcover and shrubbery. It shall be roughly aligned at the boundaries of parking stalls, with the side of a landscaped peninsula, and with the nearest walkways that orient northeast-southwest and are between buildings. The minimum width shall be twenty-one (21) inches.
- (4) Building stormwater scuppers shall not dump onto walkways.
- e. EV: As proposed and premised on OAR 918-020-0380 "Electric Vehicle Ready Parking", a minimum of either 36 stalls or three and half percent (3.5%) of minimum required parking—whichever is greater shall be a designated EV stall or stalls and with a charging station or stations, which the landowner may limit to tenant use. Of 36 or more stalls, Phase 1 shall have at least twelve (12) and Phase 2 at least twenty-four (24).
 - (1) Striping: Stripe each stall in lettering 1 ft high minimum "ELECTRIC VEHICLE CHARGING" or similar and also stencil an EV image or logo. Reflect this on revised site plans.
 - (2) Signage: Post at each stall a wall-mounted or pole-mounted sign for "Electric Vehicle Charging Only" or similar and also include an EV image or logo. Use a minimum sign face size of one (1) foot wide by one-and-a-half (1½) feet high. The top of a posted sign is to be between five-and-a-half (5½) and six-and-a-half (6½) feet above vehicular grade. Reflect this on revised site plans including with an elevation detail.
- f. Balconies/patios: WDO 3.07.05B.1 (area/size and narrowest dimension) shall apply as minimum standards, except that for whatever balconies and patios among those proposed exceed these dimensions, their larger areas/sizes and wider narrowest dimensions shall be the minimum standards for those.

- g. Common open space facilities:
 - (1) Benches: Install at courtyards, clubhouse plazas, or common lawns at least two (2) Phase 1 benches and at least eight (8) Phase 2 benches. Each bench shall at least six (6) feet wide and with a back. In Phase 2 were 7 benches are proposed, add the eighth bench at the lawn southeast of Building M. Relocate two Phase 2 benches:
 - 1. From NW of Building G to the lawn NE of Building R and roughly in line with the walkway drive aisle crossing; and
 - 2. From NE of Building K to the lawn SE of Building R.
 - (2) Clubhouse plazas and BBQ grill shelters: As proposed, build at least one (1) each of a clubhouse plaza and a barbeque (BBQ) grill shelter in each of Phase 1 and 2.
 - (3) Administrative minor adjustment by the Director to the above common open space facilities is permissible.

h. Windows:

- (1) Proportion: All windows shall be square or vertically proportioned, except that horizontally proportioned windows are allowed if they have grilles or muntins dividing lights or panes so as to be vertically proportioned.
- (2) Per room: Within apartments, every habitable room abutting a building exterior wall shall have at least one window.
- (3) Insect screens: All operable windows shall have insect screens.

V7-3-3. Public access easement:

- a. Dedication: Regarding the Phase 1 proposed public park in the form of a plaza along Hooper and its related improvements, the applicant as part of re-plat recordation shall dedicate to the City a public access and utility easement encompassing the plaza and some extra perimeter area, specifically with a boundary that follows the centerlines of the walkways to the northwest and northeast that border the plaza and, to the southeast, along the back side of drive aisle curb. The easement shall grant public access during the same hours and subject to the rules and regulations for City parks per Ordinance Nos. 2060 (1991) and 2377 (2004) or as the City may amend ordinances.
- b. Boundary marking: The developer shall mark the public boundary through one of the following two options:
 - (1) Caps: Metal caps that either are or mimic land survey markers, are minimum diameter of three and a quarter (3½) inches, and at a minimum number equal to and with average placement of 1 cap per 10 lineal ft of walkway. There shall be two additional caps along the boundary where it follows the drive aisle curb. The caps shall have the phrases "Open to Public" and "Private Property", and a line as a separator between the two phrases.
 - (2) Plaques: Metal plaques embedded within walkway concrete, aligned with the boundary, and that read "Property beyond Plaque not Dedicated to Public" with text oriented to be read by persons looking away from the plaza. The minimum size shall result from a minimum lettering height of two (2) inches, and the minimum number shall be equal to and with average placement on center of 1 plaque per 20 lineal ft of walkway. There shall be two additional plaques along the boundary where it follows the drive aisle curb.

c. Sign:

The applicant shall install a permanent sign conforming to WDO 3.10 that reads "Plaza Open to Public 7AM - 10PM April - September, & 7AM - 7 PM October - March" with minimum lettering height of two (2) inches. The developer shall place it near the plaza entry that is along the sidewalk and within five (5) to nine (9) ft of ROW.

- (1) If a monument sign type, the sign face area shall be twelve (12) sq ft minimum, with a flat top at least three (3) ft above grade and in the form of a concrete cap at least three (3) inches wide.
- (2) If a pole sign type, the lettering shall be green, and the sign face shall be no lower than three and a half (3½) ft above grade and no higher than five (5) ft and of minimum dimensions of two (2) ft by one-and-a-half (1½) ft.
- d. Due date: These shall be due by Phase 1, building permit issuance.

V8-3-4. Parking management:

- a. Survey: The applicant or any successor and assigns such as a property manager shall collect data about off-street parking usage or allocation and provide it to the City to the attention of the Director.
 - (1) Reporting period: Collect data by each half of a year January through June and July through December. Submit each biannual report by the last City business day in the last month of the next quarter of a year and that is not a federal holiday. (For example, a report for January through June 2022 would be due by September 30, 2022.)
 - (2) First report: The first report shall cover whatever irregular length of time would pass between phase occupancy and the end of the next half of a year ending June or December.
 - (3) Attributes: Collect and report on:
 - i. Geography: Report numbers divided between Phases 1 & 2 (as defined in Condition G3).
 - ii. The number of off-street spaces/stalls that are available and how many, if any, are closed due to occasional events such as parking area resurfacing, temporary outdoor events, outdoor storage, or the stationing of large trucks or truck trailers.
 - iii. Track stalls and usage by type: regular standard size, regular compact, accessible/ADA/handicap, EV, and any other type (such as those designated for visitors, leasing office employees, staff golf cart, or mail carrier).
 - iv. Collection: The property manager shall do field counts as per condition subpart (4 "field count") below and also provide a separate set of assumed counts based on lease agreements, i.e. what tenant households are allocated a stall or stalls and for what periods, assumed that stalls are occupied as lease agreements describe.
 - v. Usage: Report how many stalls are used and allocated. For vacant apartments in the context of assumed counts, record stalls associated with vacant apartments as unallocated.
 - vi. If and when a parking area resurfacing project were to happen, provide written notice to the Director of approximate start date and duration, location, and number of stalls involved.

- vii. Format: Use tables to report by phase absolute numbers and percentages of stall type occupancies. Include phase and sitewide totals.
- (4) Field count: The property manager shall do at least two field counts per reporting period, meaning to travel the project and count in real time occupied and vacant stall types such as by marking a project site plan. Each count shall be on Tuesday, Wednesday, or Thursday that is neither a federal holiday nor within a week (7 days) of a federal holiday. One count shall be daytime starting no earlier than 9:30 a.m. and concluding no later than 4:30 p.m., and one count shall be nighttime starting no earlier than 10:00 p.m. and concluding no later than 12:30 a.m. Report when on a given date the counts were done and how long it took, for example, from 11:30 a.m. to noon.
- (5) Bicycle parking: For outdoor bicycle parking stalls, including those within stairwells but excluding outdoor closets, the property manager shall also do field counts the same way as per condition subpart (4) above and as part of the larger report confirm the total number of existing outdoor bicycle stalls.
- (6) Parking demand management: The reporting that a parking demand management condition requires, if it exists, may be incorporated with the parking usage data collection report.
- (7) Context: In each report, cite the project name, phases, street addresses, master/parent case file number DR 2019-05, and the condition identification(s), state what period the report covers, state the number of vacant apartments and when and how the number was determined given fluctuation over six months, and provide an employee name and direct contact information for questions City staff might have.
- (8) Intent: It is not the express intent of this condition to police property management or punish tenants or management for perceived misuse of parking, but instead without judgment to collect data on how parking is actually used in a conventional large apartment complex.
- (9) Change of ownership: If and when property ownership were to change, the property manager shall pass along record of the conditions of approval to the contract purchaser and successive property manager.
- (10) Expiration: This parking usage/allocation data collection condition becomes optional as of July 1, 2031. If reporting were to cease, the last report for the January to June 2031 period would be due September 30, 2031.

V9-2. Parking ratio minimum:

- a. The minimum ratio shall be by unit type as follows for each:
 - (1) Studio dwelling, 1.0 stall;
 - (2) One-bedroom, 1.0 stall;
 - (3) Two-bedroom, 1.77 stalls; and
 - (4) Three or more bedroom unit type, 4.14;

which would result in an average of 1.77 stalls per dwelling based on the unit type mix across both phases.

- b. <u>Location: Regarding Phase 1, the applicant may exercise WDO 3.05.02D.1.b. regarding</u> "another site" if that site is Phase 2.
- c. <u>Trial period</u>: <u>Until July 1, 2025, there shall be a trial period in which the Director may receive evidence of a chronic parking overflow problem and choose to investigate, review, and act upon it, including by obtaining the latest documentation of any parking permit system were the property manager to have instituted and be managing such.</u>
 - (1) This condition authorizes the Director to require that the applicant or any successors and assigns apply for and receive approval of a solution to the satisfaction of the Director. The review shall default to a Type II process, but the Director may instead elevation the review to Type III to obtain Planning Commission review and decision.
 - (2) The Director may condition that the applicant or any successors and assigns fulfill the offer made through the revised narrative (submitted March 25, 2020, p. 12; Attachment 106) to contact a car share company and allow a parking space or two to be allocated such a company car or cars for tenant use. (This condition does not supersede WDO 4.02.07 Modification of Conditions.)

d. EV: The property manager:

- (1) Shall keep EV stalls available for EVs and plug-in hybrid vehicles and keep conventional gasoline vehicles from parking in them. Priority users shall be tenants and property management company employees; guests/visitors would be secondary.
- (2) May charge EV stall users for the costs of charging an EV through a charging station, but shall not (a) charge tenants for either simply parking an EV or plug-in hybrid vehicle in an EV stall or for leaving such a vehicle parked without actively charging, and (b) shall charge to recoup costs to the property manager and not generate profit for the property manager. (This does not preclude the property manager contracting with a for-profit company to manage EV charging stations).
- (3) Regardless of whether tenant demand is less than, meets, or exceeds the sitewide supply of EV stalls, may whether or not the manager expands supply institute a permit system, including a waiting list and assigning a tenant EV to a particular delineated group or zone of stalls, and as part of doing so shall not charge any fee that discriminates among particular EV parking stalls based on the perception of some stalls being more convenient or otherwise desirable than others. "Sitewide" shall mean the combined supplies of Phases 1 and 2, regardless of any division of property management between the two phases.

Expiration: Per Woodburn Development Ordinance (WDO) 4.02.04B., a final decision expires within three years of the date of the final decision unless:

- 1. A building permit to exercise the right granted by the decision has been issued;
- 2. The activity approved in the decision has commenced; or
- 3. A time extension, Section 4.02.05, has been approved.

Notes to the Applicant: The following are not planning / land use / zoning conditions of approval, but are notes for the applicant to be aware of and follow:

- 1. Records: Staff recommends that the applicant retain a copy of the subject approval.
- 2. Fences, fencing, & free-standing walls: The approval excludes any fences, fencing, & free-standing walls, which are subject to WDO 2.06 and the permit process of 5.01.03.
- 3. Signage: The approval excludes any private signage, which is subject to WDO 3.10 and the permit process of 5.01.10.
- 4. PLA Time Limit: WDO 4.02.04B. specifies that, "A final decision on any application shall expire within three years of the date of the final decision unless: 1. a building permit to exercise the right granted by the decision has been issued; 2. the activity approved in the decision has commenced; or 3. a time extension, Section 4.02.05, has been approved. Because unrecorded re-plats lingering indefinitely have burdened staff, a condition sets sooner time limits for subsection 2. to begin and finish recordation.
- 5. Mylar signature: The Community Development Director is the authority that signs plat Mylars and not any of the mayor, City Administrator, Public Works Director, or City Engineer. Only one City signature title block is necessary.
- 6. PLA Plat Tracker: Marion County maintains a plat tracking tool at http://apps.co.marion.or.us/plattracker/>. Use it to check on the status of a recordation request to the County. City staff does not track County plat recordation.

7. Technical standards:

- a. Context: A reader shall not construe a land use condition of approval that reiterates a City technical standard, such as a PW standard, to exclude remaining standards or to assert that conditions of approval should have reiterated every standard the City has in order for those standards to be met.
- b. Utilities: A condition involving altered or additional sidewalk or other frontage/street improvement that would in the field result in displacement or relocation of any of utility boxes, cabinets, vaults, or vault covers does not exempt the developer from having to move or pay to move any of these as directed by the City Engineer and with guidance from franchise utilities.
- 8. Other Agencies: The applicant, not the City, is responsible for obtaining permits from any county, state and/or federal agencies, which may require approval or permit, and must obtain all applicable City and County permits for work prior to the start of work and that the work meets the satisfaction of the permit-issuing jurisdiction. The Oregon Department of Transportation (ODOT) might require highway access, storm drainage, and other right-of-way (ROW) permits. All work within the public ROW or easements within City jurisdiction must conform to plans approved by the Public Works Department and must comply with a Public Works Right-of-Way permit issued by said department. Marion County plumbing permits must be issued for all waterline, sanitary sewer, and storm sewer work installed beyond the Public Right-of-Way, on private property.

- 9. Inspection: The applicant shall construct, install, or plant all improvements, including landscaping, prior to City staff verification. Contact Planning Division staff at least three (3) City business days prior to a desired date of planning and zoning inspection of site improvements. This is required and separate from and in addition to the usual building code and fire and life safety inspections. Note that Planning staff are not primarily inspectors, do not have the nearly immediate availability of building inspectors, and are not bound by any building inspector's schedule or general contractor convenience.
- 10. Stormwater management: The storm sewer system and any required on-site detention for the development must comply with the City Storm Water Management Plan, Public Works storm water practices and the Storm Drainage Master Plan.
- 11. Public Works Review: Staff performs final review of the civil plans during the building permit stage. Public infrastructure must be constructed in accordance with plans approved by the City, as well as current Public Works construction specifications, Standard Drawings, Standard Details, and general conditions of a permit type issued by the Public Works Department.

12. ROW:

- a. Dedication: The Public Works Department Engineering Division has document templates for ROW and easement dedications that applicants are to use.
 - ROW and public utility easement (PUE) dedications are due prior to building permit issuance per Public Works policy.
- b. Work: All work within the public ROWs or easements within City jurisdiction must require plan approval and permit issuance from the Public Works Department. All public improvements construction work must be performed in accordance with the plans stamped "approved" by the City, and comply with the City's Standard Specifications and Standard drawings.
- 13. Franchises: The applicant provides for the installation of all franchised utilities in any required easements.
- 14. Water: All water mains and appurtenances must comply with Public Works, Building Division, and Woodburn Fire District requirements. Existing water services lines that are not going to be use with this new development must be abandoned at the main line. The City performs required abandonment of existing water facilities at the water main with payment by the property owner. All taps to existing water mains must be done by a "Hot Tap" method and by approved City of Woodburn Contractors. The applicant shall install the proper type of backflow preventer for all domestic, lawn irrigation and fire sprinkler services. The backflow devices and meters shall be located near the city water main within an easement, unless approved otherwise by Public Works. Contact Byron Brooks, City of Woodburn Water Superintendent, for proper type and installation requirements of the backflow device at (503) 982-5380.
- 15. Grease Interceptor/Trap: If applicable, a grease trap would need to be installed on the sanitary service, either as a central unit or in the communal kitchen/food preparation area. Contact Marion County Plumbing Department for permit and installation requirements, (503) 588-5147.
- 16. Fire: Fire protection requirements must comply with Woodburn Fire District standards and requirements, including how the District interprets and applies Oregon Fire Code (OFC). Place fire hydrants within the public ROW or public utility easement and construct them in accordance with

Public Works Department requirements, specifications, standards, and permit requirements. Fire protection access, fire hydrant locations and fire protection issues must comply with current fire codes and Woodburn Fire District standards. See City of Woodburn Standard Detail No. 5070-2 Fire Vault. The fire vault must be placed within the public right-of-way or public utility easement.

17. SDCs: The developer pays System Development Charges prior to building permit issuance. Staff will determine the water, sewer, storm and parks SDCs after the developer provides a complete Public Works Commercial/Industrial Development information sheet.

Appeals: Per WDO 4.01.11E., the decision is final unless appealed pursuant to Oregon Revised Statutes (ORS), state administrative rules, and WDO <u>4.02.01</u>. The appeal to City Council due date is twelve (12) days from the mailing date of this final decision notice per 4.02.01B.1. A valid appeal must meet the requirements of 4.02.01.

A copy of the decision is available for inspection at no cost, and the City would provide a copy at reasonable cost at the Community Development Department, City Hall, 270 Montgomery Street, Woodburn, OR 97071. For questions or additional information, contact Vicki Spitznogle, Administrative Assistant, at (503) 982-5246 or vicki.spitznogle@ci.woodburn.or.us.

Attachments:

- Planning Commission May 28, 2020 Staff Report Attachment 101. Tax Maps Marked (2 sheets)
- 101A. Town Center at Woodburn Subdivision Plat, Sheet 1 (2004)
- 102A. Public Works Comments May 21, 2020 (2 pages)
- 104. Transportation System Plan (TSP) Figure 7-1 (2005)
- 105. Site plans excerpted (submitted Mar. 25, 2020; 16 sheets)
- 106. Applicant's narrative page 12 (submitted Mar. 25, 2020; new attachment)

Sincerely,

Colin Cortes, AICP, CNU-A

Senior Planner

Affirmed 1

June 4, 2020

Charlie Piper, Chair, Planning Commission

CP/cmc

cc:

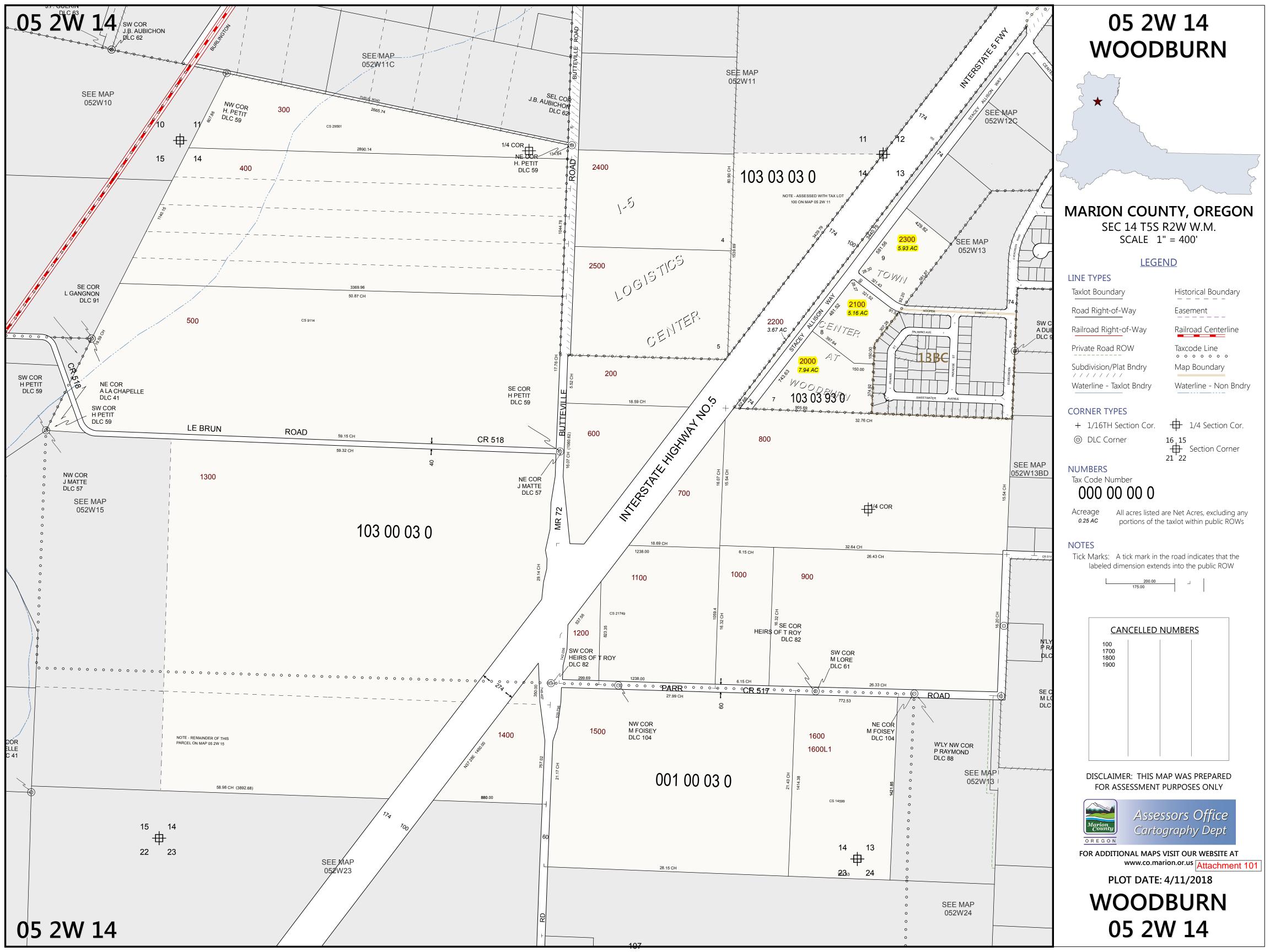
Stephen D. Rippeteau (testifier, 562 Prairie St, Woodburn, OR 97071-4496)

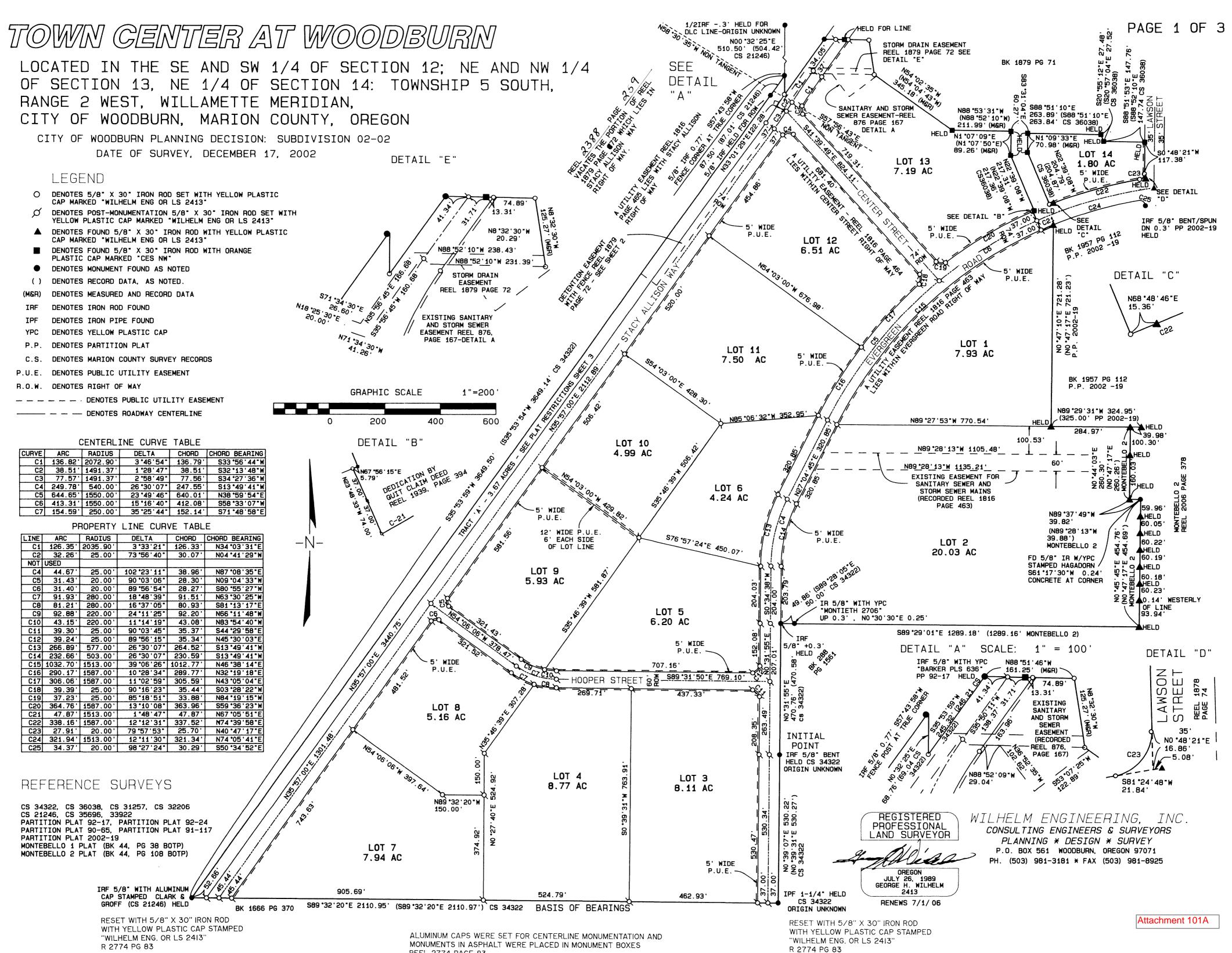
Johanna Venegas (testifier, 585 Prairie St, Woodburn, OR 97071-4496)

Casey Knecht, P.E., Oregon Dept. of Transportation (ODOT) Region 2

Marion County Assessor's Office

Marion County Public Works Dept.





REEL 2774 PAGE 83



DR 2019-05, PP 2019-01, PLA 2019-0A, VAR 2019-04 Application Materials Dated March 3, 2020 Allison Way Apartments Public Works Conditions

May 21, 2020

General Conditions:

- 1. Building permits shall not be issued prior to constructing public right-of-way infrastructure, including the construction of streets, water, sanitary sewer and storm drainage facilities, and private utilities as determined by the Planning Division and the Public Works Engineering Division.
- 2. All facilities to be maintained by the City that are located on private property will require a minimum 16-foot wide utility easement to be conveyed to the City. Utilities of unusual depth or size or with a combination of utilities may require a larger width.
- 3. The applicant, not the City, is responsible for obtaining approval for permits from any local, state and/or federal agencies which may be required.
- 4. The applicant shall provide for the installation of all franchise utilities and shall provide any required easements. All utility services shall be constructed underground.
- 5. Prior to construction of any portion of the street and facilities to be maintained by the City, the applicant shall provide to the Woodburn Public Work Engineering Division civil plans prepared by a registered engineer for the required public infrastructure. In accordance with Ordinance No 1795, permits shall be obtained for construction of the public infrastructure form the Public Works Engineering Division prior to installation. Final review of the Civil Plans will be done during the permit application.
- 6. The applicant is require to sign a "Public Improvement Agreement" prior to issuances of a permit to construct public improvements.

Public Right-of-Way and Street Conditions:

- 7. Public Works does not support median planter on Stacy Allison way.
- 8. In conjunction with the new public street improvements on Stacy Allison Way, the applicant shall install street lighting consistent with PGE installation plan option B.
- 9. A Department of Environmental Quality Erosion Control 1200C permit will need to be obtained for this development prior to City issuance of permit.
- 10. If required, a Permit from the Oregon Division of State Lands and US Army Corps of Engineering will need to be obtained to mitigate/delineate any existing wetlands. This shall be obtained prior to issuance of a City permit.

Storm Drainage:

Engineering & Project Delivery 190 Garfield Street • Woodburn, Oregon 97071 Ph. 5030-982-5240 • Fax 503-982-5242

Attachment 102A



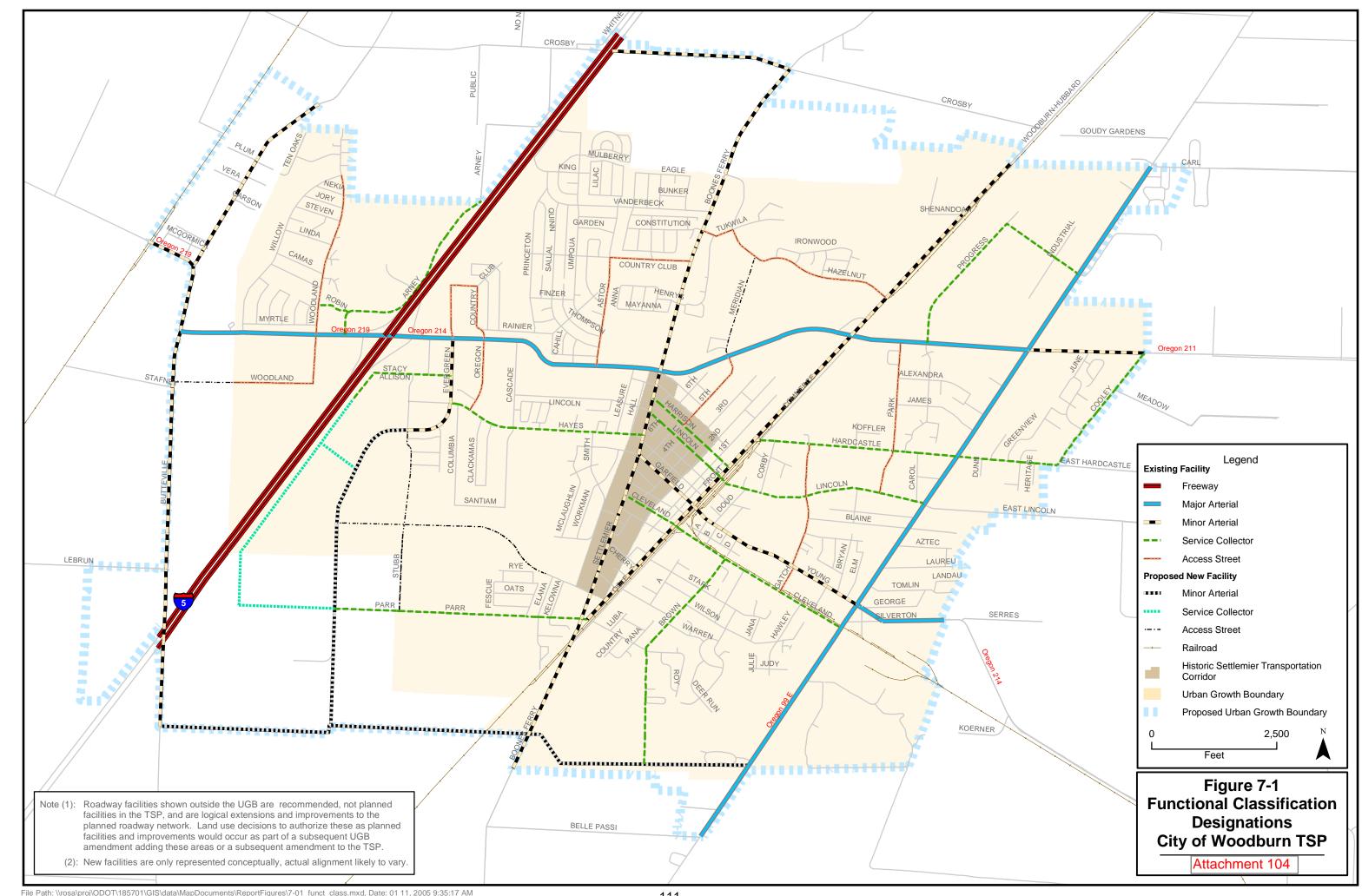
- 11. The storm sewer system and on-site detention for this Development shall comply with the City's Storm Water Master Plan. The Development is part of the drainage basin utilizing a regional detention system located near I-5. A preliminary hydraulic analysis for the storm runoff and the regional detention system has been provided and reviewed by the city. Depending on the timing of future development, additional requirements of both state and City may be required. The additional detention area shall be provided in accordance with the hydraulic analysis as improvements by this project are constructed.
- 12. The regional storm detention shall be sized in accordance with the City Storm Drainage Master Plan.
- 13. Storm pipes that conduct flow directly from the private site to the regional detention facility are considered private lines. The City does not maintain private lines, and the owner of the property retains maintenance responsibility in perpetuity of these private lines.

Sanitary Sewer System:

14. The gravity sewer main shall be design to minimum slope of 0.40 percent for future extension of adjacent properties.

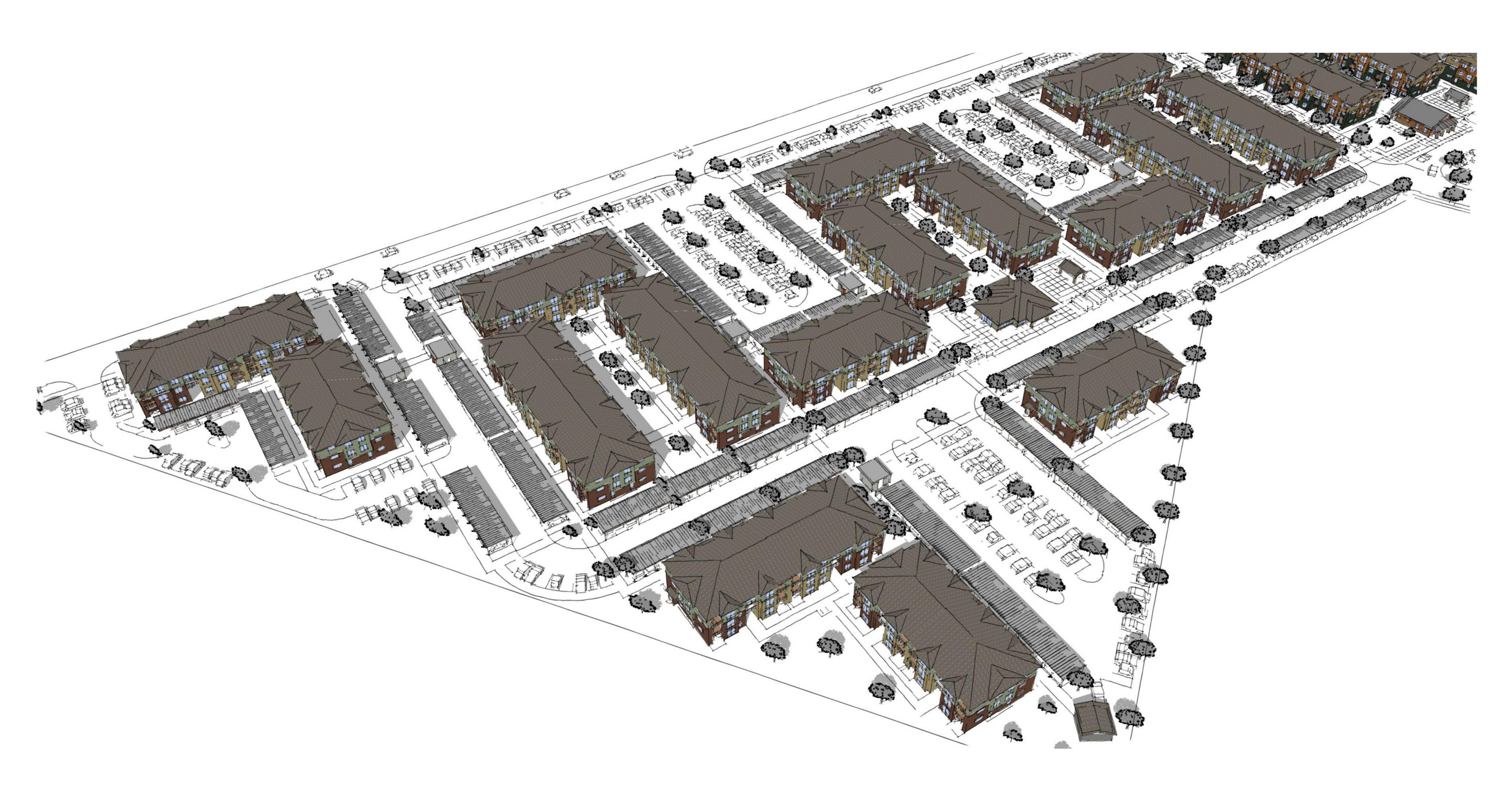
Water system:

15. The water mains in private properties shall be sized in accordance with future flow and fire protection requirements. Fire hydrant locations and line valves will be determined at the time of development.

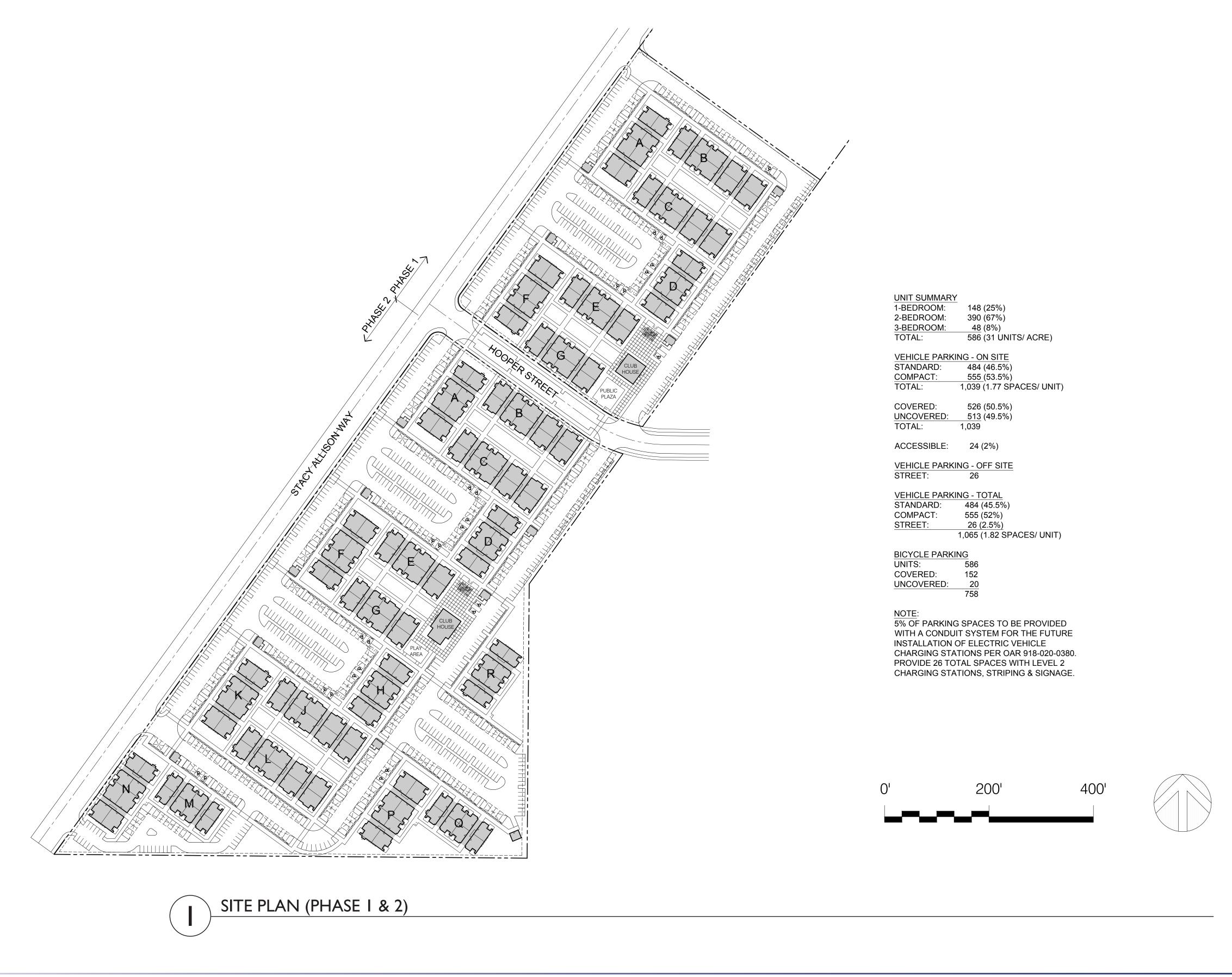


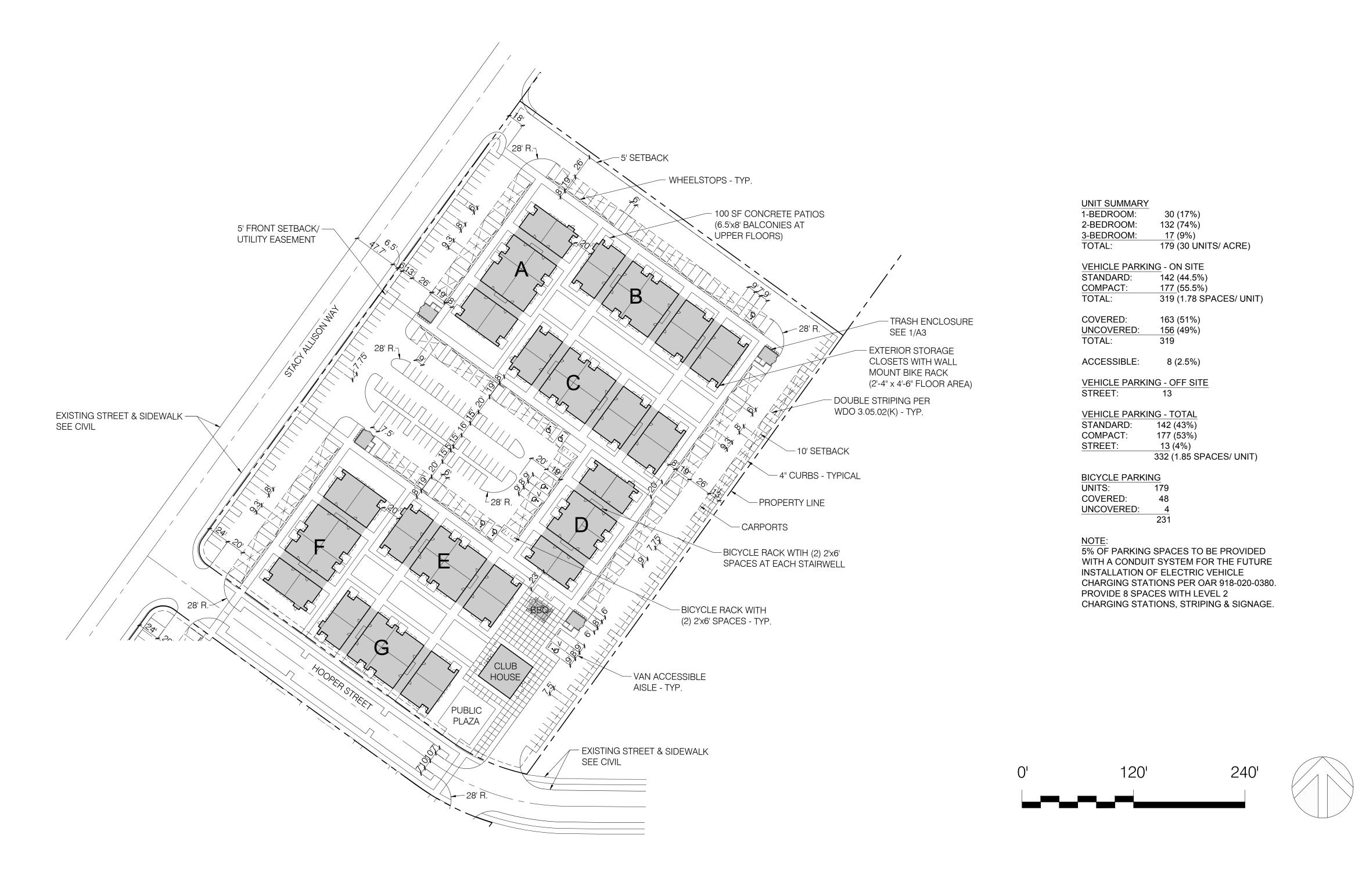






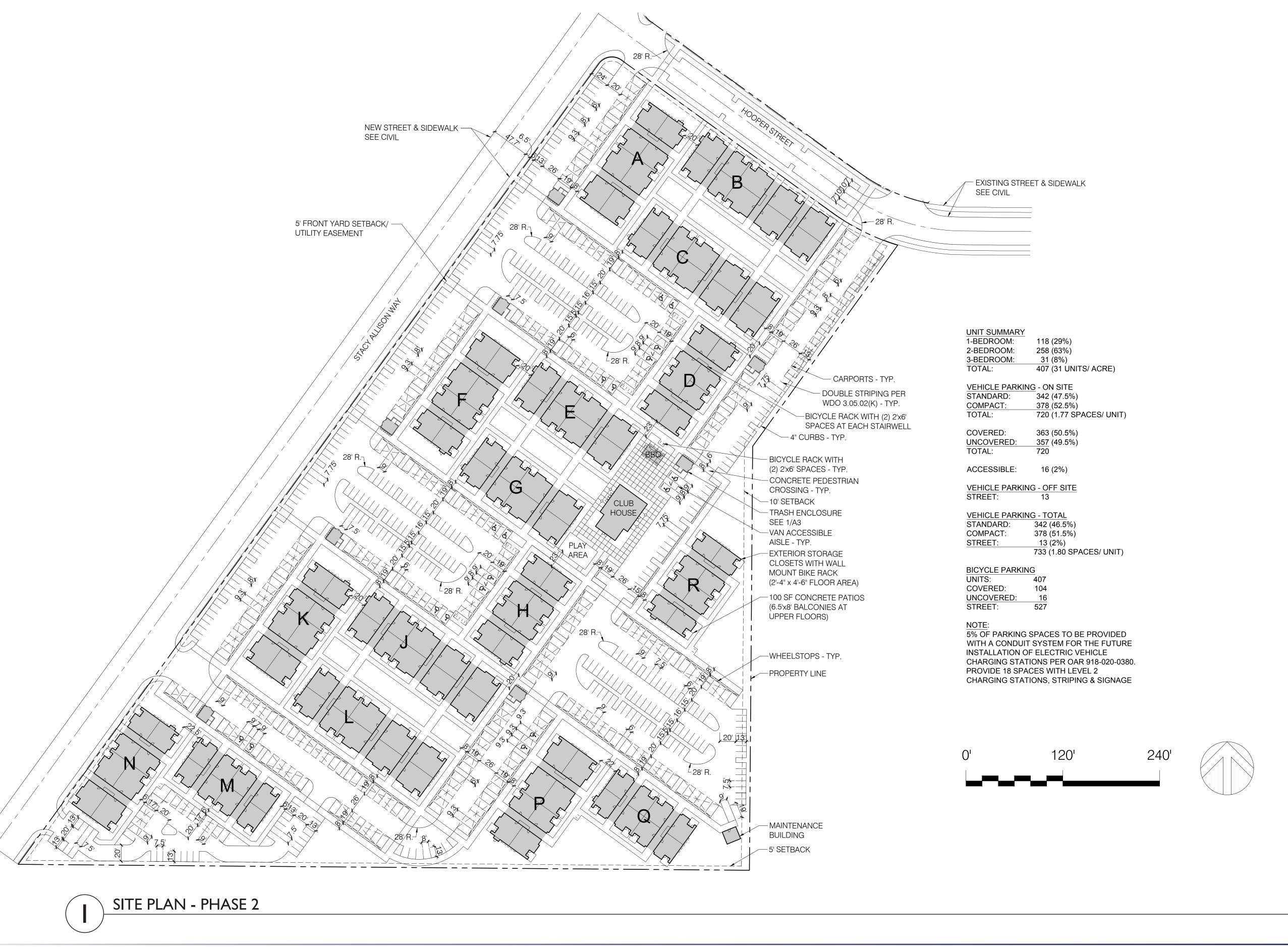




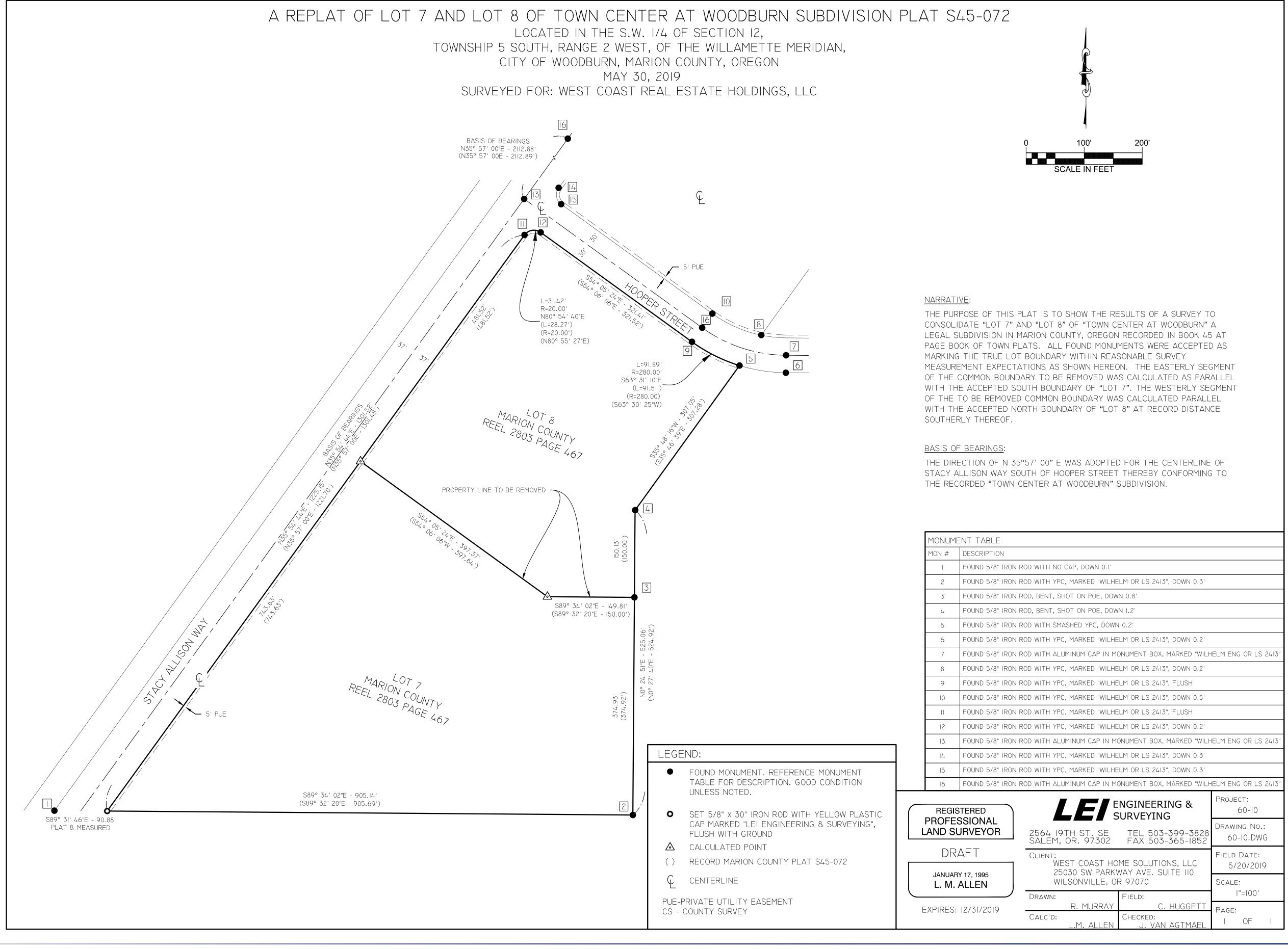


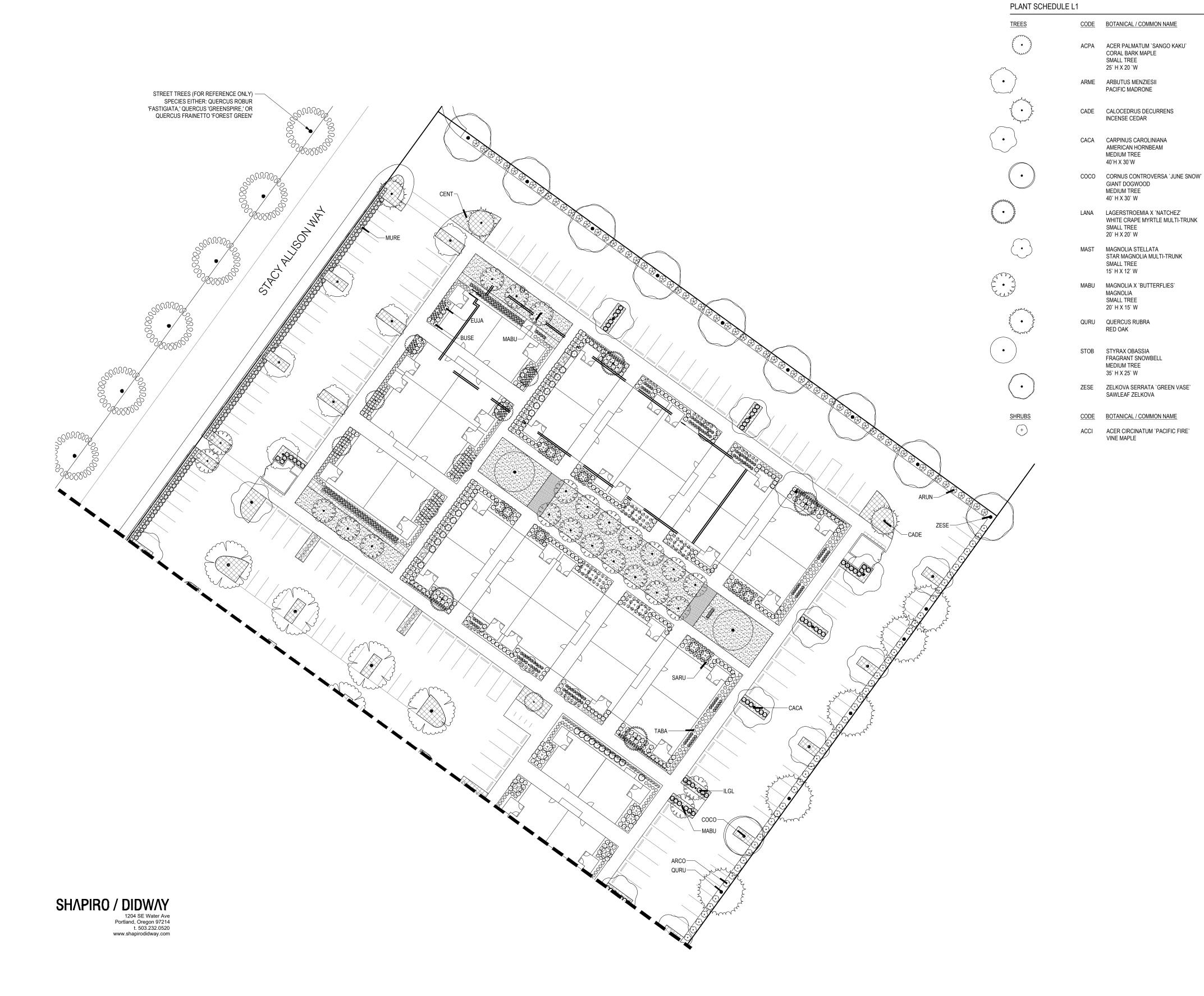




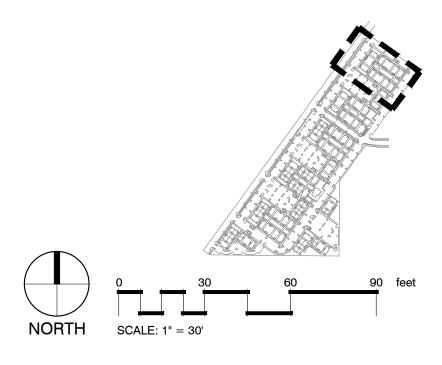


Leeb Architects





46		LANGE STINUD		
	ARUN	ARBUTUS UNEDO STRAWBERRY TREE SHRUB	5 GAL	
(°)	ARCO	ARCTOSTAPHYLOS COLUMBIANA HAIRY MANZANITA	5 GAL	
\bigcirc	BUSE	BUXUS SEMPERVIRENS AMERICAN BOXWOOD LARGE SHRUB	3 GAL	
0	CASE	CAMELLIA SASANQUA 'APPLE BLOSSOM' APPLE BLOSSOM CAMELLIA LARGE SHRUB	3 GAL	
\odot	CHTE	CHOISYA TERNATA 'AZTEC PEARL' MEXICAN ORANGE LARGE SHRUB	3 GAL	
\odot	COSE	CORNUS SERICEA 'KELSEYI' KELSEYI DOGWOOD SMALL SHRUB	2 GAL	
\odot	EUJA	EUONYMUS JAPONICUS 'MICROPHYLLUS' BOXLEAF EUNONYMUS SMALL SHRUB	3 GAL	
5 6 30 5 5 5 5 5 5 5 5 5 5 5 5 5 5 5 5 5 5	ILGL	ILEX GLABRA `SHAMROCK` SHAMROCK INKBERRY HOLLY LARGE SHRUB	3 GAL	
\bigcirc	MARE	MAHONIA REPENS CREEPING MAHONIA SMALL SHRUB	2 GAL	
\odot	NADO	NANDINA DOMESTICA 'HARBOUR DWARF' DWARF HEAVENLY BAMBOO SMALL SHRUB	1 GAL	
	SARU	SARCOCOCCA RUSCIFOLIA FRAGRANT SARCOCOCCA LARGE SHRUB	3 GAL	
$\langle \cdot \rangle$	TABA	TAXUS BACCATA `FASTIGATA` FASTIGA ENGLISH YEW LARGE SHRUB	B & B	3`
	THOC	THUJA OCCIDENTALIS 'GREEN GIANT' GREEN GIANT ARBORVITAE LARGE SHRUB	B & B	4`
ORNAMENTAL GRASSES	CODE	BOTANICAL / COMMON NAME	SIZE	HT
	CAAC	CALAMAGROSTIS X ACUTIFLORA 'KARL FOERSTER' FEATHER REED GRASS	1 GAL	
	LIMU	LIRIOPE MUSCARI 'BIG BLUE' BIG BLUE LILYTURF	1 GAL	
300 E	MURE	MUHLENBERGIA CAPILLARIS 'REGAL MIST' TM PINK MUHLY GRASS	1 GAL	
GROUND COVERS	CODE	BOTANICAL / COMMON NAME	CONT	
	CENT	CEANOTHUS X 'CENTENNIAL' CENTENNIAL CEANOTHUS	1 GAL	
	COTT	COTONEASTER DAMMERI `CORAL BEAUTY` BEARBERRY COTONEASTER	1 GAL	
	SOD	SOD	NONE	



<u>CAL</u> <u>SIZE</u>

2" CAL 12-15` H

2" CAL 8-10` H

2" CAL 14-16` H

2" CAL 14-16` H

2" CAL 14-16` H

B & B 2" CAL 14-16` H

B & B 2" CAL 10`-12` H

B & B 2" CAL

B & B 2" CAL

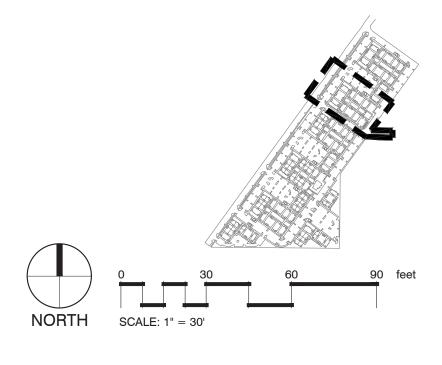
24 INCH BOX

15 GAL

15 GAL



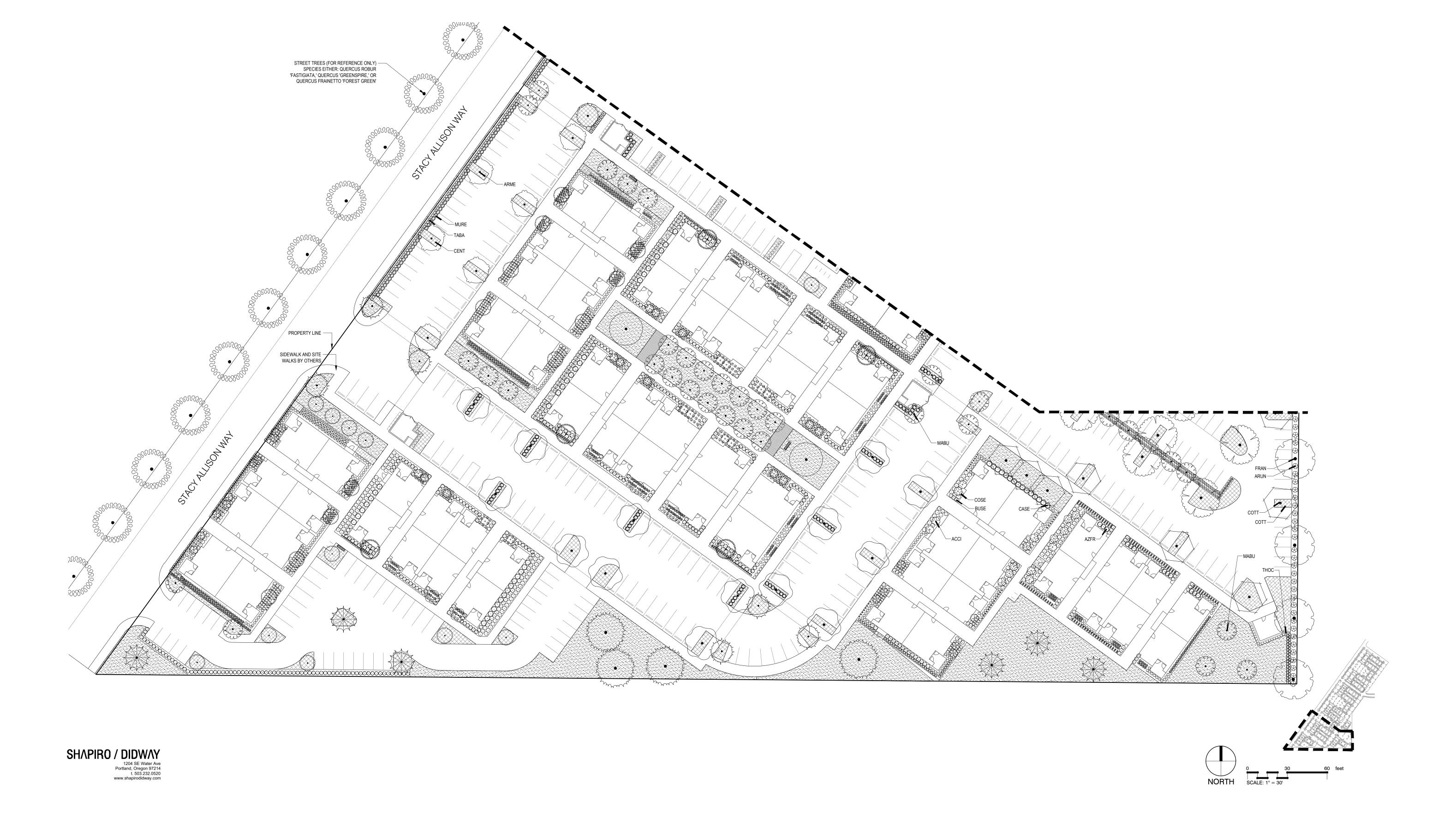




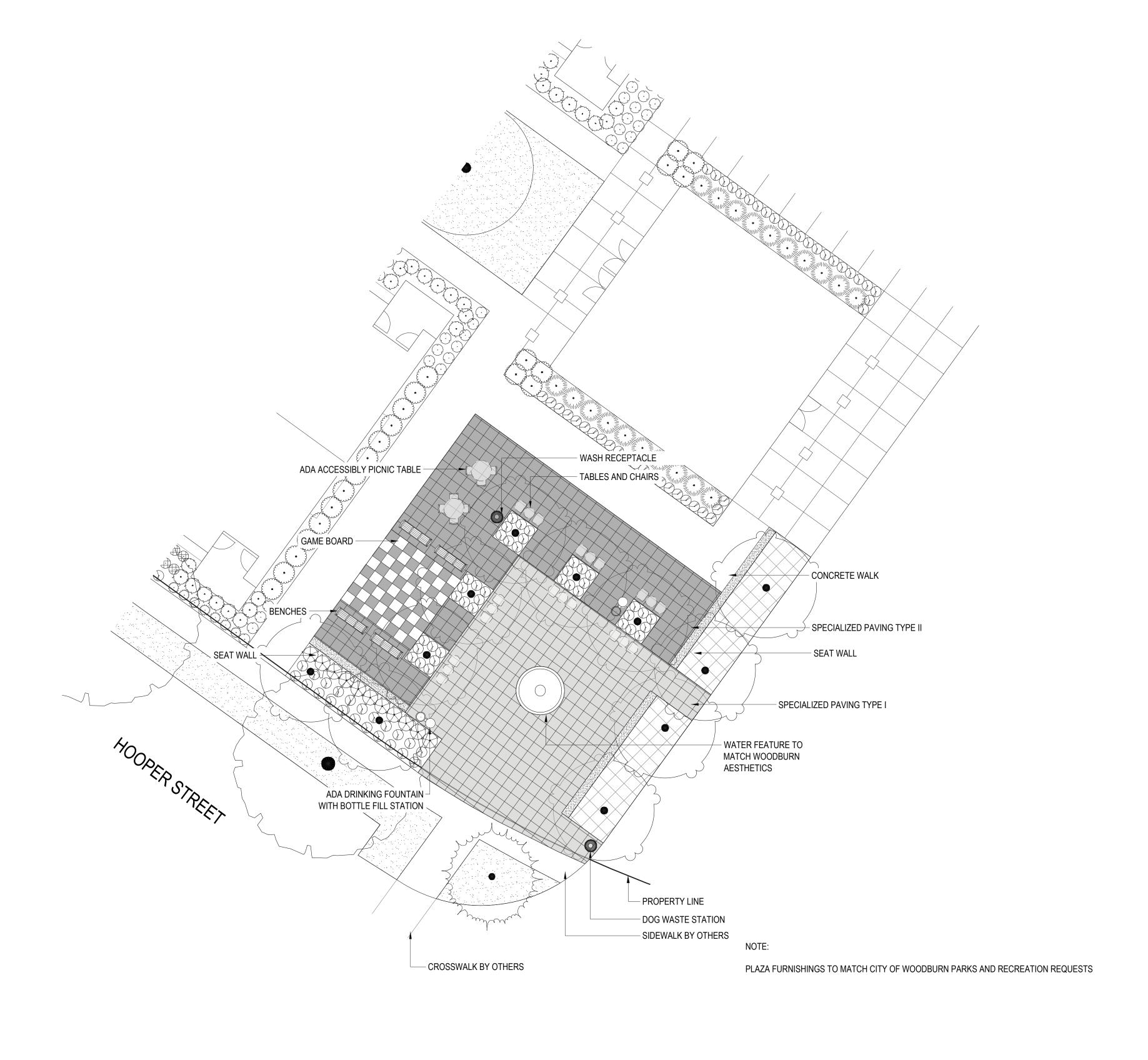






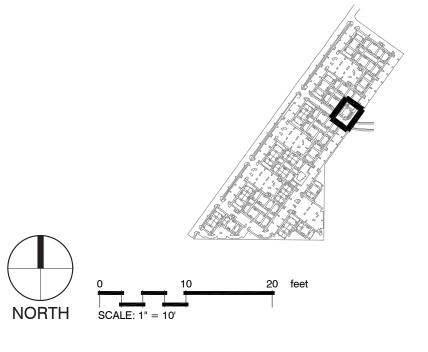


Leeb Architects



SHAPIRO / DIDWAY

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Portland, Oregon 97214
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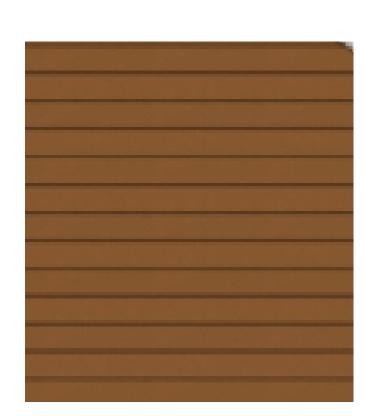
AVG. HT.



BUILDING A, E, F, G - ELEVATION



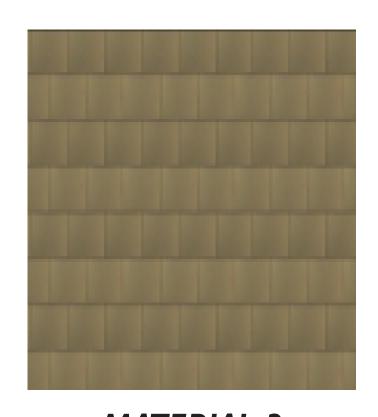
ENLARGED ELEVATION - TYPICAL BUILDING



MATERIAL-I
FIBER CEMENT LAP SIDING
RED/ORANGE



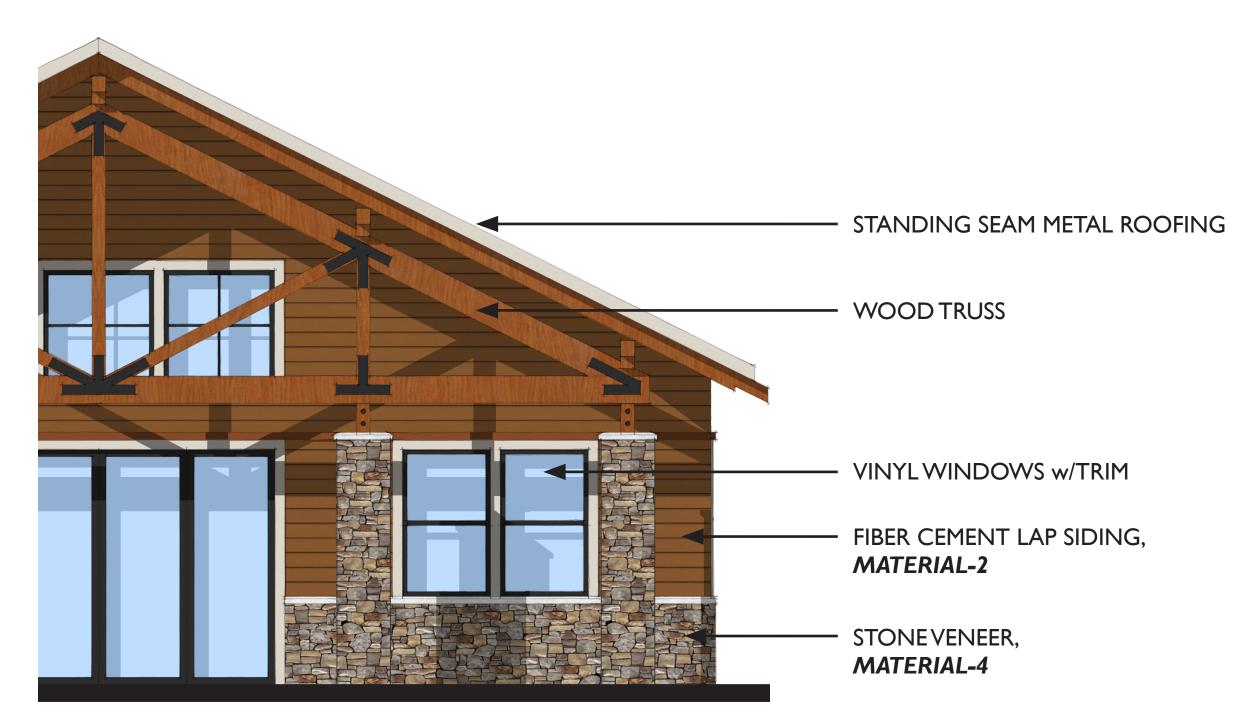
MATERIAL-2
FIBER CEMENT LAP SIDING
DARK GREEN



MATERIAL-3
FIBER CEMENT STRAIGHTEDGE SHINGLE SIDING
TAN



MATERIAL-4
STONE VENEER
VARIEGATED



ENLARGED ELEVATION - CLUBHOUSE





2 TYPICAL END ELEVATION

BUILDING A, E, F, G, K, N, P - ELEVATION

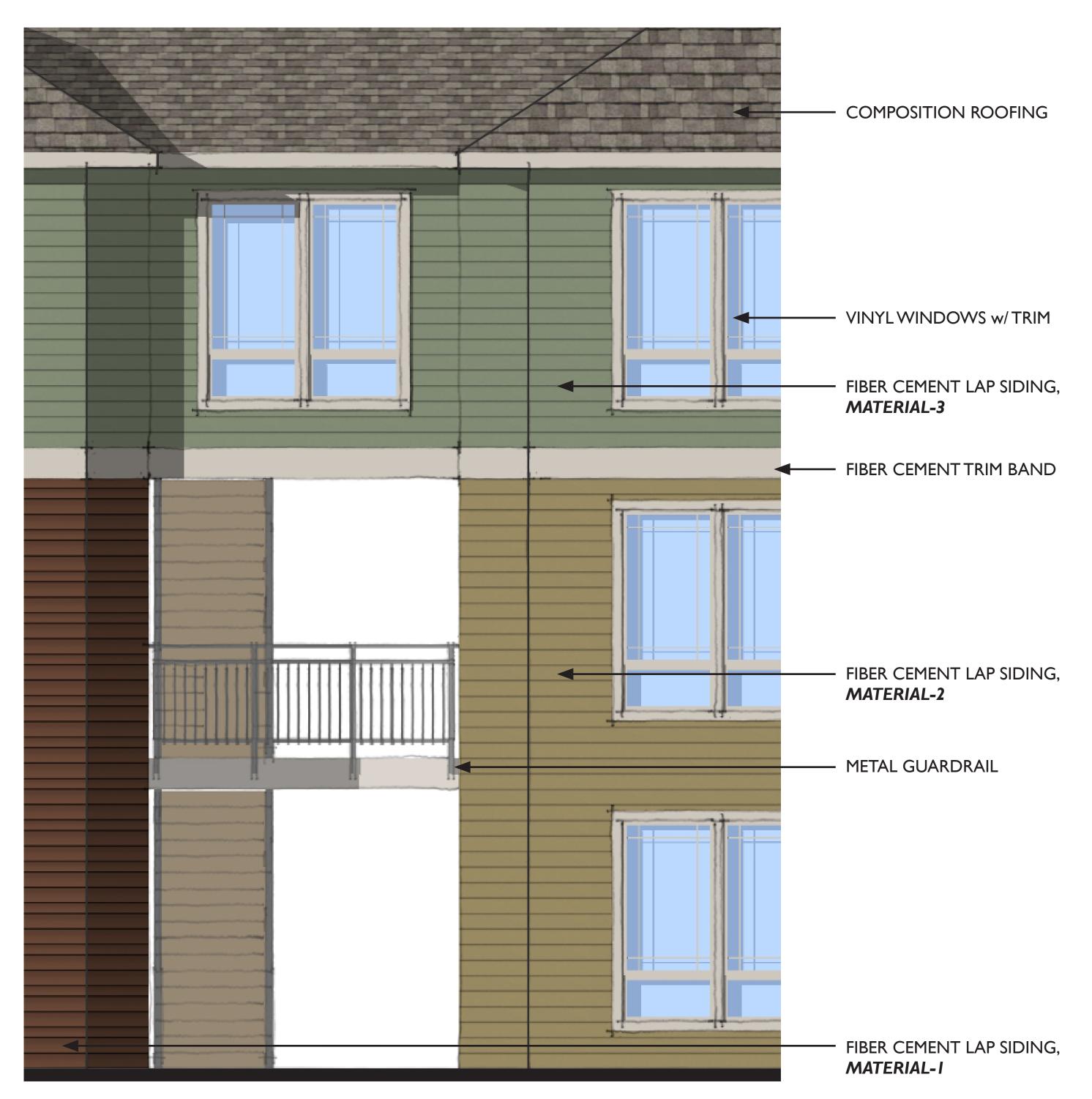




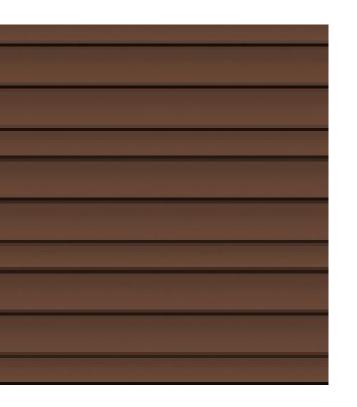
4 TYPICAL END ELEVATION

BUILDING A, E, F, G, K, N, P - ELEVATION

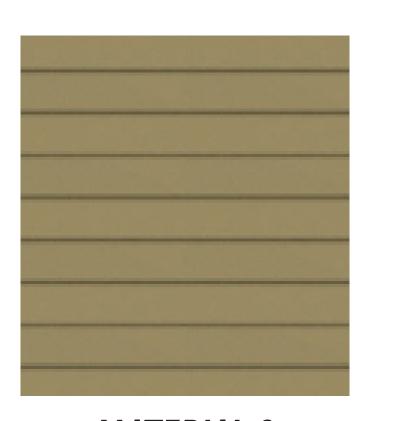
20'



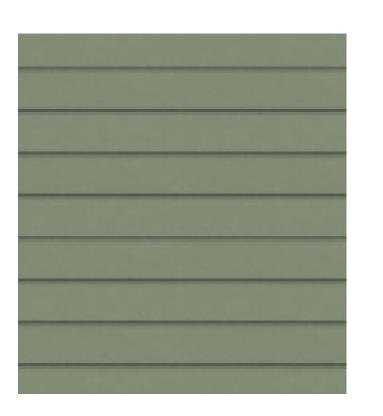
ENLARGED ELEVATION - TYPICAL BUILDING



MATERIAL-I
FIBER CEMENT LAP SIDING
BROWN



MATERIAL-2
FIBER CEMENT LAP SIDING
YELLOW



MATERIAL-3
FIBER CEMENT LAP SIDING
GREEN



MATERIAL-4
BRICK VENEER
YELLOW



ENLARGED ELEVATION - CLUBHOUSE

West Coast Home Solutions

	transportation is the Salem-Keizer Cherriots 10x which runs along Portland Road NE to Salem with a stop at the Woodburn Transit Center, less than two miles away. This will reduce the need for a car as many people will commute to these neighboring cities for work. The property management will require parking permits in order to park onsite. Each vehicle that doesn't have a permit will be towed eliminating non-resident parking. The maximum allowed parking for 2 and 3-bedroom units will be 2 cars per unit. The management will also enforce only 1 car per unit for each 1-bedroom unit. By only allowing 1 car for each 1-bedroom unit that would allow exactly 2.03 cars per unit for each of the other 2 and 3-bedroom units. Additionally, the development team accounts for an average 5% vacancy in the rental property, which could leave anywhere from 30-60 parking spots available. To further support this variance, bicycle parking is proposed well in excess of code requirements (see Section 3.05.03(E) above) and, if needed, the property management team would be willing to contact Zip Car and allow a parking space or two allocated to Zip cars for tenant use.
Variance #3	Section 3.05.03(C) – Compact Parking Percentage Requires: A maximum of 20 percent of the required vehicle parking spaces may be satisfied by compact vehicle parking spaces. Proposed: 60 percent Criteria #1: A 20% compact parking ratio precludes meeting minimum off-street parking ratios to achieve housing density and affordability goals desired for the zone. Criteria #2: Adjacent properties will not be affected by the proposed
Variance #4	compact parking ratios. Table 3.05(C) – Drive Aisle Width Requires: The required width for a 90° 2-way drive aisle is 24'. Proposed: Drive aisle widths are proposed as follows: One-way Travel Standard or ADA compliant stalls: 18' Compact stalls: 16' Two-way Travel All stalls: 20' Criteria #1: 24' drive aisles preclude meeting minimum off-street parking ratios and housing density and affordability goals desired for the zone.

Attachment 106





Staff Report

Through:	Chris Kerr, Community Development Director	
From:	Colin Cortes, AICP, CNU-A, Senior Planner	
Meeting Date:	May 28, 2020 (Prepared May 21, 2020)	
Item:	No Address along Stacy Allison Way "Allison Way Apartments" (DR 2019-05,	

EXCP 2020-05, PLA 2019-04, PP 2019-01, & VAR 2019-04)

Tax Lot(s): 052W14 02000, 02100, & 02300

Planning Commission

TABLE OF CONTENTS

To:

ISSUE BEFORE THE PLANNING COMMISSION	2
EXECUTIVE SUMMARY	2
RECOMMENDATION	5
CONDITIONS OF APPROVAL	5
ACTIONS	32
ATTACHMENT LICT	22

Issue before the Planning Commission

Action on a consolidated land use application package (Type III), Design Review DR 2019-03, Exception to Street Right of Way and Improvement Requirements ("Street Exception") EXCP 2020-05, Property Line Adjustment PLA 2019-04, Phasing Plan PP 2019-01, & Variance VAR 2019-04 for six variance requests for a two-phase apartment complex of 586 dwellings across 23 apartment buildings, known as Allison Way Apartments, in the Commercial General (CG) base zoning district with the Interchange Management Area (IMA) Overlay District.

Executive Summary

Location Context

The subject property is three parcels totaling 19.03 acres along the west/northwest side of Stacy Allison Way, named for an Oregonian who was the first American woman to summit Mt. Everest, and along both sides of Hooper Street. It is bordered at the east side of Phase 1 by Cascade Meadow Apartments (2008), at the southeast by the Paradise Pointe residential subdivision (2006), and the south by city limits.

The property also is Lots 7-9 of the Town Center at Woodburn subdivision (2004), is undeveloped fields with no buildings or trees remaining, and is bordered street improvements that the subdivider had constructed and are now substandard. Of the entire Town Center subdivision, the vast majority was and is zoned commercial and remains undeveloped fields, and the small area at the southeast that was and is zoned residential is developed as Cascade Meadow Apartments and Paradise Pointe.

Proposal

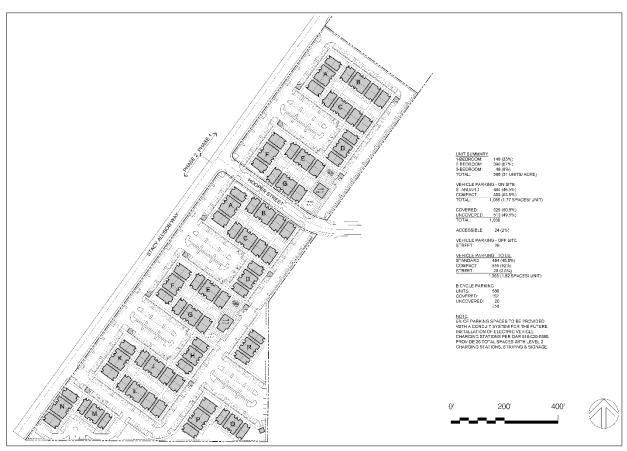
The site development consists of 586 apartments across 23 buildings across Phases 1 & 2 such that the one parcel north of Hooper Street would 180 apartments across 7 buildings as Phase 1 and the two parcels south of Hooper would have 406 apartments across 16 buildings as Phase 2.

The buildings are three-story walk-ups, conventional for new construction. The unit mix is 148 one-bedroom (25%), 390 two-bedroom (67%), and 48 three-bedroom (8%). Each phase has a common building and landscaped and paved common areas. The general site plan is the applicant's Exhibit 3 and the landscape plans are applicant's Exhibits 38-43, all found within staff Attachment 105).

Phase 2 includes extension of Stacy Allison Way that relocates the dead-end from Hooper Street southwest along Interstate 5 (I-5) to city limits.



Aerial Map (2016)



Site plan (plan sheet Exhibit 3)



Applicant's artist's rendering: bird's eye perspective looking northwest

The project comes with several variance requests (VAR 2019-02) to vary from Woodburn Development Ordinance (WDO):

- 1. Driveway width minimum (Table 3.04A)
- 2. Parking ratio minimum (Table 3.05A);
- 3. Compact parking percentage maximum (3.05.03C);
- 4. Drive aisle width minimum (Table 3.05C);
- 5. Parking area curb height minimum (3.06.021); and
- 6. Architectural Wall (Table 3.06D & 3.06.06).

Also included is a Street Exception request to keep and extend substandard street infrastructure. Staff counters the applicant's request through conditions that customize what the Transportation System Plan (TSP) and WDO 3.01.04 require yet also secure lasting infrastructure that contributes to the public good.

The applicant is Leeb Architects, representing Eugene Labunsky of West Coast Real Estate Holdings LLC as well as Stacy Allison Way Holdings LLC.

Pursuant to state law, staff reviews the application through the Woodburn Development Ordinance (WDO) as it existed on the date of application. On June 7, 2019, the WDO version was that of Ordinance No. 2562 adopted Sept. 10, 2018. Though at present in the CG zoning district multiple-family dwellings are prohibited in some areas of the district – including where there is the IMA overlay district – and a conditional use (CU) in others, this change occurred after application submittal though in response to the subject project. The City Council adopted

Legislative Amendment LA 2019-01 via Ordinance No. 2573 on June 24, 2019, which as is standard for ordinances per the City Charter, took effect 30 days later.

In short, the above paragraph means that had the applicant attempted to submit the consolidated application package after the WDO amendment, the City would have had to reject it.

Staff worked diligently with the cooperative applicant to revise the site plan several times to improve it by obtaining a number of benefits for future residents, the City, and the public through both street and on-site improvements.

Recommendation

Approval with conditions: Staff recommends that the Planning Commission consider the staff report and its attachments and approve the consolidated applications package with the conditions recommended by staff below, excepting the variance request related to parking ratio minimum for which staff recommends denial. The conditions can also be found towards the end of the Analyses & Findings (Attachment 102).

Conditions of Approval

General

- G1. As part of building permit application, the applicant shall submit revised site plans meeting the conditions of approval and obtain Planning Division approval through sign-off on permit issuance.
- G2. The applicant or successors and assigns shall develop the property in substantial conformance with the final plans submitted and approved with these applications, except as modified by these conditions of approval. Were the applicant to revise plans other than to meet conditions of approval or meet building code, even if Planning Division staff does not notice and signs off on building permit issuance, Division staff retains the right to obtain restoration of improvements as shown on an earlier land use review plan set in service of substantial conformance.
- G3. References: The descriptions below define certain words, phrases, and assumptions in the context of the conditions of approval:

- "Access way" means an on-site walkway paved at least eight (8) feet wide to serve as a bicycle/pedestrian path to and from sidewalk or to and from an off-street public bicycle/pedestrian path and that is ADA-compliant.
- "ADA" refers to the federal Americans with Disabilities Act of 1990.
- "Allison" refers to Stacy Allison Way.
- "A1, "A2", & "A3" driveways refer to the three Allison driveways from north to south. A1 is in Phase 1, and A2 & A3 are in Phase 2.
- "County" refers to Marion County.
- "Courtyard" refers to each of five places two in Phase 1 and three in Phase 2 that is a landscaped linear central common area framed by three buildings forming a "U" shape or four buildings enclosing the common area.
- "Director" refers to the Community Development Director.
- "EV" refers to electric vehicle.
- "Evergreen" with a capital "E" refers to Evergreen Road, especially south from OR 214.
- "ft" refers to feet.
- "Hooper" refers to Hooper Street.
- "H1,"H2", "H3," & "H4" driveways refer to the four Hooper driveways clockwise from the northwest. H1 & H2 are in Phase 1, and H3 & H4 are in Phase 2.
- "Lawson" refers to Lawson Avenue.
- "Modal share" means the percentage of travelers using a particular type of transportation or number of trips using a type, as examples walking, cycling, riding transit, and driving.
- "Modal shift" means a change in modal share.
- "MUTCD" refers to *Manual on Uniform Traffic Control Devices* of the U.S. Department of Transportation (U.S. DOT) Federal Highway Administration (FHWA).
- "NE means northeast.
- "NW" means northwest.
- "OAR" refers to Oregon Administrative Rules.
- "o.c." refers to on-center spacing, such as of trees or shrubs.
- "ODOT" refers to the Oregon Department of Transportation.
- "OR 214" refers to Oregon Highway 214 / Newberg Highway.
- "Oxford" refers to Oxford Street.
- "Parking court" means each of three peninsulas of on-site surface parking extending southeast and framed by a "U" of five buildings. Phase 1 has one and Phase 2 has two.
- "Phase 1" or "Phase I" encompasses Tax Lot 052W14 02300 (Town Center at Woodburn subdivision Lot 9) and the full extents of adjacent Allison and Hooper and the whole of their intersection.
- "Phase 2" or "Phase II" encompasses Tax Lots 052W14 02000 & 2100 (Town Center at Woodburn subdivision Lots 7 & 8) to be consolidated and the full extent of adjacent Allison from Hooper.

- "PLA" refers to property line adjustment.
- "PUE" refers to public utility easement.
- "PW" refers to Public Works (the department) or public works (civil infrastructure) depending on context.
- "Root barrier" refers to that illustrated by PW SS&Ds, Drawing No. 1 "Street Tree Planting New Construction".
- "ROW" refers to right-of-way.
- "SDCs" refers to system development charges, also known as impact fees.
- "SE" means southeast.
- "Speed table" means a walkway crossing of a drive aisle that: is concrete; with a tabletop that is raised at least four (4) inches above drive aisle grade, at least six (6) ft wide, flat, and stamped or otherwise treated to have a pattern; and, with the vehicular ramps striped in compliance with MUTCD Figure 3B-30, Option A, and with minimum and maximum slope ratios of 1:25 and 1:10 respectively.
- "SS&Ds" refers to PW standard specifications and drawings.
- "Street trees" refer to trees that conform to the WDO, including 3.06.03A and Table 3.06B.
- "SW" means southwest.
- "TSP" means the Woodburn Transportation System Plan (TSP).
- "WDO" refers to the Woodburn Development Ordinance.
- "W. Hayes" refers to W. Hayes Street.
- "WTS" refers to the Woodburn Transit System.
- "VCA" refers to vision clearance area as WDO 1.02 and 3.03.06 establish.

G4. Due dates / public improvements:

- a. By application: Unless a condition specifies otherwise, conditions including those relating to any of final subdivision, final partition, property line adjustment or lot consolidation recordation are due by building permit application. Prior to both any recordation of any final subdivision, final partition, or property line adjustment and building permit application, the applicant shall submit and obtain approval of an Address Assignment Request.
- b. By issuance: Unless a condition specifies otherwise, ROW and easement dedications and recordation(s), construction of frontage/street improvements, and construction of offsite, park, and other public improvements are due by building permit issuance. Where phasing is relevant, building permit issuance means issuance for the phase in which the conditioned improvement is located. See also the Phasing Plan (PP) condition(s).
- G5. Recordation due dates: The applicant shall apply to the County for recordations of items that the City requires no later than six (6) months past an anticipated Planning Commission tentative decision date, i.e. by December 30, 2022, and shall complete recordations no later than almost three years past, i.e. by May 25, 2023. The due date to complete recordations shall not supersede when recordations are due relative to the building permit stage.

- G6. Public Improvements Civil Plan Review: The process by which to receive, review, and approve drawings and other documents related to public improvements required by these conditions of approval may be paired with or incorporated into building permit review, or, if directed by the City Engineer, through a civil engineering plans (CEP) review process led by the Engineering Division. If opting for CEP, the applicant shall not only follow the direction of the Engineer Division, but also take some actions to facilitate tracking by Planning staff and coordination with Engineering:
 - a. Cover letter: Upon submitting application to the Engineering Division, simultaneously alert the Planning Division through a cover letter to the attention of the Planning Division referencing the intended or, if known, actual submittal date as well as the project name, project phase, tax lot number(s), street address(es), and the land use / planning / zoning final decision conditions of approval that require the public improvement that is the subject of the civil engineering plans. Referencing conditions may be by quotation or citing the identification numbers (e.g., T-A1). Identify the specific sheet (by number) or document page number that illustrates or notes how each subpart of a condition is met.
 - b. Contact information: State the applicant's name, company, phone number, e-mail, and desired date for City staff to respond with review comments. The cover letter may include these.
 - c. Plan copies: Submit to the attention of the Planning Division at least two plan size copies of plan sets (24 by 36 inches). Within the cover sheet title block(s), include the phrase "civil engineering plans" or "public improvements civil plans". Submit also Adobe PDFs using a fileshare service.
 - d. Re-submittal fee: If there are multiple re-submittals, beginning with a third submittal / second revised submittal and continuing with each subsequent submittal, the applicant shall pay through the Planning Division into City general revenue a fee of \$100.

G-PW. Public Works: Follow the appended Public Works comments (May 19, 2020; Attachment 102A). If conflict arises between implementation of public works conditions and referenced standards in that document with implementation of the remaining conditions in this document, the Assistant City Administrator would arbitrate or mediate based on guidance from legal counsel, the Director, the Public Works Engineering Director, and the City Engineer.

Design Review 2019-05

D1. PUE(s): To meet WDO Figures 3.01D "Service Collector" & G "Local ...", as part of PLA recordation the applicant shall resolve existing easements with newly required easements so as to conform to the streetside PUE minimum width of five (5) ft per WDO 3.02.01B, conform to all other conditions, and follow the direction of the City Engineer per WDO 3.02.01A.

D2. Driveways:

a. Number: To meet WDO 3.04.03B.1 regarding access management, the number of driveways is limited as follows:

ROW	Phase 1	Phase 2
Allison	1 joint (A1)	2 (A2 & A3)
Hooper	2 (H1 & H2)	2 (H3 & H4)

- b. Approach / apron / curb cut: Driveways shall conform to PW SS&Ds, Section 4150.
- c. Traffic control: To meet WDO 3.05.02J:
 - (1) Parking on site: The central and narrowest drive aisle in each of the parking courts and between Buildings P & R shall have one-way traffic to the northwest, and the applicant shall:
 - (a) Stripe on the pavement an arrow at each of the beginning and end of each aisle; and
 - (b) Install at the end of each aisle a do-not-enter sign that complies with *MUTCD* Figure 2B-11, sign R5-1.



(2) Allison: Outbound left turns are prohibited from driveway A3, and the applicant shall install a no left turn sign that complies with MUTCD Figure 2B-4, sign R3-2.



- D3. Cross access / joint driveway A1: To meet WDO 3.04.03B, the applicant shall:
 - a. On Tax Lot 052W14 02300 (Town Center of Woodburn subdivision Lot 9; Phase 1):
 - (1) Spur the easterly northeast-southwest drive aisle to the north property line of Tax Lot 052W13 01600 (subdivision Lot 10) at minimum width of twenty (20) ft minimum width between face of curb, and
 - (2) Spur the westerly northeast-southwest drive aisle to the north property line of Tax Lot 052W13 01600 (subdivision Lot 10) at minimum width of twenty (20) ft minimum width between face of curb.
 - b. To meet WDO 3.04.03B.1 & 3, dedicate a public access and utility easement that is to the satisfaction of the Director, revocable only with the concurrence of the Director, and connects the two bulges with driveway A1.

- c. Have the easement width be either (i) minimum twenty (20) ft and centered on the drive aisle centerlines or (ii) minimum twenty-eight and a half (28½) ft measured southwest from the north lot line.
- d. Have the easement text include a paragraph that states that the delineated easement area serves as a public access easement to the benefit of Lot 10 of the Town Center at Woodburn subdivision plat (Tax Lot 052W13 01600), and such cross access to and from the joint driveway at Stacy Allison Way shall not be revoked without concurrence of the City Community Development Director in conformance with Woodburn Development Ordinance (WDO) 3.04.03B.3. Place such text under a Cross Access & Joint Driveway Easement header.
- D4. Parking signage/striping: To meet WDO 3.05.02J, the applicant shall designate compact stalls "COMPACT" in lettering one (1) foot high minimum and stripe them as such in the field prior to building permit final inspection.
- D5. Parking stall double striping: To meet WDO 3.05.02K, the applicant shall delineate parking stalls with double parallel lines pursuant to Figure 3.05C and stripe them as such in the field prior to building permit final inspection.
- D6. Bicycle parking near main entrance: To meet WDO 3.05.03E, prior to building permit final inspection the applicant shall provide bicycle parking within fifty (50) ft of a main entrance. In the context of a new construction apartment complex with conventional three-story buildings with open stairwells, each apartment building has two main entrances as follows:
 - a. In all apartment buildings except Phase 1 B & C and Phase 2 B, C, J, & L there are four points where a building main wall plane intersects the walkway serving building ground floor entrances and the stairwell to upper floor entrances;
 - b. In Phase 1 Buildings B & C and Phase 2 Buildings B, C, J, & L there are six such points;
 - c. Each building has either (a) two walkways with two points each totaling the four or (b) three walkways with six points total; and so
 - d. The condition shall apply to three points minimum for each of Phase 1 Buildings B & C and Phase 2 Buildings B, C, J, & L and two points minimum for remaining buildings and apply to one point minimum per walkway.
- D7. Patios: Visual separation shall conform to WDO 3.07.05B.1a as follows:
 - a. Pavement: As proposed, patios shall be paved with brick, concrete pavers, or poured concrete.
 - Railings/fencing & gate: The outermost edges of patio concrete slabs that do not abut building walls shall have either metal or wood railings or cedar wood fencing at least three (3) ft high. If the latter, then opacity shall be full, but if fencing is higher than the minimum height, it shall be no more than ninety percent (90%) opaque, such as by being fully

- opaque from grade but from the top having a lattice pattern. The railings or fencing shall have a gated opening at least two (2) ft and four (4) inches wide.
- c. Height maximum: the railings or fencing maximum height shall be either five (5) ft or, where a patio faces a courtyard, three and a half (3½) ft.
- d. Shrubbery: Evergreen shrubbery shall line fully the outermost edges of patio concrete slabs, except along the gated opening.

Phasing Plan 2019-01

PP1. Phases / Phasing:

- a. Number and extent: As Condition G3 defines.
- b. Order / ordering: The applicant shall construct Phase 1 first.
- c. Improvements: Improvements within a phase are due by that phase.
- d. Vesting: Construction of Phase 1 shall vest land use / planning / zoning entitlement for Phase 2; but, were the applicant (or successors and assigns) to fail to make use of any of the two provisions of WDO 4.02.04B.1 or 3 to avoid expiration, expiration shall occur upon one of the two following events:
 - (1) The arrival of July 1, 2030; or
 - (2) City adoption of a unified development ordinance replacing the WDO were to have intervened on or between July 24, 2023 and June 24, 2030, approximately 3 to 10 years from the anticipated land use final decision date.

Property Line Adjustment 2019-04

PLA-1. Recording: To meet WDO 5.01.08B.5., upon City approval of the subject PLA, the applicant shall revise the drawing or drawings as needed and record the re-plat (or whatever it is that the County terms it) with the County. The expiration date is per WDO 4.02.04B, and were subsection 2 that refers to "the activity approved in the decision has commenced" to become relevant, that provision would mean recordation of the subject PLA, and to this end the applicant shall apply to Marion County for recordation by December 30, 2022 and complete recordation by May 25, 2023. In any case, the applicant shall record the re-plat prior to both City assignment of street addresses, which would follow the applicant submitting an address assignment request, and building permit application.

Street Exception

EX1. Hooper:

- a. Existing improvements: The planter strips, including curb widths, may remain 6½ ft instead of 7 ft, sidewalks may remain 5½ ft instead of 5 ft, and existing curbs may remain in place where not otherwise disturbed by newer improvements.
- b. Curb extensions: The applicant shall construct the proposed four curb extensions that cap the on-street parking aisles.
- c. Mid-block crossing: The applicant shall construct of the proposed two mid-block crossings of Hooper Street only the southeastern one and shall:
 - (1) Construct it of poured concrete minimum width of eight (8) ft;
 - (2) Stamp or otherwise treat the concrete to have a pattern that drivers would sense tactilely as well as visually.
 - (3) Install ADA-compliant curb ramps and pave connections to the sidewalks.
 - (4) Provide signage and striping per PW SS&Ds, or, if none exist for a given topic, per the direction of the City Engineer. Required signage may include two advance warning signs for drivers; and
 - (5) Meet federal or state criteria or guidelines that the City Engineer may establish in writing as standards for the mid-block crossing.
- d. Crosswalk upgrade: Instead of the proposed northwestern of the two proposed midblock crossings, the applicant shall traffic calm the crosswalk of the southeast leg of the T-intersection of Allison & Hooper. The applicant shall construct a poured concrete crosswalk at minimum width of eight (8) ft and that is either stamped or otherwise treated to have a pattern tactilely that drivers would sense tactilely as well as visually. The applicant shall stripe the crosswalk.
- e. Street trees: The applicant shall plant trees at 1 per 30 ft of frontage, equaling fourteen (14) trees per frontage (instead of 1 per 50 typical, 9 trees per frontage). For up to no more than two (2) of the absolute number of trees required along each frontage (4 total), the applicant may pay a fee in-lieu of \$125 per tree. This fee provision is intended to substitute for the applicant invoking 3.06.03A.3 (Director modification/relocation).

EX2. Allison: The City modifies and approves the street exception request as follows regarding improvements and that applies to both phases:

- a. Phase 1:
 - (1) Northbound travel lane: Either narrow from twelve (12) to eleven (11) ft, or, restripe the center left turn lane from twelve (12) to eleven (11) and shift the travel lane accordingly. However, were the sidewalk described below within this list were to overlap the PUE by at least one and a half (1½) ft, if the bicycle lane is removed, or by up to four and a half (4½) ft, if the bicycle lane remains, no lane narrowing would be required.
 - (2) Bicycle lane: Remove or narrow to five (5) ft.

- (3) Planter strip: Install a planter strip six (6) ft wide and landscape with street trees at 1 per 30 ft of frontage, equaling twenty (20) trees along the Phase 1 frontage (instead of 1 per 50 typical). The total number shall be divided evenly between either *Betula pendula* [silver or European white birch] or another *Betula* [birch] species and an evergreen species among any of *Magnolia grandiflora* "Victoria" cultivar [magnolia cultivated for the Pacific Northwest], *Arbutus menziesii* [Pacific madrone], and *Tsuga heterophylla* [Western hemlock]. Ninety-seven percent (97%) of the remainder of the strip shall be medium size category shrubbery to the minimum size at planting per Table 3.06B and at maximum size that maintains conformance with VCA, and at least two (2) distinct openings in the shrubbery that total the remaining area of three percent (3%) shall be lawn grass.
- (4) Sidewalk: Construct a sidewalk as a bicycle/pedestrian path at minimum width of eight (8) ft ft (whether or not a northbound bicycle lane remains) that the City shall allow to overlap the streetside PUE by at least a half (½) ft and as much as four and a half (4½) ft from edge of ROW. If and where sidewalk would need to deflect or meander, such as at driveway A1 or at the northeast corner of Allison & Hooper, it may fully overlap a streetside PUE.

(5) Striping:

- (a) Bicycle: At the Phase 1 north end where the existing bicycle lane will continue at the north side of driveway A1, at the opening of the bicycle lane the developer shall stripe an *MUTCD*-compliant bicycle lane symbol or symbols.
- (b) Turn: The applicant shall stripe a turn arrow within the existing center left turn lane southbound at Hooper.
- (6) Utilities: Relocate underground/subsurface utilities that would conflict with street trees, such as a potable water line, and surface utilities such as street light poles and boxes to be within either or both of the planter strip and a streetside PUE. Existing covered vaults may be incorporated within altered or additional sidewalk if meeting PW SS&Ds.
- (7) NW side landscaping: The following applies between the project north end and the south end of the existing stormwater detention pond fencing a point approximately 330 ft southwest along Allison ROW from Hooper centerline. The applicant shall plant at least two hundred and forty-eight (248) woody shrubs of large size category as WDO Table 3.06B defines, of one or more evergreen species capable of growing to a mature minimum height of ten (10) ft (preferably *Taxus brevifolia* var. *reptaneta* [English yew reptaneta variant]), and with average o.c. spacing of four (4) ft.

b. Phase 2 / extension:

- (1) Lanes, travel: Minimum width twelve (12) ft.
- (2) Lane, center left turn lane and turn pockets: Width eleven (11) ft.
- (3) Bicycle lane: Northbound: none; and, southbound, either none or minimum five (5) ft.

- (4) Planter strip: Install a planter strip six (6) ft wide and landscape with street trees at 1 per 30 ft of frontage, equaling forty-one (41) trees along the Phase 2 frontage (instead of 1 per 50 typical). The total number shall be divided evenly between *Betula pendula* [silver or European white birch] or another Betula [birch] species and an evergreen species among any of *Magnolia grandiflora* "Victoria" cultivar [magnolia cultivated for the Pacific Northwest], *Arbutus menziesii* [Pacific madrone], and *Tsuga heterophylla* [Western hemlock]. Ninety-five percent (95%) of the remainder of the strip shall be medium size category shrubbery to the minimum size at planting per Table 3.06B and at maximum size that maintains conformance with VCA, and at least six (6) distinct openings in the shrubbery that total the remaining area of five percent (5%) shall be lawn grass.
- (5) Sidewalk: Construct a sidewalk as a bicycle/pedestrian path at minimum width of eight (8) ft (whether or not there is a northbound bicycle lane) that the City shall allow to overlap the streetside PUE by at least a half (½) ft and as much as four and a half (4½) ft from edge of ROW. If and where sidewalk would need to deflect or meander, such as at driveways A2 and A3 or at the southeast corner of Allison & Hooper, it may farther overlap a streetside PUE.
- (6) Median: Because along I-5 and between Hooper and driveway A2 no center turn lane is needed, a median planter shall taper open as turning areas taper closed a length of approximately 800 ft. The median shall be defined through either of the following two options:
 - (a) Conventional median: Two six-inch curbs with faces of curb defining the edges of travel lanes. The interior median width between conventional curbs, which shall be no fewer than ten (10) ft, shall be landscaped with street trees at 1 per 30 ft, and among them any of lawn, native grasses, groundcover, small size category shrubbery, or ornamental flowers. The trees shall consist of two (2) Quercus qarryana [Oregon oak], four (4) Magnolia grandiflora "Victoria" cultivar [magnolia cultivated for the Pacific Northwest], at least ten (10) of either Betula pendula [silver or European white birch] or another Betula [birch] species, and six (6) of any among Abies grandis [Grand fir], Arbutus menziesii [Pacific madrone], Thuja plicata [Western red cedar], and Tsuga heterophylla [Western hemlock]. Based on condition subparts (6)(c)(i) & (7) below about turn areas and because civil engineering drawings do not yet exist for turn areas and tapers, the length of median wide enough to have trees shall be assumed to be minimum six hundred and fifty (650) ft, equaling twenty-two (22) trees. For up to no more than two (2) of the absolute number of trees required, the applicant may pay a fee in-lieu of \$125 per tree.
 - (b) Mountable curb median: Median curbing may be mountable curbs. A resulting interior median width of no fewer than nine (9) ft and as wide as ten (10) ft shall be landscaped as per Option (a).
 - (c) For either option:

- (i) Turnaround: Include roughly in the middle of the long axis of the median an emergency turnaround with civil engineering details as the City Engineer directs. To draft an initial design to which the City can respond during the permit stage, assume curb radii for design vehicle type P (passenger car) and along east/SE and west/NW curves mountable curb for AASHTO design vehicle type WB-67 (tractor trailer truck). Propose either an obvious or subtle concept, obvious meaning noticeable and usable by the general public in passenger cars and emergency trucks (e.g. U-turn asphalt flowing between the travel lanes), and subtle meaning visible and usable only by emergency trucks (e.g. mountable curb, curb reflectors, and with passage at a higher elevation than that of the travel lanes and paved with either generic "grasscrete" or concrete stamped or otherwise treated to have a pattern, something no passenger car drivers would perceive as for them). For the obvious, assume asphalt minimum width eighteen (18) ft width at narrowest point; for the subtle, assume concrete minimum width eleven (11) ft wide or grasscrete minimum width twenty (20) ft wide.
- (ii) Root barriers: Install to protect both travel lanes.

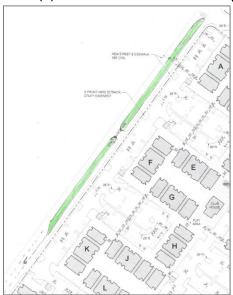


Exhibit EX2b (This median example concept is not to scale.)

(7) Turn areas: At the north, the median shall taper to accommodate a turning radius as directed by the City Engineer for vehicles heading westbound on Hooper to Allison southbound. At the south, the median shall taper to accommodate the center left turn lane for vehicles eastbound into both driveways A2 & A3. The turn lane shall continue with the travel lanes to the dead-end of ROW. The taper shall be such that the turn lane is at minimum width for a length north from driveway A2 to accommodate at the same time the queuing of both an AASHTO design vehicle type WB-67 (tractor trailer truck) and design vehicle type P (passenger car) with distance

- between the two. As a clear and objective standard, the developer may default to a hundred (100) ft. This means the median may taper open with curb beginning at the above minimum length from A2.
- (8) NW side landscaping: The following applies between the fencing south end and the south end of extended Allison. The applicant shall plant at least two hundred and fifty-two (252) woody shrubs of large size category as WDO Table 3.06B defines, of one or more evergreen species capable of growing to a mature minimum height of ten (10) ft (preferably *Taxus brevifolia* var. *reptaneta* [English yew reptaneta variant]), and with average o.c. spacing of four (4) ft.:
- (9) Interim signage: Signed barricades remain required per WDO 3.01.05A.2.b & c. and to PW SS&Ds. The developer shall also install an *MUTCD*-compliant dead-end sign, either W14-1 or W14-2, at the intersection of Allison & Hooper for southbound drivers. The City Engineer may require the developer to install either (a) also at the intersection either a W14-1a or a W14-2a sign to warn drivers turning south from Hooper that Allison ends in the left direction as the arrow within the sign copy would indicate, or (b) a sign or signs serving similar purpose.



Design Review 2019-05: Transportation

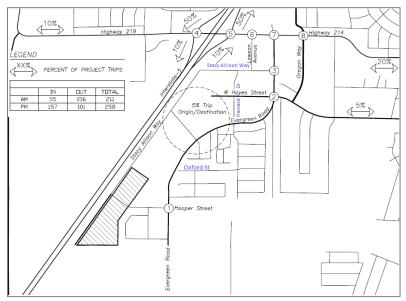


Exhibit T Vicinity map

T-A1. Evergreen & W. Hayes: The developer shall:

- a. Mitigation fee / Fee in-lieu: Pay a mitigation fee or fee in-lieu of \$33,000 to fund a transportation study. This is due by Phase 2, building permit issuance. [TIA]
- b. Evergreen sidewalk west: See Condition T-BP2.

T-A2. Allison & Evergreen: The developer shall pay a mitigation fee or fee in-lieu of \$33,000 to fund a transportation study. This is due by Phase 2, building permit issuance. [TIA]

T-A3. OR 214 & Evergreen: The developer shall pay a mitigation fee or fee in-lieu of \$15,000 to fund a transportation study, specifically to investigate corridor signal timing and coordination adjustments in coordination with ODOT. This is due by Phase 1, building permit issuance. [R10]

T-BP1. Allison & Lawson: The developer shall upgrade the T-intersection so that the south landing of either the east or west leg crosswalk has an ADA-compliant curb ramp and the crosswalk is striped. This is due by Phase 1, building permit issuance.

T-BP2. Evergreen sidewalk west: The developer shall fill in the sidewalk gap along the Evergreen frontage of Tax Lot 052W12C 01600 (601 Evergreen Road). The sidewalk shall be minimum eight (8) feet wide and located no closer than one (1) ft from edge of ROW and no more than six (6) ft from edge of ROW. The developer shall to the extent feasible meander the sidewalk as needed to save existing trees in or partially within existing ROW, upgrade the intersection west leg crosswalk by installing an ADA-compliant north curb ramp, and stripe the crosswalk. This is due by Phase 1, building permit issuance. [P6]

T-BP3. Evergreen sidewalk east: The developer shall fill in the sidewalk gap along the Evergreen frontage of Tax Lots 052W12DC01400 (2333 W. Hayes Street), 052W12DC01200 & 1300, and 052W12DB04400 (2330, 2340, & 2343 Oregon Court). The sidewalk shall be minimum six (6) feet wide and located no closer than one (1) ft from edge of ROW and no more than six (6) ft from edge of ROW. The applicant shall to the extent feasible meander the sidewalk as needed to save existing trees in or partially within existing ROW, upgrade the W. Hayes intersection east leg crosswalk by installing an ADA-compliant north curb ramp, and stripe the crosswalk. This is due by Phase 2, building permit issuance. [P6]

T-BP4. W. Hayes sidewalk: The developer shall fill in the sidewalk gap along the W. Hayes frontage of Tax Lot 052W12C 01600 (601 Evergreen Road). The sidewalk shall be minimum six (6) feet wide. The applicant shall to the extent feasible meander the sidewalk as needed to save existing trees in or partially within existing ROW, including to align sidewalk curb-tight. Within the parameters of this condition, the sidewalk placement shall otherwise reasonably conform to WDO Figure 3.01G, particularly regarding placement relative to centerline and establishing a planter strip with street trees where they can fit. This is due by Phase 2, building permit issuance.

T-BP5. Harvard curb ramp(s): At the T-intersection with W. Hayes, the developer shall install at least one ADA-compliant curb ramp at the west end of either the north or south leg crosswalk, pave new sidewalk minimum six (6) ft wide that connects to existing sidewalk, and stripe the crosswalk. The applicant shall to the extent feasible save existing trees in or partially within existing ROW, including by using returned curbs instead of flares along ramps. This is due by Phase 2, building permit issuance.



Exhibit T-BP North: This exhibit illustrates locations and represents improvements related to Conditions T-BP1 through 5. Sidewalk is in blue dashes and ADA ramps are in yellow trapezoids.

T-BP6. Evergreen sidewalk south: The developer shall fill in the sidewalk gap along the Evergreen frontage of Tax Lot 052W12C 02400 (0 Evergreen Road NE). The minimum width and placement shall conform to WDO Figure 3.01C, and within the planter strip the applicant shall plant at least two (2) street trees with root barriers, one each near Harvard and the driveway and to allow future adjacent site development to add trees to conform fully with the quantity required by WDO 3.06.03A (1 per 50 ft typical). This is due by Phase 2, building permit issuance.

T-BP7. Evergreen / Walmart driveway curb ramp: The developer shall fill in the sidewalk gap along the Evergreen frontage of the pole of the flag lot that is Tax Lot 052W12C 01900 (3002 Stacy Allison Way) and install an ADA-compliant curb ramp at the west side of the driveway. This is due by Phase 2, building permit issuance.

T-BP8. Evergreen curb ramp(s): At the T-intersection with Oxford, the developer shall install at least one ADA-compliant curb ramp at the west end of either the north or south leg crosswalk, pave new sidewalk minimum six (6) ft wide that connects to existing sidewalk, and stripe the crosswalk. The applicant shall to the extent feasible save existing street trees, including by using returned curbs instead of flares along ramps. This is due by Phase 1, building permit issuance.



Exhibit T-BP South: This exhibit illustrates locations and represents improvements related to Conditions T-BP6 through 8. Sidewalk is in blue dashes and ADA ramps are in yellow trapezoids.

T-BP9. Evergreen Path: The developer shall pave an ADA-compliant bicycle/pedestrian path minimum twelve (12) ft wide:

a. Location: Within the unimproved Evergreen ROW from Points A to B. Point A is the north dead-end of the Mill Creek Greenway Trail within the yet-to-be platted Smith Creek Development Phase 1 Tract 'D', and Point B is the east dead-end of the off-street path within the public walkway easement of the Montebello 2 subdivision (2002) that extends from Baylor Drive at Citadel Street and straddles subdivision Lots 139 & 140 (364 & 376)

- Baylor Drive). (The centerline distance is approximately 350 ft.) The yet-to-be platted Point A is within the larger acreage that as of this writing is Partition Plat 2019-040, Parcel 2 (Tax Lot 052W13 00108).
- b. Pavement: Either asphalt or poured concrete. If asphalt, construction minimums shall include four (4) inches of hot mix (Level 3) above eight (8) inches of one-inch minus crushed aggregate base course.
- c. Widths: The mainline path shall be minimum twelve (12) ft wide, and at its interim north dead-end, the spur path that connects west to the public walkway easement shall be minimum eight (8) ft wide, tapering by 1 ft width for every 2 ft of run as it approaches the easement to match the easement width.
- d. Alignment: The mainline path shall be aligned to accommodate shoulders and furniture zones as specified below and such that its centerline is no closer than twenty-five (25) ft from the east boundary of the Evergreen ROW.
- e. Shoulders: The mainline path shall have shoulders minimum two (2) ft each, specifically a strip free of vertical improvements on each trail side. Maximum slope shall be two (2) to one (1) (2:1).
- f. Furniture, tree zones, and amenities / support facilities: The mainline path shall be sited to have zones minimum six (6) ft along each side unencumbered for installation of the support facilities per the following table:

Table T-BP:	Evergreen Pat	h Amenities / Supp	ort Facilities
Support	Min.	Placement*	Notes
Facilities	No.		("min." = minimum; and
			"sq ft" = square feet)
Benches	2	Near junction of	Min. bench width is 6 ft. At least
		mainline and	80.0% of benches shall have backs.
		spur paths, out	There is a City spec.
		of corridor of	
		mainline	
		extension. May	
		be	
		paired/grouped.	
Bicycle	2 (stalls)	Near junction of	Stall size: Minimum 2 ft wide and
parking		mainline and	6 ft long, asphalt or poured
		spur paths, out	concrete.
		of corridor of	Facility: Rack, such as "U" or wave
		mainline	racks.
		extension.	There is a City spec "U" rack.
Dog waste	1	Near junction of	Each includes bag dispenser and
stations		mainline and	either includes a trash receptacle
		spur paths, out	or is sited within 10 ft of one.
		of corridor of	There is a City spec.
		mainline	
		extension.	
Recycling	1 (pair)	Near junction of	Place pairs near trail and path
and trash		mainline and	junctions with sidewalk.
receptacles		spur paths, out	There is yet no City spec; staff
		of corridor of	recommends the model chosen by
		mainline	the developer of Smith Creek
		extension.	Development Phase 1A.

This is due by Phase 1, building permit issuance. [P49]



Exhibit T-BP10A. Location and Conceptual Alignment

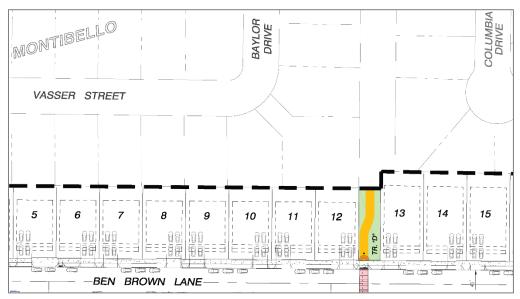


Exhibit T-BP10B. Starting Point Alignment Context: Smith Creek Development Phase 1A Tract "D" (from Stafford Land Co. Exhibit C-8A-1)

T-BP10. BP fee in-lieu option: In order for the City to construct any of the bicycle/pedestrian improvements that Condition T-A1b (Evergreen sidewalk west) and the T-BP conditions above describe, a developer may pay a fee in-lieu as follows:

a. Percentage: Equal to at least one hundred and twenty (120%) of a licensed civil engineer's cost estimate.

- b. Estimate: An estimate shall have construction cost item estimates based on the improvements being bid on as a "Public Works Project" paying prevailing wages. The City Engineer shall review and approve a construction estimate prior to acceptance of a fee in-lieu payment.
- c. Bond/bonding/performance guarantee: If the applicant were to bond, then the above condition subparts a. and b. about percentage and estimate shall apply also to a bond.

T-T. Bus transit fee: The developer shall pay a mitigation fee that is a total of a fixed base amount plus a rate per dwelling of \$208.28. The fixed base amount shall be \$12,510.20 for Phase 1 and \$46,750 for Phase 2. (This condition relates to TSP projects T1, 2, 4, 16, 18 &, TSP Fig. F5, and TPU projects 9, 11, 12, & 20.)

Variance 2019-04

V1-1. Driveway (WDO Table 3.04A):

a. The minimum driveway widths shall be per the table below (instead of 24 feet typical):

Minimum Driveway Width (feet)

	/ · · · · · · · · · · · · · · ·				
One	e-way Travel	Two-way Travel			
Single Lane Paired Lanes		Paired Lanes With Left Turn Lane			
10	9 per lane; 18 total	20	30 total		

b. The maximum driveway widths shall be per the table below (instead of 38 feet typical):

Maximum Driveway Width (feet)

One	e-way Travel	Two-way Travel		
Single Lane	Paired Lanes	Paired Lanes	With Left Turn	
			Lane	
11	10 per lane; 20 total	22*	31 total	

^{*}Except 26 ft where required by Oregon Fire Code (OFC) Appendix D

c. The condition applies within ROW, and may apply outside ROW along driveway throat length, so as not to interfere with the drive aisle width provisions of WDO Table 3.05C.

V2-4. Drive aisle (WDO Table 3.05C):

a. The minimum drive aisle widths shall be per the table below (instead of 24 feet typical):

Parking Context	Minimum Drive Aisle Width (feet)			
	One-way Travel		Two-way Travel	
	Single Lane	Paired Lanes		
Standard or ADA- compliant stalls	18	10 per lane; 20 total	20	
Compact stalls	16	9 per lane; 18 total	20	
No adjacent stalls	10	9 per lane; 18 total	20	

- b. The condition applies up to newly dedicated ROW so as not to interfere with the driveway minimum width provisions of WDO Table 3.04A.
- V3-5. Curb dimensions, parking area (WDO 3.06.02I): Curb or curbing that delineates on-site walkways and landscaped, parking, and vehicular circulation areas shall have a minimum height and width each of four (4) inches (instead of 6 inches typical).
 - a. Speed table: The applicant shall construct a speed table along the walkway crossing nearest and between the Phase 2 clubhouse, play area, and Building R. (See Condition G3 for specifications.)
 - b. Wheel stops: Wherever required or proposed, wheel stops shall be four (4) inches high maximum.

V4-6. Architectural Wall (WDO Table 3.06D & 3.06.06):

- a. The property lines subject to the Architectural Wall provisions of Table 3.06D and 3.06.06 are exempt from those provisions.
- b. Landscaping:
 - (a) Along the Phase 2 southeast and east lot lines, the applicant shall landscaped a buffer of minimum width five (5) ft to the minimum planting density of WDO Table 3.06A, row "Buffer yards".
 - (b) The landscaping shall include evergreen shrubbery planted at the large category minimum size per WDO Table 3.06B.
 - (c) The applicant shall include within fifteen (15) ft of the lot lines at least twenty-one (21) trees. The applicant shall add at least four (4) trees of large category per WDO Table 3.06B for a total of 25 trees. The four additional trees shall be in the lawns near Buildings Q & R, within sixty (60) ft of the lot lines, and with one (1) near Building Q and three (3) near Building R. The proposed site perimeter tree closest to the east/northeast corner of Building R shall be changed to a coniferous or evergreen species.
 - (d) Transformer box: Any on-site at-grade electrical transformer box shall be screened with evergreen shrubbery on all sides except the panel door side.
- c. Fence, cedar: Along the two segments of the Phase 2 southeast and east lot lines within six (6) ft of parking stalls that face the lot lines, the applicant shall install a treated cedar wood fence at least five (5) ft, ten (10) inches high and with boards arranged for opacity, except that the highest foot may be mostly opaque lattice pattern. Fence height shall not supersede applicable height limits per WDO 2.06.02.
- d. Lighting: If proposed, exterior light fixtures shall be full cut-off or fully shielded and limited in height as follows:
 - (a) Full cut-off: Exterior lighting fixtures shall be full cut-off or fully shielded models.
 - (b) Heights: As measured to the underside of the fixture:
 - a. Wall: Exterior wall-mounted fixtures shall be no higher than ten (10) feet above walkway finished grade. (This height limit is not applicable to emergency egress

- lighting and permanent wall signs allowed through WDO 3.10 were they to have interior illumination.)
- b. Parking pole: Exterior pole-mounted fixtures within four (4) feet of or in parking, loading, and vehicular circulation areas shall be no higher than fourteen-and-a-half (14½) feet above vehicular finished grade.
- c. Other pole: Remaining exterior pole-mounted fixtures, if any, shall be no higher than twelve (12) feet above grade.

V5-3-1. Compact parking (WDO 3.05.03C):

- a. Percentage: The compact parking maximum as a percentage of the required minimum amount of parking shall be sixty percent (60%; instead of 20% typical) and hundred percent (100%) of any amount in excess of the minimum required. For each phase, at least twenty percent (20%) of the minimum amount of stalls shall be compact
- b. Striping: The applicant shall stripe each stall with the word "COMPACT" in lettering one (1) foot high minimum.
- c. Wheel stops: Where used, wheel stops shall be four (4) inches high maximum.

V6-3-2. Off-street parking provisions:

- a. Bicycle parking amount and distribution: For each phase unless otherwise specified, the applicant shall provide a minimum number of bicycle parking stalls as follows:
 - (1) At least one (1) per dwelling in each dwelling in the outdoor closet of the balcony or patio in which the applicant shall install a wall-mounted folding or retractable hook designed for the hanging of a bicycle;
 - (2) At least one (1) stall at the base of each building stairwell, with each of these locations having a bicycle parking sign with minimum face dimensions of (1) foot wide by one-and-a-half (1½) feet high;
 - (3) Phase 1: Guest: Excluding outdoor closet and stairwell stalls, a set of at least two (2) stalls within five to fifteen (5-15) ft of Hooper ROW and near or along the access way;
 - (4) Phase 2: Guest: Excluding outdoor closet and stairwell stalls, at least two sets of at least two (2) stalls each, one northwesterly within five to fifteen (5-15) ft of Hooper and one southeasterly within ninety (90) ft of Hooper ROW.
 - (5) Phase 1: Common: Excluding outdoor closet, stairwell, and guest stalls, there shall be at least twenty (20) outdoor stalls. Of these at least four (4) shall be among the clubhouse / leasing office, clubhouse plaza, or barbeque (BBQ) area, and sixteen (16) shall be covered/sheltered.
 - (6) Phase 2: Common: Excluding outdoor closet, stairwell, and guest stalls, there shall be at least fifty-six (56) outdoor stalls. Of these at least four (4) shall among the clubhouse / leasing office, clubhouse plaza, BBQ area and play area, two (2) shall be northeast of Building F and within ninety (90) ft of Allison ROW, two (2) shall be

- northeast of Building K and within ninety (90) ft of Allison ROW, and thirty-two (32) shall be covered/sheltered.
- (7) At least two (2) stalls outside and near each apartment building spaced to conform to the 50-foot distance provision of WDO 3.05.03E as applied through a design review (D) condition.
- (8) In no case shall the total number of bicycle parking stalls equal fewer than 1.2 per dwelling, and in no case shall the minimum coverage/sheltering from precipitation of bicycle parking be for fewer than forty-eight (48) stalls excluding outdoor closet and stairwell stalls.
- b. Bicycle standards: Stalls shall conform to City of Portland Title 33, Chapter 33.266.220C (amended 5/24/2018), except that the applicant may ignore subsections C6, C7, & C5c, and that C4b does not apply to the outdoor storage closets for which the minimum stall depth from wall instead shall be four (4) feet minimum. Vertical clearance instead shall be eight (8) feet or, where a stall is under stairs, six (6) feet.

c. Access ways:

- (1) Phase 1: At least one access way shall remain as proposed that extends from Hooper sidewalk at least one-hundred and fifty (150) ft to the plaza between the clubhouse and the barbeque (BBQ) shelter.
- (2) Phase 2: At least one access way shall remain as proposed that extends from Hooper sidewalk at least five-hundred and fifty (550) ft from to the clubhouse southwest doors / play area.

d. Walkways:

- (1) Courtyards: The applicant shall revise Sheets SP-1 through 3 (Exhibits 10-12; civils) and each Note 6 to illustrate and note the proposed decorative pavement of the segments of courtyard walkways that the landscape plans (Exhibits 38-42) illustrate.
- (2) Drive aisle crossings: The shall revise Sheets SP-1 through 3 (Exhibits 10-12; civils) and install in the field at least six (6) walkway drive aisle crossings not only as striping but also as extensions of poured concrete, listed north to south clockwise:
 - (a) Phase 1, north of Building A
 - (b) Phase 2, north of Building R
 - (c) Phase 2, north of Building P
 - (d) Phase 2, south of Building L
 - (e) Phase 2, east of Building M, and
 - (f) Phase 2, SW of Building K.
- (3) Parking courts: The applicant shall pour concrete or lay concrete pavers to form a pedestrian shortcut up and over the curbed landscaped strip island within each parking court, in order to pass amid groundcover and shrubbery. It shall be roughly aligned at the boundaries of parking stalls, with the side of a landscaped peninsula, and with the nearest walkways that orient northeast-southwest and are between buildings. The minimum width shall be twenty-one (21) inches.
- (4) Building stormwater scuppers shall not dump onto walkways.

- e. EV: As proposed and premised on OAR 918-020-0380 "Electric Vehicle Ready Parking", a minimum of either 36 stalls or three and half percent (3.5%) of minimum required parking— whichever is greater shall be a designated EV stall or stalls and with a charging station or stations, which the landowner may limit to tenant use. Of 36 or more stalls, Phase 1 shall have at least twelve (12) and Phase 2 at least twenty-four (24).
 - (1) Striping: Stripe each stall in lettering 1 ft high minimum "ELECTRIC VEHICLE CHARGING" or similar and also stencil an EV image or logo. Reflect this on revised site plans.
 - (2) Signage: Post at each stall a wall-mounted or pole-mounted sign for "Electric Vehicle Charging Only" or similar and also include an EV image or logo. Use a minimum sign face size of one (1) foot wide by one-and-a-half (1½) feet high. The top of a posted sign is to be between five-and-a-half (5½) and six-and-a-half (6½) feet above vehicular grade. Reflect this on revised site plans including with an elevation detail.
- f. Balconies/patios: WDO 3.07.05B.1 (area/size and narrowest dimension) shall apply as minimum standards, except that for whatever balconies and patios among those proposed exceed these dimensions, their larger areas/sizes and wider narrowest dimensions shall be the minimum standards for those.
- g. Common open space facilities:
 - (1) Benches: Install at courtyards, clubhouse plazas, or common lawns at least two (2) Phase 1 benches and at least eight (8) Phase 2 benches. Each bench shall at least six (6) feet wide and with a back. In Phase 2 were 7 benches are proposed, add the eighth bench at the lawn southeast of Building M. Relocate two Phase 2 benches:
 - 1. From NW of Building G to the lawn NE of Building R and roughly in line with the walkway drive aisle crossing; and
 - 2. From NE of Building K to the lawn SE of Building R.
 - (2) Clubhouse plazas and BBQ grill shelters: As proposed, build at least one (1) each of a clubhouse plaza and a barbeque (BBQ) grill shelter in each of Phase 1 and 2.
 - (3) Administrative minor adjustment by the Director to the above common open space facilities is permissible.

h. Windows:

- (1) Proportion: All windows shall be square or vertically proportioned, except that horizontally proportioned windows are allowed if they have grilles or muntins dividing lights or panes so as to be vertically proportioned.
- (2) Per room: Within apartments, every habitable room abutting a building exterior wall shall have at least one window.
- (3) Insect screens: All operable windows shall have insect screens.

V7-3-3. Public access easement:

- a. Dedication: Regarding the Phase 1 proposed public park in the form of a plaza along Hooper and its related improvements, the applicant as part of re-plat recordation shall dedicate to the City a public access and utility easement encompassing the plaza and some extra perimeter area, specifically with a boundary that follows the centerlines of the walkways to the northwest and northeast that border the plaza and, to the southeast, along the back side of drive aisle curb. The easement shall grant public access during the same hours and subject to the rules and regulations for City parks per Ordinance Nos. 2060 (1991) and 2377 (2004) or as the City may amend ordinances.
- b. Boundary marking: The developer shall mark the public boundary through one of the following two options:
 - (1) Caps: Metal caps that either are or mimic land survey markers, are minimum diameter of three and a quarter (3½) inches, and at a minimum number equal to and with average placement of 1 cap per 10 lineal ft of walkway. There shall be two additional caps along the boundary where it follows the drive aisle curb. The caps shall have the phrases "Open to Public" and "Private Property", and a line as a separator between the two phrases.
 - (2) Plaques: Metal plaques embedded within walkway concrete, aligned with the boundary, and that read "Property beyond Plaque not Dedicated to Public" with text oriented to be read by persons looking away from the plaza. The minimum size shall result from a minimum lettering height of two (2) inches, and the minimum number shall be equal to and with average placement on center of 1 plaque per 20 lineal ft of walkway. There shall be two additional plaques along the boundary where it follows the drive aisle curb.

c. Sign:

- The applicant shall install a permanent sign conforming to WDO 3.10 that reads "Plaza Open to Public 7AM 10PM April September, & 7AM 7 PM October March" with minimum lettering height of two (2) inches. The developer shall place it near the plaza entry that is along the sidewalk and within five (5) to nine (9) ft of ROW.
- (1) If a monument sign type, the sign face area shall be twelve (12) sq ft minimum, with a flat top at least three (3) ft above grade and in the form of a concrete cap at least three (3) inches wide.
- (2) If a pole sign type, the lettering shall be green, and the sign face shall be no lower than three and a half (3½) ft above grade and no higher than five (5) ft and of minimum dimensions of two (2) ft by one-and-a-half $\{1½\}$ ft.
- d. Due date: These shall be due by Phase 1, building permit issuance.

V8-3-4. Parking management:

a. Survey: The applicant or any successor and assigns such as a property manager shall collect data about off-street parking usage or allocation and provide it to the City to the attention of the Director.

- (1) Reporting period: Collect data by each half of a year January through June and July through December. Submit each biannual report by the last City business day in the last month of the next quarter of a year and that is not a federal holiday. (For example, a report for January through June 2022 would be due by September 30, 2022.)
- (2) First report: The first report shall cover whatever irregular length of time would pass between phase occupancy and the end of the next half of a year ending June or December.
- (3) Attributes: Collect and report on:
 - i. Geography: Report numbers divided between Phases 1 & 2 (as defined in Condition G3).
 - ii. The number of off-street spaces/stalls that are available and how many, if any, are closed due to occasional events such as parking area resurfacing, temporary outdoor events, outdoor storage, or the stationing of large trucks or truck trailers.
 - iii. Track stalls and usage by type: regular standard size, regular compact, accessible/ADA/handicap, EV, and any other type (such as those designated for visitors, leasing office employees, staff golf cart, or mail carrier).
 - iv. Collection: The property manager shall do field counts as per condition subpart (4 "field count") below and also provide a separate set of assumed counts based on lease agreements, i.e. what tenant households are allocated a stall or stalls and for what periods, assumed that stalls are occupied as lease agreements describe.
 - v. Usage: Report how many stalls are used and allocated. For vacant apartments in the context of assumed counts, record stalls associated with vacant apartments as unallocated.
 - vi. If and when a parking area resurfacing project were to happen, provide written notice to the Director of approximate start date and duration, location, and number of stalls involved.
 - vii. Format: Use tables to report by phase absolute numbers and percentages of stall type occupancies. Include phase and sitewide totals.
- (4) Field count: The property manager shall do at least two field counts per reporting period, meaning to travel the project and count in real time occupied and vacant stall types such as by marking a project site plan. Each count shall be on Tuesday, Wednesday, or Thursday that is neither a federal holiday nor within a week (7 days) of a federal holiday. One count shall be daytime starting no earlier than 9:30 a.m. and concluding no later than 4:30 p.m., and one count shall be nighttime starting no earlier than 10:00 p.m. and concluding no later than 12:30 a.m. Report when on a given date the counts were done and how long it took, for example, from 11:30 a.m. to noon.

- (5) Bicycle parking: For outdoor bicycle parking stalls, including those within stairwells but excluding outdoor closets, the property manager shall also do field counts the same way as per condition subpart (4) above and as part of the larger report confirm the total number of existing outdoor bicycle stalls.
- (6) Parking demand management: The reporting that a parking demand management condition requires, if it exists, may be incorporated with the parking usage data collection report.
- (7) Context: In each report, cite the project name, phases, street addresses, master/parent case file number DR 2019-05, and the condition identification(s), state what period the report covers, state the number of vacant apartments and when and how the number was determined given fluctuation over six months, and provide an employee name and direct contact information for questions City staff might have.
- (8) Intent: It is not the express intent of this condition to police property management or punish tenants or management for perceived misuse of parking, but instead without judgment to collect data on how parking is actually used in a conventional large apartment complex.
- (9) Change of ownership: If and when property ownership were to change, the property manager shall pass along record of the conditions of approval to the contract purchaser and successive property manager.
- (10) Expiration: This parking usage/allocation data collection condition becomes optional as of July 1, 2031. If reporting were to cease, the last report for the January to June 2031 period would be due September 30, 2031.

Actions

The Planning Commission may instead act on the land use application to:

- 1. Approve per staff recommendations,
- 2. Approve with modified conditions, or
- 3. Deny, based on WDO criteria or other City provisions.

If the Planning Commission were to act upon the recommendation, staff would prepare a final decision for approval with the conditions that staff recommends.

Attachment List

- 101. Tax Maps Marked (2 sheets)
- 101A. Town Center at Woodburn Subdivision Plat, Sheet 1 (2004)
- 102. Analyses & Findings
- 102A. Public Works comments (September 30, 2019; 2 pages)
- 102B. Allison Way Apartments Traffic Impact Analysis Review Memo by transportation consultant contracted by the City (May 20, 2020; 8 pages)
- 103. Agency commentary: ODOT (May 1, 2020; 2 pages)
- 104. Transportation System Plan (TSP) Figure 7-1 (2005)
- 105. Site plans excerpted (submitted Mar. 25, 2020; 16 sheets)

Analyses & Findings

This attachment to the staff report analyzes the application materials and finds through statements how the application materials relate to and meet applicable provisions such as criteria, requirements, and standards. They confirm that a given standard is met or if not met, they call attention to it, suggest a remedy, and have a corresponding recommended condition of approval. Symbols aid locating and understanding categories of findings:

Symbol	Category	Indication
	Requirement (or guideline) met	No action needed
×	Requirement (or guideline) not met	Correction needed
	Requirement (or guideline) not applicable	No action needed
<u> </u>	 Requirement (or guideline) met, but might become unmet because of condition applied to meet separate and related requirement that is not met Plan sheets and/or narrative inconsistent Other special circumstance benefitting from attention 	Revision needed for clear and consistent records
•	Street Exception or Variance	Request to vary from requirement

Table of Contents

Location	
Land Use & Zoning	
Statutory Dates	
Design Review Provisions	4
Property Line Adjustment Provisions	50
Variance Provisions	51
Recommended Conditions of Approval	61
Applicant Identity	85
Notes to the Applicant	86

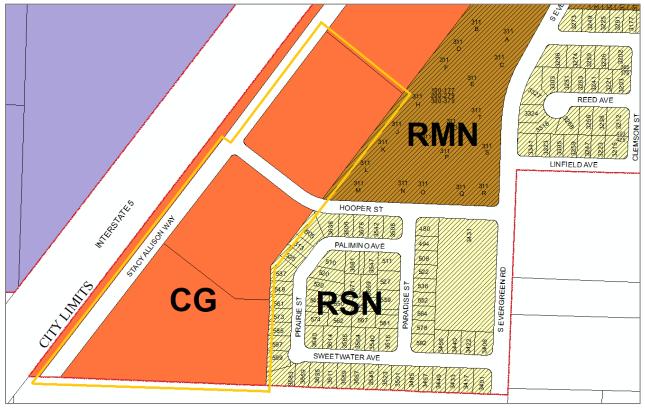
Location

Address	No City address along Stacy Allison Way; per Marion County assessor, "0
	Stacy Allison Way NE"
Tax Lot(s)	North: 052W14 02300 (5.93 acres),
	Middle: 052W14 02100 (5.16 acres), and
	South: 052W14 02000 (7.94), totaling 19.03 acres
Nearest intersection	Stacy Allison Way and Hooper Street

Land Use & Zoning

Comprehensive Plan Land Use Designation	Commercial
Zoning District	Commercial General (CG)
Overlay District(s)	Interchange Management Area (IMA) Overlay District
Existing Use(s)	none (disturbed but undeveloped)

For context, the subject property and adjacent zoning are illustrated and tabulated below:



Zoning Map Excerpt (of Base Districts); yellow outlines subject property

Cardinal Direction	Adjacent Zoning
North	Phase 1: CG / disturbed but undeveloped
East	Phase 1: Medium Density Residential (RMN) / Cascade Meadows
	Apartments;

DR 2019-05 Staff Report Attachment 102 Page 2 of 88

	Phase 2: Nodal Single Family Residential (RSN) / Paradise Pointe Subdivision
South	Phase 2: Unincorporated Marion County and within Woodburn urban growth boundary (UGB); City comprehensive plan Industrial land use designation
West	Both phases: Across Stacy Allison Way right-of-way (ROW): CG

The subject property is Lots 7-9 of the Town Center of Woodburn subdivision plat (2002). The City adopted its first land division requirements effective April 16, 1963 as referenced in Woodburn Development Ordinance (WDO) 1.02 "Lot". The subject property is composed of legal lots of record.

Generally, in this document, "lot" refers to one of the three lots, prior to consolidation of subdivision Lots 7 & 8, that is part of the subject property, and "property" refers to all three lots and both Phases 1 & 2 composing the subjecting property.

The project name is "Allison Way Apartments".

Section references below are to the Woodburn Development Ordinance (WDO).

Statutory Dates

The application was submitted on June 4, 2019 with additional materials submitted later, including revised narrative and site plans through March 25, 2020 and a revised traffic impact analysis (TIA) through May 18, 2020.

Following the applicant on November 5, 2019 invoking Oregon Revised Statutes (ORS) 227.178(4)(b) by providing some of missing information and written notice that the applicant would not provide other information for completeness, staff was forced to deemed it complete as of December 5, 2019. (The applicant later volunteered and submitted revised and additional materials.) The applicant per ORS 227.178(5) volunteered extensions of the 120-day decision deadline. The third and last extension that staff granted March 13, 2020 – which, due to coronavirus ,staff had asked the applicant to request because the City Council had canceled its meetings on fourth Mondays, and staff anticipated possible appeal of a Commission decision to Council or Council call-up – delays the final decision due date to July 30, 2020. (Staff anticipates the one Council meeting that month would be July 13, 2020.)

Design Review Provisions

4.01.07 Consolidated Applications

An applicant may request, in writing, to consolidate applications needed for a single development project. Under a consolidated review, all applications shall be processed following the procedures applicable for the highest type decision requested. It is the express policy of the City that development review not be segmented into discrete parts in a manner that precludes a comprehensive review of the entire development and its cumulative impacts.

5.03.02 Design Review, Type III

A. Purpose: The purpose of Type III design review is to ensure that new buildings or additions to existing buildings comply with Land Use and Development Guidelines and Standards of this Ordinance (Sections 2 and 3).

- B. Type III Design Review is required for the following:
 - 1. Non-residential structures in residential zones greater than 1,000 square feet in the RS, R1S, RM, and P/SP zones.
 - 2. Multi-family dwellings not meeting all architectural design guidelines and standards.
 - 3. Structures greater than 2,000 square feet in the CO, CG, MUV, DDC, and NNC zones.
 - 4. Structures greater than 3,000 square feet in the IP, IL, and SWIR zones.
 - 5. For sites with existing buildings in the CO, CG, MUV, DDC, NNC, IP, IL, and SWIR zones; expansions or new buildings that increase lot coverage by more 25%.
 - 6. Change of use that results in a greater than 25% increase in required parking.

Because the proposal is for buildings totaling greater than 2,000 square feet (sq ft) in the CG zoning district, per subsection 3. it requires a Type III Design Review. Additionally, the applicant submitted the Type III application type of Variance, which per 4.01.07 cited above elevates the consolidated applications package to the highest level required among the individual application types. The applicant submitted site plans on June 4, 2019 and revised site plans through March 25, 2020 (within Attachment 105). (Staff hosted a pre-submittal meeting on June 4, 2019.)

✓ The requirement is met.

2.03 Commercial Zones

- A. The City of Woodburn is divided into the following commercial zones:
- 2. The Commercial General (CG) zone is the community's primary commercial area, providing for businesses requiring extensive land intensive outdoor storage and display of merchandise, equipment, or inventory.
- B. Approval Types (Table 2.03A)

DR 2019-05 Staff Report Attachment 102 Page 4 of 88

- 1. Accessory Uses (A) are allowed outright, subject to the general standards of this Ordinance.
- 2. Conditional Uses (CU) may be allowed, subject to the general development standards of this Ordinance and conditions of Conditional Use approval.
- 3. Permitted Uses (P) are allowed outright, subject to the general development standards of this Ordinance.

Uses Allowed in Commercial Zones Table 2.03A			
Use		Zone	
Accessory Uses (A) Conditional Uses (CU) Permitted Uses (P) Special Permitted Uses (S) Specific Conditional Uses (SCU)			
E	Residential		
4	Multiple-family dwellings	Р	

The proposed use matches E.4, which is a permitted use.

Note: Pursuant to state law, staff reviews the application through the Woodburn Development Ordinance (WDO) as it existed on the date of application. On June 7, 2019, the WDO version was that of Ordinance No. 2562 adopted Sept. 10, 2018. Though at present in the CG zoning district multiple-family dwellings are prohibited in some areas of the district – including where there is the IMA overlay district – and a conditional use (CU) in others, this change occurred after application submittal though in response to the subject project. The City Council adopted Legislative Amendment LA 2019-01 via Ordinance No. 2573 on June 24, 2019, which as is standard for ordinances per the City Charter, took effect 30 days later.

✓ The requirement is met.

Commercial General (CG) - Site Development Standards Table 2.03C					
Lot Area, Minimum (so	quare feet)			No minimum	
Lot Width, Minimum (feet)			No minimum	
Lot Depth, Minimum (feet)			No minimum	
Street Frontage, Minin	num (feet)			No minimum	
Front Setback and Setl	oack Abutting	a Street, Minin	num (feet)	5 ¹	
Side as Base Southerd	Abutting R	S, R1S, or RM z	one	104	
Side or Rear Setback, Minimum (feet)	Abutting C	0 or 5 ^{4, 5}			
Setback to a Private A	ccess Easeme	nt, Minimum (f	eet)	5	
Lot Coverage, Maximu	m			Not specified ²	
	Minimum	Row house		12	
		Child care facility, group home, or nursing home		12	
		Multi-family dwelling	Stand-alone	12	
Residential Density			In mixed use development	No minimum	
(units per net acre)		Row house		24	
	Maximum	Child care facility, group home, or nursing home		32	
		Multi-family dwelling	Stand-alone	32	
			In mixed use development	32	
	Primary or	Outside Gateway subarea		70	
Building Height,	accessory	Western Gateway subarea		50	
Maximum (feet)	structure	Eastern Gateway subarea		40	
	Features not used for habitation		100		

- 1. Measured from the Special Setback (Section 3.03.02), if any
- 2. Lot coverage is limited by setbacks, off-street parking, and landscaping requirements.
- 3. Only allowed in the Gateway Overlay District
- 4. A house of worship shall be set back at least 20 feet from a property line abutting a residential zone or use.
- 5. A building may be constructed at the property line, or shall be set back at least five feet.

Lot Dimensions

The CG zoning district has no minimum lot size, width, depth, or street frontage or maximum lot coverage.

Setbacks

Determining setbacks requires first determining what lot lines are front, sides, and rear as 1.02 defines because these influence the applying of setback minimums:

1.02 Definitions

•••

Lot Line: The property lines forming the exterior boundaries of a lot.

- Front Lot Line:
 - 1. In the case of an interior lot, a line separating the lot from the street.
 - 2. In the case of a corner lot, a line separating the lot from the street from the architectural front of the existing or contemplated primary building.
 - 3. In the case of a flag lot, the lot line which is most nearly parallel to the street that provides access to the interior lot.
- Rear Lot Line:
 - In the case of an irregular, triangular, diamond, or trapezoidal shaped lot which is narrowest at the rear and has a distance between the side lot lines at the rear of less than ten feet, the rear line for setback purposes shall be an assumed line within the lot ten feet in length, parallel to, and at the maximum distance from, the front lot line; or
 - 2. In any other case, the lot line opposite and most distant from the front lot line.
- Side Lot Line: Any lot line, which is not a front or rear lot line.

Based on the definition of front and rear lot lines, there is discretion for each of Phase 1 and the consolidation of two lots forming Phase 2 about whether Stacy Allison Way is front or Hooper Street is front. The best fit for the Phase 1 lot is subsection 2 of each of the "front lot line" and "rear lot line" definitions, and for the Phase 2 consolidated lot, subsections 2 and 1 respectively.

For front subsection 2, which refers to "the architectural front of the existing or contemplated primary building", this makes no sense in the context of an apartment complex. For these reasons, staff decides to designate the Hooper Street lot lines as front for both Phase 1 lot and the Phase 2 consolidated lot because Hooper is a narrower and local class street and farther from I-5 than is Stacy Allison Way, a high-speed collector road that parallels the expressway. Staff also decides that for the Phase 2 consolidated lot that the rear meats subsection 1 of "rear lot line", meaning the southeast corner of the lot has the imaginary 10-ft line from which to measure rear setback.

The resulting required setbacks are as follows and account for the corollary proposed PLA through lot consolidation, and staff applies setbacks to the nearest main wall plane, not patio slab edge or balcony projection:

Setbacks Table for Phase 1 Lot		
Туре	Setbacks (ft)	

Direction		Existing	Required, Accounting for the	Proposed
(Lot Lines)			Special Setback (i.e. street	
			widening)	
Southwest	Front (Hooper Street right-of-	n/a	5 + 0 ROW = 5	5 (5 post-
	way [ROW])	because		dedication)
Northwest	Side, abutting Stacy Allison	no	5	Much more
	Way ROW	building		than 5
Northeast	Side, abutting CG		Choice of zero or 5	Much more
				than either
Southeast	Side, abutting RMN		10*	Much more
				than 10

^{*}Table 2.03C sets side or rear setback by adjacent zoning and fails to list RMN. Staff and the applicant assume the value for adjacency to RM governs.

Setbacks Table for Phase 2 Consolidated Lot				
Direction	Туре	Setbacks (ft)		
		Existing	Required, Accounting for the	Proposed
			Special Setback (i.e. street	
			widening)	
Northeast	Front (Hooper Street right-of-	n/a	5 + 0 ROW = 5	5 (5 post-
	way [ROW])	because		dedication)
East &	Side, abutting RSN	no	10*	10
Southeast		building		
Southeast	Rear, abutting RSN		10*	More than
corner				10
South	Side, abutting unincorporated		5**	5
	Marion County property			
	within the Woodburn urban			
	growth boundary (UGB) that			
	the comprehensive plan			
	designates Industrial			
Northwest	Side, abutting Stacy Allison		5	8 (to
	Way ROW			closest
				Building N)

^{*}Table 2.03C sets side or rear setback by adjacent zoning and fails to list RSN. Staff and the applicant assume the value for adjacency to RS governs.

Because the application materials indicate no private access easement, the 5-foot setback is not applicable. (The application materials do indicate a Phase 1 public cross access easement to the benefit of the northeast adjacent lot [Tax Lot 1600], but because this context is not private, compared to for example an access easement over the pole of a flag lot partition where the pole is the sole means of physical access and the easement the sole means of legal access for

^{**}Table 2.03C also fails to account for contexts with no adjacent City zoning. Staff and the applicant assume the value for adjacency to what would be industrially zoned property if annexed from the UGB into city limits.

Note: Staff measures setbacks to the main wall plane closest to a street on a closest building and ignores projections, such as by patio slabs and balconies. For projection allowances, see 3.0.03 examined further below.

one or two landlocked lots, the private access easement setback is not applicable to this proposal.)

Density

Both the Comprehensive Plan and WDO 1.02 define density. Because they conflict, per state law the Comprehensive Plan definition supersedes. It is found as a footnote to Policy Table 1 (p. 7):

"The net buildable area of a parcel excludes land dedicated for public rights-of-way or stormwater easements, common open space, and unbuildable natural areas. For example, if a parcel has 10 acres, and 2 acres are removed for streets and 2 acres are within the floodplain / riparian area, then 6 net buildable acres would remain. The range of allowable densities is calculated based on net buildable acres. An acre has 43,560 square feet. Allowable densities may be increased through the discretionary planned unit development review process."

The proposal falls under the residential building type / use of "multi-family dwelling" per 1.02 under "Dwellings ... Multiple-Family Dwelling":

"A building on a single lot containing three or more dwelling units. Note: This definition does not include row houses, where attached single-family dwelling units are located on separate lots."

The project is also stand-alone, meaning a conventional apartment complex that includes no other primary uses such as commercial retail and is more suburban in nature than urban.

Therefore, the applicable minimum and maximum densities are 12.0 and 32.0.

Looking to the proposal itself, the proposal involves no environmental constraints such as a creek, wetlands, or remnant old forest, a stormwater easement, or common open space of the kind understood in the context of a planned unit development (PUD) managed by an association that charges maintenance dues, with open space often being in its own platted tract or tracts. (Staff considers apartment complexes as having open space, but that remains a subarea of a platted lot under the direct control of a landlord and property manager, and so open space is not common open space.)

Therefore, obtaining net acreage is as simple as subtracting ROW dedication – and none is proposed or required (as staff later examines for 3.01). The resulting density by phase is:

Phase	Acreage	Dwelling units (DUs)	DUs per acre
1	5.93	179	30.2
2	13.1	407	31.1
both	19.03	586	30.8

The proposed densities are between 12.0 and 32.0, meeting the density provisions.

Height

The sheets illustrating building elevations note that the ten apartment buildings are 33.75 ft (33 ft, 9 inches) as measured per 1.02 "Building Height" and Figure 1.02A, meeting the provision.

✓ The site development provisions are met.

2.05 Overlay Districts

2.05.02 Interchange Management Area Overlay District

A. Purpose

The purpose of the Interchange Management Area Overlay District (IMA) is to preserve the long-term capacity of the I-5/Highway 214 Interchange. Preserving the capacity of the interchange is essential for the City's future. Continued access to I-5 is critical for existing businesses and for attracting new businesses and development to the community.

The IMA complements the provisions of the Southwest Industrial Reserve (SWIR) Zoning District by ensuring that industrial land is retained for the development envisioned in the Woodburn Comprehensive Plan. The IMA also ensures that needed industrial, commercial and residential lands within the IMA are protected from incompatible development generating excessive vehicle trips.

The vehicle trip budget (Table 2.05A) identifies by parcel the maximum amount of peak hour trips for each parcel within the IMA and is intended to be high enough to accommodate peak hour trips anticipated by the Woodburn Comprehensive Plan and the Transportation Systems Plan (TSP), but low enough to restrict unplanned vehicle trips that could adversely affect the I-5/Hwy 214 Interchange.

B. Applicability

The provisions of this Section apply to all Type II – V land use applications that propose to allow development that will generate more than 20 peak hour vehicle trips (based on the latest Institute of Transportation Engineers Trip Generation Manual) on parcels identified in Table 2.05A. The provisions of this Section apply to all properties within the boundary of the IMA.

C. Vehicle Trip Budgets

This Section establishes a total peak hour trip generation budget for planned employment (commercial and industrial) land uses within the IMA.

- The IMA trip budget for vacant commercial and industrial parcels identified in Table 2.05A is 2,500 peak hour vehicle trips. An estimated 1,500 additional peak hour residential trips are planned within the IMA. The IMA vehicle trip budget is allocated to parcels identified in Table 2.05A on a first-developed, first-served basis.
- 2. Parcel budgets are based on 11 peak hour trips per developed industrial acre, and 33 peak hour trips per developed commercial acre.
- 3. The parcel budget for each parcel will be reduced in proportion to actual peak hour vehicle trips generated by new development on any portion of the parcel.

DR 2019-05 Staff Report Attachment 102 Page 10 of 88 4. The City may allow development that exceeds the parcel budget for any parcel in accordance with this Section.

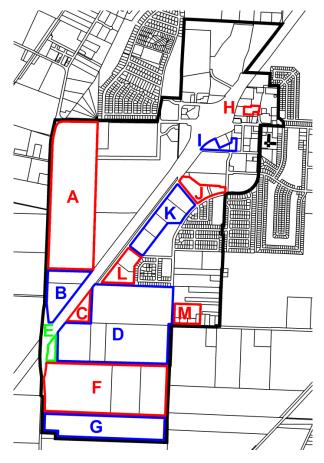


Figure 2.05B - Interchange Management Area Boundary and Subareas

Vehicle Trip Budget by Parcel (Parcel Budget) Table 2.05A				
Subare a	Assessor's Tax Lot Number	Comprehensive Plan Designation	Buildable Acres	Maximum Peak Hour Vehicle Trips
	052W12C 02100	W12C 02200 W13 01600	7	231
	052W12C 02200		6	198
К	052W13 01600		5	165
	052W14 02300		6	198
	052W14 02000	Commercial	8	264
-	052W14 02100		5	165

D. Administration

This Section delineates responsibilities of the City and ODOT to monitor and evaluate vehicle trip

generation impacts on the I-5 interchange from development approved under this Section.

- A Traffic Impact Analysis (TIA) is required for all land use applications subject to the
 provisions of this Section. The TIA must meet City and ODOT administrative rule (OAR
 Chapter 734, Division 51) requirements and shall include an evaluation and recommendation
 of feasible Transportation Demand Management (TDM) measures that will minimize peak
 hour vehicle trips generated by the proposed development.
- 2. For a land use application subject to the provisions of this Section:
 - a. The City shall not deem the land use application complete unless it includes a TIA prepared in accordance with TIA Requirements;
 - The City shall provide written notification to ODOT when the application is deemed complete. This notice shall include an invitation to ODOT to participate in the City's review process;
 - c. ODOT shall have at least 20 days to provide written comments to the City, measured from the date the completion notice was mailed. If ODOT does not provide written comments during this 20-day period, the City's decision may be issued without consideration of ODOT comments.
- 3. The details of City and ODOT monitoring and coordination responsibilities are found in the Woodburn ODOT Intergovernmental Agreement (IGA).
 - a. The City shall be responsible for maintaining a current ledger documenting the cumulative peak hour trip generation impact from development approved under this Section, compared with the IMA trip budget.
 - b. The City may adjust the ledger based on actual development and employment data, subject to review and concurrence by ODOT.
 - c. The City will provide written notification to ODOT when land use applications approved under this Section, combined with approved building permits, result in traffic generation estimates that exceed 33% and 67% of the IMA trip budget.
- 4. This Section recognizes that vehicle trip allocations may become scarce towards the end of the planning period, as the I-5 Interchange nears capacity. The following rules apply to allocations of vehicle trips against the IMA trip budget:
 - a. Vehicle trip allocations are vested at the time of design review approval.
 - b. Vehicle trips shall not be allocated based solely on approval of a comprehensive plan amendment or zone change, unless consolidated with a subdivision or design review application.
 - c. Vesting of vehicle trip allocations shall expire at the same time as the development decision expires.

E. Allowed Uses

Uses allowed in the underlying zoning district are allowed, subject to other applicable provisions of the Woodburn Development Ordinance and this Section.

F. Comprehensive Plan and Zoning Map Amendments

- 1. The provisions of this Section (2.05.02.F) apply to all Comprehensive Plan Map amendments within the IMA. This Section does not apply to Zoning Map amendments that result in conformance with the applicable Comprehensive Plan Map designation, such as Zoning Map amendments that occur when land is annexed to the City.
- 2. Applications for Comprehensive Plan Map amendments and for Zoning Map amendments shall determine whether the proposed change will significantly affect a collector or arterial transportation facility.
- 3. To ensure that the remaining capacity of the I-5 Interchange is reserved for targeted employment opportunities and needed housing, this section imposes the following prohibitions on Comprehensive Plan Map amendments within the IMA:
 - a. Comprehensive Plan Map amendments that will increase the net commercial land area within the IMA shall be prohibited.
 - b. Comprehensive Plan Map amendments that allow land uses that will generate traffic in excess of the IMA trip budget shall be prohibited.
- **G.** Interchange Capacity Preservation Standards

Land use applications subject to the provisions of this Section shall comply with the following:

- 1. Peak hour vehicle trips generated by the proposed development shall not, in combination with other approved developments subject to this Section, exceed the IMA trip budget of 2,500.
- 2. Peak hour vehicle trips generated by the proposed development shall not exceed the maximum peak hour vehicle trips specified in Table 2.05A for the subject parcel, except:
 - a. Development may be allowed to exceed the maximum, if the development will contribute substantially to the economic objectives found in the Comprehensive Plan.
 - b. Residential development on a parcel zoned Commercial shall be allowed to exceed the maximum.
- 3. Transportation Demand Management (TDM) measures shall be required to minimize peak hour vehicle trips and shall be subject to annual review by the City.

Both phases are within the IMA and within subareas K & L. Phase 1 is part of K, and Phase 2 is the entirety of L. The table allocates Phase 1 Tax Lot 2300 with 198 peak hour vehicle trips and Phase 2 (L) with 429 trips, totaling 627 allocated or budgeted trips.

The applicant submitted traffic impact analysis (TIA) as 3.04.05 required, last revised and submitted May 1, 2020 following direction to the applicant by both the Oregon Department of Transportation (ODOT) and the City. Executive Summary bullet 2 (p. 1) notes AM or morning peak hour trips at 211, and PM or evening peak hour trips at 258. Thus, the PM peak hour supersedes the AM one. The number of 258 is well below the allocated or budgeted 627 trips and at 41.1% of the allocation or budget. (Anyway, as cited above, subsection G.2.b. allows that, "residential development on a parcel zoned Commercial shall be allowed to exceed the maximum.")

Incidentally, the TIA per Executive Summary bullet 1 assumes four years to develop the two phases, which likely means either 2020-2024 or 2021-2025.

✓ The site development provisions are met.

2.06 Accessory Structures

2.06.02 Fences and Walls

- C. Height in Non-Residential Zones
 - In commercial, industrial, or public zones, the maximum height of a fence or wall located in a yard abutting a street shall be 6 feet, relative to the ground elevation under the fence or wall. Fence height may increase to 9 feet once flush with the building face, or 20 feet from street right-of-way.
 - 2. Fences and walls may be constructed in the special setback provided the property owner agrees to removal at such time as street improvements are made.

D. Fence Materials

- 1. Fences and walls shall be constructed of any materials commonly used in the construction of fences and walls, such as wood, stone, rock, or brick, or other durable materials.
- 2. Chain link fences are acceptable as long as the fence is coated and includes slats made of vinyl, wood or other durable material. Slats may not be required when visibility into features such as open space, natural areas, parks and similar areas is needed to assure visual security, or into on-site areas in industrial zones that require visual surveillance.
- 3. For manufacturing, assembly, fabricating, processing, packing, storage and wholesale and distribution activities which are the principle use of a building in industrial districts, the preceding standards apply when visible from, and within 20 feet of, a public street.

2.06.03 Structures

- A. Accessory structures attached to a primary building shall be considered as a portion of the primary building and subject to the same requirements as the primary building.
- B. The minimum separation between detached accessory structures and the primary building shall be six feet.

The site plans propose no fencing or free-standing walls, excepting walls for the twelve recycling and trash enclosures. The some are in the yards abutting ROWs, because the subject property is not residentially zoned, the stair-stepped maximum heights of fencing and walls are not applicable. Every enclosure is at least 6 ft from a building, and the southeast rear corner maintenance shed is also at least 6 ft away (from Building Q).

✓ The provisions are met.

2.07 Special Uses

None apply.

(Note: Staff interprets 2.07.04 Community Club Buildings and Facilities to not apply because a "community club building" [clubhouse] requires its own parking only for stand-alone clubhouses or in the context of residential subdivisions including those that are part of planned unit developments [PUDs], and that apartment complex so-called clubhouses are not subject to the special use.)

3.01 Streets

3.01.02 General Provisions

A. No development shall be approved, or access permit issued, unless the internal streets, boundary streets and connecting streets are constructed to at least the minimum standards set forth in this Section, or are required to be so constructed as a condition of approval.

D. The standards of this Section may be modified, subject to approval of an Exception to Street Rightof-Way and Improvement Requirements.

3.01.04B. All public streets under the jurisdiction of the City of Woodburn shall comply with the cross-sections depicted in this Section.

3.01.04C. For local residential streets which are not identified in the Comprehensive Plan, rights-of-way and improvements are determined by the Director at the time of development, based upon the existing and future estimated average daily trips of the development and surrounding development.

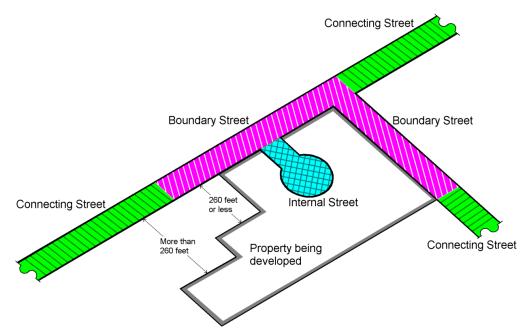


Figure 3.01A - Internal, Boundary, and Connecting Streets

DR 2019-05 Staff Report Attachment 102 Page 15 of 88 The subject property, including each of Phases 1 & 2, has two frontages: Stacy Allison Way and Hooper Street.

Note: On September 23, 2019, the City Council adopted the 2019 major update of the 2005 TSP via Legislative Amendment LA 2018-01 as Ordinance No. 2575, which per the City Charter took effect 30 days later on October 23, 2019. As of that date, application submittals were subject to the new TSP that looks through 2039. Because the Allison Way Apartments applicant applied on June 7, 2019, staff defaults to the 2005 TSP, yet also researches how the TSP 2019 major update could affect the project.

Per Transportation System Plan (TSP) Figure 7-1 "Functional Classification Designations" (Attachment 104; 2005), Stacy Allison Way is Service Collector class, and Hooper Street is local class, for which WDO Figures 3.01D & G respectively apply:

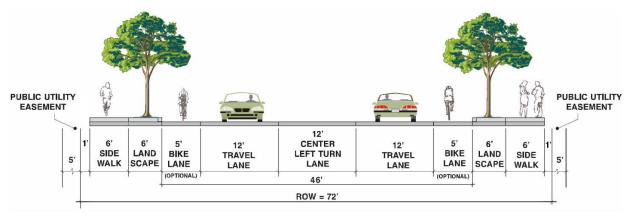


Figure 3.01D - Service Collector

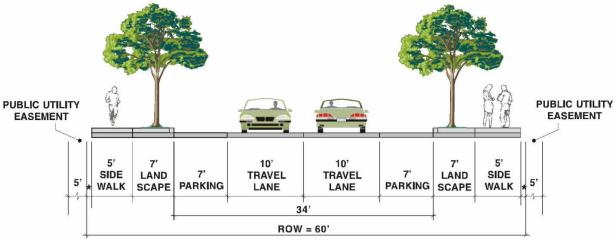


Figure 3.01G - Local Residential Street with Parking Both Sides, 60 Foot Right-of-Way

(The designations remains the same in the TSP 2019 major update per its Figure 2.)

Frontage/public/street improvements are required to upgrade the frontages to present standards, and the applicant opt to apply for an Exception to Street Right of Way and Improvement Requirements (EXCP; "Street Exception").

ROW

Because the planned and existing Stacy Allison ROWs are 72 and 74 ft, the existing ROW is 2 ft in excess of the minimum, and no dedication is required.

Because the planned and existing Hooper ROWs are both 60 ft, no dedication is required.

Improvements

Stacy Allison Way is improved to older and lesser standards along Phase 1. Along Phase 2, ROW already exists, but no street improvements all yet exist.

The request is to keep the segment with substandard frontage, which lacks a planter strip and street trees by having curb-tight sidewalk, and to continue this substandard half-street along Phase 2. Staff declines this scenario, and instead approves with EX conditions the request to establish a custom cross section slightly different between both phases.

The customization in short requires wide sidewalk in lieu of bicycle lane, planter strip with street trees, and within the Phase 2 extension of Stacy Allison Way a median with trees that tapers into and out of existence away from where turning movements would occur.

The customization objectives include to:

- Avoid interference with the far northwest side and the I-5 stormwater detention pond.
- Deal with a ROW that is asymmetrical with partial improvements that are also asymmetrical.
- Provide for a wide sidewalk as a bicycle/pedestrian path in lieu of and narrower than
 having both a sidewalk and a northbound bicycle lane, because most cyclists and wouldbe cyclists are too afraid to use bike lanes and prefer to ride on sidewalks.
- Provide for street trees for visual and acoustic buffering of both sidewalk and dwellings from I-5 and provide for other street tree benefits, namely reduction of the "urban heat island" effect.
- Is reasonable because the majority of the boundary street length of Stacy Allison ROW is not yet improved at all, and so there's no good reason for a developer to extend a substandard half-street.
- Maintain the road as a collector with ability to turn left southeast from left turn lanes while also using civil engineering to reduce speeding; avoid unnecessary pavement

DR 2019-05 Staff Report Attachment 102 Page 17 of 88 where, because of I-5 to the northwest and segments of street frontage with no driveways, no center left turn lane would be needed; and provide additional street trees for visual and acoustic buffering, heat reduction, and traffic calming. (Planning research finds that street trees subconsciously influence drivers such that they speed less.)

Along Hooper, the applicant proposes marginally different improvements, specifically (1) two mid-block crossings and (2) landscaped peninsulas dividing the on-street parking aisles into bays. Staff generally accepts the proposed street improvements with revisions as directed per applicable EX conditions.

Long-range Planning

The TSP 2019 major update Figure 6 "Local Street Connectivity Plan" shows no extended or new road or street within the site development area.

Staff counters the applicant's request to retain and extend substandard street improvements through EX conditions that customize what the TSP and 3.01.04 require yet also secure lasting infrastructure that contributes to the public good, particularly street trees (for traffic calming, "urban heat island effect" reduction, and visual and acoustic buffering of dwellings from I-5) and a wide sidewalk as a multi-use path (for interested but concerned cyclists too afraid to ride in bicycle lanes).

- △ Staff applies conditions beginning with "EX" so that the provisions may be met.
- Street Exception: Staff addresses the street exception request regarding both Stacy Allison Way and Hooper Street further below under the Street Exception Provisions section.

3.02 Utilities & Easements

3.02.01

- A. The Director shall require dedication of specific easements for the construction and maintenance of municipal water, sewerage and storm drainage facilities located on private property.
- B. A five-foot wide public utility easement shall be dedicated along each lot line abutting a public street.
- C. As a condition of approval for development, including property line adjustments, partitions, subdivisions, design reviews, or Planned Unit Developments (PUDs), the Director may require dedication of public utility easements.

The Town Center at Woodburn subdivision plat (2004) dedicate streetside PUEs 5 ft wide – and also dedicated an on-site PUE deeper onto the subject property, specifically a 6-ft wide one along the northeast side lot line of Lot 9 (Phase 1). Additionally, the City geographic information system (GIS) indicates an additional on-site PUE 5-ft wide along the Lots 7 & 8 (Phase 2) southeast and east interior lot lines and a rectangular, discrete easement of

DR 2019-05 Staff Report Attachment 102 Page 18 of 88 approximately 19,000 sq ft in the middle of Lot 7 that partially overlaps Lot 8 (Marion County Reel 1816, Page 465).

The applicant needs to resolve the situation so as to:

- Conform to the streetside PUE standard of 3.02.01B, and
- Follow direction of the City Engineer about how to resolve existing and new easements and in such a way that resolution conforms to all planning / land use/ zoning conditions.

Staff applies a D condition so that the there may be resolution.

3.02.03 Street Lighting A. Public Streets

The appended Public Works comments (May 19, 2020; Attachment 102A) from the City Engineer identify street lighting as an issue, stating under comment 11, "11. In conjunction with the new public street improvements on Stacy Allison Way, the applicant shall install street lighting consistent with PGE installation plan option B."

A In order to secure conformance to Public Works comments, staff applies Condition G-PW.

3.02.04 Underground Utilities. All permanent utility service to and within a development shall be underground, except where overhead high-voltage (35,000 volts or more) electric facilities exist.

Because within adjacent ROWs there are no existing electric power line poles to remove, the provisions are not applicable.

3.03 Setbacks and Open Space

3.03.02 Special Setbacks

■ Because as examined earlier above for 3.01, neither of the two subject ROWs require additional ROW because Stacy Allison Way is in excess of the minimum and Hooper Street is already at the minimum width, the Special Setback – which is a setback to accommodate future street widening – is not applicable.

3.03.03 Projections into the Setback Abutting a Street

- A. Chimneys, flues, bay windows, steps, eaves, gutters, sills, pilasters, lintels, cornices, planter boxes and other ornamental features may not project more than 24 inches into the setback abutting a street.
- B. Covered, unenclosed porches, extending not more than 10 feet beyond the front walls of the building, shall maintain at least a 10 foot setback from the property line or Special Setback.
- C. A balcony, outside stairway or other unenclosed, unroofed projection may not project more than 10 feet into a front setback.

DR 2019-05 Staff Report Attachment 102 Page 19 of 88 D. Arbors, archways, pergolas and trellises shall be exempt from the setback abutting a street.

...

3.03.04 Projections into the Side Setback

A. Chimneys, flues, bay windows, steps, eaves, gutters, sills, pilasters, lintels, cornices, planter boxes and other ornamental features may not project more than 18 inches into a side setback.

...

3.03.05 Projections into the Rear Setback

- A. Chimneys, flues, bay windows, steps, eaves, gutters, sills, pilasters, lintels, cornices, planter boxes and other ornamental features may project not more than 24 inches into the rear setback.
- B. A balcony, outside stairway or other unenclosed, unroofed projection may not project more than 10 feet into a rear setback. In no case shall such a projection come closer than 6 feet from any lot line or Special Setback.

...

- E. No permitted projection into a rear setback shall extend within ten feet of the centerline of an alley, or of a rear lot line if no alley exists, or within six feet of an accessory structure.
- F. Accessory structures are not considered projections into a rear setback, but have separate setback requirements listed in this Ordinance (Section 2.06).

For Phase 1, no are no projections into minimum setbacks. (Along Hooper Street, Building G patio slabs touch but do not encroach within the streetside 5-ft PUE).

For Phase 2, there are no such projections. (The Building R east/northeast patio slab corner touches the 10-ft minimum setback. Along Hooper Street, Building B patio slabs touch but do not encroach within the streetside 5-ft PUE, and along Stacy Allison Way, Building N patio slabs are sited the same.)

✓ The provisions are met.

3.03.06 Vision Clearance Area; Figures 3.03A & B

The proposal includes the required vision clearance areas (VCAs).

✓ The provisions are met.

3.04 Vehicular Access

3.04.02 Drive-Throughs

Because the proposal involves no drive-through, the provisions are not applicable.

3.04.03 Driveway Guidelines and Standards

A. Number of Driveways

- For residential uses, the maximum number of driveways per lot frontage shall be one. For purposes of controlling driveway access, every 100 feet of frontage is considered a separate lot frontage.
- 2. A minimum of two driveways shall be provided in developments with: ...
 - b. 100 dwelling units in multiple-family dwellings (200 if all dwelling units are equipped with automatic fire sprinklers);

B. Joint Access

- 1. Lots that access a Major Arterial, Minor Arterial, or Service Collector should be accessed via a shared driveway.
- 2. A partition, subdivision, or PUD should be configured so that lots abutting a Major Arterial, Minor Arterial, or Service Collector have access to a local street. Access to lots with multiple street frontages should be from the street with the lowest functional classification.
- 3. Every joint driveway or access between separate lots shall be established by an access easement and maintenance agreement to the satisfaction of the Director and revocable only with the concurrence of the Director.

Access Management

Staff exercises the discretion per subsection B.1, to administer conventional access management. Restricting driveways along Stacy Allison Way, a collector class road, and maintaining looped circulation for fire truck and other vehicle access results in the driveway numbers and placements as proposed and a *D* condition memorializes. Phases 1 & 2 may each have two Hooper Street driveways because each frontage is approximately 400 ft.

Joint Driveway / Public Access Easement

The applicant provided a draft public access easement along the northeastern side of Phase 1 from Stacy Allison Way and up to and to the benefit of adjacent Tax Lot 052W13 01600 (Town Center at Woodburn subdivision, Lot 10). (There is no draft maintenance agreement because the adjacent lot is an undeveloped field.)

- △ In order to secure actual and correct dedication of a public cross access easement that conform to 3.04.03B.3, staff applies a *D* condition.
- ✓ The provisions are met.

Access Requirements				
	Table 3.04	A		
		5 or More Dwelling or Living Units, School, or House of Worship ⁶		
Paved Width of	1-way	12 minimum 20 maximum		
Driveway (feet)	2-way	24 minimum 30 maximum (Add 8' if a turn lane is provided)		
Curb Flare Radiu	ıs (feet)	25 minimum		
Throat Length (feet) ⁵	Major Arterial, Minor Arterial, Service Collector	50 minimum		
	Access or Local Street	20 minimum		
Corner Clearance	Access or Local Street	30 minimum		
(feet) Guidelines ¹	Service Collector	50 minimum		
(See Figure	Minor Arterial	245 minimum		
3.04B)	Major Arterial	300 minimum		
Driveway	Driveway on the same parcel	50 minimum		
Separation Guidelines	Access or Local Street	none		
(feet) ^{1, 2} (See Figure	Service Collector	50 minimum		
3.04B)	Minor Arterial	245 minimum		
	Major arterial	300 minimum		
Turnarounds (See Figure	Access to a Major or Minor Arterial	Required		
3.04C)	Access to any other street	Requirements per the Woodburn Fire District		

The site plans show the driveways that meet the minimum standards or exceed them where necessary to meet Oregon Fire Code (OFC) Appendix D, and excepting the variance request regarding driveway width minimum.

- Variance [1]: Staff addresses the variance request regarding driveway width minimum further below under the Variance Provisions section.
- ✓ The minimum standards are otherwise met or exceeded.

3.04.03A. Unused driveways shall be closed.

There are none.

3.04.03C. Interconnected Parking Facilities.

The proposal illustrates for each of Phase 1 and 2 a single parking area that follows and branches from the looped drive aisle.

✓ The provisions are met.

3.04.04 Improvement Standards

The site plans illustrate pavement that conforms.

✓ The requirement is met.

3.04.05 Traffic Impact Analysis

A. A Traffic Impact Analysis (TIA) may be required by the Director prior to the approval of a City access permit when the Director estimates a development proposal may generate either 100 or more additional, peak hour trips, or 1,000 or more additional daily trips, within ten years of a development application.

The applicant's traffic impact analysis (TIA; submitted May 1, 2020; p. 1) states under Executive Summary item 2 that:

"The trip generation calculations show that the proposed development will generate a total of 211 trips during the morning peak hour, 258 trips during the evening peak hour, and 3,188 trips on a typical weekday."

As examined earlier above for 2.05.02 Interchange Management Area Overlay District (IMA), both phases are within the IMA and within subareas K & L. Phase 1 is part of K, and Phase 2 is the entirety of L. The table allocates Phase 1 Tax Lot 2300 with 198 peak hour vehicle trips and Phase 2 (L) with 429 trips, totaling 627 allocated or budgeted trips. The number of 258 is well below the allocated or budgeted 627 trips.

The proposal exceeds both TIA thresholds and is within the IMA and exceeds the TIA threshold per IMA provisions, which is why the applicant drafted and submitted a TIA instead of a brief traffic letter or memo.

The TIA, limiting its conventional analysis to vehicle traffic only, assumed citywide growth in background vehicle traffic through 2024, which is the assumed project build-out year, specifically 0.4% yearly along OR 214 and 2.0% compounded yearly along city streets (p. 15).

Incidentally, the TIA per Executive Summary bullet 1 assumes four years to develop the two phases, which likely means either 2020-2024 or 2021-2025.

The executive summary identified issues. The City contracted with a transportation consultant (from a company other than the one that prepared the applicant's TIA) to review the TIA, rebut or affirm its conclusions, and advise staff. The TIA and consultant's report (Attachment 102B) inform transportation conditions.

Highway 214 EGEND PERCENT OF PROJECT TRIPS DUT TOTAL Haves Street ΑМ 55 156 211 5% Trip PM 157 101 Origin/Destination 1)Hooper Street

The TIA studied eight intersections:

TIA intersection locations map adapted from TIA p. 14 Figure 6 Site Trip Distribution & Assignment (for both Phase 1 & 2)

1. Evergreen Road at Hooper Street

Because there are no significant effects, no mitigation is warranted.

2. Evergreen Road at [W.] Hayes Street

This is one of three intersections that the traffic modeling predicted to exceed a vehicle volume over capacity (v/c) maximum ratio established by either ODOT or the City.

Effects include that traffic signalization is preliminarily warranted, that is, is something meriting further study.

First, because the development affects this intersection, and it is yet unclear what is the best form of mitigation based on qualitative and quantitative criteria and not yet established concerns that would arise from public participation and inform civil engineering, the best route to mitigation is the developer paying a fee in-lieu or mitigation fee that funds a transportation study leading towards an ideal capital improvement project. The Public Works director indicates that \$33,000 would be approximately sufficient. Staff applies a fee as a *T-A condition* specifies.

Second, because the TIA through Figure 6 (p. 14 and excerpted above) identifies that a combined 30% of trips are any of within the vicinity of the project (5%), along W. Hayes Street (205), or along OR 214 to and from the east (20%) – namely, trips that are not along I-5 – these trips are ripe to target for modal shift, in other words, to induce more walking, cycling, and transit ridership and less driving. There are gaps in the sidewalk network within the vicinity of the project. One is northerly of the northeast corner of Evergreen Road and W. Hayes Street, the gap being between Stacy Allison Way at north and W. Hayes Street at south. It is along one of two reasonable direct routes to and from the project and OR 214. For these reasons, staff conditions a frontage/street improvement by the developer to construct sidewalk and ancillary improvements as a *Condition T-A1b* and *T-BP conditions* specify.

3. Evergreen Road at Stacey Allison Way

This is one of three intersections that the traffic modeling predicted to exceed a vehicle volume over capacity (v/c) maximum ratio established by either ODOT or the City.

Effects include that traffic signalization is preliminarily warranted, that is, is something meriting further study. Because the development affects this intersection, and it is yet unclear what is the best form of mitigation based on qualitative and quantitative criteria and not yet established concerns that would arise from public participation and inform

DR 2019-05 Staff Report Attachment 102 Page 25 of 88 civil engineering, the best route to mitigation is the developer paying a fee in-lieu or mitigation fee that funds a transportation study leading towards an ideal capital improvement project. The Public Works director indicates that \$33,000 would be approximately sufficient. Staff applies a fee as a *T-A condition* specifies.

4. OR 214 at I-5 Southbound ramps

Because there are no significant effects, no mitigation is warranted.

5. OR 214 at I-5 Northbound ramps

Because there are no significant effects, no mitigation is warranted.

6. OR 214 at Lawson Avenue

Because there are no significant effects, no mitigation is warranted.

7. OR 214 at Evergreen Road

This is one of three intersections that the traffic modeling predicted to exceed a vehicle volume over capacity (v/c) maximum ratio established by either ODOT or the City. (The predicted v/c of 0.99 would exceed the ODOT ideal value of 0.95 v/c.)

The intersection is already signalized, the intersection also already suffers from a higher than usual crash rate involving drivers:

"The intersection of OR 214 at Evergreen Road has a calculated crash rate above 1.0 and ODOT's 90th percentile crash rate of 0.86. A total of 52 collisions were reported at the intersection during the analysis period. Over thirty percent of these crashes were angle-type collisions between a southbound left-turning vehicle and an eastbound through vehicle. These crashes were caused by the left-turning vehicle turning in front of traffic with no right-of-way. It is expected that this occurs due to the flashing yellow arrow which allows for permissive turning movements. Vehicles may not be adequately estimating the time gap needed to cross the intersection safely. Based on the Protected Only Left-Turn Mode requirements found in ODOT's Traffic Signal Policy and Guidelines, "protected only left-turn mode should be provided when crash history indicates five or more crashes involving left-turn movements per approach in a consecutive 12-month period within the last three years." Left-turn collisions for this specific movement account for five crashes in 2017, three crashes in 2016, and eight crashes in 2015. Left-turns should also be provided when u-turns are permitted, which is also the case. It is recommended that the eastbound and westbound left-turn movements be altered to protected only mode." (p. 27)

DR 2019-05 Staff Report Attachment 102 Page 26 of 88 Because the intersection already has a high crash rate, the development increases the v/c ratio of this intersection, and the TIA and consultant's reports recommended signal timing optimization to lessen the crash rate, the best route to mitigation is the developer paying a fee in-lieu or mitigation fee that funds a transportation study, specifically to investigate corridor signal timing and coordination adjustments in coordination with ODOT. The Public Works director indicates that \$15,000 would be approximately sufficient. Staff applies a fee as a *T-A condition* specifies.

8. OR 214 at Oregon Way

Because there are no significant effects, no mitigation is warranted.

Additional Issues: Walking & Cycling

As stated above, because the TIA through Figure 6 (p. 14 and excerpted above) identifies that a combined 30% of trips are any of within the vicinity of the project (5%), along W. Hayes Street (205), or along OR 214 to and from the east (20%) – namely, trips that are not along I-5 – these trips are ripe to target for modal shift, in other words, to induce more walking, cycling, and transit ridership and less driving. Additionally, the consultant's report confirmed that the TIA identified no vehicle trip reduction or transportation demand management (TDM) measures (p. 2).

A way to induce walking and cycling is through sidewalks with curb ramps where none yet exist between the subject project and commercial attractions in the vicinity of OR 214 and Evergreen.

There are gaps in the sidewalk network within the vicinity of the project. One is northerly of the northeast corner of Evergreen Road and W. Hayes Street, the gap being between Stacy Allison Way at north and W. Hayes Street at south. It is along one of two reasonable direct routes to and from the project and OR 214.

The second reasonable direct route is along Allison with alternative to turn at either Lawson or Evergreen to reach OR 214. In total, there are a number of ways travelers can reach OR 214 from the project, particularly for those walking or cycling:

- Allison/Lawson
- Allison/Evergreen
- Hooper/Evergreen
- Hooper/Evergreen/Harvard/Allison/Lawson
- Hooper/Evergreen/Harvard/W. Hayes/Evergreen
- Hooper/Evergreen/Harvard/Allison/Evergreen.

DR 2019-05 Staff Report Attachment 102 Page 27 of 88 Along these routes and within their vicinity, there are some sidewalk gaps and crossings where there are no curb ramps:

- 1. Allison & Lawson, south side: curb ramp or ramps lacking
- 2. Evergreen, west side, between Allison and W. Hayes: sidewalk lacking
- 3. Evergreen, east side, between Allison and W. Hayes: sidewalk lacking [tree meanders needed]
- 4. W. Hayes, north side, between the east driveway of Barclay Square Apartments and Evergreen: sidewalk lacking [tree meander needed]
- 5. Harvard & W. Hayes, west side, curb ramp or ramps lacking
- 6. Evergreen, northwest side, between Walmart south driveway and Harvard: sidewalk lacking
- 7. Evergreen, northwest side, Walmart driveway west side: curb ramp lacking
- 8. Evergreen & Oxford, northwest side: curb ramp or ramps lacking

As a ninth item, staff adds lack not of sidewalk or curb ramps but public park access. Specifically, the nearest public park within crow-fly distance would be Centennial Park at 900 Parr Road, about 3,100 ft to the southeast of the property. A first factor to consider is that because the crow-fly distance contains unincorporated farms and rural homesteads with sparse roads, the most direct road and street route to the park presently is through the city, detouring northeast along Evergreen and east along W. Hayes all the way to Settlemier Avenue and backtracking south and then west along Parr. This network distance from the east side of the project at Hooper to Centennial Park is 2.8 miles – over 10,500 ft.

A second factor is that Smith Creek Development Phase 1A is under construction. It would extend Harvard Drive south a little towards dead-end Stubb Road. (Stubb Road branches off of Parr.) However, per the Final Order of that development, Condition SUB-1 (pp. 52-53), though Harvard and Stubb will fuse upon construction of Smith Phases 2A & 3A thereby creating a through street in the southwestern area of city limits, these phases need not be constructed until the year 2028 or 2029, at least 4 or 5 years past the subject project build-out year per the TIA (2024) or at least 7 to 8 years pass the year staff anticipates that the subject project would break ground (2021). A shorter route is needed sooner and that is not dependent on later phases of another development.

A third factor is that an off-street bicycle/pedestrian path improvement would establish a shorter route. Smith Phase 1A will have an off-street path stub that ends at an unimproved City ROW that once was to have been Evergreen Road. The no man's land lies between Woodburn Senior Estates No. 7 subdivision to the east (Columbia Drive being the nearest parallel street) and Montebello 2 subdivision to the west (Baylor Drive being the nearest parallel) street. Montebello 2 subdivision lies a walkway easement with an improved path stub to the no man's land. Within the Montebello 2 subdivision lies a walkway easement straddling 364 & 376 Baylor Drive with an improved path stub to the no man's land. Walking and cycling from the

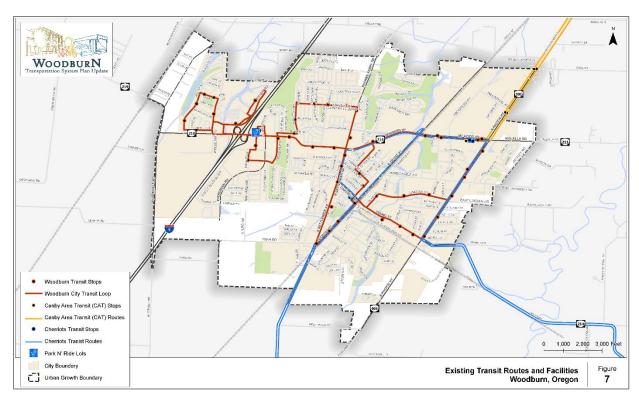
DR 2019-05 Staff Report Attachment 102 Page 28 of 88 subject property northeast along Evergreen, east along Oxford Street, and south along Baylor to this stub totals 0.7 miles or about 3,700 ft, far shorter than the present road and street network route. Also, about 350 ft of improved path along the no man's land to the south end of the no man's land would be sufficient to join that Smith Phase 1A stub under construction and expected to open 2020. Because Smith 1A includes an extension of the Mill Creek greenway trail and improvements west from Settlemier Park, the greenway along with Centennial Park would draw future residents of the subject property to these public parklands. Having a closer walking and cycling route would draw residents away from driving to these parklands. To this end, staff applies a *T-BP condition*.

In order to induce more walking and cycling and less driving, staff already applied Condition T-A1b and applies a *T-BP conditions* specifying how the developer will make off-street street improvements to provide continuous and safer walking and cycling routes.

Additional Issues: Local Bus Transit

Besides the 30% of trips mentioned above (5% within the vicinity and 25% to and from the east), 10% are to and from west Woodburn (across I-5). This totals 40% of trips that do not go to and from I-5 south towards Salem or north towards Wilsonville. These trips are within the area of Woodburn served by the City bus loop, the Woodburn Transit System (WTS). Improving and adding bus stops to increase coverage, while also improving frequency, also known as headway, and hours of service, would induce more trips away from driving.

Presently, the bus loops through east, central, and west Woodburn, but is yet to reach into southwestern city limits:



TSP Figure 7 (2019)

Below is an analysis of applicable projects from the <u>Transportation System Plan (TSP)</u> 2019 major update, Table 4 "Transit Plan":

Project Number	Location	Responsible Jurisdiction	Description	Priority	Cost Estimate
T1	Woodburn Fleet	Woodburn Transit/City	Coordinate with Woodburn Transit to deliver service enhancements funded through the STIF: Purchase of Category B and C vehicles (1 each) for use in the City's expanded transit services. (100% funding level 2020-21)	Medium	\$5,000
T2	Woodburn Fleet	Woodburn Transit/City	Coordinate with Woodburn Transit to deliver service enhancements funded through the STIF: Purchase a Category B vehicle that will replace the second oldest full-size vehicle in the WTS fleet; will be used for the City's existing local fixed route circulator. (130% funding level 2021)	Medium	\$5,000
T4	Woodburn Fixed Route	Woodburn Transit/City	Coordinate with Woodburn Transit to deliver service enhancements funded through the STIF: Modify the existing 60-minute fixed route loop; add an additional 30-minute route that will serve high frequency stops on weekdays (7am-7pm) within the Woodburn city limits. Total additional	Medium	\$5,000

DR 2019-05 Staff Report Attachment 102 Page 30 of 88

			service will be up to 6,192 revenue hours (FY20-21). (100% funding level 2020-21)		
Т6	Woodburn Fixed Route	Woodburn Transit	Increase frequency of existing route to 30 minutes	Medium	\$0 ¹
T16	Woodburn	Cherriots/ City	Coordinate with Cherriots to provide a stop in Woodburn for SMART Route 1X, providing service to WES station in Wilsonville and downtown Salem	Medium	\$5,000
					\$25,000
1. Proje	ct to be funded by	y others.		·	

(Note: STIF refers to the ODOT Statewide Transportation Improvement Fund.)

Here's how staff determines proportionate fair share. For local transit improvements, staff applies 35% of cost estimates because that's the percentage per the TIA of trips within Woodburn, excluding the 5% within the vicinity because staff believes that no one would wait for a bus when they could walk or cycle more quickly to their destinations within the vicinity. For the remaining 60% of trips are to and from I-5, for transit improvements intended for commuters to and from the Portland and Salem metro areas, staff applies 60% of cost estimates. A staff table below provides more method details.

Table TSP.	: Staff Methods		
Project Number	Description	TSP Cost Estimate	Method
T1	Coordinate with Woodburn Transit to deliver service enhancements funded through the STIF: Purchase of Category B and C vehicles (1 each) for use in the City's expanded transit services. (100% funding level 2020-21)	\$5,000	Apply 35%, which = \$1,750.
T2	Coordinate with Woodburn Transit to deliver service enhancements funded through the STIF: Purchase a Category B vehicle that will replace the second oldest full-size vehicle in the WTS fleet; will be used for the City's existing local fixed route circulator. (130% funding level 2021)	\$5,000	Apply 35%. 1. If 130% = \$5,000, then 100% = \$3,846.15. 2. 35% of \$3,486.15 = \$1,394.46. Conversion to a per-dwelling rate is: \$1,394.46 / 586 = \$2.38.
T4	Coordinate with Woodburn Transit to deliver service enhancements funded through the STIF: Modify the existing 60-minute fixed route loop; add an additional 30-minute route that will serve high frequency stops on weekdays (7am-7pm) within the Woodburn city limits. Total additional	\$5,000	Apply 35%, which = \$1,750. Because the TIA establishes project buildout of 4 years (2024), \$1,750 x 4 = \$7,000. Conversion to a per-dwelling rate is: \$7,000 / 586 = \$11.95.

	service will be up to 6,192 revenue hours		This is merged with T6 below.
Т6	(FY20-21). (100% funding level 2020-21) Increase frequency of existing route to 30 minutes	\$0 ¹	Because the TSP table footnote 1, "Project to be funded by others" is vague and unhelpful, staff establishes a method: How much per household does City general revenue invest in transit (excluding farebox recovery and federal and state monies)?
			The fiscal year (FY) 2019-2020 adopted budget establishes general revenue investment of \$116,000 (p. 83; account no. 110 "Transit Fund").
			The U.S. Census QuickFacts tool reported that across 2014-2018, Woodburn had 7,910 households (HHs) based on data updated 12/19/2019.
			\$116,000 / 7,910 = \$14.66 per HH existing.
			Assume that doubling frequency of the existing route from an hour to 30 minutes would double the general fund investment per HH existing, so \$14.66 x 2 = \$29.33.
			Because the TIA establishes project buildout of 4 years (2024), \$29.33 x 4 = \$117.32.
			Establish a mitigation fee or fee in-lieu of \$29.33 per dwelling.
			Merging the T6 rate with this one, the T4 & T6 merged rate is \$11.95 + \$29.33 = \$41.28 (per dwelling).
T16	Coordinate with Cherriots to provide a stop in Woodburn for SMART Route 1X, providing service to WES station in Wilsonville and downtown Salem	\$5,000	Apply 60%, which = \$3,000. Conversion to a per-dwelling rate is: \$3,000 / 586 = \$5.12
T18	Evaluate all bus stops to verify static bus route information signage is visible and accessible and that bike racks are available at major bus stops	\$25,000	50 existing bus stops are WTS stops, and of these, the Woodburn Memorial Transit Center/Facility already has bike racks. Dividing \$25,000 by 49 = \$510.20.
			Apply towards the closest bus stop (Stop 11, along Harvard behind Walmart).

Because capital and operational improvements are needed, but beyond bus shelters, study is needed to determine what improvements are, In order to induce more transit ridership, staff

applies *Condition T-T* specifying how the developer will fund study and/or construct or pay for transit improvements.

Additional Issues: Safety Study Corridor

The TSP 2019 major update Figure 4 "Freight Routes" designates all of Evergreen Road south of OR 214 as a "Future Truck Way", and Figure 5 "Traffic Safety Plan Elements" designates the same segment as a Safety Study Corridor. Staff applied *Condition T-T* specifying how the developer will fund study.

Additional Issues: Intercity Bus Transit

60% of trips are to and from I-5, with 50% heading to and from the Portland metro area and the remaining 10% to and from the Salem metro area.

These trips are within the areas served by the Wilsonville South Metro Area Transit (SMART) transit agency, TriMet that serves the remainder of the Portland metro area and operates the Westside Express Service (WES) commuter rail line that has a terminal in Wilsonville and connects to the Metropolitan Area Express (MAX) light rail Blue and Red Lines at Beaverton Transit Center, and the Salem metro area Cherriots transit agency.

Having express busses to and from connections with SMART bus, TriMet rail, and Cherriots bus connections during morning and afternoon commutes would induce subject project residents to consider seriously riding these express busses, and were there midday service too, even more so. Additionally, Cherriots contracts with and oversees a vanpool service that serves Woodburn and both metro areas, Valley VanPool.

In addition to the TSP, the City "Transit Plan Update Approved Final Report" (November 8, 2010) per its executive summary (p. ES-1) guides the provision of transit services and facilities in Woodburn through 2030 and supplements the TSP.

Below is an analysis of applicable projects:

Header	Service	Description	Annual	Capital Needs	TPU Objective
			Operating		Addressed
			Cost Impact		
11. Provide Peak-	Fixed	New intercity service	\$150,000	\$300,000	3.4 (Transit
Only Intercity	Route	offering three morning			image), 4.4
Service to Salem		and three evening round			(Fixed route
and Wilsonville		trips between			share), 5.2
(pp. 10-12 to 10-		Woodburn and			(Expanded
13)		downtown Salem			intercity
		(weekday only)			service)

		New intercity service offering three morning and three evening round trips between Woodburn and WES station in Wilsonville (weekday only)	\$130,000	\$300,000	
12. Provide All- Day Intercity Service to Salem and Wilsonville (pp. 10-13 to 10- 14)	Fixed Route	New midday service operating hourly between Woodburn and downtown Salem (weekday only) New midday service operating hourly between Woodburn and WES station in	\$130,000 \$130,000	None (assumes Strategy 11 implemented first) None (assumes Strategy 11 implemented first)	3.4 (Transit image), 4.4 (Fixed route share), 5.2 (Expanded intercity service)
20. Promote	[n/a]	Wilsonville (weekday only) Promotion of existing	[n/a]	[n/a]	5.3 Other
Regional Carpool/Vanpool Program (p. 10- 19)	[11/4]	rideshare programs to meet mobility needs that are not easy or cost effective to meet with transit.	[ויי, מ]	[ויי, מ]	travel options

Here's how staff determines intercity bus proportionate fair share:

- Set the IMA overlay district and its trip budget as one of two contexts to establish proportion.
 - Per WDO 2.05.02C.1., "The IMA trip budget for vacant commercial and industrial parcels identified in Table 2.05A is 2,500 peak hour vehicle trips. An estimated 1,500 additional peak hour residential trips are planned within the IMA." The IMA total is 4,000 peak hour trips.
 - Convert 4,000 peak hour trips for commercial and industrial land uses into (a) multiple-dwelling residential (b) AM peak trips (c) that are exiting:
 - The TIA cites the ITE Trip Generation manual such that it predicts that an apartment generates 0.36 AM peak hour trips.
 - Of 0.36 trips per apartment, 74% are exiting the project. 0.36 x 74% =
 0.27 trips per apartment exiting the project.
 - \bullet 4,000 / 0.27 = 14,814.1 equivalent trips per apartment exiting.
 - The subject project has 586 DUs. 586 / 14,815.1 = 4.0%. This represents the AM peak hour trips exiting the subject project in relation to the IMA.
- Set the 60% of 211 AM peak hour trips that go to and from I-5 50% Portland metro and 10% Salem metro as one of two contexts to establish proportion.
- The resulting formula is TPU project cost:
 - o x4.0% x 50% for I-5/Portland metro;
 - o x4.0% x 10% for I-5/Salem metro; or

DR 2019-05 Staff Report Attachment 102 Page 34 of 88

o x4.0% x 60% for I-5.

Table TPU: Staff Me	thods			
Header	Description	Annual Operating Cost Impact	Capital Needs	Method
11. Provide Peak- Only Intercity Service to Salem and Wilsonville (pp. 10-12 to 10- 13)	Salem	\$150,000	\$300,000	 a. Take capital cost of \$300,000. (\$300,000 x 4.0%) x 10% = \$1,200. b. Take annual operating cost (O) of \$150,000 (\$150,000 x 4.0%) x 10% = \$600 Multiply that figure by subject project build-out years (2020 + 4 = 2024): \$600 x 4 = \$2,400. c. \$1,200 (C) + \$2,400 (O) = \$3,600 Salem
	WES station in Wilsonville	\$130,000	\$300,000	a. Take capital cost (C) of \$300,000. (\$300,000 x 4.0%) x 50% = \$6,000. b. Take annual operating cost (O) of \$130,000 (\$130,000 x 4.0%) x 50% = \$2,600 Multiply that figure by subject project build-out years (2020 + 4 = 2024): \$2,600 x 4 = \$10,400. c. \$6,000 (C) + \$10,400 (O) = \$16,400 Wilsonville d. \$3,600 Salem + \$16,400 Wilsonville totals \$20,000 The equivalent rate per dwelling is \$20,000 / 586 = \$34.13

DR 2019-05 Staff Report Attachment 102 Page 35 of 88

12. Provide All-Day Intercity Service to Salem and Wilsonville (pp. 10- 13 to 10-14)	Salem	\$130,000	None (assumes Strategy 11 implemented first)	Take annual operating cost (O) of \$130,000 (\$130,000 x 4.0%) x 10% = \$520
				Multiply that figure by subject project build-out years (2020 + 4 = 2024): \$520 x 4 = \$2,080.
	WES station in Wilsonville	\$130,000	None (assumes Strategy 11 implemented first)	Take annual operating cost (O) of \$130,000 (\$130,000 x 4.0%) x 50% = \$2,600
				Multiply that figure by subject project build-out years (2020 + 4 = 2024): \$2,600 x 4 = \$10,400.
				\$2,080 (O Salem) + \$10,400 (O Wilsonville) = \$12,480 (O both)
				The equivalent rate per dwelling is \$12,480 / 586 = <i>\$21.30</i>
20. Promote Regional Carpool/Vanpool Program (p. 10-19)	Valley VanPool	[n/a]	[n/a]	Per the <u>Valley VanPool</u> frequently asked questions (FAQs) webpage, a vanpool (assuming 14 passengers) has a monthly fare of \$90 to \$170. The 80 th percentile is \$154.
				Staff assumes 3% vanpooling as realistic. Assuming that one-bedroom units average 1.5 commuters and two and three-bedroom units have 2 commuters, the project would have 1,098 commuters. 3% = 33 commuters.
				(A van can seat 7 to 15 passengers, so 33 commuters equals a range of 2 to 4 vans across the 23 apartment buildings and 586 apartments.)
				Staff establishes an amount for a one-time vanpool grant fund:

		\$154 monthly fare x 33
		commuters = \$5,082
		Then, x (6 months x 2 phases) =
		\$60,984.
		The equivalent rate per dwelling
		is \$60,984 / 586 = <i>\$104.07</i>

As a concluding summary, based on the transportation problems that the TIA documents, the TSP, and the TPU, City objectives are for the development to contribute a fair share towards the objectives of:

- Inititation and continuation of regional express bus service
- Higher frequency service
- Bus shelter purchases
- Installation of bicycle parking where bus stops lack it
- Bus purchase(s)
- Safety corridor study for Evergreen, and
- Vanpooling.

△ To address transportation problems, staff applies Condition T-T.

3.05 Off-Street Parking and Loading

3.05.02 General Provisions

The site plans illustrate that the proposal meets the general provisions, including provision of wheel shops along head-in parking stalls adjacent to the access ways, i.e. the prime bicycle/pedestrian wide walkway route to and from sidewalk for each of Phases 1 & 2, and most if not all remaining walkways. On-site exterior light fixtures are full cut-off and limit light encroachment per the photometric and electrical plan sheets (Exhibits 34-37).

However, there is the exception of subsection s J. (directional markings/striping) and K. (double parallel lines / double striping).

➤ In order to ensure that the applicant will double stripe altered and new parking stalls to meet subsection K., staff applies a *D* condition.

3.05.03 Off-Street Parking

3.05.03 Off-Street Parking

- A. Number of Required Off-Street Parking Spaces
 - 1. Off-street vehicle parking spaces shall be provided in amounts not less than those set forth in this Section (Table 3.05A).

DR 2019-05 Staff Report Attachment 102 Page 37 of 88

- 2. Off-street vehicle parking spaces shall not exceed two times the amount required in this Section (Table 3.05A).
- B. Accessible parking shall be provided in amounts not less than those set forth in Table 3.05B. The number of accessible spaces shall be included as part of total required vehicle parking spaces.
- C. A maximum of 20 percent of the required vehicle parking spaces may be satisfied by compact vehicle parking spaces.
- D. Off-street vehicle parking spaces and drive aisles shall not be smaller than specified in this Section (Table 3.05C).
- E. All uses that are required to provide 10 or more off-street parking spaces and residential structures with four or more dwelling or living units shall provide a bicycle rack within 50 feet of the main building entrance. The number of required rack spaces shall be one space per ten vehicle parking spaces
- F. Garages ...
 - 2. For multi-family dwellings, one-half of the parking spaces required by this Section (Table 3.05A) shall be in a garage or garages.

	Off-Street Parking Ratio Standards Table 3.05A					
Use 1	Use ¹ Parking Ratio - spaces per activity unit or square feet of gross floor area					
	RESIDENT	IAL				
1.	Dwellings, including manufactured homes	2/ dwelling unit				

1. The Director may authorize parking for any use not specifically listed in this table. The applicant shall submit an analysis that identifies the parking needs, and a description of how the proposed use is similar to other uses permitted in the zone. The Director may require additional information, as needed, to document the parking needs of the proposed use.

Accessible Parking Ratio Standards Table 3.05B						
Total Spaces Minimum Total Minimum Van Minimum "Wheelchair User Accessible Spaces Only" Spaces						
301 to 400	8	[0]	1			
501 to 1000	1 in every 8 accessible					
1001 or more 20 plus 1 for each 100 [0] spaces over 1000						
1. "Van Accessib	le Spaces" and "Wheelchair L	Jser Only" are included	in "Total Accessible Spaces."			

The ratio yields (586 dwellings x 2 stalls) = 1,172 stalls. The site plan (plan sheet Exhibit 3) illustrates and notes 1,039 stalls, 133 fewer than the minimum requirement and averaging 1.77 stalls per dwelling. The applicant submitted a variance request.

The proposal has 555 compact parking stalls, which is 47.3% of the minimum required 1,172 total stalls and 53.4% of the proposed 1,039 total stalls, exceeding the maximum in either scenario. The applicant submitted a variance request.

The proposal triggers subsection E. for bicycle parking, which requires $(586 / 10) = 58.6 \rightarrow 59$ bike stalls minimum; however, staff requested and the applicant opts to propose more, specifically 758 bike stalls, both in the form of outdoor racks and, within each proposed outdoor storage closet – which are accessible from patios and balconies – a retractable hook made for wall-mounted stowage of a bike. Besides the 586 outdoor closet stalls, there are stalls in each building stairwell and outdoors among buildings at least 20 stalls. A *variance (V) condition* specifies, the main idea being, "build it, and they will come." This means if bicycle parking is plentiful, convenient, and secure, tenants would be more likely to cycle.

Regarding placement with 50 ft of main entrance per subsection E., based on conversations with the applicant, staff understands that each stairwell base will have at least one bicycle parking facility and stall; however, it is not evident on the site plans. For this reason, staff applies a *D condition*.

Garages / Carports

Regarding 3.05.03F.2, carports are permissible in lieu of garages. Relevant definitions are:

"1.02 Definitions

Carport: A permanent structure consisting of a roof and supports for covering a parking space which is not completely enclosed.

Garage: A building, or portion of a building, which is completely enclosed and designed for the storage or parking of a vehicle."

Through a past multi-family development project, Woodland Crossing Apartments at 9065 Arney Lane (DR 2017-03), the Community Development Director interpreted that WDO 3.05.03F.2. allows for carports in lieu of garages. Staff applies the interpretation as the Director had:

"The language in this Section of the WDO seems to indicate that fully enclosed garages are required for even a large multi-family apartment complex that has a parking lot open to the public, such as this one. There is a distinction in the WDO between carports and garages in some areas, but it is not consistent throughout the Code. It's important to note that when garages are required for single-family and duplex developments under the WDO, there is also an accompanying requirement to provide a 'parking pad' outside the garage, a minimum of 20 feet in depth (see the yellow area in the graphic above). This additional area is required to be on private property so that the driver of a car is not backing directly into traffic from their garage.

DR 2019-05 Staff Report Attachment 102 Page 39 of 88 In the case of parking lots – which are typical for commercial centers and multi-family parking areas - the opportunity for this critical 'parking pad' is impossible.

Staff has made an interpretation that the requirement for a garage in the case of multi-family dwelling units in a parking lot is satisfied with carports. This is a reasonable and practical interpretation for a variety of aesthetic and most importantly, safety factors. Having individuals opening garage doors and having cars backing into drive aisles from an enclosed garage would be dangerous and Staff would not approve it. Staff finds that the application meets the criteria and will process a clarification of this particular Code language during the next set of amendments to the WDO."

The applicant proposes carports meeting the coverage provision.

Accessible/ADA/Handicap Parking

The proposal provides ADA-compliant stalls that meet or exceed the minimum provision.

- Variance [2]: Staff addresses the parking ratio minimum request further below under the Variance Provisions section.
- Variance [3]: Staff addresses the compact parking percentage maximum request further below under the Variance Provisions section.
- △ To secure a higher minimum amount of bicycle parking, staff applies a *V* condition.
- ➤ To meet WDO 3.05.03E that bicycle parking be within 50 feet of the main building entrance. Staff applies a *D* condition.

Parking Space and Drive Aisle Dimensions Table 3.05C							
Parking	Type of Space	Stall Width (feet)	Curb Length (feet)	Stripe Length (feet)	Stall to Curb (feet)	Drive Aisle Width (feet)	
Angle						1-way	2-way
Α		В	С	D	E	F	G
	Standard or Accessible	9.0	9.0	19.0	19.0	24.0	
90°	Compact	7.5	7.5	15.0	15.0	22.0	24.0
30	Car Accessible Aisle	6.0	6.0	19.0	19.0	24.0	24.0
	Van Accessible Aisle	8.0	8.0	19.0	19.0	24.0	

Parking Space and Drive Aisle Dimensions Table 3.05C							
Parking Angle	Type of Space	Stall Width (feet)	Curb Length (feet)	Stripe Length (feet)	Stall to Curb	Drive Aisle Width (feet)	
					(feet)	1-way	2-way
Α		В	С	D	E	F	G

- 1. A parking space may occupy up to two feet of a landscaped area or walkway. At least four feet clear width of a walkway must be maintained.
- 2. Space width is measured from the midpoint of the double stripe.
- 3. Curb or wheel stops shall be utilized to prevent vehicles from encroaching on abutting properties or rights-of-way.
- 4. The access aisle must be located on the passenger side of the parking space, except that two adjacent parking spaces may share a common access aisle.
- 5. Where the angle of parking stalls differ across a drive aisle, the greater drive aisle width shall be provided.

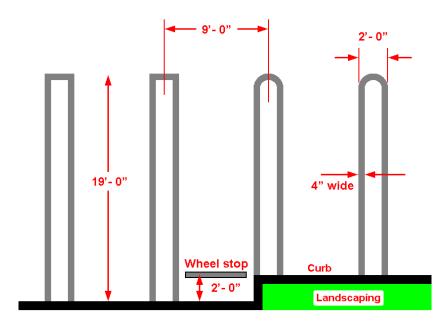


Figure 3.05C - Parking Space Striping

The applicant proposes all stalls, which are all at 90°, to the drive aisle with dimensions, double-striping, and curbing that meet or exceed the minimum standards – except as regards the variance request for drive aisle width minimum.

■ Variance [4]: Staff addresses the drive aisle width minimum variance request further below under the Variance Provisions section.

✓ The requirement is met.

3.05.04 Off-Street Loading

B. The off-street loading facilities shall be on the same lot, or site, as the use or structure they are intended to serve. Required loading spaces and required parking spaces shall be separate and distinct, except that if authorized through a land use decision, a parking area may be used for loading during those times when the vehicle parking area is not in use.

Loading Space Requirements Table 3.05D					
Use and Area (square feet)	Minimum Number of	Minimum Size of Space (feet)			
Use and Area (square reel)	Spaces	Width	Length	Height	
Office					
0 – 4,999	0	12	30	14	
5,000 – 41,999	1	12			
42,000 or more	2				
Nonresidential uses, except office, in the					
CO, CG, and NNC zones					
0 – 9,999	1	12	30	14	
10,000 – 41,999	2	12	30		
42,000 – 81,999	3				
82,000 or more	4				

Because the use is nonresidential, the table is not applicable.

The provisions are not applicable.

3.05.05 Shared Parking

The applicant opted not to exercise this option.

3.06 Landscaping

3.06.02 General Requirements

The landscape plan sheets (L1.02-2.06) illustrate and note that the general provisions are met, including irrigation, curbing, and avoidance of prohibited tree species, except regarding the parking area curb height minimum of subsection I.

- Variance [5]: Staff addresses the parking area curb height minimum variance request further below under the Variance Provisions section.
- ✓ The requirement is met.

3.06.03 Landscaping Standards

A. Street Trees

The applicant proposes street trees that appear to meet the provisions, and because the applicant is submitted a street exception request, staff conditions approval for more street

trees in service of visual and acoustic buffering of dwellings from I-5 and further reduction of the "urban heat island" effect.

To secure a higher minimum amount of street trees, staff applies EX conditions.

B. & Tables 3.06A & B

Planting Requirements Table 3.06A					
Location	Planting Density, Minimum	Area to be Landscaped, Minimum			
Setbacks abutting a street	1 PU/15 square feet	Entire setback excluding driveways			
Buffer yards	1 PU/20 square feet	Entire yard excluding off-street parking and loading areas abutting a wall			
Other yards	1 PU/50 square feet	Entire yard, excluding areas subject to more intensive landscaping requirements and off-street parking and loading areas			
Off-street parking and loading areas	 1 small tree per 10 parking spaces; or ¹ 1 medium tree per 15 parking spaces; or ¹ 1 large tree per 25 parking spaces ¹ and 1 PU/20 square feet excluding required trees ² 	 RS, R1S, RSN, RM, RMN, P/SP, CO, CG and MUV zones: 20% of the paved surface area for off-street parking, loading and circulation DDC, NNC, IP, IL, and SWIR zones: 10% of the paved surface area for off-street parking, loading and circulation Landscaping shall be within or immediately adjacent to paved areas 			
Common areas, except those approved as natural common areas in a PUD	3 PU/50 square feet	Entire common area			

- 1. Trees shall be located within off-street parking facilities, in proportion to the distribution of the parking spaces.
- 2. Required landscaping within a setback abutting a street or an interior lot line that is within 20 feet of parking, loading and circulation facilities may also be counted in calculating landscaping for offstreet parking, loading and circulation areas.

The landscape plans (plan sheet Exhibits 38-42) illustrate meeting or exceeding the minimum planting densities, landscaped areas, and trees for the yard types and vehicular areas.

> DR 2019-05 Staff Report Attachment 102 Page 44 of 88

✓ The requirement is met.

	Plant Unit (PU) Value					
	Table 3.06B					
Material		Plant Unit (PU) Value	Minimum Size			
1.	Significant tree ¹	15 PU each	24" Diameter			
2.	Large tree (60-120 feet high at maturity) ¹	10 PU each	10' Height or 2" Caliper			
3.	Medium tree (40-60 feet high at maturity ¹	8 PU each	10' Height or 2" Caliper			
4.	Small tree (18-40 feet high at maturity) 1	4 PU each	10' Height or 2" Caliper			
5.	Large shrub (at maturity over 4' wide x 4' high) 1	2 PU each	3 gallon or balled			
6.	Small to medium shrub (at maturity maximum 4' wide x 4' high) 1	1 PU each	1 gallon			
7.	Lawn or other living ground cover ¹	1 PU / 50 square feet				
8.	Berm ²	1 PU / 20 lineal feet	Minimum 2 feet high			
9.	Ornamental fence ²	1 PU / 20 lineal feet	2½ - 4 feet high			
10.	Boulder ²	1 PU each	Minimum 2 feet high			
11.	Sundial, obelisk, gnomon, or gazing ball	2 PU each	Minimum 3 feet high			
12.	Fountain ²	3 PU each	Minimum 3 feet high			
13.	Bench or chair ²	0.5 PU / lineal foot				
14.	Raised planting bed constructed of brick, stone or similar material except CMU ²	0.5 PU / lineal foot of greatest dimension	Minimum 1 foot high, minimum 1 foot wide in least interior dimension			
15.	Water feature incorporating stormwater detention ²	2 per 50 square feet	None			
1						

^{1.} Existing vegetation that is retained has the same plant unit value as planted vegetation.

The landscape plans illustrate meeting or exceeding the minimum plant unit (PU) standards.

^{2.} No more than twenty percent (20%) of the required plant units may be satisfied by items in lines 8 through 15.

✓ The requirement is met.

3.06.05 Screening & Table 3.06D

A. Screening between zones and uses shall comply with Table 3.06D.

Architectural Wall

Such is required along several property lines, and the applicant submitted a variance request.

■ Variance [6]: Staff addresses the Architectural Wall variance request further below under the Variance Provisions section.

Architectural Wall: Recycling and Trash Enclosures

Such enclosures are required per Table 3.06D for any outdoor storage of "refuse and recycling collection facilities ...", and the applicant proposes containment through four such enclosures.

3.06.05B.

All parking areas, except those for single-family and duplex dwellings, abutting a street shall provide a 42-inch vertical visual screen from the abutting street grade. Acceptable design techniques to provide the screening include plant materials, berms, architectural walls, and depressed grade for the parking area. All screening shall comply with the clear vision standards of this ordinance (Section 3.03.06).

Regarding Stacy Allison Way, in both phases there is surface parking in the yard abutting the road. Therefore, screening is applicable. The applicant proposes screening through landscaping, and so the landscape plans (Exhibits 38-42) are the relevant sheets.

The sheets show northwest perimeter shrubbery in two rows, one row being pink Muhly grass and the other being Fastiga English yew and the closest to the ROW. Although the <u>Wikipedia entry for "Muhlenbergia capillaris"</u> as of May 12, 2020 indicates that it grows to be about 35.4 inches high and so would fail to grow to the minimum 3½ ft (42 inches), because according to a web search the other row is evergreen shrubbery capable of growing to 30 ft and spreading 2-8 ft, it can grow to the minimum screening height and outward enough to screen. The provision is met.

Regarding Hooper, because the closest buildings to ROW establish a shallow front yard, there is no surface parking in the front yard because the parking closest to the ROW is farther away than the buildings. Therefore, no screening is applicable.

✓ The requirement is met.

3.06.06 Architectural Walls

B. Design Standards and Guidelines

Architectural Wall: Recycling and Trash Enclosures

The 12 such enclosures meet the standards as plan sheet Exhibit 57 illustrates.

C. Retaining walls should/shall meet the texture and color requirements of architectural walls in or abutting residential districts, where the texture and color requirements apply to the visible face of the retaining wall.

1.02

Abutting: Touching on the edge or on the line, including at a corner. It shall include the terms adjacent, adjoining and contiguous.

Adjacent: Near, close or bordering but not necessarily contiguous with; adjoining but separated by a right-of-way.

Because the proposal includes no retaining walls, the provisions are not applicable.

3.06.07 Significant Trees on Private Property

 Because the subject property is two disturbed but undeveloped fields devoid of any trees, the provisions are not applicable.

3.07 Architectural Design

3.07.06 Standards for Non-Residential Structures in Residential, Commercial and Public/Semi Public Zones

A. The following design guidelines shall be applicable to all non-residential structures and buildings in the RS, RSN, R1S, RM, RMN, CO, CG, and P/SP zones.

- **B. Architectural Design Guidelines**
 - 1. Mass and Bulk Articulation Guidelines
 - a. Building facades visible from streets and public parking areas should be articulated, in order to avoid the appearance of box-like structures with unbroken wall surfaces.
 - b. The appearance of exterior walls should be enhanced by incorporating three-dimensional design features, including the following:
 - (1) Public doorways or passage ways through the building
 - (2) Wall offsets or projections
 - (3) Variation in building materials or textures
 - (4) Arcades, awnings, canopies or porches
 - 2. Materials and Texture Guidelines

- a. Building exteriors should exhibit finishes and textures that reduce the visual monotony of bulky structures and large structural spaces. Building exteriors should enhance visual interest of wall surfaces and harmonize with the structural design.
- b. The appearance of exterior surfaces should be enhanced by incorporating the following:
 - (1) At least 30% of the wall surface abutting a street should be glass.
 - (2) All walls visible from a street or public parking area should be surfaced with wood, brick, stone, designer block, or stucco, or with siding that has the appearance of wood lap siding.
 - (3) The use of plain concrete, plain concrete block, corrugated metal, plywood, T-111 and sheet composite siding as exterior finish materials for walls visible from a street or parking area should be avoided.
 - (4) The color of at least 90 percent of the wall, roof and awning surface visible from a street or public parking area should be an "earth tone" color containing 10 parts, or more of brown or a "tinted" color, containing 10 parts or more white.
 - (5) Fluorescent, "day-glo," or any similar bright color shall not be used on the building exterior.

3. Multi-Planed Roof Guidelines

- a. The roof line at the top of a structure should establish a distinctive top to the building.
- b. The roof line should not be flat or hold the same roof line over extended distances. Rather, the roof line should incorporate variations, such as:
 - (1) Offsets or jogs in the plane of the roof;
 - (2) Changes in the height of the exterior wall for flat roof buildings, including parapet walls with variations in elevation or cornices
- 4. Roof-Mounted Equipment Guidelines

All roof-mounted equipment, except solar collectors, should be screened from view by:

- a. Locating roof-mounted equipment below the highest vertical element of the building, or
- b. Screening roof-mounted equipment using materials of the same character as the structure's basic materials
- 5. Weather Protection Guidelines

All building faces abutting a street or a public parking area should provide weather protection for pedestrians. Features to provide this protection should include:

- a. A continuous walkway at least eight feet wide along the face of the building utilizing a roof overhang, arcade, awnings or canopies
- b. Awnings and canopies that incorporate the following design features:
 - (1) Angled or curved surfaces facing a street or parking area
 - (2) A covering of fabric, or matte finish vinyl
 - (3) A constant color and pattern scheme for all buildings within the same development
 - (4) No internal back lighting
- 6. Solar Access Protection

Obstruction of existing solar collectors on abutting properties by site development should be minimized.

C. Building Location Guidelines

- 1. Within the prescribed setbacks, building location and orientation should compliment abutting uses and development patterns.
- 2. The maximum yard abutting a street should be 150 feet.

DR 2019-05 Staff Report Attachment 102 Page 49 of 88 The site plans and building elevations (plan sheet Exhibits 45-56) show largely what the guidelines describe. The proposal also provides similar but distinct color palettes, one each for Phase 1 & 2 (Exhibits 45-49 and 50-56 respectively).

✓ The provisions are met.

Property Line Adjustment Provisions

Property Line Adjustment Criteria

5.01.08 Property Line Adjustment; Consolidation of Lots

- A. Purpose: The purpose of this review is to ensure that adjustments to property lines or the consolidation of existing lots and parcels, complies with the standards of this ordinance (Section 2), and State Statutes (ORS Chapters 92 and 209). Property line adjustments and consolidation of lots are allowed in all zones.
- B. Criteria:
- 1. Lot area, depth, width, frontage, building setbacks, vehicular access and lot coverage comply with the standards of this ordinance (Sections 2 and 3);
- 2. Existing easements are accurately reflected;
- 3. Existing land use and development on the subject property comply with the requirements of prior land use actions; and
- 4. Buildings and structures abutting the adjusted property lines comply with State building codes and with respect to current occupancy.
- 5. Property line adjustments are surveyed and monumented to the requirements set forth in State statutes (ORS Chapters 92 and 209) and recorded by the County Surveyor.
- C. Procedure: The Director shall review and approve the application when it is found that it meets this Ordinance and the State Building Codes.

The context is that the property line adjustment (PLA) is corollary to the Design Review. The site is disturbed but undeveloped and lacking buildings. The adjustment is actually elimination of a lot line through lot consolidation of subdivision Lots 7 & 8 (Tax Lots 2000 & 2100) such that Phase 2 would include one lot of record.

Regarding 5.01.08A and reference to WDO Section 2, as staff examined earlier for 3.01 and 3.04.03B, public easements are needed as part of PLA recordation for:

- Public utilities, including per Public Works comments (Attachment 102A);
- Cross access / joint driveway; and
- One of two dedication scenarios for the unnamed park plaza (if not dedicated as a tract).

DR 2019-05 Staff Report Attachment 102 Page 50 of 88 Regarding criterion 1, as staff examined above for Tabl3 2.03C, the CG zoning district has no minimum lot size, width, street frontage, or maximum lot coverage. The development proposal provides vehicular access between at least one public street (improved) ROW and both the Phase 1 lot and the Phase 2 consolidated lots.

Regarding criterion 2, there are no existing easements to accommodate, and proposed buildings avoid encroachment in the to-be-dedicated streetside 5-ft PUEs.

Regarding criterion 3, the site is disturbed but undeveloped and lacking buildings.

Regarding criterion 4, no buildings exist, and proposed buildings meet WDO setback provisions such that their placements would meet building code such that no fire-rated construction above and beyond what is conventional for apartment complexes would be necessary.

Regarding criterion 5, because staff has no expertise to administer this provision and also during plat or re-plat (however the County terms it) recordation the County Surveyor administers what the criterion describes, the criterion is not applicable and yet will be met thanks to the Surveyor.

Because unrecorded re-plats lingering indefinitely have burdened staff, staff applies a PLA condition to set sooner time limits or subsection 2. to begin and finish recordation.

Variance Provisions

The several variance requests accompanying the design review relate to:

- 1. Driveway width minimum (Table 3.04A)
- 2. Parking ratio minimum (Table 3.05A);
- 3. Compact parking percentage maximum (3.05.03C);
- Drive aisle width minimum (Table 3.05C);
- 5. Parking area curb height minimum (3.06.021); and
- 6. Architectural Wall (Table 3.06D & 3.06.06).

The applicant submitted narrative text addressing the criteria.

Variance Criteria

5.03.12 Variance

- A. Purpose: The purpose of this Type III Variance is to allow use of a property in a way that would otherwise be prohibited by this Ordinance. Uses not allowed in a particular zone are not subject to the variance process. Standards set by statute relating to siting of manufactured homes on individual lots; siding and roof of manufactured homes; and manufactured home and dwelling park improvements are non-variable.
- B. Criteria: A variance may be granted to allow a deviation from development standard of this ordinance where the following criteria are met:
 - 1. Strict adherence to the standards of this ordinance is not possible or imposes an excessive burden on the property owner, and
 - 2. Variance to the standards will not unreasonably impact existing or potential uses or development on the subject property or adjacent properties.
- C. Factors to Consider: A determination of whether the criteria are satisfied involves balancing competing and conflicting interests. The factors that are listed below are not criteria and are not intended to be an exclusive list and are used as a guide in determining whether the criteria are met.
 - 1. The variance is necessary to prevent unnecessary hardship relating to the land or structure, which would cause the property to be unbuildable by application of this Ordinance. Factors to consider in determining whether hardship exists, include:
 - a. Physical circumstances over which the applicant has no control related to the piece of property involved that distinguish it from other land in the zone, including but not limited to, lot size, shape, and topography.
 - b. Whether reasonable use similar to other properties can be made of the property without the variance.
 - c. Whether the hardship was created by the person requesting the variance.
 - 2. Development consistent with the request will not be materially injurious to adjacent properties. Factors to be considered in determining whether development consistent with the variance [is] materially injurious include, but are not limited to:
 - a. Physical impacts such development will have because of the variance, such as visual, noise, traffic and drainage, erosion and landslide hazards.
 - b. Incremental impacts occurring as a result of the proposed variance.
 - 3. Existing physical and natural systems, such as but not limited to traffic, drainage, dramatic land forms or parks will not be adversely affected because of the variance.
 - 4. Whether the variance is the minimum deviation necessary to make reasonable economic use of the property;
 - 5. Whether the variance conflicts with the Woodburn Comprehensive Plan.

Variance 1: Driveway Minimum Width

Table 3.04A ... Access Requirements

The applicant's narrative (submitted March 25, 2020; pp. 10-11) states:

"Adjacent properties will not be affected by the proposed driveway width. Minimum required driveway widths for aerial fire access will be maintained."

Staff concurs and conditions accordingly and to require common area and public improvements that make use of area saved by not as wide driveways.

△ The variance criteria are met with Condition V1-1.

Variance 2: Parking Ratio Minimum

Table 3.05A

Per Table 3.05A, Residential 1., the off-street parking minimum ratio is 2 per dwelling, yielding a minimum required amount of 1,172 parking stalls for 586 dwellings.

The applicant's narrative (submitted March 25, 2020; p. 11-12) states:

"<u>Proposed</u>: 1.77 spaces per dwelling unit overall (1,039 spaces). The minimum ratio per unit type is proposed as follows:

```
1-Bedroom: 1.75 spaces/ unit x 148 units = 259
2-Bedroom: 1.75 spaces/unit x 390 units = 683
3-Bedroom: 2.0 spaces/unit x 48 units = 96
Total (minimum): 1,038 spaces
```

Although less than the minimum required, the proposed ratios are well within the parking requirements of neighboring cities. The attached Parking Rates Comparison Table provides the average parking ratio of Woodburn and twelve surrounding communities. When applied to this project, these ratios total 907 spaces, 132 <u>less</u> than what is proposed:

```
1-Bedroom: 1.25 spaces/ unit x 148 units = 185

2-Bedroom: 1.63 spaces/unit x 390 units = 636

3-Bedroom: 1.79 spaces/unit x 48 units = 86

Total: 907 spaces
```

We also believe the proposed ratio will suffice for the demand for parking in Woodburn because of the surrounding factors as described below and access to other alternative means of transportation.

With a Walmart only 0.6 miles away and the I-5 interchange area only 1 mile away, residents without vehicles could walk to stores. Along with the Walmart, the I-5 interchange area includes the Woodburn Outlet Mall, several restaurants, a Starbucks and two different banks. A church and an elementary school are one mile away and the public library and downtown Woodburn are both two miles away. With all these different amenities nearby, this would be a strong consideration for tenants to walk or bicycle to places not requiring a vehicle.

Public transportation is also readily available within walking distance of the property. The Woodburn Transit System (WTS) bus route stops at the Walmart and West Hayes Street. Another mode of transportation is the Salem-Keizer Cherriots 10x which runs along Portland Road NE to Salem with a stop at the Woodburn Transit Center, less than two miles away. This will reduce the need for a car as many people will commute to these neighboring cities for work.

DR 2019-05 Staff Report Attachment 102 Page 54 of 88 The property management will require parking permits in order to park onsite. Each vehicle that doesn't have a permit will be towed eliminating non-resident parking. The maximum allowed parking for 2 and 3-bedroom units will be 2 cars per unit. The management will also enforce only 1 car per unit for each 1-bedroom unit. By only allowing 1 car for each 1-bedroom unit that would allow exactly 2.03 cars per unit for each of the other 2 and 3-bedroom units. Additionally, the development team accounts for an average 5% vacancy in the rental property, which could leave anywhere from 30-60 parking spots available.

To further support this variance, bicycle parking is proposed well in excess of code requirements (see Section 3.05.03(E) above) and, if needed, the property management team would be willing to contact Zip Car and allow a parking space or two allocated to Zip cars for tenant use. "

The argument is reasonable; however, it does not meet the criteria established in the WDO 5.03.12B for variances.

While the applicant's argument is reasonable from a public policy perspective, it fails to meet the criteria established in the WDO 5.03.12B. for variances. Staff finds the application fails to both demonstrate that meeting the standard would impose an excessive burden on the property owner and that the variance to the standard will not unreasonably impact existing or potential uses or development on the subject property or adjacent properties.

Applying the WDO 5.03.12C factors for considering whether the proposal would meet the variance criteria, staff makes the following arguments:

Criterion 1 is that, "Strict adherence to the standards of this ordinance is not possible or imposes an excessive burden on the property owner." In other words, the criterion is "hardship", which is "severe suffering or privation" as the *New Oxford American Dictionary*, 2010 edition defines. (Staff refers to this dictionary because terms that the WDO does not define default to it per 4.02.06B.)

- (A) The site totals 19.03 acres of disturbed but undeveloped fields in mostly rectangular shape with no remaining obstacles such as buildings, trees, or steep slope. It remains possible to develop the property and accrue rents from multiple-dwelling development.
- (B) The residential net density standard for property zoned Commercial General (CG) is a range from 12 minimum to 32 maximum units per net acre. The proposed development is at a net density of 30.8 units per acre sitewide, well above the minimum required. For example, had the applicant reduced the proposed density by 30 to 74 dwellings (approximately one or two apartment buildings), the net density likely would have fallen in the range of 26.9 to 28.7, which would remain within the permissible range of 12 to 32 per the comprehensive plan and WDO Table 2.03C and provide additional area on the site to meet the parking minimum ratio.

The first criterion remains unsatisfied.

DR 2019-05 Staff Report Attachment 102 Page 55 of 88 Criterion 2 is that, "Variance to the standards will not unreasonably impact existing or potential uses or development on the subject property or adjacent properties."

- (A) There is a likelihood of overflow parking onto public streets (that have on-street parking).
- (B) Staff had heard from other staff allegations of a parking problem related to apartments in the southwest part of town.

Staff interviewed Officer Weathermon, one of the two City code enforcement officers, by phone on May 20, 2020.

He explained based on interactions with tenants of Cascade Meadows Apartments (311 Evergreen Road, east of and adjacent to Phase 1), that the property manager charges fees for off-street parking and limits each household to one stall. The management also enforces privately established zones of off-street parking such that a tenant issued a placard to park in a zone cannot park in another zone without being towed and actually strictly enforces by towing vehicles instead of assessing fines to households suspected of violation. He believes that there is minimal guest parking, perhaps 10 stalls.

By constraining the supply of lowest-priced parking, management causes tenants to park on-street on the relatively few streets that have on-street parking, particularly Linfield Avenue in the Montebello 3 subdivision (developed mostly 2016) and at the edge of present city limits.

Officer Weathermon explained that approximately 5 years ago (2015), complaints began with the Montebello 3 developer alleging that potential homebuyers could not finding parking in order to visit a model home. Complaints have ceased, and he believes that due at least partly to proactive code enforcement. The other officer issues each week approximately 6 parking citations along Linfield Avenue.

Absent resolution of this problem, granting the parking ratio minimum variance request for the subject property could exacerbate the problem.

The second criterion remains unsatisfied.

➤ This parking ratio minimum fails to meet the variance criteria. (Staff can recommend readymade conditions were the Commission to approve this variance request.)

Variance 3: Compact Parking Percentage Maximum

3.05.03C

The applicant's narrative (submitted March 25, 2020; p. 12) states:

"Adjacent properties will not be affected by the proposed compact parking ratios."

What the applicant means is that the proposal provides more room for other improvements, such as housing such that the density would be closer to the top end of the permissible range already established by the comprehensive plan and WDO for the subject zoning district.

Staff concurs, adds that the proposal maintains minimum required driveway widths for aerial fire access, and conditions accordingly and to require common area and public improvements that make use of area saved by compact parking.

The variance criteria are met with Conditions V5-3-1, V6-3-2, V7-3-3, & V8-3-4.

Variance 4: Drive Aisle Minimum Width

Table 3.05C ... Drive Aisle Dimensions

The applicant's narrative (submitted March 25, 2020; pp. 10-11) states:

"24' drive aisles preclude meeting minimum off-street parking ratios and housing density and affordability goals desired for the zone."

Staff concurs and conditions accordingly and to require common area and public improvements that make use of area saved by not as wide drive aisles.

The variance criteria are met with Condition V2-4.

Variance 5: Parking Area Curb Height Minimum

3.06.021

The applicant's narrative (submitted March 25, 2020; p. 13) states:

"A 6" curb does not allow sufficient clearance for compact vehicles to overhang these areas. ... Adjacent properties will not be affected by the proposed curb height."

Staff concurs, adding that throughout the nation there are streets, driveways, and drive aisles with four-inch curbs that work just fine to hold in place whatever they hold and to direct stormwater. Staff conditions accordingly and to require common area and public improvements that preclude improper overhangs of walkways and calm on-site drivers from speeding through parking area.

The variance criteria are met with Condition V3-5.

Variance 6: Architectural Wall

Table 3.06D & 3.06.06

The applicant's narrative (submitted March 25, 2020; p. 13) states:

"The architectural wall standard would incur higher construction costs on needed housing. ... The proposed landscaping will provide similar screening for the neighbors at less cost than an architectural wall."

Staff concurs, adding that it remains the opinion of the Director and staff that a legislative amendment is needed to scale back or strike Table 3.06D because the table assumes needless and arbitrary reinforcement of segregation of land uses through walls. Second, landscaping is capable of buffering and has the benefits of beauty, cooling the urban heat island effect, serving as animal habitat, and costing less than wall construction. Additionally, no wall except of absurd height would be sufficient to be a screen between a three-story apartment building and a one-story house. Some adjacent homes already have fencing, and homeowners can alter or add fencing, walls, or landscaping on their properties as they like and see fit. Lastly, on the subject property only the east/northeast corner of Building R is at or near the Phase 2 east minimum setback; the remaining apartment buildings are farther away than the WDO requires.

Staff conditions accordingly.

The variance criteria are met with Condition V4-6.

Recommended Conditions of Approval

Staff recommends approval of the consolidated applications based on the findings in the staff report and attachments, which are incorporated by this reference, as well as applying the following conditions of approval:

General

- G1. As part of building permit application, the applicant shall submit revised site plans meeting the conditions of approval and obtain Planning Division approval through sign-off on permit issuance.
- G2. The applicant or successors and assigns shall develop the property in substantial conformance with the final plans submitted and approved with these applications, except as modified by these conditions of approval. Were the applicant to revise plans other than to meet conditions of approval or meet building code, even if Planning Division staff does not notice and signs off on building permit issuance, Division staff retains the right to obtain restoration of improvements as shown on an earlier land use review plan set in service of substantial conformance.
- G3. References: The descriptions below define certain words, phrases, and assumptions in the context of the conditions of approval:
 - "Access way" means an on-site walkway paved at least eight (8) feet wide to serve as a bicycle/pedestrian path to and from sidewalk – or to and from an off-street public bicycle/pedestrian path – and that is ADA-compliant.
 - "ADA" refers to the federal Americans with Disabilities Act of 1990.
 - "Allison" refers to Stacy Allison Way.
 - "A1, "A2", & "A3" driveways refer to the three Allison driveways from north to south. A1 is in Phase 1, and A2 & A3 are in Phase 2.
 - "County" refers to Marion County.
 - "Courtyard" refers to each of five places two in Phase 1 and three in Phase 2 that is a landscaped linear central common area framed by three buildings forming a "U" shape or four buildings enclosing the common area.
 - "Director" refers to the Community Development Director.
 - "EV" refers to electric vehicle.
 - "Evergreen" with a capital "E" refers to Evergreen Road, especially south from OR 214.
 - "ft" refers to feet.
 - "Hooper" refers to Hooper Street.
 - "H1,"H2", "H3," & "H4" driveways refer to the four Hooper driveways clockwise from the northwest. H1 & H2 are in Phase 1, and H3 & H4 are in Phase 2.
 - "Lawson" refers to Lawson Avenue.

- "Modal share" means the percentage of travelers using a particular type of transportation or number of trips using a type, as examples walking, cycling, riding transit, and driving.
- "Modal shift" means a change in modal share.
- "MUTCD" refers to *Manual on Uniform Traffic Control Devices* of the U.S. Department of Transportation (U.S. DOT) Federal Highway Administration (FHWA).
- "NE means northeast.
- "NW" means northwest.
- "OAR" refers to Oregon Administrative Rules.
- "o.c." refers to on-center spacing, such as of trees or shrubs.
- "ODOT" refers to the Oregon Department of Transportation.
- "OR 214" refers to Oregon Highway 214 / Newberg Highway.
- "Oxford" refers to Oxford Street.
- "Parking court" means each of three peninsulas of on-site surface parking extending southeast and framed by a "U" of five buildings. Phase 1 has one and Phase 2 has two.
- "Phase 1" or "Phase I" encompasses Tax Lot 052W14 02300 (Town Center at Woodburn subdivision Lot 9) and the full extents of adjacent Allison and Hooper and the whole of their intersection.
- "Phase 2" or "Phase II" encompasses Tax Lots 052W14 02000 & 2100 (Town Center at Woodburn subdivision Lots 7 & 8) to be consolidated and the full extent of adjacent Allison from Hooper.
- "PLA" refers to property line adjustment.
- "PUE" refers to public utility easement.
- "PW" refers to Public Works (the department) or public works (civil infrastructure) depending on context.
- "Root barrier" refers to that illustrated by PW SS&Ds, <u>Drawing No. 1 "Street Tree Planting</u> New Construction".
- "ROW" refers to right-of-way.
- "SDCs" refers to system development charges, also known as impact fees.
- "SE" means southeast.
- "Speed table" means a walkway crossing of a drive aisle that: is concrete; with a tabletop that is raised at least four (4) inches above drive aisle grade, at least six (6) ft wide, flat, and stamped or otherwise treated to have a pattern; and, with the vehicular ramps striped in compliance with MUTCD Figure 3B-30, Option A, and with minimum and maximum slope ratios of 1:25 and 1:10 respectively.
- "SS&Ds" refers to PW <u>standard specifications and drawings</u>.
- "Street trees" refer to trees that conform to the WDO, including 3.06.03A and Table 3.06B.
- "SW" means southwest.
- "TSP" means the Woodburn Transportation System Plan (TSP).
- "WDO" refers to the Woodburn Development Ordinance.

- "W. Hayes" refers to W. Hayes Street.
- "WTS" refers to the Woodburn Transit System.
- "VCA" refers to vision clearance area as WDO 1.02 and 3.03.06 establish.

G4. Due dates / public improvements:

- a. By application: Unless a condition specifies otherwise, conditions including those relating to any of final subdivision, final partition, property line adjustment or lot consolidation recordation are due by building permit application. Prior to both any recordation of any final subdivision, final partition, or property line adjustment and building permit application, the applicant shall submit and obtain approval of an <u>Address Assignment</u> Request.
- b. By issuance: Unless a condition specifies otherwise, ROW and easement dedications and recordation(s), construction of frontage/street improvements, and construction of offsite, park, and other public improvements are due by building permit issuance. Where phasing is relevant, building permit issuance means issuance for the phase in which the conditioned improvement is located. See also the Phasing Plan (PP) condition(s).
- G5. Recordation due dates: The applicant shall apply to the County for recordations of items that the City requires no later than six (6) months past an anticipated Planning Commission tentative decision date, i.e. by December 30, 2022, and shall complete recordations no later than almost three years past, i.e. by May 25, 2023. The due date to complete recordations shall not supersede when recordations are due relative to the building permit stage.
- G6. Public Improvements Civil Plan Review: The process by which to receive, review, and approve drawings and other documents related to public improvements required by these conditions of approval may be paired with or incorporated into building permit review, or, if directed by the City Engineer, through a civil engineering plans (CEP) review process led by the Engineering Division. If opting for CEP, the applicant shall not only follow the direction of the Engineer Division, but also take some actions to facilitate tracking by Planning staff and coordination with Engineering:
 - a. Cover letter: Upon submitting application to the Engineering Division, simultaneously alert the Planning Division through a cover letter to the attention of the Planning Division referencing the intended or, if known, actual submittal date as well as the project name, project phase, tax lot number(s), street address(es), and the land use / planning / zoning final decision conditions of approval that require the public improvement that is the subject of the civil engineering plans. Referencing conditions may be by quotation or citing the identification numbers (e.g., T-A1). Identify the specific sheet (by number) or document page number that illustrates or notes how each subpart of a condition is met.
 - b. Contact information: State the applicant's name, company, phone number, e-mail, and desired date for City staff to respond with review comments. The cover letter may include these.

- c. Plan copies: Submit to the attention of the Planning Division at least two plan size copies of plan sets (24 by 36 inches). Within the cover sheet title block(s), include the phrase "civil engineering plans" or "public improvements civil plans". Submit also Adobe PDFs using a fileshare service.
- d. Re-submittal fee: If there are multiple re-submittals, beginning with a third submittal / second revised submittal and continuing with each subsequent submittal, the applicant shall pay through the Planning Division into City general revenue a fee of \$100.

G-PW. Public Works: Follow the appended Public Works comments (May 19, 2020; Attachment 102A). If conflict arises between implementation of public works conditions and referenced standards in that document with implementation of the remaining conditions in this document, the Assistant City Administrator would arbitrate or mediate based on guidance from legal counsel, the Director, the Public Works Engineering Director, and the City Engineer.

Design Review 2019-05

D1. PUE(s): To meet WDO Figures 3.01D "Service Collector" & G "Local ...", as part of PLA recordation the applicant shall resolve existing easements with newly required easements so as to conform to the streetside PUE minimum width of five (5) ft per WDO 3.02.01B, conform to all other conditions, and follow the direction of the City Engineer per WDO 3.02.01A.

D2. Driveways:

a. Number: To meet WDO 3.04.03B.1 regarding access management, the number of driveways is limited as follows:

ROW	Phase 1	Phase 2
Allison	1 joint (A1)	2 (A2 & A3)
Hooper	2 (H1 & H2)	2 (H3 & H4)

- b. Approach / apron / curb cut: Driveways shall conform to PW SS&Ds, Section 4150.
- c. Traffic control: To meet WDO 3.05.02J:
 - (1) Parking on site: The central and narrowest drive aisle in each of the parking courts and between Buildings P & R shall have one-way traffic to the northwest, and the applicant shall:
 - (a) Stripe on the pavement an arrow at each of the beginning and end of each aisle; and
 - (b) Install at the end of each aisle a do-not-enter sign that complies with *MUTCD* Figure 2B-11, sign R5-1.



(2) Allison: Outbound left turns are prohibited from driveway A3, and the applicant shall install a no left turn sign that complies with MUTCD Figure 2B-4, sign R3-2.



- D3. Cross access / joint driveway A1: To meet WDO 3.04.03B, the applicant shall:
 - a. On Tax Lot 052W14 02300 (Town Center of Woodburn subdivision Lot 9; Phase 1):
 - (1) Spur the easterly northeast-southwest drive aisle to the north property line of Tax Lot 052W13 01600 (subdivision Lot 10) at minimum width of twenty (20) ft minimum width between face of curb, and
 - (2) Spur the westerly northeast-southwest drive aisle to the north property line of Tax Lot 052W13 01600 (subdivision Lot 10) at minimum width of twenty (20) ft minimum width between face of curb.
 - b. To meet WDO 3.04.03B.1 & 3, dedicate a public access and utility easement that is to the satisfaction of the Director, revocable only with the concurrence of the Director, and connects the two bulges with driveway A1.
 - c. Have the easement width be either (i) minimum twenty (20) ft and centered on the drive aisle centerlines or (ii) minimum twenty-eight and a half (28½) ft measured southwest from the north lot line.
 - d. Have the easement text include a paragraph that states that the delineated easement area serves as a public access easement to the benefit of Lot 10 of the Town Center at Woodburn subdivision plat (Tax Lot 052W13 01600), and such cross access to and from the joint driveway at Stacy Allison Way shall not be revoked without concurrence of the City Community Development Director in conformance with Woodburn Development Ordinance (WDO) 3.04.03B.3. Place such text under a Cross Access & Joint Driveway Easement header.
- D4. Parking signage/striping: To meet WDO 3.05.02J, the applicant shall designate compact stalls "COMPACT" in lettering one (1) foot high minimum and stripe them as such in the field prior to building permit final inspection.

D5. Parking stall double striping: To meet WDO 3.05.02K, the applicant shall delineate parking stalls with double parallel lines pursuant to Figure 3.05C and stripe them as such in the field prior to building permit final inspection.

D6. Bicycle parking near main entrance: To meet WDO 3.05.03E, prior to building permit final inspection the applicant shall provide bicycle parking within fifty (50) ft of a main entrance. In the context of a new construction apartment complex with conventional three-story buildings with open stairwells, each apartment building has two main entrances as follows:

- a. In all apartment buildings except Phase 1 B & C and Phase 2 B, C, J, & L there are four points where a building main wall plane intersects the walkway serving building ground floor entrances and the stairwell to upper floor entrances;
- b. In Phase 1 Buildings B & C and Phase 2 Buildings B, C, J, & L there are six such points;
- c. Each building has either (a) two walkways with two points each totaling the four or (b) three walkways with six points total; and so
- d. The condition shall apply to three points minimum for each of Phase 1 Buildings B & C and Phase 2 Buildings B, C, J, & L and two points minimum for remaining buildings and apply to one point minimum per walkway.

D7. Patios: Visual separation shall conform to WDO 3.07.05B.1a as follows:

- a. Pavement: As proposed, patios shall be paved with brick, concrete pavers, or poured concrete.
- b. Railings/fencing & gate: The outermost edges of patio concrete slabs that do not abut building walls shall have either metal or wood railings or cedar wood fencing at least three (3) ft high. If the latter, then opacity shall be full, but if fencing is higher than the minimum height, it shall be no more than ninety percent (90%) opaque, such as by being fully opaque from grade but from the top having a lattice pattern. The railings or fencing shall have a gated opening at least two (2) ft and four (4) inches wide.
- c. Height maximum: the railings or fencing maximum height shall be either five (5) ft or, where a patio faces a courtyard, three and a half (3½) ft.
- d. Shrubbery: Evergreen shrubbery shall line fully the outermost edges of patio concrete slabs, except along the gated opening.

Phasing Plan 2019-01

PP1. Phases / Phasing:

- a. Number and extent: As Condition G3 defines.
- b. Order / ordering: The applicant shall construct Phase 1 first.
- c. Improvements: Improvements within a phase are due by that phase.
- d. Vesting: Construction of Phase 1 shall vest land use / planning / zoning entitlement for Phase 2; but, were the applicant (or successors and assigns) to fail to make use of any of

DR 2019-05 Staff Report Attachment 102 Page 66 of 88 the two provisions of WDO 4.02.04B.1 or 3 to avoid expiration, expiration shall occur upon one of the two following events:

- (1) The arrival of July 1, 2030; or
- (2) City adoption of a unified development ordinance replacing the WDO were to have intervened on or between July 24, 2023 and June 24, 2030, approximately 3 to 10 years from the anticipated land use final decision date.

Property Line Adjustment 2019-04

PLA-1. Recording: To meet WDO 5.01.08B.5., upon City approval of the subject PLA, the applicant shall revise the drawing or drawings as needed and record the re-plat (or whatever it is that the County terms it) with the County. The expiration date is per WDO 4.02.04B, and were subsection 2 that refers to "the activity approved in the decision has commenced" to become relevant, that provision would mean recordation of the subject PLA, and to this end the applicant shall apply to Marion County for recordation by December 30, 2022 and complete recordation by May 25, 2023. In any case, the applicant shall record the re-plat prior to both City assignment of street addresses, which would follow the applicant submitting an address assignment request, and building permit application.

Street Exception

EX1. Hooper:

- a. Existing improvements: The planter strips, including curb widths, may remain 6½ ft instead of 7 ft, sidewalks may remain 5½ ft instead of 5 ft, and existing curbs may remain in place where not otherwise disturbed by newer improvements.
- b. Curb extensions: The applicant shall construct the proposed four curb extensions that cap the on-street parking aisles.
- c. Mid-block crossing: The applicant shall construct of the proposed two mid-block crossings of Hooper Street only the southeastern one and shall:
 - (1) Construct it of poured concrete minimum width of eight (8) ft;
 - (2) Stamp or otherwise treat the concrete to have a pattern that drivers would sense tactilely as well as visually.
 - (3) Install ADA-compliant curb ramps and pave connections to the sidewalks.
 - (4) Provide signage and striping per PW SS&Ds, or, if none exist for a given topic, per the direction of the City Engineer. Required signage may include two advance warning signs for drivers; and
 - (5) Meet federal or state criteria or guidelines that the City Engineer may establish in writing as standards for the mid-block crossing.

DR 2019-05 Staff Report Attachment 102 Page 67 of 88

- d. Crosswalk upgrade: Instead of the proposed northwestern of the two proposed midblock crossings, the applicant shall traffic calm the crosswalk of the southeast leg of the T-intersection of Allison & Hooper. The applicant shall construct a poured concrete crosswalk at minimum width of eight (8) ft and that is either stamped or otherwise treated to have a pattern tactilely that drivers would sense tactilely as well as visually. The applicant shall stripe the crosswalk.
- e. Street trees: The applicant shall plant trees at 1 per 30 ft of frontage, equaling fourteen (14) trees per frontage (instead of 1 per 50 typical, 9 trees per frontage). For up to no more than two (2) of the absolute number of trees required along each frontage (4 total), the applicant may pay a fee in-lieu of \$125 per tree. This fee provision is intended to substitute for the applicant invoking 3.06.03A.3 (Director modification/relocation).

EX2. Allison: The City modifies and approves the street exception request as follows regarding improvements and that applies to both phases:

a. Phase 1:

- (1) Northbound travel lane: Either narrow from twelve (12) to eleven (11) ft, or, restripe the center left turn lane from twelve (12) to eleven (11) and shift the travel lane accordingly. However, were the sidewalk described below within this list were to overlap the PUE by at least one and a half (1½) ft, if the bicycle lane is removed, or by up to four and a half (4½) ft, if the bicycle lane remains, no lane narrowing would be required.
- (2) Bicycle lane: Remove or narrow to five (5) ft.
- (3) Planter strip: Install a planter strip six (6) ft wide and landscape with street trees at 1 per 30 ft of frontage, equaling twenty (20) trees along the Phase 1 frontage (instead of 1 per 50 typical). The total number shall be divided evenly between either *Betula pendula* [silver or European white birch] or another *Betula* [birch] species and an evergreen species among any of *Magnolia grandiflora* "Victoria" cultivar [magnolia cultivated for the Pacific Northwest], *Arbutus menziesii* [Pacific madrone], and *Tsuga heterophylla* [Western hemlock]. Ninety-seven percent (97%) of the remainder of the strip shall be medium size category shrubbery to the minimum size at planting per Table 3.06B and at maximum size that maintains conformance with VCA, and at least two (2) distinct openings in the shrubbery that total the remaining area of three percent (3%) shall be lawn grass.
- (4) Sidewalk: Construct a sidewalk as a bicycle/pedestrian path at minimum width of eight (8) ft ft (whether or not a northbound bicycle lane remains) that the City shall allow to overlap the streetside PUE by at least a half (½) ft and as much as four and a half (4½) ft from edge of ROW. If and where sidewalk would need to deflect or meander, such as at driveway A1 or at the northeast corner of Allison & Hooper, it may fully overlap a streetside PUE.
- (5) Striping:

- (a) Bicycle: At the Phase 1 north end where the existing bicycle lane will continue at the north side of driveway A1, at the opening of the bicycle lane the developer shall stripe an *MUTCD*-compliant bicycle lane symbol or symbols.
- (b) Turn: The applicant shall stripe a turn arrow within the existing center left turn lane southbound at Hooper.
- (6) Utilities: Relocate underground/subsurface utilities that would conflict with street trees, such as a potable water line, and surface utilities such as street light poles and boxes to be within either or both of the planter strip and a streetside PUE. Existing covered vaults may be incorporated within altered or additional sidewalk if meeting PW SS&Ds.
- (7) NW side landscaping: The following applies between the project north end and the south end of the existing stormwater detention pond fencing a point approximately 330 ft southwest along Allison ROW from Hooper centerline. The applicant shall plant at least two hundred and forty-eight (248) woody shrubs of large size category as WDO Table 3.06B defines, of one or more evergreen species capable of growing to a mature minimum height of ten (10) ft (preferably *Taxus brevifolia* var. *reptaneta* [English yew reptaneta variant]), and with average o.c. spacing of four (4) ft.

b. Phase 2 / extension:

- (1) Lanes, travel: Minimum width twelve (12) ft.
- (2) Lane, center left turn lane and turn pockets: Width eleven (11) ft.
- (3) Bicycle lane: Northbound: none; and, southbound, either none or minimum five (5) ft.
- (4) Planter strip: Install a planter strip six (6) ft wide and landscape with street trees at 1 per 30 ft of frontage, equaling forty-one (41) trees along the Phase 2 frontage (instead of 1 per 50 typical). The total number shall be divided evenly between *Betula pendula* [silver or European white birch] or another Betula [birch] species and an evergreen species among any of *Magnolia grandiflora* "Victoria" cultivar [magnolia cultivated for the Pacific Northwest], *Arbutus menziesii* [Pacific madrone], and *Tsuga heterophylla* [Western hemlock]. Ninety-five percent (95%) of the remainder of the strip shall be medium size category shrubbery to the minimum size at planting per Table 3.06B and at maximum size that maintains conformance with VCA, and at least six (6) distinct openings in the shrubbery that total the remaining area of five percent (5%) shall be lawn grass.
- (5) Sidewalk: Construct a sidewalk as a bicycle/pedestrian path at minimum width of eight (8) ft (whether or not there is a northbound bicycle lane) that the City shall allow to overlap the streetside PUE by at least a half (½) ft and as much as four and a half (4½) ft from edge of ROW. If and where sidewalk would need to deflect or meander, such as at driveways A2 and A3 or at the southeast corner of Allison & Hooper, it may farther overlap a streetside PUE.
- (6) Median: Because along I-5 and between Hooper and driveway A2 no center turn lane is needed, a median planter shall taper open as turning areas taper closed – a length DR 2019-05 Staff Report

of approximately 800 ft. The median shall be defined through either of the following two options:

- (a) Conventional median: Two six-inch curbs with faces of curb defining the edges of travel lanes. The interior median width between conventional curbs, which shall be no fewer than ten (10) ft, shall be landscaped with street trees at 1 per 30 ft, and among them any of lawn, native grasses, groundcover, small size category shrubbery, or ornamental flowers. The trees shall consist of two (2) Quercus qarryana [Oregon oak], four (4) Magnolia grandiflora "Victoria" cultivar [magnolia cultivated for the Pacific Northwest], at least ten (10) of either Betula pendula [silver or European white birch] or another Betula [birch] species, and six (6) of any among Abies grandis [Grand fir], Arbutus menziesii [Pacific madrone], Thuja plicata [Western red cedar], and Tsuga heterophylla [Western hemlock]. Based on condition subparts (6)(c)(i) & (7) below about turn areas and because civil engineering drawings do not yet exist for turn areas and tapers, the length of median wide enough to have trees shall be assumed to be minimum six hundred and fifty (650) ft, equaling twenty-two (22) trees. For up to no more than two (2) of the absolute number of trees required, the applicant may pay a fee in-lieu of \$125 per tree.
- (b) Mountable curb median: Median curbing may be mountable curbs. A resulting interior median width of no fewer than nine (9) ft and as wide as ten (10) ft shall be landscaped as per Option (a).
- (c) For either option:
 - Turnaround: Include roughly in the middle of the long axis of the median an emergency turnaround with civil engineering details as the City Engineer directs. To draft an initial design to which the City can respond during the permit stage, assume curb radii for design vehicle type P (passenger car) and along east/SE and west/NW curves mountable curb for AASHTO design vehicle type WB-67 (tractor trailer truck). Propose either an obvious or subtle concept, obvious meaning noticeable and usable by the general public in passenger cars and emergency trucks (e.g. U-turn asphalt flowing between the travel lanes), and subtle meaning visible and usable only by emergency trucks (e.g. mountable curb, curb reflectors, and with passage at a higher elevation than that of the travel lanes and paved with either generic "grasscrete" or concrete stamped or otherwise treated to have a pattern, something no passenger car drivers would perceive as for them). For the obvious, assume asphalt minimum width eighteen (18) ft width at narrowest point; for the subtle, assume concrete minimum width eleven (11) ft wide or grasscrete minimum width twenty (20) ft wide.
 - (ii) Root barriers: Install to protect both travel lanes.

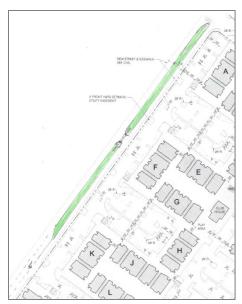


Exhibit EX2b (This median example concept is not to scale.)

- (7) Turn areas: At the north, the median shall taper to accommodate a turning radius as directed by the City Engineer for vehicles heading westbound on Hooper to Allison southbound. At the south, the median shall taper to accommodate the center left turn lane for vehicles eastbound into both driveways A2 & A3. The turn lane shall continue with the travel lanes to the dead-end of ROW. The taper shall be such that the turn lane is at minimum width for a length north from driveway A2 to accommodate at the same time the queuing of both an AASHTO design vehicle type WB-67 (tractor trailer truck) and design vehicle type P (passenger car) with distance between the two. As a clear and objective standard, the developer may default to a hundred (100) ft. This means the median may taper open with curb beginning at the above minimum length from A2.
- (8) NW side landscaping: The following applies between the fencing south end and the south end of extended Allison. The applicant shall plant at least two hundred and fifty-two (252) woody shrubs of large size category as WDO Table 3.06B defines, of one or more evergreen species capable of growing to a mature minimum height of ten (10) ft (preferably *Taxus brevifolia* var. *reptaneta* [English yew reptaneta variant]), and with average o.c. spacing of four (4) ft.:
- (9) Interim signage: Signed barricades remain required per WDO 3.01.05A.2.b & c. and to PW SS&Ds. The developer shall also install an *MUTCD*-compliant dead-end sign, either W14-1 or W14-2, at the intersection of Allison & Hooper for southbound drivers. The City Engineer may require the developer to install either (a) also at the intersection either a W14-1a or a W14-2a sign to warn drivers turning south from Hooper that Allison ends in the left direction as the arrow within the sign copy would indicate, or (b) a sign or signs serving similar purpose.



Design Review 2019-05: Transportation

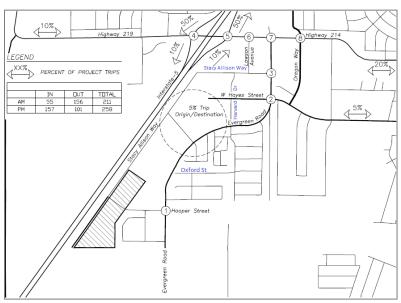


Exhibit T Vicinity map

T-A1. Evergreen & W. Hayes: The developer shall:

- a. Mitigation fee / Fee in-lieu: Pay a mitigation fee or fee in-lieu of \$33,000 to fund a transportation study. This is due by Phase 2, building permit issuance. [TIA]
- b. Evergreen sidewalk west: See Condition T-BP2.

T-A2. <u>Allison & Evergreen</u>: The developer shall pay a mitigation fee or fee in-lieu of \$33,000 to fund a transportation study. This is due by Phase 2, building permit issuance. [TIA]

T-A3. OR 214 & Evergreen: The developer shall pay a mitigation fee or fee in-lieu of \$15,000 to fund a transportation study, specifically to investigate corridor signal timing and coordination adjustments in coordination with ODOT. This is due by Phase 1, building permit issuance. [R10]

T-BP1. Allison & Lawson: The developer shall upgrade the T-intersection so that the south landing of either the east or west leg crosswalk has an ADA-compliant curb ramp and the crosswalk is striped. This is due by Phase 1, building permit issuance.

T-BP2. Evergreen sidewalk west: The developer shall fill in the sidewalk gap along the Evergreen frontage of Tax Lot 052W12C 01600 (601 Evergreen Road). The sidewalk shall be minimum eight (8) feet wide and located no closer than one (1) ft from edge of ROW and no more than six (6) ft from edge of ROW. The developer shall to the extent feasible meander the sidewalk as needed to save existing trees in or partially within existing ROW, upgrade the intersection west leg crosswalk by installing an ADA-compliant north curb ramp, and stripe the crosswalk. This is due by Phase 1, building permit issuance. [P6]

T-BP3. Evergreen sidewalk east: The developer shall fill in the sidewalk gap along the Evergreen frontage of Tax Lots 052W12DC01400 (2333 W. Hayes Street), 052W12DC01200 & 1300, and 052W12DB04400 (2330, 2340, & 2343 Oregon Court). The sidewalk shall be minimum six (6) feet wide and located no closer than one (1) ft from edge of ROW and no more than six (6) ft from edge of ROW. The applicant shall to the extent feasible meander the sidewalk as needed to save existing trees in or partially within existing ROW, upgrade the W. Hayes intersection east leg crosswalk by installing an ADA-compliant north curb ramp, and stripe the crosswalk. This is due by Phase 2, building permit issuance. [P6]

T-BP4. W. Hayes sidewalk: The developer shall fill in the sidewalk gap along the W. Hayes frontage of Tax Lot 052W12C 01600 (601 Evergreen Road). The sidewalk shall be minimum six (6) feet wide. The applicant shall to the extent feasible meander the sidewalk as needed to save existing trees in or partially within existing ROW, including to align sidewalk curb-tight. Within the parameters of this condition, the sidewalk placement shall otherwise reasonably conform to WDO Figure 3.01G, particularly regarding placement relative to centerline and establishing a planter strip with street trees where they can fit. This is due by Phase 2, building permit issuance.

T-BP5. Harvard curb ramp(s): At the T-intersection with W. Hayes, the developer shall install at least one ADA-compliant curb ramp at the west end of either the north or south leg crosswalk, pave new sidewalk minimum six (6) ft wide that connects to existing sidewalk, and stripe the crosswalk. The applicant shall to the extent feasible save existing trees in or partially within existing ROW, including by using returned curbs instead of flares along ramps. This is due by Phase 2, building permit issuance.



Exhibit T-BP North: This exhibit illustrates locations and represents improvements related to Conditions T-BP1 through 5. Sidewalk is in blue dashes and ADA ramps are in yellow trapezoids.

T-BP6. Evergreen sidewalk south: The developer shall fill in the sidewalk gap along the Evergreen frontage of Tax Lot 052W12C 02400 (0 Evergreen Road NE). The minimum width and placement shall conform to WDO Figure 3.01C, and within the planter strip the applicant shall plant at least two (2) street trees with root barriers, one each near Harvard and the driveway and to allow future adjacent site development to add trees to conform fully with the quantity required by WDO 3.06.03A (1 per 50 ft typical). This is due by Phase 2, building permit issuance.

T-BP7. Evergreen / Walmart driveway curb ramp: The developer shall fill in the sidewalk gap along the Evergreen frontage of the pole of the flag lot that is Tax Lot 052W12C 01900 (3002 Stacy Allison Way) and install an ADA-compliant curb ramp at the west side of the driveway. This is due by Phase 2, building permit issuance.

T-BP8. Evergreen curb ramp(s): At the T-intersection with Oxford, the developer shall install at least one ADA-compliant curb ramp at the west end of either the north or south leg crosswalk, pave new sidewalk minimum six (6) ft wide that connects to existing sidewalk, and stripe the crosswalk. The applicant shall to the extent feasible save existing street trees, including by using returned curbs instead of flares along ramps. This is due by Phase 1, building permit issuance.



Exhibit T-BP South: This exhibit illustrates locations and represents improvements related to Conditions T-BP6 through 8. Sidewalk is in blue dashes and ADA ramps are in yellow trapezoids.

T-BP9. Evergreen Path: The developer shall pave an ADA-compliant bicycle/pedestrian path minimum twelve (12) ft wide:

a. Location: Within the unimproved Evergreen ROW from Points A to B. Point A is the north dead-end of the Mill Creek Greenway Trail within the yet-to-be platted Smith Creek Development Phase 1 Tract 'D', and Point B is the east dead-end of the off-street path within the public walkway easement of the Montebello 2 subdivision (2002) that extends from Baylor Drive at Citadel Street and straddles subdivision Lots 139 & 140 (364 & 376)

DR 2019-05 Staff Report Attachment 102 Page 75 of 88

- Baylor Drive). (The centerline distance is approximately 350 ft.) The yet-to-be platted Point A is within the larger acreage that as of this writing is Partition Plat 2019-040, Parcel 2 (Tax Lot 052W13 00108).
- b. Pavement: Either asphalt or poured concrete. If asphalt, construction minimums shall include four (4) inches of hot mix (Level 3) above eight (8) inches of one-inch minus crushed aggregate base course.
- c. Widths: The mainline path shall be minimum twelve (12) ft wide, and at its interim north dead-end, the spur path that connects west to the public walkway easement shall be minimum eight (8) ft wide, tapering by 1 ft width for every 2 ft of run as it approaches the easement to match the easement width.
- d. Alignment: The mainline path shall be aligned to accommodate shoulders and furniture zones as specified below and such that its centerline is no closer than twenty-five (25) ft from the east boundary of the Evergreen ROW.
- e. Shoulders: The mainline path shall have shoulders minimum two (2) ft each, specifically a strip free of vertical improvements on each trail side. Maximum slope shall be two (2) to one (1) (2:1).
- f. Furniture, tree zones, and amenities / support facilities: The mainline path shall be sited to have zones minimum six (6) ft along each side unencumbered for installation of the support facilities per the following table:

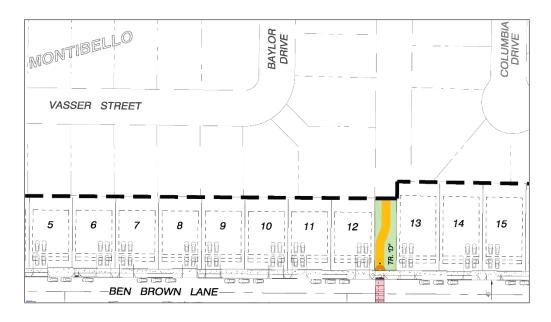
Table T-BP: Evergreen Path Amenities / Support Facilities			
Support	Min.	Placement*	Notes
Facilities	No.		("min." = minimum; and
			"sq ft" = square feet)
Benches	2	Near junction of	Min. bench width is 6 ft. At least
		mainline and	80.0% of benches shall have backs.
		spur paths, out	There is a City spec.
		of corridor of	
		mainline	
		extension. May	
		be	
		paired/grouped.	
Bicycle	2 (stalls)	Near junction of	Stall size: Minimum 2 ft wide and
parking		mainline and	6 ft long, asphalt or poured
		spur paths, out	concrete.
		of corridor of	Facility: Rack, such as "U" or wave
		mainline	racks.
		extension.	There is a City spec "U" rack.
Dog waste	1	Near junction of	Each includes bag dispenser and
stations		mainline and	either includes a trash receptacle
		spur paths, out	or is sited within 10 ft of one.
		of corridor of	There is a City spec.
		mainline	
		extension.	

Recycling	1 (pair)	Near junction of	Place pairs near trail and path
and trash		mainline and	junctions with sidewalk.
receptacles		spur paths, out	There is yet no City spec; staff
		of corridor of	recommends the model chosen by
		mainline	the developer of Smith Creek
		extension.	Development Phase 1A.

This is due by Phase 1, building permit issuance. [P49]



Exhibit T-BP10A. Location and Conceptual Alignment



DR 2019-05 Staff Report Attachment 102 Page 77 of 88

Exhibit T-BP10B. Starting Point Alignment Context: Smith Creek Development Phase 1A Tract "D" (from Stafford Land Co. Exhibit C-8A-1)

T-BP10. BP fee in-lieu option: In order for the City to construct any of the bicycle/pedestrian improvements that Condition T-A1b (Evergreen sidewalk west) and the T-BP conditions above describe, a developer may pay a fee in-lieu as follows:

- a. Percentage: Equal to at least one hundred and twenty (120%) of a licensed civil engineer's cost estimate.
- b. Estimate: An estimate shall have construction cost item estimates based on the improvements being bid on as a "Public Works Project" paying prevailing wages. The City Engineer shall review and approve a construction estimate prior to acceptance of a fee in-lieu payment.
- c. Bond/bonding/performance guarantee: If the applicant were to bond, then the above condition subparts a. and b. about percentage and estimate shall apply also to a bond.

T-T. Bus transit fee: The developer shall pay a mitigation fee that is a total of a fixed base amount plus a rate per dwelling of \$208.28. The fixed base amount shall be \$12,510.20 for Phase 1 and \$46,750 for Phase 2. (This condition relates to TSP projects T1, 2, 4, 16, 18 &, TSP Fig. F5, and TPU projects 9, 11, 12, & 20.)

Variance 2019-04

V1-1. Driveway (WDO Table 3.04A):

a. The minimum driveway widths shall be per the table below (instead of 24 feet typical):

Minimum Driveway Width (feet)			
One-way Travel		Two-way Travel	
Single Lane	Paired Lanes	Paired Lanes	With Left Turn Lane
10	9 per lane; 18 total	20	30 total

b. The maximum driveway widths shall be per the table below (instead of 38 feet typical):

Maximum Driveway Width (feet)

One-way Travel		Two-wa	ıy Travel
Single Lane	Paired Lanes	Paired Lanes	With Left Turn
			Lane
11	10 per lane; 20 total	22*	31 total

^{*}Except 26 ft where required by Oregon Fire Code (OFC) Appendix D

c. The condition applies within ROW, and may apply outside ROW along driveway throat length, so as not to interfere with the drive aisle width provisions of WDO Table 3.05C.

V2-4. Drive aisle (WDO Table 3.05C):

a. The minimum drive aisle widths shall be per the table below (instead of 24 feet typical):

Parking Context	Minimum Drive Aisle Width (feet)		
	One-way Travel		Two-way Travel
	Single Lane	Paired Lanes	
Standard or ADA-	18	10 per lane; 20 total	20
compliant stalls			
Compact stalls	16	9 per lane; 18 total	20
No adjacent stalls	10	9 per lane; 18 total	20

- b. The condition applies up to newly dedicated ROW so as not to interfere with the driveway minimum width provisions of WDO Table 3.04A.
- V3-5. Curb dimensions, parking area (WDO 3.06.02I): Curb or curbing that delineates on-site walkways and landscaped, parking, and vehicular circulation areas shall have a minimum height and width each of four (4) inches (instead of 6 inches typical).
 - a. Speed table: The applicant shall construct a speed table along the walkway crossing nearest and between the Phase 2 clubhouse, play area, and Building R. (See Condition G3 for specifications.)
 - b. Wheel stops: Wherever required or proposed, wheel stops shall be four (4) inches high maximum.
- V4-6. Architectural Wall (WDO Table 3.06D & 3.06.06):
 - a. The property lines subject to the Architectural Wall provisions of Table 3.06D and 3.06.06 are exempt from those provisions.
 - b. Landscaping:
 - (1) Along the Phase 2 southeast and east lot lines, the applicant shall landscaped a buffer of minimum width five (5) ft to the minimum planting density of WDO Table 3.06A, row "Buffer yards".
 - (2) The landscaping shall include evergreen shrubbery planted at the large category minimum size per WDO Table 3.06B.
 - (3) The applicant shall include within fifteen (15) ft of the lot lines at least twenty-one (21) trees. The applicant shall add at least four (4) trees of large category per WDO Table 3.06B for a total of 25 trees. The four additional trees shall be in the lawns near Buildings Q & R, within sixty (60) ft of the lot lines, and with one (1) near Building Q and three (3) near Building R. The proposed site perimeter tree closest to the east/northeast corner of Building R shall be changed to a coniferous or evergreen species.
 - (4) Transformer box: Any on-site at-grade electrical transformer box shall be screened with evergreen shrubbery on all sides except the panel door side.
 - c. Fence, cedar: Along the two segments of the Phase 2 southeast and east lot lines within six (6) ft of parking stalls that face the lot lines, the applicant shall install a treated cedar wood fence at least five (5) ft, ten (10) inches high and with boards arranged for opacity,

- except that the highest foot may be mostly opaque lattice pattern. Fence height shall not supersede applicable height limits per WDO 2.06.02.
- d. Lighting: If proposed, exterior light fixtures shall be full cut-off or fully shielded and limited in height as follows:
 - (1) Full cut-off: Exterior lighting fixtures shall be full cut-off or fully shielded models.
 - (2) Heights: As measured to the underside of the fixture:
 - (a) Wall: Exterior wall-mounted fixtures shall be no higher than ten (10) feet above walkway finished grade. (This height limit is not applicable to emergency egress lighting and permanent wall signs allowed through WDO 3.10 were they to have interior illumination.)
 - (b) Parking pole: Exterior pole-mounted fixtures within four (4) feet of or in parking, loading, and vehicular circulation areas shall be no higher than fourteen-and-a-half (14½) feet above vehicular finished grade.
 - (c) Other pole: Remaining exterior pole-mounted fixtures, if any, shall be no higher than twelve (12) feet above grade.

V5-3-1. Compact parking (WDO 3.05.03C):

- a. Percentage: The compact parking maximum as a percentage of the required minimum amount of parking shall be sixty percent (60%; instead of 20% typical) and hundred percent (100%) of any amount in excess of the minimum required. For each phase, at least twenty percent (20%) of the minimum amount of stalls shall be compact
- b. Striping: The applicant shall stripe each stall with the word "COMPACT" in lettering one (1) foot high minimum.
- c. Wheel stops: Where used, wheel stops shall be four (4) inches high maximum.

V6-3-2. Off-street parking provisions:

- a. Bicycle parking amount and distribution: For each phase unless otherwise specified, the applicant shall provide a minimum number of bicycle parking stalls as follows:
 - (1) At least one (1) per dwelling in each dwelling in the outdoor closet of the balcony or patio in which the applicant shall install a wall-mounted folding or retractable hook designed for the hanging of a bicycle;
 - (2) At least one (1) stall at the base of each building stairwell, with each of these locations having a bicycle parking sign with minimum face dimensions of (1) foot wide by one-and-a-half (1½) feet high;
 - (3) Phase 1: Guest: Excluding outdoor closet and stairwell stalls, a set of at least two (2) stalls within five to fifteen (5-15) ft of Hooper ROW and near or along the access way;
 - (4) Phase 2: Guest: Excluding outdoor closet and stairwell stalls, at least two sets of at least two (2) stalls each, one northwesterly within five to fifteen (5-15) ft of Hooper and one southeasterly within ninety (90) ft of Hooper ROW.

- (5) Phase 1: Common: Excluding outdoor closet, stairwell, and guest stalls, there shall be at least twenty (20) outdoor stalls. Of these at least four (4) shall be among the clubhouse / leasing office, clubhouse plaza, or barbeque (BBQ) area, and sixteen (16) shall be covered/sheltered.
- (6) Phase 2: Common: Excluding outdoor closet, stairwell, and guest stalls, there shall be at least fifty-six (56) outdoor stalls. Of these at least four (4) shall among the clubhouse / leasing office, clubhouse plaza, BBQ area and play area, two (2) shall be northeast of Building F and within ninety (90) ft of Allison ROW, two (2) shall be northeast of Building K and within ninety (90) ft of Allison ROW, and thirty-two (32) shall be covered/sheltered.
- (7) At least two (2) stalls outside and near each apartment building spaced to conform to the 50-foot distance provision of WDO 3.05.03E as applied through a design review (D) condition.
- (8) In no case shall the total number of bicycle parking stalls equal fewer than 1.2 per dwelling, and in no case shall the minimum coverage/sheltering from precipitation of bicycle parking be for fewer than forty-eight (48) stalls excluding outdoor closet and stairwell stalls.
- b. Bicycle standards: Stalls shall conform to City of Portland <u>Title 33</u>, <u>Chapter 33.266.220</u>C (amended 5/24/2018), except that the applicant may ignore subsections C6, C7, & C5c, and that C4b does not apply to the outdoor storage closets for which the minimum stall depth from wall instead shall be four (4) feet minimum. Vertical clearance instead shall be eight (8) feet or, where a stall is under stairs, six (6) feet.

c. Access ways:

- (1) Phase 1: At least one access way shall remain as proposed that extends from Hooper sidewalk at least one-hundred and fifty (150) ft to the plaza between the clubhouse and the barbeque (BBQ) shelter.
- (2) Phase 2: At least one access way shall remain as proposed that extends from Hooper sidewalk at least five-hundred and fifty (550) ft from to the clubhouse southwest doors / play area.

d. Walkways:

- (1) Courtyards: The applicant shall revise Sheets SP-1 through 3 (Exhibits 10-12; civils) and each Note 6 to illustrate and note the proposed decorative pavement of the segments of courtyard walkways that the landscape plans (Exhibits 38-42) illustrate.
- (2) Drive aisle crossings: The shall revise Sheets SP-1 through 3 (Exhibits 10-12; civils) and install in the field at least six (6) walkway drive aisle crossings not only as striping but also as extensions of poured concrete, listed north to south clockwise:
 - (a) Phase 1, north of Building A
 - (b) Phase 2, north of Building R
 - (c) Phase 2, north of Building P
 - (d) Phase 2, south of Building L
 - (e) Phase 2, east of Building M, and

DR 2019-05 Staff Report Attachment 102 Page 81 of 88

- (f) Phase 2, SW of Building K.
- (3) Parking courts: The applicant shall pour concrete or lay concrete pavers to form a pedestrian shortcut up and over the curbed landscaped strip island within each parking court, in order to pass amid groundcover and shrubbery. It shall be roughly aligned at the boundaries of parking stalls, with the side of a landscaped peninsula, and with the nearest walkways that orient northeast-southwest and are between buildings. The minimum width shall be twenty-one (21) inches.
- (4) Building stormwater scuppers shall not dump onto walkways.
- e. EV: As proposed and premised on OAR 918-020-0380 "Electric Vehicle Ready Parking", a minimum of either 36 stalls or three and half percent (3.5%) of minimum required parking— whichever is greater shall be a designated EV stall or stalls and with a charging station or stations, which the landowner may limit to tenant use. Of 36 or more stalls, Phase 1 shall have at least twelve (12) and Phase 2 at least twenty-four (24).
 - (1) Striping: Stripe each stall in lettering 1 ft high minimum "ELECTRIC VEHICLE CHARGING" or similar and also stencil an EV image or logo. Reflect this on revised site plans.
 - (2) Signage: Post at each stall a wall-mounted or pole-mounted sign for "Electric Vehicle Charging Only" or similar and also include an EV image or logo. Use a minimum sign face size of one (1) foot wide by one-and-a-half (1½) feet high. The top of a posted sign is to be between five-and-a-half (5½) and six-and-a-half (6½) feet above vehicular grade. Reflect this on revised site plans including with an elevation detail.
- f. Balconies/patios: WDO 3.07.05B.1 (area/size and narrowest dimension) shall apply as minimum standards, except that for whatever balconies and patios among those proposed exceed these dimensions, their larger areas/sizes and wider narrowest dimensions shall be the minimum standards for those.
- g. Common open space facilities:
 - (1) Benches: Install at courtyards, clubhouse plazas, or common lawns at least two (2) Phase 1 benches and at least eight (8) Phase 2 benches. Each bench shall at least six (6) feet wide and with a back. In Phase 2 were 7 benches are proposed, add the eighth bench at the lawn southeast of Building M. Relocate two Phase 2 benches:
 - (a) From NW of Building G to the lawn NE of Building R and roughly in line with the walkway drive aisle crossing; and
 - (b) From NE of Building K to the lawn SE of Building R.
 - (2) Clubhouse plazas and BBQ grill shelters: As proposed, build at least one (1) each of a clubhouse plaza and a barbeque (BBQ) grill shelter in each of Phase 1 and 2.
 - (3) Administrative minor adjustment by the Director to the above common open space facilities is permissible.
- h. Windows:

- (1) Proportion: All windows shall be square or vertically proportioned, except that horizontally proportioned windows are allowed if they have grilles or muntins dividing lights or panes so as to be vertically proportioned.
- (2) Per room: Within apartments, every habitable room abutting a building exterior wall shall have at least one window.
- (3) Insect screens: All operable windows shall have insect screens.

V7-3-3. Public access easement:

- a. Dedication: Regarding the Phase 1 proposed public park in the form of a plaza along Hooper and its related improvements, the applicant as part of re-plat recordation shall dedicate to the City a public access and utility easement encompassing the plaza and some extra perimeter area, specifically with a boundary that follows the centerlines of the walkways to the northwest and northeast that border the plaza and, to the southeast, along the back side of drive aisle curb. The easement shall grant public access during the same hours and subject to the rules and regulations for City parks per Ordinance Nos. 2060 (1991) and 2377 (2004) or as the City may amend ordinances.
- b. Boundary marking: The developer shall mark the public boundary through one of the following two options:
 - (1) Caps: Metal caps that either are or mimic land survey markers, are minimum diameter of three and a quarter (3½) inches, and at a minimum number equal to and with average placement of 1 cap per 10 lineal ft of walkway. There shall be two additional caps along the boundary where it follows the drive aisle curb. The caps shall have the phrases "Open to Public" and "Private Property", and a line as a separator between the two phrases.
 - (2) Plaques: Metal plaques embedded within walkway concrete, aligned with the boundary, and that read "Property beyond Plaque not Dedicated to Public" with text oriented to be read by persons looking away from the plaza. The minimum size shall result from a minimum lettering height of two (2) inches, and the minimum number shall be equal to and with average placement on center of 1 plaque per 20 lineal ft of walkway. There shall be two additional plaques along the boundary where it follows the drive aisle curb.

c. Sign:

- The applicant shall install a permanent sign conforming to WDO 3.10 that reads "Plaza Open to Public 7AM 10PM April September, & 7AM 7 PM October March" with minimum lettering height of two (2) inches. The developer shall place it near the plaza entry that is along the sidewalk and within five (5) to nine (9) ft of ROW.
- (1) If a monument sign type, the sign face area shall be twelve (12) sq ft minimum, with a flat top at least three (3) ft above grade and in the form of a concrete cap at least three (3) inches wide.

- (2) If a pole sign type, the lettering shall be green, and the sign face shall be no lower than three and a half ($3\frac{1}{2}$) ft above grade and no higher than five (5) ft and of minimum dimensions of two (2) ft by one-and-a-half ($1\frac{1}{2}$) ft.
- d. Due date: These shall be due by Phase 1, building permit issuance.

V8-3-4. Parking management:

- a. Survey: The applicant or any successor and assigns such as a property manager shall collect data about off-street parking usage or allocation and provide it to the City to the attention of the Director.
 - (1) Reporting period: Collect data by each half of a year January through June and July through December. Submit each biannual report by the last City business day in the last month of the next quarter of a year and that is not a federal holiday. (For example, a report for January through June 2022 would be due by September 30, 2022.)
 - (2) First report: The first report shall cover whatever irregular length of time would pass between phase occupancy and the end of the next half of a year ending June or December.
 - (3) Attributes: Collect and report on:
 - (a) Geography: Report numbers divided between Phases 1 & 2 (as defined in Condition G3).
 - (b) The number of off-street spaces/stalls that are available and how many, if any, are closed due to occasional events such as parking area resurfacing, temporary outdoor events, outdoor storage, or the stationing of large trucks or truck trailers.
 - (c) Track stalls and usage by type: regular standard size, regular compact, accessible/ADA/handicap, EV, and any other type (such as those designated for visitors, leasing office employees, staff golf cart, or mail carrier).
 - (d) Collection: The property manager shall do field counts as per condition subpart (4 "field count") below and also provide a separate set of assumed counts based on lease agreements, i.e. what tenant households are allocated a stall or stalls and for what periods, assumed that stalls are occupied as lease agreements describe.
 - (e) Usage: Report how many stalls are used and allocated. For vacant apartments in the context of assumed counts, record stalls associated with vacant apartments as unallocated.
 - (f) If and when a parking area resurfacing project were to happen, provide written notice to the Director of approximate start date and duration, location, and number of stalls involved.
 - (g) Format: Use tables to report by phase absolute numbers and percentages of stall type occupancies. Include phase and sitewide totals.

DR 2019-05 Staff Report Attachment 102 Page 84 of 88

- (4) Field count: The property manager shall do at least two field counts per reporting period, meaning to travel the project and count in real time occupied and vacant stall types such as by marking a project site plan. Each count shall be on Tuesday, Wednesday, or Thursday that is neither a federal holiday nor within a week (7 days) of a federal holiday. One count shall be daytime starting no earlier than 9:30 a.m. and concluding no later than 4:30 p.m., and one count shall be nighttime starting no earlier than 10:00 p.m. and concluding no later than 12:30 a.m. Report when on a given date the counts were done and how long it took, for example, from 11:30 a.m. to noon.
- (5) Bicycle parking: For outdoor bicycle parking stalls, including those within stairwells but excluding outdoor closets, the property manager shall also do field counts the same way as per condition subpart (4) above and as part of the larger report confirm the total number of existing outdoor bicycle stalls.
- (6) Parking demand management: The reporting that a parking demand management condition requires, if it exists, may be incorporated with the parking usage data collection report.
- (7) Context: In each report, cite the project name, phases, street addresses, master/parent case file number DR 2019-05, and the condition identification(s), state what period the report covers, state the number of vacant apartments and when and how the number was determined given fluctuation over six months, and provide an employee name and direct contact information for questions City staff might have.
- (8) Intent: It is not the express intent of this condition to police property management or punish tenants or management for perceived misuse of parking, but instead without judgment to collect data on how parking is actually used in a conventional large apartment complex.
- (9) Change of ownership: If and when property ownership were to change, the property manager shall pass along record of the conditions of approval to the contract purchaser and successive property manager.
- (10) Expiration: This parking usage/allocation data collection condition becomes optional as of July 1, 2031. If reporting were to cease, the last report for the January to June 2031 period would be due September 30, 2031.

Applicant Identity

Applicant	Robert Leeb, Principal In Charge, Leeb Architects

Applicant's	Doug Hamilton, Leeb Architects
Representative	
Landowner(s)	At time of application: West Coast Real Estate Holdings LLC, represented by
	Eugene Labunsky
	At present: Stacy Allison Way Holdings LLC, represented by Eugene Labunsky

Notes to the Applicant

The following are not planning / land use / zoning conditions of approval, but are notes for the applicant to be aware of and follow:

- 1. Records: Staff recommends that the applicant retain a copy of the subject approval.
- 2. Fences, fencing, & free-standing walls: The approval excludes any fences, fencing, & free-standing walls, which are subject to WDO 2.06 and the permit process of 5.01.03.
- 3. Signage: The approval excludes any private signage, which is subject to WDO 3.10 and the permit process of 5.01.10.
- 4. PLA Time Limit: WDO 4.02.04B. specifies that, "A final decision on any application shall expire within three years of the date of the final decision unless: 1. a building permit to exercise the right granted by the decision has been issued; 2. the activity approved in the decision has commenced; or 3. a time extension, Section 4.02.05, has been approved. Because unrecorded re-plats lingering indefinitely have burdened staff, a condition sets sooner time limits for subsection 2. to begin and finish recordation.
- 5. Mylar signature: The Community Development Director is the authority that signs plat Mylars and not any of the mayor, City Administrator, Public Works Director, or City Engineer. Only one City signature title block is necessary.
- 6. PLA Plat Tracker: Marion County maintains a plat tracking tool at http://apps.co.marion.or.us/plattracker/>. Use it to check on the status of a recordation request to the County. City staff does not track County plat recordation.

7. Technical standards:

- a. Context: A reader shall not construe a land use condition of approval that reiterates a City technical standard, such as a PW standard, to exclude remaining standards or to assert that conditions of approval should have reiterated every standard the City has in order for those standards to be met.
- b. Utilities: A condition involving altered or additional sidewalk or other frontage/street improvement that would in the field result in displacement or relocation of any of utility boxes, cabinets, vaults, or vault covers does not exempt the developer from having to

move or pay to move any of these as directed by the City Engineer and with guidance from franchise utilities.

- 8. Other Agencies: The applicant, not the City, is responsible for obtaining permits from any county, state and/or federal agencies, which may require approval or permit, and must obtain all applicable City and County permits for work prior to the start of work and that the work meets the satisfaction of the permit-issuing jurisdiction. The Oregon Department of Transportation (ODOT) might require highway access, storm drainage, and other right-of-way (ROW) permits. All work within the public ROW or easements within City jurisdiction must conform to plans approved by the Public Works Department and must comply with a Public Works Right-of-Way permit issued by said department. Marion County plumbing permits must be issued for all waterline, sanitary sewer, and storm sewer work installed beyond the Public Right-of-Way, on private property.
- 9. Inspection: The applicant shall construct, install, or plant all improvements, including landscaping, prior to City staff verification. Contact Planning Division staff at least three (3) City business days prior to a desired date of planning and zoning inspection of site improvements. This is required and separate from and in addition to the usual building code and fire and life safety inspections. Note that Planning staff are not primarily inspectors, do not have the nearly immediate availability of building inspectors, and are not bound by any building inspector's schedule or general contractor convenience.
- 10. Stormwater management: The storm sewer system and any required on-site detention for the development must comply with the City Storm Water Management Plan, Public Works storm water practices and the Storm Drainage Master Plan.
- 11. Public Works Review: Staff performs final review of the civil plans during the building permit stage. Public infrastructure must be constructed in accordance with plans approved by the City, as well as current Public Works Construction specifications, Standard Details, and general conditions of a permit type issued by the Public Works Department.

12. ROW:

- a. Dedication: The Public Works Department Engineering Division has document templates for ROW and easement dedications that applicants are to use.
 - ROW and public utility easement (PUE) dedications are due prior to building permit issuance per Public Works policy.
- b. Work: All work within the public ROWs or easements within City jurisdiction must require plan approval and permit issuance from the Public Works Department. All public improvements construction work must be performed in accordance with the plans stamped "approved" by the City, and comply with the City's Standard Specifications and Standard drawings.

DR 2019-05 Staff Report Attachment 102 Page 87 of 88

- 13. Franchises: The applicant provides for the installation of all franchised utilities in any required easements.
- 14. Water: All water mains and appurtenances must comply with Public Works, Building Division, and Woodburn Fire District requirements. Existing water services lines that are not going to be use with this new development must be abandoned at the main line. The City performs required abandonment of existing water facilities at the water main with payment by the property owner. All taps to existing water mains must be done by a "Hot Tap" method and by approved City of Woodburn Contractors. The applicant shall install the proper type of backflow preventer for all domestic, lawn irrigation and fire sprinkler services. The backflow devices and meters shall be located near the city water main within an easement, unless approved otherwise by Public Works. Contact Byron Brooks, City of Woodburn Water Superintendent, for proper type and installation requirements of the backflow device at (503) 982-5380.
- 15. Grease Interceptor/Trap: If applicable, a grease trap would need to be installed on the sanitary service, either as a central unit or in the communal kitchen/food preparation area. Contact Marion County Plumbing Department for permit and installation requirements, (503) 588-5147.
- 16. Fire: Fire protection requirements must comply with Woodburn Fire District standards and requirements, including how the District interprets and applies Oregon Fire Code (OFC). Place fire hydrants within the public ROW or public utility easement and construct them in accordance with Public Works Department requirements, specifications, standards, and permit requirements. Fire protection access, fire hydrant locations and fire protection issues must comply with current fire codes and Woodburn Fire District standards. See City of Woodburn Standard Detail No. 5070-2 Fire Vault. The fire vault must be placed within the public right-of-way or public utility easement.
- 17. SDCs: The developer pays System Development Charges prior to building permit issuance. Staff will determine the water, sewer, storm and parks SDCs after the developer provides a complete Public Works Commercial/Industrial Development information sheet.



Memorandum

To: Woodburn Development Review: Colin Cortes, Senior Planner

From: Chuck Green, PE

Copies: File

Date: May 20, 2020

Subject: REVIEW VERSION Allison Way Apartments Traffic Impact Analysis Review

Otak Project #: 40141

Development Review Reference: DR 2019-05

This memo serves as review and findings of the Traffic Impact Analysis (TIA) for Allison Way Apartments, revision dated May 1, 2020. This development proposal's TIA was reviewed under the basis of the following:

- Oregon Department of Transportation (ODOT) <u>Analysis Procedures Manual (APM)</u>, Version 2 as Revised, April 2020 (note: the author of this memo was a reviewer for that document)
- City of Woodburn's Comprehensive Plan (September 2019)
- City of Woodburn's Transportation System Plan (September 2019)
- City of Woodburn's Transit Plan Update (November 2010)
- Woodburn Development Ordinance, update version June 2019.

Summary of Findings

The review of the developer's Traffic Impact Analysis, as well as comments received from the Oregon Department of Transportation (ODOT), yielded the following findings and conclusions:

- The development would add trips to the intersection of OR 214 and Evergreen Road, which has an existing, elevated crash rate. The applicant has proposed signal changes as crash countermeasures which need ODOT approval to implement.
- For the OR 214 at Evergreen Road intersection, the TIA indicates that with site buildout and using a 2034 horizon year, the future-year level-of-service of 0.94 is slightly below ODOT's mobility target of 0.95. However, manual v/c adjustment calculations using ODOT's <u>Analysis Procedures Manual</u> were not provided as backup for that calculation. When reviewing the revised TIA's Synchro reports and also reviewing the HCM 2000 v/c ratio from the previous version of the TIA (0.99), it appears that intersection will be at or over the ODOT mobility target for that intersection. <u>The TIA did not present any vehicular trip reduction measures to</u> alleviate this issue.

Attachment 102B

- The TIA did not analyze the OR 214 at Evergreen Road intersection's v/c ratio with the crash countermeasures in effect (converting to protected lefts for eastbound and westbound OR 214). This likely affects the adjusted v/c ratio for that intersection using the <u>APM</u> method.
- The TIA indicates that preliminary traffic signal warrants will be met at the Evergreen Road at Stacey Allison Way intersection year 2022 background conditions, without the addition of site trips from the proposed development. Capacity analysis results show this intersection is projected to exceed the City of Woodburn performance thresholds under the year 2034 planning horizon including full site buildout. There is no signalization nor intersection improvement identified in the TSP as mitigation at this intersection; thus, the development should be responsible for at least a proportionate share of the costs for this signal.
- Preliminary traffic signal warrants are met at the intersection of Evergreen Road at Hayes Street under year 2024 traffic conditions with the addition of site trips from Phases 1 and 2 of the proposed development. Capacity analysis results show this intersection is projected to exceed the City of Woodburn performance thresholds under year 2022 background conditions, prior to the addition of site trips from the proposed development. The TIA referred to the Smith Creek TIA for mitigation for this intersection which would include adding a southbound left-turn and a northbound receiving lane. It is unclear what is meant by a "northbound receiving lane" as the TSP did not identify signalization, intersection improvement or additional travel lanes along Evergreen Road. A southbound left turn lane appears feasible from inspection of the site, but may require removal of parking in the intersection vicinity. If the City determines that a future signal and minor intersection improvements would be the preferred mitigation measure, the development should be responsible for at least a proportionate share of the costs for this mitigation measure.
- Minor adjustment to the design of the site's pedestrian crossings of Hooper Street are recommended.
- The applicant's TIA did not identify any vehicular trip reduction or Transportation Demand Management measures. Trip reduction measures should be incorporated into the applicant's development plans to alleviate impacts to area roadways, especially the Evergreen Road intersections with Stacey Allison Way and Hayes Street, as well as the OR 214 at Evergreen Road which has an existing elevated crash rate and is projected to be at- or over-capacity with full buildout of the site.

ODOT Comments

ODOT Region 2 traffic staff (Keith Blair, PE) provided ODOT review comments in a memorandum dated May 4, 2020. Their comments included:

- (1) There was no simulation analysis provided and ODOT indicated they would have required this in the scope of the TIA. This analysis is critical as it would show the potential queueing along the OR 214 corridor, including the intersections at and adjacent to the I-5 ramps.
- (2) Other intersections along OR-214 are expected to operate within v/c mobility targets, although OR 214 at Evergreen Road is projected to be near capacity per the TIA analysis.
- (3) ODOT comments on the prior version of the TIA indicated the engineer had used the outdated Highway Capacity Manual (HCM) 2000 for analysis of signalized intersections and did not utilize methodology from the current HCM 6th Edition. The updated TIA indicates the HCM 6th Edition methodology was used, but did not include the manual worksheet calculations from the Synchro reports to show their adjusted v/c ratio calculations using the <u>APM</u> methodology. The TIA engineer should produce these backup calculations for review. The TIA concludes that the intersection of OR 214 at Evergreen Road, ten years

after site buildout with traffic background growth, is projected to be 0.94, just below the ODOT mobility target of 0.95 for this intersection. It is possible that the application of the <u>APM</u> v/c adjustment methodology for this intersection could result in it being at or over the 0.95 v/c threshold. Note: there is more discussion about this in the "Site and Analysis" section below.

Site and Analysis

The proposal is to build 586 new multi-family dwelling units on a site west of Evergreen Road and south of OR-214, with primary access to Stacey Allison Way.

Trip Generation and Distribution

According to the TIA, the site upon buildout is projected to generate an additional 211 trips during the morning peak hour, 258 trips during the evening peak hour, and 3,188 trips on a typical weekday. A check of the trip generation estimates using the Institute of Transportation Engineers' <u>Trip Generation Manual 10th Edition</u> confirms these trip generation rates.

The TIA's trip distribution estimates were estimated by the applicant's engineers. Although not based on TSP or regional travel demand modeling, the TIA noted they were estimated based on "likely trip destinations, locations of major transportation facilities in the site vicinity, and existing travel patterns at the study intersections." These were reviewed and were determined to be reasonable.

Operational Analysis

Based on coordination through ODOT and the City of Woodburn, a total of eight (8) intersections were analyzed for traffic operations under existing, background growth, and various buildout phases of the site:

- Evergreen Road at Hooper Street
- Evergreen Road at Hayes Street
- Evergreen Road at Stacey Allison Way
- OR 214 at I-5 Southbound ramps
- OR 214 at I-5 Northbound ramps
- OR 214 at Lawson Avenue
- OR 214 at Evergreen Road.

Traffic counts were taken in the summer of 2019 when school was out for summer vacation. The TIA adjusted the OR-214 counts for seasonal variations consistent with the <u>APM.</u> For City streets, counts were manually adjusted upward to add in estimated school trips to attain a typical weekday period. These adjustments were reviewed and appear reasonable.

Background traffic growth rates assumed in the TIA were 0.4% per year for OR-214 (linear), and 2.0% per year (compounded) for Woodburn city streets. In-process trips were added for the Smith Creek development, although the Allison Way TIA indicated the proposed build-out year was 2025, after the proposed buildout year of 2024 for the Allison Way Apartments. Although the Transportation System Plan (TSP) did not specify anticipated growth rates, these rates appear reasonable based on future-year traffic growth assumptions in similar circumstances in the metropolitan area.

The operational analysis indicates that with site buildout and ten years of additional traffic growth to a Year 2034 horizon year, the following intersections are projected to operate within ODOT and City mobility standards and proposes no mitigation for these locations:

- Evergreen Road at Hooper Street
- OR 214 at I-5 Southbound ramps
- OR 214 at I-5 Northbound ramps
- OR 214 at Lawson Avenue
- OR 214 at Oregon Way.

I-5 Interchange Management Area

The development site includes multiple parcels which are located in subareas K and L of the I-5 at OR 214 Interchange Management Overlay District. According to the TIA, the total maximum peak hour vehicle trip budget for these subareas is 495 trips. The proposed development is projected to generate 211 trips during the morning peak hour and 258 trips during the evening peak hour, both of which are below the threshold. A review of the v/c ratios for the ramp intersections indicate both are projected to operate within ODOT's performance thresholds in year 2034 conditions (ten years after site buildout). No mitigation measures are proposed and none are being requested by ODOT.

Locations Potentially Exceeding Adopted Volume-to-Capacity/Mobility Thresholds

The following intersections were determined to exceed congestion thresholds and potential mitigation is proposed for consideration:

- OR 214 at Evergreen Road
- Evergreen Road at Stacey Allison Way
- Evergreen Road at Hayes Street.

Preliminary traffic signal warrants will be met at the intersection of Evergreen Road at Stacey Allison Way under year 2022 background conditions, without the addition of site trips from the proposed development. The TIA's capacity analysis results show this intersection is projected to exceed the City of Woodburn performance thresholds under the year 2034 planning horizon, which is ten years after the full buildout of the proposed development. The TIA suggested that an alternative route on Harvard Drive is planned to be improved which may alleviate some of the congestion along Evergreen Road. However, it is unclear from a review of the TSP's planned extension of Harvard and connection to Stubb Road, as well as the existing street network how this would alleviate traffic congestion at the Evergreen Road/Stacey Allison Way intersection. There is no signalization nor intersection improvement identified in the TSP as mitigation at this intersection; thus, the development should be responsible for at least a proportionate share of the costs for this signal.

Preliminary traffic signal warrants are projected to be met at the intersection of Evergreen Road at Hayes Street under year 2024 traffic conditions with the addition of site trips from Phases 1 and 2 of the proposed development. The TIA's capacity analysis results show this intersection is projected to exceed the City of Woodburn's performance thresholds under year 2022 background conditions prior to the addition of site trips from the proposed development. Mitigation for this intersection is discussed in the Smith Creek TIS, which includes adding a southbound left-turn and a northbound receiving lane. It is unclear what is meant by a "northbound receiving lane" as the TSP did not identify signalization or improvements at this intersection nor did it identify additional travel lanes along Evergreen Road. A southbound left turn lane appears feasible from inspection of the site, but may require removal of parking in the intersection vicinity. If the City determines that a future signal and minor intersection improvements would be the preferred mitigation measure, the development should be responsible for at least a proportionate share of the costs for this mitigation measure.

The updated TIA indicates the HCM 6th Edition methodology was used, but did not include the manual worksheet calculations from the Synchro reports to show their adjusted v/c ratio calculations using the <u>APM</u> methodology. The TIA engineer should produce these backup calculations for review. The TIA concludes that the intersection of OR-214 at Evergreen Road, ten years after site buildout with traffic background growth, is projected to be 0.94, just below the ODOT mobility target of 0.95 for this intersection. It is also not clear if the TIA's Synchro model included any pedestrian crossing demand at this intersection which could add to intersection delay and v/c ratio. It is possible that with the <u>APM</u> adjusted v/c method and adding pedestrian demand that the projected intersection v/c ratio for the Year 2034 horizon with all phases of the site built out may be 0.95 or higher, which would be at or exceeding the v/c mobility target in the OHP.

Safety Analysis

The TIA's safety analysis concluded that all but one location studied were operating within acceptable crash rates, with the exception of OR-214 at Evergreen Road, which is operating at an elevated rate. The development would add trips to this intersection, and likely add to one or more of the turning movements which may be contributing to the elevated crash rate. The TIA proposed converting the eastbound and westbound OR-214 left turns to protected-only (they are a flashing yellow arrow configuration now). ODOT did not comment on this specific recommendation in their memorandum but did indicate that ODOT approval is required for all proposed mitigation measures to OR 214.

Pedestrians

The TIA's discussion on marked crosswalks was reviewed, as well as the proposed site plan. There are two proposed pedestrian crossings of Hooper Street proposed, both with marked crosswalks. The site plan dated March 25, 2020 included clubhouses in both Phase 1 and Phase 2, a public plaza in Phase 1, and a play area in Phase 2. Thus, it is likely that these will attract a measurable number of pedestrians crossing Hooper Street.

The TIA concurred that it anticipates that a high volume of pedestrians will cross Hooper Street in order to patronize the provided apartment amenities. It indicated that the proposed crossings provide routes that allow for pedestrian circulation throughout the site.

Reviewing the site plan, the midblock crossing of Hooper Street between Phases 1 and 2 appears acceptable, but due to the proximity to the curve on Hooper Street, should be enhanced with advance warning signs.

The crosswalk nearer Stacey Allison Way should be moved to the intersection instead of near it. The concern is that vehicles turning from Stacey Allison Way onto Hooper may not see pedestrians that are crossing away from the intersection, and pedestrians walking down Stacey Allison Way would need to detour over to the crosswalk to continue their trip. Moving the crosswalk closer to the intersection will be more expected by both drivers and pedestrians and should improve the visibility of pedestrians crossing the street. See figure below.



Summary of Findings and Recommendations

A review of the TIA for the Allison Way Apartments indicates there is additional information still needed to perform a final review, and with information already provided, there are three locations where potential mitigation measures will be required.

- The TIA's engineer should submit manual calculations of the OR 214 at Evergreen Road adjusted v/c ratio, using the <u>APM</u> method. These calculations should be sent to the City and to ODOT for review.
- The intersections of Evergreen Road at Stacey Allison Way and Evergreen Road at Hayes Street are projected to meet preliminary traffic signal warrants and fall below the City's mobility threshold with site buildout and future traffic growth. The TSP did not include improvement projects at either location. If mitigation including signalization and/or intersection improvements at either location is acceptable to the City, the development should pay for at least a proportionate share of the cost of these improvements.
- The safety analysis concluded that the OR 214 at Evergreen Road intersection has an elevated crash rate under existing conditions, and the development is expected to add a measurable number of trips to that intersection. The operational analysis should be updated with the proposed crash countermeasures in place (converting both EB and WB left turns to protected signalization), which may affect the overall level-of-service (v/c ratio). The proposed crash countermeasures should be reviewed by ODOT for acceptance and if they are acceptable to ODOT, the development should pay for at least a proportionate share of the cost of these improvements.

- The applicant did not propose trip reduction measures for any of the potential over-capacity or elevated crash rate situations. The development should be conditioned to provide a vehicle trip reduction/Transportation Demand Management plan with the goal of reducing vehicles trips to and from the site.
- Consider relocating the crosswalk nearer to the Stacey Allison Way intersection as shown in the figure above. Also, consider adding approach warning signs to the midblock crossing.

Compliance with City of Woodburn Adopted Plans

The TIA was evaluated for consistency with the adopted Comprehensive Plan, Transportation System Plan, and Transit Plan Update. The focus of this assessment is on multimodal transportation, traffic operations, and transportation demand management.

• For intersections under the City of Woodburn jurisdiction, the mobility standards referenced in the TIA state that intersections must operate at LOS E or better and a v/c ratio less than 1.0 regardless of LOS. The TIA indicated that the intersections of Evergreen Road at Stacey Allison Way and Evergreen Road at Hayes Street are projected to fall below the City's standards and will meet preliminary signal warrants coincidental with site buildout or background traffic growth before site buildout. The TSP did not include signalization or intersection improvements at either intersection.

<u>Finding:</u> while the TSP did not identify improvement projects at either intersection, it is noted that the focus of a TSP is at a system level and not necessarily at an intersection level. The City should determine if signalizing and/or intersection improvements at either location are acceptable from both a locational and system level, keeping in mind the two intersections are in relatively close proximity. If the City finds mitigation projects consisting of signalization and/or intersection improvements, the development should pay for at least the proportionate cost of these improvements (based on trip contributions from this and succeeding developments).

 The City's Comprehensive Plan Goal H-3, Transportation Safety, includes Policy H-3.1: "Continue coordination with ODOT to improve safety on state facilities within the City and citywide access management strategies."

<u>Finding:</u> the TIA identified an elevated crash rate (crashes per million entering vehicles) at the intersection of OR-214 and Evergreen Road. The proposed development would add trips to that intersection. The applicant has proposed changing the eastbound and westbound left-turn signal to protected operations as recommended crash modification measures which need ODOT approval to implement. While the TSP identified signal timing and coordination improvements along OR 214, it did not identify a specific crash countermeasure for this intersection. It is possible that a signal timing and coordination project could include changes to left turn signalization. While this is not specifically identified as a safety project in the City's TSP, the applicant's engineer did respond to the safety policy with a proposed solution, which appears satisfactory but needs ODOT's approval. If ODOT accepts this as mitigation, the development should pay for at least the proportionate share of the cost of these improvements.

H-5, Land Use and Transportation Integration, includes Policy H-5.1: "Implement, where appropriate, a
range of potential Transportation Demand Management (TDM) strategies that can be used to improve the
efficiency of the transportation system by shifting single-occupant vehicle trips to other models and
reducing automobile reliance at times of peak traffic volumes."

<u>Finding:</u> the TIA does not include any discussion of site TDM measures or any measures to reduce vehicular trips to and from the site.

Bicycle parking was not mentioned in the TIA as to number of spaces provided or as an incentive to
vehicle trip reduction. A check of the March 25, 2020 site plan indicates that there will be covered and
uncovered spaces provided, and appears to assume that each of the apartment units has a provision for
bicycle parking/storage as well.

<u>Finding:</u> the applicant should prepare a vehicle trip reduction plan which in part includes a narrative on how on-site bicycle parking supply can incentivize vehicular trip reductions to and from the site.

Summary and Recommendations

The following are recommended conditions for the proposed development based on a review of the TIA:

- 1. Provide for City and ODOT review manual v/c adjustment calculations using ODOT's <u>Analysis Procedures Manual</u> for Year 2034 with site buildout operations for the OR 214 at Evergreen Road intersection.
- Submit for review a proposed alternative mode/TDM/vehicle trip reduction plan to alleviate the projected at- or over-capacity conditions at the Evergreen Road intersections with OR 214, Stacey Allison Way and Hayes Street.
- Subject to ODOT approval on the crash countermeasure, contribute a proportionate share of the cost to convert the traffic signal at the OR-214/Evergreen Road intersection to have eastbound and westbound protected left turns.
- 4. Subject to City decision and direction on the intersections of Evergreen Road at Stacey Allison Way and Evergreen Road at Hayes Street, contribute a proportionate share of the cost for signalization and/or intersection improvements at either or both intersections. The trip basis for the proportionality should be based on the contribution of this site and succeeding developments to the number of vehicles at either intersection.
- 5. (Suggestion for the City as part of site plan review): Modify the Hooper Street crosswalk design as shown in the earlier figure.



Department of TransportationRegion 2 Tech Center

455 Airport Road SE, Building A Salem, Oregon 97301-5397 Telephone (503) 986-2990 Fax (503) 986-2839

DATE: May 4, 2020

TO: Casey Knecht, PE

Access Management Engineer

FROM: Keith P. Blair, PE

Interim Traffic Analysis Engineer

SUBJECT: Allison Way Apartments (Woodburn) – Outright Use

TIA Review Comments

ODOT Region 2 Traffic has completed our review of the submitted revised traffic impact analysis (dated May 1, 2020) to address traffic impacts due to development of a 530-unit apartment complex to be constructed over three phases east of I-5 and south of OR-214 in the city of Woodburn, with respect to consistency and compliance with ODOT's Analysis Procedures Manual, Version 2 (APM). The APM was most recently updated in April 2020. The current version is published online at: http://www.oregon.gov/ODOT/TD/TP/Pages/APM.aspx. As a result, we submit the following comments for the City's consideration:

Analysis items to note:

 This study does not contain a simulation-based queuing analysis. Such analysis would have been scoped if this study had been required under ODOT's authority.

Recommended analysis items to be addressed:

1. While this study has been revised to utilize the current Highway Capacity Manual (HCM) 6th Edition methodology, it has not provided the hand-calculations of the overall intersection volume/capacity ratio (v/c) which is required when utilizing Synchro software for the HCM 6th methodology. This may have an effect on the operational analysis results which could be significant enough to also have an effect on the conclusions of the study, as the intersection of OR-214 at Evergreen Road is currently reported just below the mobility target in 2034.

Attachment 103

Proposed mitigation comments:

 ODOT maintains jurisdiction of the Hillsboro-Silverton Highway No. 140 (OR-214) and ODOT approval shall be required for all proposed mitigation measures to this facility. No mitigation measures have been currently proposed. This conclusion may need to be revised once the above comment has been addressed.

Thank you for the opportunity to review this traffic impact analysis. As the analysis software files were not provided, Region 2 Traffic has only reviewed the submitted report. It is possible comment #1 will have an effect on the operational analysis results which may be significant enough to have an effect on the conclusions of the study. If the City determines the above comment will merit the need for reanalysis, we are willing and able to provide an additional round of review. If there are any questions regarding these comments, please contact me at (503) 986-2857 or Keith.P.Blair@odot.state.or.us.



Agenda Item

July 13, 2020

TO: Honorable Mayor and Council through City Administrator

FROM: Anthony Turley, Finance Director

SUBJECT: FY 2020-2021 Supplemental Budget Request for a Transfer from

Contingency to Material Services for CBDG Housing Rehab

Program Funds

RECOMMENDATION:

After conducting a public hearing, adopt the resolution authorizing \$413,910 transfer from contingency to materials and services in the Housing Rehabilitation Fund.

BACKGROUND:

Every year, after Council budget adoption, circumstances arise that were either unforeseen, unquantifiable, or discovered as errors. Oregon Budget Law, ORS 294.471(1) provides for changes to adopted budgets through a transfer resolution or supplemental budget process that notices the proposed changes. Transfers in excess of 15 percent of any fund's total expenditures, or supplemental budget changes in excess of 10 percent of any fund's total expenditures, require a public hearing to accept public testimony on the item under consideration.

Like the adopted budget, supplemental budget requests must be balanced; in other words, net revenue and net expense for the request must be equal. This can be accomplished by budgeting additional revenue or by reducing another expenditure category (such as contingencies).

DISCUSSION:

The City of Woodburn currently has \$413,910 of previously designated Community Development Block Grant (CDBG) housing rehab program funds and would like to contract with DevNW (an Oregon non-profit) to develop and administer a mortgage assistance program to Woodburn's LMI residents. per section 24 CFR 570-489(e) of HUD's federal distribution guidelines.

DevNW would utilize the recaptured CDBG funds from the City of Woodburn to provide immediate mortgage assistance for homeowners (at or below 80%)

Agenda Item Review: City Administrator ___x__City Attorney __x___Finance ___x__

AMI). DevNW will collaborate with the City of Woodburn on outreach to LMI residents that have been disproportionately affected by COVID-19.

Mortgage assistance will be provided in the form of a silent second loan (interest free, due and payable at time of sale or cash out refinance). Loans will be capped at \$20,000 per homeowner to reinstate the existing mortgage post-forbearance or default. DevNW has proposed a 12% administration fee to develop, implement and service the loan program and will enter into an agreement with the City.

FINANCIAL IMPACT:

If the resolution is approved, the following changes will be made:							
		SU	MMARY OF PR	OPOSED BUDGET CHANGES			
AMOUNTS SHOWN ARE REVISED TOTALS IN THOSE FUNDS BEING MODIFIED							
Housing Rehabilitat	tion Fund - 137						
Resource	Original	Change	Revised	Requirement	Original	Change	Revised
1				Material & Services	17,940	413,910	431,850
2				Contingency	413,910	(413,910)	-
Revised Total Fund Resources - Revised Total Fund Requirements Comments: Transfer of Contingency balance to Materials & Services for CDBG Housing Rehab Program Funds							431,850



Azenda Item

July 13, 2020

TO: Honorable Mayor and City Council

FROM: McKenzie Granum, Assistant City Attorney

SUBJECT: Repeal of an Outdated Cable Television Ordinance

RECOMMENDATION:

Adopt the ordinance repealing Ordinance 1766 (an Ordinance relating to the Construction, Operation, Regulation and Control of Cable Communications Systems within the City's Territorial Limits) because the Ordinance is outdated and is no longer functional.

BACKGROUND:

The City continues to undertake the process of Ordinance Review/Revision; acting to repeal, replace, or update numerous ordinances as a result of the City Attorney's analysis and recommendation.

Recently, the City Attorney's office initiated a review of Woodburn's right-of-way management and franchise utility program, which includes the regulation and control of cable communication systems located within the City.

DISCUSSION:

The City of Woodburn adopted Ordinance No. 1766 in 1981 as an enabling ordinance to allow the City to regulate and control the construction and operation of cable communications systems within the City. While it was normal practice at the time to have such an ordinance, the current regulatory environment governing cable systems now makes this ordinance redundant and outdated.

With new cable offerings becoming increasingly available (e.g. over-the-top video on-demand, Netflix and Hulu streaming services, etc.), the City needs greater flexibility to adapt and modify its regulations over cable systems in ways not currently provided for by Ordinance 1766. By repealing this ordinance, the City will still use the franchise model for regulating local cable companies that

wish to operate within the City, but will do so without any redundant or conflicting provisions from the outdated ordinance.

FINANCIAL IMPACT:

None.

Attachment: Ordinance No. 1766

COUNCIL BILL NO. 652

ORDINANCE NO. 1766

AN ORDINANCE RELATING TO THE CONSTRUCTION, OPERATION, REGULATION AND CONTROL OF CABLE COMMUNICATIONS SYSTEMS WITHIN THE CITY'S TERRITORIAL LIMITS.

THE PEOPLE OF THE CITY OF WOODBURN DO ORDAIN:

Section 1. Short Title. This ordinance shall be known and may be cited as the "Woodburn Cable Communications Ordinance."

- Section 2. <u>Definitions</u>. Whenever in this ordinance the words or phrases hereinafter in this section defined are used they shall have the respective meanings assigned to them in the following definitions, unless, in the given instance, the context wherein they are used shall clearly impart a different meaning. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular include the plural number.
- (A) "Applicant" shall mean any person or corporation submitting an application for a cable communications franchise.
- (B) "Basic service" is that service regularly provided to all subscribers at a basic monthly rate including, but not limited to, the retransmission of local and distant broadcast television signals, non-premium satellite services, automated services, local origination and access services.
- (C) "Cable communications system" or "CATV system" shall mean a system employing antennae, microwave, wire, waveguides, coaxial cables, or other conductors, equipment or facilities, designed, constructed or used for the purpose of:
- (1) collections and amplifying local and distant broadcast television or radio signals and distributing and transmitting them;
- (2) transmitting original cablecast programming not received through broadcast signals;
- (3) transmitting television pictures, film and video-tape programs. not received through broadcast television signals, whether or not encoded or processed to permit reception by only selected receivers;
- (4) transmitting and receiving all other signals, digital, voice, audio-visual, or other forms of electronic or electrical signals.
- (D) "Channel" means a six megahertz (MHz) frequency band, which is capable of carrying either one standard audio/video television signal, or a number of audio, digital or other non-video signals.
- (E) "City" shall mean the City of Woodburn, a municipal corporation of the State of Oregon, in its present incorporated from or in any later reorganized, consolidated enlarged or reincorporated form.

- (F) "City Council" or word "Council" shall mean the legislative body of the City of Woodburn.
- (G) "City Administrator" shall mean the City Administrator of the City of Woodburn.
- (H) "Community Access Channel" or "Access Channels" means any channel or portion of a channel utilized for programming on a non-profit basis.
- (I) "Educational Channel" means any channel or portion of a channel on which educational institutions are the only designated programmers.
- (J) "Entertainment Services" means television services provided on a one-way, non-interactive basis including but not limited to broadcast channels, local origination channels, pay channels or any other channels supplied to subscribers at a basic or premium charge where the content of the transmitted signals is uniform to all subscribers or individual classes of subscribers and program selection is accomplished by operation of a tuner or converter under the sole control of the subscriber.
- (K) "Federal Communications Commission" or "FCC" is the present federal agency of that name as constituted by the Communications Act of 1934, or any successor agency created by the United States Congress.
- (L) "Franchise" shall mean and include any authorization granted hereunder in terms of a franchise, privilege, permit or license to construct, operate and maintain a cable television system within the City of Woodburn. Any such authorization, in whatever form granted, shall not mean and include any license or permit required for the privilege of transacting and carrying on a business within the City as required by other ordinances and laws of this city.
- (M) "Government Channel" means any channel or portion thereof dedicated to the use of the municipal agencies.
- (N) "Grantee" or "Franchisee" is a holder of a cable television franchise issued by the City.
 - (0) "Grantor" means the City of Woodburn acting through its City Council.
- (P) "Gross revenues" means any and all compensation in whatever form, directly or indirectly received by Grantee, from the source specified, not including any taxes on services furnished by the Grantee, which taxes are imposed directly on a subscriber or user by a city, county, state or other governmental unit, and collected by the Grantee for such entity.
- (Q) The word "institution" means a building or buildings where service may be utilized in connection with a business, trade, profession, public agency or service, school, or non-profit organization.
- (R) "Institutional Service" means services delivered on the institutional subscriber network.

Page 2- COUNCIL BILL NO. 652 ORDINANCE NO. 1766

- (S) "Institutional Network" means a cable communications network designed principally for the provision of non-entertainment interactive services to businesses, schools, public agencies or other non-profit agencies for use in connection with the on-going operations of such institutions.
- (T) "Institutional Subscriber" means a place of business, public agency, school or non-profit corporation receiving institutional services on the institutional subscriber network.
- (U) "Interactive Services" means services provided to subscribers where the subscriber either (a) both receives information consisting of either television or other signals and transmits signals generated by the subscriber or equipment under his control for the purpose of selecting what information shall be transmitted to the subscriber or for any other purpose; or (b) transmits signals to any other location for any purpose.
- (V) "Leased Channel" means any channel or portion of a channel available for programming for a fee or charge by persons or entities other than the Grantee.
- (W) "Local Origination Channel" means any channel or portion of a channel where the Grantee is the only designated programmer, and which is utilized to provide television programs to subscribers.
- (X) "Non-basic service" means any communications service in addition to "regular subscriber services" including but not limited to access channel carriage including origination programming, pay television, burglar alarm service, fire alarm service, data transmission, facsimile service, home shopping service, etc.
- (Y) "Pay Channel" or "Premium Channel" means a channel on which television signals are delivered to subscribers for a special charge fee or charge to subscribers over and above the regular charges for basic subscriber service, on a per program. per channel or other subscription basis.
- (Z) "Persons" means any corporation, partnership, proprietorship, individual or organization authorized to do business in the State of Oregon.
- (AA) "Premium Service" is pay-per-program, pay-per-channel, or other subscription service, i.e., delivered to subscribers for a fee or charge over and above the regular charges for basic service.
- (BB) "Public Access Channel" means any channel or portion of a channel where any member of the general public may be a programmer on a first-come, first-served basis, subject to appropriate rules formulated by the City and/or franchise.
- (CC) "Residential Services" means services delivered on the residential subscriber network.
- (DD) "Residential Subscriber" means a subscriber who receives residential services on the residential subscriber network.

Page 3- COUNCIL BILL NO. 652 ORDINANCE NO. 1766

- (EE) "Residential Network" means a cable communications network designed principally for the delivery of entertainment, community access or interactive services to individual dwelling units.
- (FF) "Streets", "Public Ways" and "Right-of Ways" means the surface of and the space above and below any public street, avenue, highway, boulevard, concourse, driveway, bridge, tunnel, park, parkway, sidewalk, waterway, dock, pier, alley, right-of-way, public utility easement, and any other public ground or water, now or hereafter, within or belonging to the City.
- (GG) "Subscriber" means any person or institution that elects to subscribe to, for any purpose, a service provided by the Grantee by means of or in connection with the cable communications system whether or not a fee is paid for such service.
- (HH) "Tapping" means observing a communications signal exchange where the observer is neither of the communicating parties whether the exchange is observed by visual or electronic means, for any purpose whatsoever.

Section 3. Franchise Necessary to install and Operate.

- (A) It shall be unlawful to commence or engage in the construction, operation or maintenance of a cable communications system without a franchise issued under this ordinance. The City Council may, by ordinance, award a franchise to construct, operate and maintain a cable communications system within all or any portion of the City to any person, whether operating under an existing franchise or not, who makes application for authority to furnish a cable communications system which complies with the terms and conditions of this ordinance. This ordinance section shall not be deemed to require the grant of a franchise to any particular person or to prohibit the City Council from restricting the number of Grantees should it determine such a restriction would be in the public interest. The franchise shall be exclusive within the corporate limits of the City of Woodburn.
- (B) Any franchise granted pursuant to the provisions of this ordinance shall authorize and permit the Grantee to engage in the business of operating and providing a cable communications system in the City, and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain and retain in, on, over, under, upon, across, and along any street, such poles, wires, cable, conductors, ducts, conduit, vaults, manholes, amplifiers, and appliances, attachments, and other property as may be necessary and appurtenant to the cable communications system; and, in addition, so to use, operate, and provide similar facilities, or properties rented or leased from other persons, firms or corporations, including but not limited to any public utility franchised or permitted to do business in the City.

Section 4. Term of Franchise.

(A) Any franchise granted by the City Council shall be for a term of ten years following the date such franchise is accepted by the Grantee, and, upon application of the Grantee and review of the performance of Grantee in a public proceeding, the City Council may renew the franchise for successive ten year periods, with such modification of the terms as the City Council may determine in each instance.

- (B) The City Council may terminate any franchise granted pursuant to the provisions of this ordinance in the event of the willful failure, refusal or neglect by Grantee to do or comply with any material requirement or limitation contained in this ordinance, or any other applicable rule or regulation of the Council or City Administrator validly adopted pursuant to this ordinance.
- (1) The City Administrator may make written demand that the Grantee comply with any such requirement, limitation, term, condition, rule or regulation. If the failure, refusal or neglect continues after notice for an unreasonable period of time, determined as such by the City Administrator, following such written demand, the City Administrator may place his request for termination of the franchise upon the next regular Council meeting agenda. The City Administrator shall cause to be served upon such Grantee, at least twenty (20) days prior to the date of such Council meeting, a written notice of his intent to request such termination, and the time and place of the meeting.
- (2) The Council shall consider the request of the City Administrator and shall hear any persons interested therein, and shall determine, in its discretion, whether or not any failure, refusal or neglect by the Grantee was with just cause.
- (3) If such failure, refusal or neglect by the Grantee was with just cause, the Council shall direct the Grantee to comply within such time and manner and upon such terms and conditions as are reasonable.
- (4) If the Council shall determine such failure, refusal or neglect by the Grantee was without just cause, then the Council may by ordinance, delcare that the franchise with such Grantee shall be terminated and forfeited, Grantee shall be required to sell all interests, and title in all of its plant and system operated under the franchise including any rights under the unexpired portion of the franchise.
- (C) In the event of termination, the City may purchase or require any successor Grantee to purchase Grantee's facilities at a cost not to exceed its then fair market value, with a reduction for uncompensated damages incurred by the City in connection with Grantee's operation.
 - (1) In order to determine the fair market value of Grantee's system as specified above, the following procedure will be followed. Grantee and the purchaser each shall select one qualified appraiser experienced in the evaluation of cable communications systems.
 - (2) The two selected appraisers shall select a third appraiser. The three appraisers shall be employed to determine the fair market value of Grantee's system. The fair evaluation shall be the average of the three evaluations of the appraisers. The appraisers shall be directed to reach their determination within thirty (30) days. Grantee and the purchaser shall each pay fifty percent (50%) of the costs of employing such appraisers.
 - (3) Upon determination of the fair market value, and upon payment of such sum by the purchaser, Grantee shall transfer all rights, titles, and interests in the subject property to the purchaser within thirty (30) days.

- (d) Nothing herein shall be deemed or construed to impair or affect, in any way or to any extent, the right of the City to acquire the property of the Grantee through the exercise of the right of eminent domain, nor any other of the rights of the City under the franchise or any other provision of law.
- (e) In the event of any holding over after expiration of other termination of any franchise granted hereunder without the prior consent of the City expressed by resolution, the Grantee shall pay to the City reasonable compensation and damages, of not less than one hundered percent (100%) of its gross revenue derived from all sources within the City during said period.

Section 5. Limitation of Franchise.

- (A) A grantee shall, at all times during the life of its franchise, be subject to the lawful exercise of the City's police power and such reasonable regulations as the City Council may subsequently promulgate thereunder.
- (B) Nothing contained in this ordinance shall be deemed to prohibit in any way the right of the City to levy nondiscriminatory occupational license taxes on any activity conducted by Grantee.
- (C) No privilege or exemption shall be granted or conferred by any franchise granted under this chapter except those specifically prescribed herein, and/or in the ordinance granting the franchise.
- (D) Any privilege claimed by Grantee under its franchise, in any public way, shall be subordinant to the City's use thereof, and to any other prior lawful occupancy of the public way. The City reserves the right to reasonably designate where a Grantee's facilities are to be placed within the public ways.
- (E) Time shall be of the essence of any such franchise granted. The Grantee shall not be relieved of his obligations to comply promptly with any of the provisions of this ordinance, or the ordinance granting the franchise, by any failure of the City to enforce prompt compliance.
- (F) Any such franchise granted shall not relieve the Grantee of any obligations involved in obtaining pole or conduit space from any department of the City, utility company, or from others maintaining utilities in the public ways.
- (G) Whenever in the judgment of the Grantor it is deemed impracticable to permit erection of poles or construction of underground conduit system by any other utility which may at the time have authority to construct or maintain a conduit or poles in street area, the Grantor may require the Grantee herein to afford to such utility the right to use such of the poles or faicilities of the Grantee as the Grantor finds practicable in common with the Grantee, both parties sharing the costs incident thereto and under such rules and regulations as they may agree upon, but in case they fail to agree within a reasonable time, then upon such terms, conditions and regulations governing the same as the Grantor may determine to be just and reasonable.

- (h) Any franchise granted shall be in lieu of any and all other conflicting rights, privileges, powers, immunities, and authorities owned, possessed, controlled, or exercisable by Grantee or any successor to any interest of Grantee, of or pertaining to the construction, operation or maintenance of any cable communications system in the City; and the acceptance of any franchise shall operate as between Grantee and the City, as an abandonment of any and all of such rights, privileges, powers, immunities, and authorities within the City to the effect that, as between Grantee and the City, and all construction, operation and maintenance by any Grantee of any cable communications system in the City shall be, and shall be deemed and construed in all instances and respects to be, under and pursuant to said franchise and not under or pursuant to any other right, privilege, power, immunity or authority whatsoever.
- (i) No franchise shall authorize the use of any public property other than public right-of-way and public utility easements owned by the City, unless such franchise or subsequent resolution of the Council expressly authorizes such other public property.
- (j) No franchise granted shall ever be given any value by any court or other authority, public or private, in any proceeding of any nature or character, wherein or whereby the City shall be a party or affected therein or thereby.
- (k) Grantee shall be subject to all provisions of the other ordinances, rules, regulations and specifications of the City heretofore or hereafter adopted, including but not limited to those pertaining to works and activities in, on, over, under, and about public right-of-ways.
- (1) Any privilege claimed, under any such franchise granted, in any public right-of-way or other public property shall be subordinate to the public use and any other lawful use thereof.
- (m) Grantee shall be subject to the provisions of general laws of the City of Woodburn, Marion County and the State of Oregon, or as hereafter amended, when applicable to the exercise of any privilege contained in any franchise granted pursuant to this ordinance, including but not limited to those pertaining to works and activities in and about state highways.
- (n) Grantee shall be prohibited from directly or indirectly doing any of the following:
 - (1) imposing a fee or charge for any service or repair to subscriber-owned receiving or transmitting device; except for the connection of its service or for the determination by Grantee of the quality of signal reception and or transmission;
 - (2) soliciting, referring, or causing or permitting the solicitation or referral of any subscriber to persons engaged in any business herein prohibited to be engaged in by Grantee;

Page 7 - COUNCIL BILL NO. 652 ORDINANCE NO. 1766

- (3) providing information concerning the viewing patterns of identifiable individual subscribers to any person, group or organization for any purpose.
- (0) If the Federal Communications Commission or the public Utilities Commission of the State of Oregon or any other Federal or State body or agency shall now or hereafter exercise any paramount jurisdiction over the subject matter of any franchise granted, then to the extent such jurisdiction shall preempt or preclude the exercise of like jurisdiction by the City, the jurisdiction of the City shall cease and no longer exist.

The preemption or preclusion of the exercise by the City of any of its police power shall not diminish, impair, or affect any other contractual benefit to the City or Grantee nor any other contractual obligation of the Grantee under any franchise granted.

Any and all minimum standards governing the operation of Grantee and any and all maximum rates, ratios, and charges specified in any franchise granted, existing now and at any time in the future, including such time as any paramount jurisdiction shall preempt or preclude that of the City, and any and all rights, powers, privileges, and authorities of the City to determine, establish, or fix any of the same, are each and all hereby declared by the City and by any Grantee accepting any franchise to be contractual in nature and to be for the benefit of the City.

- (p) The form of the Grantee's contract with the subscriber shall also be subject to approval of the City.
- (q) It is not necessarily the City's intention to prohibit the erection or controlled use of individual television antennas, and no one is or will be required to receive cable communications service or connect with a cable communications system.
- (r) Should the Grantee ever fail to pay any sum of money to the City owing to the City under provisions of this Ordinance, or the franchise ordinance, when such sum becomes due and payable, Grantee shall pay interest to the CIty on the delinquent sum, until it is fully paid at (2) interest points above the prime rate of interest charges in the Woodburn area as calculated by the City.
- (s) A franchise to proceed with construction or operation of a cable communications system shall not be construed as any limitation upon the right of the City to grant to other persons or corporations, rights, privileges or authority similar to or different from the rights of authority set forth herein or the franchise document itself, in the same or other street, alleys, public highways, public places, or other public right-of-ways by agreement, franchise, permit or otherwise.
- (t) Nothing in this ordinance shall be construed or prohibit any person from constructing or operating any private non-commercial satellite receiving station to the extent permitted by City, County, State and Federal law.

Page 8- COUNCIL BILL NO. 652 ORDINANCE NO. 1766 (u) "The CATV system herein franchised shall be used and operated solely and exclusively for the purpose expressly authorized by ordinance of the City of Woodburn and no other purpose whatever." Inclusion of the foregoing statement in any such franchise shall not be deemed to limit the authority of the City to include any other reasonable condition, limitation or restriction which it may deem necessary to impose in connection with franchise pursuant to the authority conferred by provisions of this Ordinance.

Section 6. Franchise Application Procedures.

- (a) This Ordinance itself grants no authority to operate a cable communications system to any person(s). Such grants are only made by the adoption of a separate ordinance awarding a specific franchise to an applicant who has complied with the provisions of this Ordinance.
- (b) Each application for a franchise to construct, operate, or maintain any cable communications; system(s) in this City shall be filed with the City Recorder and shall contain or be accompanied by the following:
 - (1) the name, address, and telephone number of the applicant;
 - (2) a detailed statement of the corporate or other business entity organization of the applicant, including but not limited to, the following, and to whatever extent required by the City.
 - (i) the names, residence and business addresses of all officers, directors and associates of the applicant.
 - (ii) the names, residence and business addresses of all officers, persons and entities having, controlling, or being entitled to have or control of 5% or more of the ownership of the applicant and the respective ownership share of each person on entity.
 - (iii) the names and addresses of any parent or subsidiary of the applicant, namely, any other business entity owning or controlling applicant in whole or in part or owned and controlled in whole or in part by the applicant, and a statement describing the nature of any such parent or subsidiary business entity, including but not limited to cable television systems owned or controlled by the applicant, its parent and subsidiary and the areas served thereby.
 - (iv) a detailed description of all previous experience of the applicant in providing cable television communications system service and in related or similar fields.
 - (v) a detailed and complete financial statement of the applicant.

page 9- COUNCIL BILL NO. 652 ORDINANCE NO. 1766

- (vi) a statement identifying, by place and date, any and all cable television franchises awarded to the applicant, or its parent or subsidiary; the status of said franchises with respect to completion thereof; the total cost of completion of such systems; and the amount of applicant's and its parent's or subsidiary's resources committed to the completion thereof.
- (3) a thorough, detailed description of the proposed cable communications system and plan of operation of the applicant which shall include, but not be limited to, the following:
- (i) a detailed map indicating all areas pro posed to be served and a proposed time schedule for the installation of all equipment necessary to become operational throughout the entire area to be served.
- (ii) a detailed, informative and referenced statement describing the actual equipment and operational standards proposed by the applicant. In no event shall said operational and performance standards be less than those adopted by the rules and regulations of the Federal Communications Commission (contained in Title 47, Subpart K, Sections 76.601 et. seq. 9), and as augmented and modified by the franchise awarded.
- (iii) a detailed estimate of the cost of constructing the applicant's proposed system.
- (iv) a copy of the form of any agreement, undertaking or other instrument proposed to be entered into between the applicant and any subscriber.
- (v) a detailed statement setting forth in its entirety any and all agreements and undertakings, whether formal or informal, written, oral or implied, existing or proposed to exist between the applicant and any person, firm or corporation which materially relate or pertain to or depend upon the application and the granting of the franchise.
- (vi) a statement or schedule setting forth all proposed classifications of rates and charges to be made against subscribers and all rates and charges as to each of said classifications, including installation charges and service charges.
- (4) a copy of any agreement existing between the applicant and any public utility subject to regulation by the Oregon Public Utilities Commission providing for the use of any facilities of the public utility, including but not limited to poles, lines or conduits, within the City and/or adjacent areas.

- (5) any other details, statements, information or references pertinent to the subject matter of such application which shall be required or requested by the Council, or by any provision of any other Ordinance of the City.
- (6) an application fee in a sum to be set by the City which shall be in the form of cash, certified or cashier's check, money order, to pay the costs of studying, investigating, and otherwise processing such applications, and which shall be in consideration thereof and not returnable or refundable in whole or in part, except to the extent that such fee exceeds the actual costs incurred by the City in studying, investigating and otherwise processing the application; provided that any applicant who shall deliver to the City Recorder a written withdrawal of or cancellation of any application following the day such application is received by the City Recorder, shall be entitled to have returned and refunded the sum of 50% of the fee less any actual costs or expenses incurred by the City by reason of such applications.
- (c) The Council may, by advertisement or otherwise, solicit for any other applications for cable communications system franchises, and may determine and fix any date upon or after which the same shall be received by the City, or the date before which the same shall not be received and may make any other determinations and specify any other times, terms, conditions or limitations respecting the soliciting, calling for, making and receiving of such applications.
- (d) Upon receipt of any application for franchise, the Council shall refer the same to the City Administrator who shall prepare a report and make his recommendations respecting such application, and cause the same to be completed and filed with the Council within ninety (90) days.
- (e) In making any determinations hereunder as to any application the Council shall give due consideration to the character and quality of the service proposed, rates to subscriber, income to the City, experience, character, background and financial responsibility of any application, and its management and owners, technical and performance quality of equipment, willingness and ability to meet construction and physical requirements, and to abide by policy conditions, franchise limitations and requirements, and any other consideration deemed pertinent by the Council for safeguarding the interest of the City and the public. The Council, in its discretion, shall determine the award of any franchise on the basis of such considerations and without competitive bidding.
- (f) If the Council, after public hearing, shall determine to reject such application, such determination shall be final and conclusive, and the same shall be deemed rejected.
- (g) If the Council shall determine to further consider the application, the following shall be done;
- (1) The Council shall decide and specify the terms and conditions of any franchise to be granted hereunder and as herein provided, and shall set a date and time for a public hearing.

Page 11- COUNCIL BILL NO. 652 ORDINANCE NO. 1766

- (2) The City Recorder shall give notice of the intention to consider the granting of such a franchise, stating the name of the proposed Grantee, and that copies of the proposed franchise may be obtained at the office of the City Recorder, fixing and setting forth a time and public place certain when and where interested parties may inspect all the bona fide applications, and setting forth a day, hour, and place certain when and where any persons having any interest therein or objection to the granting thereof may file written protests and appear before the Council and be heard. The City Recorder shall publish notice of the action specified in subsection 1 at least once within ten (10) days there of in a newspaper of general circulation within the City.
- (b) At the time set for the hearing, or at any adjournment thereof, the Council shall proceed to hear all written protests. Thereafter, the Council shall make one of the following determinations:
 - (1) that such franchise be denied; or
 - (2) that such franchise be granted upon such conditions as the Council deems appropriate, which conditions may include, on a not to exceed basis, where in accordance with applicable FCC regulations and State laws;
 - (i) charges for installation;
 - (ii) subscriber rates;
 - (iii) service rates for separate classifications of service such as additional connections.
 - (i) If the Council shall determine that franchise be granted, such determination shall be expressed by Ordinance granting a franchise to the applicant. The action of the Council shall be final and conclusive.
 - (j) The Grantee shall pay to the City a sum of money sufficient to reimburse it for all expenses incurred by the provisions of this Ordinance beyond those defrayed by application fees. Such payment shall be made within thirty (30) days after the City furnishes the Grantee with a written statement of such expenses.

Seciton 7. Applications for Franchise Renewal.

- (a) Any franchise may be renewed for a term not to exceed (10) years, at any time prior to the expiration of the same. An application therefore shall be submitted to the City Administrator containing the following information:
 - (1) the information required pursuant to section 6 (b) (1) and (2) hereof;
 - (2) a map of the area proposed to be included in the franchise service area;
 - (3) a schedule of rates and charges proposed;
 - (4) a narrative and/or pictorial description of the facilities in place, and a narrative description of proposed additions and/or replacements thereto, if any.

Page 12- COUNCIL BILL NO. 652 ORDINANCE NO. 1766

(b) upon receipt of such an application the City Administrator shall review the same and forward to the City Council a report containing the recommendation as to whether the renewal franchise should be granted or not. Upon receipt of such a report, the City Council shall conduct a public hearing, notice as is provided in subsection 6 (g) (2) hereof. At the time of such hearing, or continuance thereof, the City Council shall, based upon the application report, and relevant evidence received, determine whether the public interest, convenience and necessity require the issuance of such franchise. If it determines that the said franchise should be granted, it shall do so in the manner provided in subsection 6 (h) (2) hereof, in the event of non-renewal or termination of a franchise, the City may purchase, or in any event shall require any successor Grantee to purchase, Grantee's facilities at a cost not to exceed its then fair market value, with a reduction for any uncompensated damages incurred by the City in connection with the Grantee's operation. If such fair market value cannot be agreed upon by the parties, it shall be determined by a three-member arbitration panel, in accordance with the arbitration process specified in subsection 4(c) of this ordinance. The parties shall divide expenses of arbitration evenly among themselves.

Section 8. Acceptance of the Franchise.

- (a) No franchise granted under this Ordinance shall become effective for any purpose unless and until written acceptance there of shall have been filed with the City Recorder's written acceptance, which shall be in the form and substance approved by the City Attorney, shall also be and operate as an acceptance of each and every term and condition and limitation contained in this Ordinance, and in such franchise, or otherwise specified as herein and therein provided.
- (b) The written acceptance shall be filed by the Grantee not later than 12:01 o'clock p.m. of the fortieth (40th) day next following the effective date of the Ordinance granting such franchise. In the event this day falls on a non-working day, then the next business day will suffice.
- (c) In default of the filing of such written acceptance as herein required the Grantee shall be deemed to have rejected and repudiated the franchise. Thereafter the acceptance of the Grantee shall not be received nor filed by the City Recorder. The Grantee shall have no rights, remedies, or redress in the premises, unless and until the Council shall determine that such acceptance be received or filed, and then upon such terms and conditions as the Council may impose.
- (d) In any case, and in any instance, all rights. remedies and redress in these premises which may or shall be available to the City, shall at all times be available to the City, and shall be preserved and maintained and shall continuously exist in and to the City, and shall not be in any manner or means modified, abridged, altered, restricted, or impaired by reason of any of these permises, or otherwise.
- (e) Any franchise granted and accepted under this Ordinance shall be in lieu of any and all other conflicting rights, privileges, powers, immunities, and authorities owned, possessed, controlled, or exercisable by the Grantee, of or pertaining to the construction, operation, or maintenance of any cable communications system (s) in the City.

Section 9. Transfer or Assignment of Franchise.

- (a) Any such franchise shall be a privilege to be held in personal trust by the Grantee. The franchise shall not be sublet or assigned, nor shall any of the rights or privileges therein granted or authorized be leased, assigned, mortgaged, sold, transferred, or disposed of, either in whole or in part, either by forced or involuntary sale, or by voluntary sale, merger, consolidation or otherwise, nor shall title thereto, either legal or equitable, or any right, interest or property therin, pass to or vest in any person (s), except the Grantee, either by act of the Grantee or by operation of law, without the consent of the City expressed by Ordinance.
- (b) The Grantee shall promptly notify the City of any proposed charge in, or transfer of, or acquisition by, any other party of control of the Grantee with respect to which the consent of the Grantor is required, pursuant to sub-section 9 (a) above. Such change of control shall make this franchise subject to revocation unless and until the City Council shall have consented thereto.
- (c) Consent of the City Council shall not be granted until it has examined the proposed assignee's legal, financial, technical, character and other qualifications to construct, operate and maintain a cable communications system in the City and has afforded all interested parties notice and an opportunity to be heard on the question. The Grantee shall assist the City in any such examination.
- (d) The said consent of the Council may not be unreasonably refused; provided, however, the proposed assignee must show financial responsibility as determined by the Council and must agree to comply with all provisions of the franchise and of this Ordinance; and provided, further, that no such consent shall be required for a transfer in trust, mortgage, or other hypothecation in whole or in part, to secure an indebtedness, except that when such hypothecation shall exceed 50% of the market value of the property used by the Grantee in the conduct of the cable communications system, prior concept of the Council shall be required such a transfer. Such consent shall not be withheld unreasonable.
- (e) In the event that Grantee is a corporation, prior approval of the City Council, shall be required where there is actual change in control or where ownership of more than 50% of the voting stock of Grantee is acquired by a person or group of persons acting in concert, none of whom already own 50% or more of the voting stock, singly or collectively. Any such acquisition occurring without prior approval or the City Council shall constitute a failure to comply with a provision of this Ordinance within the meaning of Section 4 of this Ordinance.
- (f) Any such transfer or assignment shall be made only by an instrument in writing, which shall include an acceptance of all terms and conditions of the franchise by transfer of a duly executed copy of which shall be filed with the City Recorder within 30 days after any such transfer or assignment.

Section 10. Cable Communications Services.

- (a) <u>Basic Service</u>. A cable communications system, to be installed and operated pursuant to this Ordinance and a franchise granted hereunder shall:
- (1) be operationally capable of relaying to subscriber terminals those television and radio broadcast signals for the carriage of what the Grantee is now or thereafter authorized by the Federal Communications Commission; and
- (2) distribute color television signals which it received in color; and
- (3) provide channel capacity and basic equipment for program production in cable casting for educational and public access uses, and for use of the City per Section 20 herein; and
 - (4) have a minimum capacity of 41 downstream video channels; and
- (5) as a minimum, have the capability of being converted at any time to provide full reverse transmission (two-way transmission) in any portion of the system or trunk by adding appropriate reverse amplifier modules. Further, the two-way capability shall be fully activated from production facilities in those sites specified in the cable communications franchise granted pursuant to this ordinance.
- (b) <u>Non-basic Services.</u> The cable communications system permitted to be installed and operated pursuant to this ordinance may also engage in the business of:
- (1) transmitting original cablecast programming not received through television broadcast signals;
- (2) transmitting television pictures, film and video-tape programs, not received through broadcast television signals, whether or not encoded or processed to permit reception by only selected receivers or subscribers;
- (3) transmitting and receiving all other signals; digital, voice and audio-visual, etc.
- (c) <u>Emergency Service</u>. The Grantee shall design and construct the system to provide for a restricted audio and video override of video channels during emergencies as per Section 21 herein.

Page 15 - COUNCIL BILL NO. 652 ORDINANCE NO. 1766 Section 11. <u>Service Area.</u> Grantee's system design and construction shall be such that service shall be made available to all residential units within the Grantee's service area, as defined in the franchise, for the normal installation fee, with the exception that in those locations where the dwelling units per strand mile of system plant are less than the dwellings per mile figure stipulated in the franchise ordinance, Grantee shall provide cable service on a pro-rata sharing of the installation costs with the potential subscribers. The pro-rata sharing of those costs will be in accordance with the formulation set forth in Section 12 herein below.

Section 12. System Extension. Grantee shall extend residential and institutional (the latter as required by City) service into every new subdivision and/or development and/or newly incorporated/annexed area. Those new areas having more dwelling units per strand mile of plant than the number stipulated in the franchise ordinance, shall receive residential service for the normal installation fee. The capacity to provide cable communications service shall be available to newly constructed structures on the date of first occupancy. Actual installation of service may be delayed up to 60 days from first occupancy or until after final grading, whichever is first. In those areas where the number of swelling units per strand mile is less than the number stipulated in the franchise ordinance, Grantee will provide residential cable service on a pro-rata sharing of the installation costs with the potential subscriber(s). Grantee will bear its pr-rata share of the then current mile of plant construction cost based on a multiple of the actual number of potential subscribers per mile divided by the number of dwellings per mile stipulated in the franchise ordinance.

The remaining construction cost will be borne on a pro-rated basis by each applicant committing to service within the extension area. Mileage will be measured from the nearest point on the nearest trunk line. Example: If it requires one mile of plant extension at \$10,000 per mile of construction to serve twenty potential subscribers, and if the franchise stipulated dwellings per mile were 24, Grantee would pay $$10,000 \times 20 \div 24$, or \$8,333, as its share of the extension cost. The remaining \$1,667 cost would be divided equally among the twenty potential subscribers or each would pay a \$84 installation fee assuming all twenty become subscribers. The above formula applies to individual installation distances, as stipulated in the franchise ordinance, or less. For distances in excess of the stipulated distance, there may be an additional charge for that distance in excess.

Section 13. <u>Systems Design, Construction and Technical Performance Standards.</u>

- (a) Standards of cable communications system(s) construction, safety, and operation will meet, but are not limited to, the following referenced specifications, unless exception is agreed upon between the City and the Grantee.
- (1) Applicable City, County, State and Nation/Federal codes and ordinances as they apply to the construction of buildings, tower, structures, and cable system installation.

- (2) Applicable utility joint attachment practices.
- (3) National Electrical Safety Code, NFPA No. 70.
- (4) Local utility code requirements.
- (5) Local right-of-way procedures.
- (b) The overall system(s) will be designed and constructed to meet all FCC technical performance specifications and standards over a temperature range of \pm 50 degrees F from the mean temperature of the Woodburn area, and to function throughout all environmental extremes expected.
- (c) The forward portion of any cable communications system shall be capable of initial activation of a minimum carriage of 41 Class I television channels, the full FM broadcast band, and for Pilot Carriers or such auxiliary signals as required for system control.
- (d) The combined forward trunk and distribution system will deliver signals to each and every subscriber's receiver that will meet or exceed the franchise ordinance specifications at the mean system temperature + 50 degrees F, unless otherwise indicated. This shall include the effects of drop cables, interior splits, and any terminal equipment such as descramblers and set top converters.
- (e) The reverse portion of the residential system shall be capable of initial activation of a minimum of 5 to 30 MHz in bandwidth, with return signals from each subscriber and institutional (including all schools) signal source to the extreme end of any area in compliance with the specifications set forth in the franchise ordinance.
- (1) Where applicable, the end of the system specifications shall include the effects of any signal reprocessing equipment necessary to achieve forward transmission.
- (2) For Class I signals, the signal delivered to the subscriber's receiver, after being transmitted to the headend, processed and retransmitted down a forward channel shall meet the specifications of the franchise ordinance.
- (f) All cable communications systems authorized to be constructed and operated pursuant to this ordinance, shall be, insofar as financially and technically feasible, be compatible one with another. Signal specifications compliance determination for forward, and/or institutional channels interchanged between other cable communication systems and a Grantee's system are to be determined by applying the combined contribution of distortion of all pertinent components of the worst case (temperature and location) signal path. The combined contribution shall meet or exceed the specified technical specifications at the termination of the worst case signal path the channel could encounter. At the interconnect point the party delivering a channel or channels will provide signals, transported either in the forward or reverse system to the inter-connect point, that meet or exceed the franchise ordinance specifications at the mean system temperature ± 50 degress F. The signals are to be the compliance as stated at a point which best representthe most direct signal path between the party providing the signal and the party providing the signal and the party receiving the signal. Only one such interconnect point is to be specified for all signal exchanges.

- (g) A comprehensive routine preventative maintenance program shall be developed, effected and maintained for each system by the respective Grantee to ensure continued top quality cable communications operated standards in consonance with FCC Part 76 and the technical specifications stipulated in the franchise ordinance.
- (h) Newly constructed system services shall not be offered for sale prior to proof-of-performance testing in accordance with FCC Part 76.601 and technical specifications and standards listed in the franchise ordinance. This initial proof-of-performance testing and annual proof of performance testing, may be conducted by the City, or its designated representative, at the City's option, when for sufficient cause as deemed by the Council, or its designated representative. The City reserves the right to have the measurements, associated with City observed performance tests, conducted at City selected test points and to a greater number of test points than the minimum required by Sub-Part 76.601, FCC Rules Additionally, the Grantee shall reimburse the City for all expenses incurred by it in connection with the City conducting or observing the annual performance tests, when the results of those tests are deemed by the City to fall below a 90% level of compliance withthe technical standards set forth in FCC Part 76 and in the franchise ordinance.
- (i) Grantee's proof of performance testing procedures must be approved by the City for implementation prior to the initial proof of performance testing addressed in Paragraph (g) immediately above. The results of performance tests conducted in accordance with Section 76.601 (c), FCC Rules (or such other section of the Rules as shall incorporate its substance) shall be retained for at least 5 years and available for inspection by the City.
- (j) All system antennas and mounts shall de designed, installed and constructed for extremes in temperature, wind and ice loading. Antennas should be able to withstand 100 mph winds with a 1" radial ice load.
- (k) All underground cable should be flooded and be armourclad cable and/or installed in conduit unless specifically exempted by the City Director of Public works, on a case by case basis.
- (1) Residential and institutional drop cables should be of the integral steel messenger variety where exposed to the possible accumulation of ice and a double shielded type and fitted with sealed hex crimp ring high integrity connectors.
- (m) Polyethelene jacketed cable should be used in any and all areas of the plant where airborne heavy chemical particles can be expected.
- (m) Grantee's corrective maintenance program shall render efficient corrective service, make repairs promptly, and interrupt service only for good cause and for the shortest time possible. Such interruptions shall be proceeded by notice and shall occur during a period of minimum use of the system. A written log shall be maintained of all service interruptions. The log shall reflect the date, time, duration, and reason for each service interruption. The record of the log shall be kept on file for a minimum of three years.

Section 14. Undergrounding of Cable Lines

- (a) In those areas and portions of the City where the transmission and/or distribution facilities of the public utility providing telephone service and those of the utility providing electric service, are underground or hereafter may be placed underground, or are to be placed underground by a builder, developer or subdivider as part of a development or subdivision, then the Grantee shall likewise construct, operate and maintain all of its transmission and distribution facilities underground.
- (b) In new developments or subdivisions the builder, developer or subdivider shall be responsible for the performance of all necessary trenching and backfilling of main line and service trenches, including furnishing of any imported backfill material required. Pre-wiring of new dwellings while under construction shall be mandatory. Amplifiers in the Grantee's transmission and distribution line may be in concrete boxes, pedestals or vaults on the surface of the ground. The Grantee will be responsible for the conduct of the engineering and labor to put the cable conduit in the trench. The Grantee will be responsible for pulling in the cable, and providing the pedestal amplifiers, electronics, stub ends and drops to individual homes, after occupancy.
- (c) In those areas and portions of the City heretofore designated by the City as local improvement districts and where utility service facilities are currently located underground, the Grantee shall be responsible for the undergrounding of cable facilities including the performance of all necessary trenching and backfilling of main line and service trenches, and the furnishing of any imported backfill material required. Amplifiers in the Grantee's transmission and distribution lines may be in concrete boxes, pedestals or vaults on the surface of the ground.

Section 15. System Maintenance

- (A) Throughout the life of a Grantee's franchise, and in addition to other service regulations adopted by the Council, and excepting circumstances beyond Grantee's control, such as Acts of God, riots and civil disturbances, and in providing the foregoing services, a Grantee shall:
- (1) Maintain all parts of its system in good condition and in accordance with standards generally observed by the cable television industry. The system must serve individual residents, but also serve as a broad based communications source for City Government, other public facilities including hospitals, public libraries, and schools, industrial and commercial business users.
- (2) Retain sufficient employees to provide safe, adequate and prompt service for all such residential subscribers, institutional facilities and business users.
- (3) Limit system failures to minimum time duration by locating and correcting malfunctioning as promptly as is reasonably possible, irrespective of holidays or other non-business hours.

Page 19- COUNCIL BILL NO. 652 ORDINANCE NO. 1766

Section 16. Emergency Power

Emergency power sources shall be provided by Grantee at the head-end, network distribution center, satellite earth station, processing hubs, and other system locations as may be necessary to guarantee that in the event of a power failure on any part of the system, service will be maintained or the rest of the system.

Section 17. Rules and Regulations for Subscriber Service Standards

- (a) It shall be the right of all subscribers to receive all available services insofar as their financial and other obligations to the Grantee are honored. Neither the City nor the Grantee shall, as to rates, charges, service, service facilities, rules, regulations, or in any other respect, make or grant any preference or advantage to any person, nor subject any person to prejudice or disadvantage.
- (b) Before providing cable television service to any subscriber, the Grantee shall provide a written notice to the subscriber substantially as follows:
 - "Subscriber is hereby notified that in providing cable television/communications service the Grantee is making use of public rights-of way within the City of Woodburn and that the continued use of such rights-of-way is in no way guaranteed. In the even the continued use of such rights-of-way is denied to Grantee for any reason, Grantee will make every reasonable effort to provide service over alternate routes, By accepting cable television/communications service, subscriber agrees he will make no claim nor undertake any action against the CIty, its officers, or its employees if the service to be provided hereunder, is interrupted or discontinued."
- (c) There shall be no charges for service calls to subscribers homes except as provided by the Agreement.
- (d) Grantee may charge a subscriber for a lost or stolen converter, not to exceed Grantee's direct original wholesale cost. Except that the loss or theft of a converter with the premium access feature will incurr a monetary penalty as specified in the franchise ordinance to the responsible subscriber, unless a police report has been filed.
- (e) Converter deposits shall be fully refundable, with possible deductions for repairs due to damage other than that of normal wear, and for any unpaid service charges due.
- (f) Grantee shall be responsible for the protection of subscriber privacy, prohibiting the tapping and/or monitoring of cable, line, signal input device, or subscriber outlet or receiver for any purpose whatsoever, except Grantee may conduct tests of the functioning of the system where necessary in order to ensure proper maintenance of the system and to collect performance data for agencies regulating the quality of signals. Where critical information requires private communication, electronic signal scrambling techniques must be used.

Page 20 - COUNCIL BILL NO. 652 ORDINANCE NO. 1766

- (g) The Grantee shall maintain constant vigilance with regard to possible abuses of the right of privacy or other human rights of any subscriber, programmer, or general citizen resulting from any device or signal associated with the cable communications system. The Grantee shall not place in any private residence any equipment capable of two-way communications without the written consent of the residents, and will not utilize the two-way communications capability of the system for subscriber surveillance of any kind without the written consent of the subscriber.
- (h) No cable, line, wire, amplifier, converter, or other piece of equipment owned by the Grantee shall be attached to any residence or other property by the Grantee without first securing the written permission of the owner or responsible occupant of any property involved. If such permission is later revoked whether by the original or a subsequent owner or responsible occupant, the Grantee shall remove forthwith all of its equipment and promptly restore the property to as near to its original condition as possible.
- (i) In the event that the Grantee elects to rebuild, modify, or sell the system, or the CIty revokes or fails to renew the franchise, the Grantee shall do everything in its power to ensure that all subscribers receive continuous, uninterrupted service regardless of the cirrumstances during the life time of the franchise. In the event of a system purchase by the City, or change of Grantee, the current Grantee shall cooperate with the City to operate the system for a temporary period, in maintaining continuity of service to all subscribers.
- (j) Upon termination of service to any subscriber, a Grantee shall promptly remove all its facilities and equipment from the premises of such subscriber upon his request, with the exception of underground installations if agreed upon by the subscriber at the time of subscribtion to the service.
- (k) The Grantee shall not sell, or otherwise make available, lists of the names and addresses of its subscribers, or any list which identifies. by name, subscriber viewing habits, to any person agency, entity, for any purpose whatsoever.
- (1) No polls or other two-way responses of subscribers shall be conducted unless the program of which the poll is a part shall contain an explicit disclosure of the nature, purpose and prospective use of the results of the poll. No commercial or other use of information of subscriber viewing habits or patterns may be made and no release of such information shall be permitted without prior consent of the Council or pursuant to the rules and regulations duly adopted by the City.

Section 18, Subscriber Complaint Service.

- (a) Subscriber complaint service will be provided in conjunction with the Grantee's corrective maintenance program. Location of the Grantee's office and service center to be subject to Council approval. The subscriber complaint service will be as specified in the franchise ordinance.
- (b) A conveniently located business office and service center will be maintained within the service area. This office shall be open during all usual business hours, with its telephone listed in directories of the telephone company servicing the City, and be so operated that complaints and requests for repairs or adjustments may be received by telephone at all times when any television signals are being broadcast. Corrective maintenance for institutional services will be in accord with contract terms between the Grantee and the subscriber.

Section 19. Rates and Charges.

Except when and as preempted by FCC regulations and State laws, the following procedures apply to the rates and charges associated with the providing of services under this ordinance and any franchise issued hereunder.

- (a) The Grantee shall charge its subscribers and users rates and charges approved by the Council, and no change in rates and charges may be made without the prior approval of the Council expressed by resolution.
- (b) Should the Grantee desire to change its rates and charges, it shall file a petition with the Council at least ninety (90) days prior to the proposed date of change. The petition shall detail the proposed changes and set forth the reason changes are desire. The petition shall include system historical financial data (balance sheets and detailed profit and loss statements) for the period since commencement of system operations of the previous five (5) years, whichever is the lesser.
- (c) Council determination of proper rates and charges shall be based on factors considered important by Council, which shall include but are not limited to: the quality of signal delivered to subscribers, the quality of service provided to subscribers, channel capacity, number and quality of programming sources, and underlying economics of the system (system cash flow, Grantee return on investment, etc.). In this regard, the City reserves the right to inspect all of the Grantee's property and records in adjudging the merits of a request for a change in rates and/or charges.
- (d) In connection with any proposed increase in any rate or charge, the City may direct an authorized representative to conduct a hearing on the matter. If so directed, the representative shall set the day, hour, and place certain when and where any person having any interest therein may appear and be heard. This hearing should normally be conducted within sixty (60) days from date of receipt of petition. The notice of a public hearing on the matter should be published at least ten (10) days before the date of the hearing in a newspaper of general circulation within the City.
- (e) At the time set for such hearing, or at any adjournment thereof, the representative shall hear the matter. Following the close of such hearing, the representative shall prepare and file withthe Council a report of the hearing, and his recommendations and the reasons therefore. After receipt of the representative's report, the Council shall determine whether to adopt the report or to hold a further hearing. If the Council elects to adopt the recommendations of the representative, it shall do so by resolution. If it elects to conduct a hearing thereon, it shall fix and set forth a day, hour, and place certain when and where any person having any interest herein may appear before the Council and be heard. The City Recorder shall publish notice of the public hearing at least once within ten (10) days to the Council action in a newspaper of general circulation within the City. The City Recorder also shall cause notice of intent of such resolution to be mailed to the Grantee at least ten (10) days prior to the date specified for hearing thereon. At the time set for such hearing, or at any adjournment thereof, the Council shall hear and decide the matter.

Page 22- COUNCIL BILL NO. 652 ORDINANCE NO. 1766 (f) No rate established shall afford any undue preference or advantage among subscribers, but separate rates may be established for separate classes of subscribers.

Section 20. Local Origination and Access.

- (a) Grantee shall provide and maintain at least one Local Origination and Access Studio within the service area. Location of the studio to be approved by the Council or its designated representative.
- (b) Grantee shall provide, install and maintain a Local Origination and Access Audio/Video System at their Local Origination and Access Studio. The System shall contain a complement of compatible equipment as specified in the franchise ordinance all of which will be of broadcast or top level industrial quality.
- (c) The Grantee shall make the portable audio/video equipment available for use by residents in accordance with a Grantee developed and City approved studio and equipment operations/usage plan, provided the following:
- (1) Grantee may charge a fee and/or deposit for the use and' safe return of said equipment.
- (2) The user shall be responsible to the Grantee for any loss of or damage to said equipment.
- (3) Said equipment shall be available to residents on a "check-out" basis, and Grantee shall be given reasonable notice by a resident who wishes to use said equipment.
- (4) Residents may not use the equipment for longer than a reasonable period of time, nor more frequently than is reasonable.
- (5) Grantee may deny use of said equipment to any resident who, in the judgment of Grantee, is not competent in the care of said equipment.
- (6) Grantee shall hold harmless the City from any damages resulting from the use of local Origination and Access Studio and portable equipment.
- (d) If the Grantee provides a color production van for remote public access productions and locally-originated programming, the van should be a fully equipped, multiple-camera, color production van with switches, special effects editing and audio origination capability. It should have complete videotape recording (VIR) equipment for editing and later playback of programs, and can be linked for live origination to the system head-end or network distribution center by two-way cable throughout the Grantee's service area. Portable micro-wave equipment should be provided to link the production van to the system where cable inter-connections are not available. The head-end or network distribution center should be equipped with an omni-directional micro-wave receive antenna to afford reception of the production van micro-wave signal from virtually any line -of-sight location within a 20-mile radius.

Page 23- COUNCIL BILL NO. 652 ORDINANCE NO. 1766

- (e) Grantee's production capability will be supplemented by a minimum of two portapak cameras and two 3/4" portable video recorders.
- (f) Grantee shall provide community access channels for use by City residents, including a channel for Government access, a channel for primary and secondary school access use, a channel for access use by colleges, a channel for community access on a first come, first serve basis, and a channel for leased access untilthere is demand for full channel-time use, such may be combined on one or more channels. Additional access channels will be activated when any of the channels stipulated are in use during 80% of the weekdays (Monday through Friday) for 80% of the time during any consecutive three (3) hour period for (6) consecutive weeks.
- (g) Grantee will actively promote production assistance to facilitate use of these community access channels. Grantee shall maintain sufficient dedicated studio staff to fully support active local origination and access activities. The staff, upon reasonable notice, shall provide training and technical assistance in the use of the studio and portable equipment. This training and assistance shall, at a minimum, be available at the local ôrigination and access studio and made available upon request at public schools.
- (h) Grantee shall maintain all studio equipment, including portable equipment, in a fully operational status on a continuous basis, and to technical standards requisit for quality performance. When any equipment is removed for maintenance it will be replaced by like-type equipment of equivalent performance.

Section 21. Emergency Alert - Audio/Video Override

The Grantee shall design and construct the cable communications system to provide for a restricted audio and video simultaneous override of all video channels during emergencies, with override to be placed under City control. Video override to include a character generator capability for delivery of emergency messages to the communicatively handicapped. The audio override shall include a squeal alert tone to precede the verbal and video messages. The design of the Emergency Alert system is to be submitted to the City Administrator for approval prior to construction.

Section 22. Safety Requirements

A Grantee shall, at all times:

- (a) Install and maintain its wires, cables, fixtures and other equipment in accordance withthe requirements of the City Building Code, and in such manner that they will not interfere with any installations of the City.
- (b) Keep and maintain in a safe, suitable, substantial condition, and in good order and repair, all its structures, lines, equipment, and connections in, over, under, and upon the streets, sidewalks, alleys, and public ways or places of the Garage City wherever situated or located.

Page 24- COUNCIL BILL NO. 652 ORDINANCE NO. 1766

Section 23. Permits and Construction

(a) Within thirty (30) days after acceptance of franchise, the Grantee shall proceed with due diligence to obtain all necessary permits and authorizations which are required in the conduct of its business, including, but not limited to, any utility joint use attachment agreements, encroachment permits, microwave carrier licenses, and any other permits, licenses and authorizations to be granted duly constituted regulatory agencies having jurisdiction over the operation of cable television/communications systems, or associated micro-wave transmission facilities.

In connection therewith, copies of all petitions, applications and communications submitted by the Grantee to the Federal Communications Commission, Securities and Exchanges Commission, or any other Federal or State regulatory commission or agency having jurisdiction in respect to any matters affecting Grantee's cable communications operations, shall also be submitted simultaneously to the City Administrator

- (b) Within sixty (60) days after obtaining all necessary permits, licenses and authorizations, including right of access to poles and conduits, Grantee shall commence construction and installation of the cable communications system.
- (c) Within one hundred eighty (180) days after the commencement of construction and installation of the system, Grantee shall proceed to render service to subscribers, and the completion of the installation and construction shall be pursued with reasonable diligence thereafter, so that service to all areas designated and scheduled on the map and plan of construction made part of the franchise shall be provided as set forth therein.
- (d) Failure on the part of the Grantee to commence and diligently pursue each of the foregoing requirements and to complete each of the matters set forth herein, shall be grounds for termination of such franchise. By resolution and Order the Council in its discretion, may extend the time for the commencement and completion of installation and construction for additional periods in the event the Grantee, acting in good faith, experiences delays by reason of circumstances beyond his control.
- (e) Grantee shall utilize existing poles, conduits, and other facilities whenever possible, and shall not construct or install any new, different, or additional poles, conduits, or other facilities whether on public property or on privately-owned property unless and until first securing the written approval of the City Director of Public Works.

Whenever Grantee shall not utilize existing poles, conduits and other facilities, or whenever existing conduits and other facilities shall be located beneath the surface of the streets or whenever the City shall undertake a program designated to cause all conduits and other facilities to be located beneath the surface of the streets in any area of the City, in the exercise of its police power or pursuant to the terms hereof, upon reasonable notice to Grantee, the City may require any such to be constructed installed, placed, or replaced beneath the surface of the streets. Any construction, installation, placement, replacement, or changes which may be so required shall be made at the expense of Grantee, whose costs shall be determined as in the case of public utilities.

Page 25- COUNCIL BILL NO. 652 ORDINANCE NO. 1766

- (f) The City shall have the right, free of charge, to make additional use, for any public or municipal purpose, whether governmental or proprietary, or any poles, conduits, or other similar facilitities erected, controlled, or maintained exclusively by or for Grantee in any street, provided such use by City does not interfere with the use by Grantee.
- (g) Per Section 14 of this Ordinance, in those areas of the City where the transmission of distribution facilities of the respective public utilities providing telephone, communications and electric services are underground, or hereafter are placed underground, the Grantee likewise shall construct, operate and maintain all of his transmission and distribution facilities underground. When directed by the City, previously installed aerial cable shall be undergrounded in concert, and on a cost-sharing basis, withthe utility companies involved pursuant to the general ordinances of the City or applicable State laws.

The term "underground" shall include a partial underground system; provided that upon obtaining the written approval of the City, amplifiers in the Grantee's transmission and distribution lines may be placed in appropriate housing upon the surface of the ground.

(h) The Grantee at his expense shall protect, support, temporarily disconnect relocate, or remove any property of Grantee when, in the opinion of the City Administrator. The same is required by reason of traffic conditions, public safety, street vacation, free way or street construction; change or establishment of street grade, installation of sewers, drains, waterpipes, power line, signal line transportation facilities, tracks, or any other types of structures of improvements by governmental agencies whether acting in a governmental or proprietary capacity, or any other structure of public improvement, including but not limited to movement of buildings, urban renewal and redevelopment, and any general program under which the City shall undertake to cause all such properties to be located beneath the surface of the ground.

The Grantee may, at the sole option of the City, have the privilege, subject to the corresponding obligations, to abandon property of Grantee in place. A permit to abandon in place must first be obtained from the City Director of Public Works. Nothing hereunder shall be deemed a taking of the property of Grantee and Grantee shall be entitled to no surcharge by reason of anything hereunder.

(i) Upon the failure, refusal, or neglect of Grantee, to cause any work or other act required by law or hereunder to be properly completed in, on, over, or under any street within any time prescribed therefore, or upon notice given, where no time is prescribed the City Administrator may cause such work or other act to be completed in whole or in part, and upon so doing shall submit to Grantee an itemized statement of the costs thereof. The Grantee shall, within thirty (30) days after receipt of such statement, pay to the City the entire amount thereof.

(j) In the event that:

- (1) the use of any part of the system of Grantee is discontinued for any reason for a continuous period of thirty (30) days, without prior written notice to and approval by the City; or
- (2) any part of such system has been installed in any street or other area without complying with the requirements hereof and/or the Franchise Ordinance; or

Page 26- COUNCIL BILL NO. 652 ORDINANCE NO. 1766 (3) any franchise shall be terminated, cancelled or shall expire, then the Grantee shall, at the option of the City, and at the expense of Grantee and at no expense to the City, and upon demand of the City, promptly remove from any streets or other area all property of Grantee shall promptly restore the street or other area from which such property has been removed to such condition as the City Director of Public Works shall approve.

The Council may, at its sole option, upon written application therefore by Grantee, approve the abandonment of any of such property in place by Grantee. Upon abandonment of any such property in place, Grantee shall cause to be executed, acknowledged and delivered to the City such instruments as the City Attorney shall prescribe and approve, transferring and conveying the ownership of such property to the City.

Section 24. Indemnifications

- (a) Upon being granted a franchise, and upon filing of the acceptance required, the Grantee shall, at his sole expense, obtain, file with the City and, unless otherwise authorized by Council, thereafter maintian during the full term of such franchise or any renewal thereof plus an additional six months thereafter, a corporate surety bond or other adequate surety agreement in such form and amount, not less than the penalty sum of one hundred thousand (\$100,000) dollars, as shall have been approved by the City Attorney.
- (b) Within thirty (30) days after the effective date of any franchise, unless otherwise authorized by Council, the Grantee shall deposit into a bank account, established by the City Administrator and maintain on deposit through the term of the franchise a security fund of not less than fifteen thousand (\$15,000) dollars as security of faithful performance by it of all provisions of the franchise, and compliance with all orders, permits and directions of any agency of the City having jurisdiction over its acts or defaults under the contract, and payment by the Grantee of any claims, liens and taxes due to the City which arise by reason of the construction, operation or maintenance of the system. The Grantee shall be entitled to all interest earned on such account.
 - (1) within thirty (30) days after notice to it that any amount has been withdrawn by the City from the security fund pursuant to sub-section (b) of this Section, the Grantee shall deposit a sum of money sufficient to restore such security fund to the original amount of fifteen thousand (\$15,000) Dollars.
 - (2) if the Grantee fails, after ten (10) days notice to pay to the City any taxes due and unpaid; or, fails to repay the City within such ten (10) days, any damages, costs or expenses which the City shall be compelled to pay by reason of any act or default of the Grantee in connection with the franchise; or, fails, after thirty (30) days' notice of such failure by the City to comply with any provision of the franchise which the City reasonably determines can be remedied by an expenditure of the security, the City Administrator may immediately withdraw the amount thereof, with interest and any penalties, from the security fund. Upon such withdrawal, the City Administrator, shall notify the Grantee of the amount and date thereof.

- (3) the security fund deposited pursuant to this section shall become the property of the City in the event that the franchise is cancelled by reason of default of the Grantee or revoked for cause. The Grantee, however, shall be entitled to the return of such security fund, or portion thereof, as of the franchise, or upon termination of the franchise at an earlier date, provided that there is then no outstanding default on the part of the Grantee.
- (c) By accepting a franchise, each Grantee shall be deemed to have agreed to indemnify and hold harmless the City, its officers, boards, commissions, agents, consultants, and/or employees against and from any and all claims, demands, causes or actions, actions, suits, proceedings, damages (including but not limited to ,damages to City property and damages arising out of copyright infringements, and damages arising out of any failure by Grantee to secure consents from the owners, authorized distributors or licensees of programs to be delivered by Grantee's cable communications system), costs or liabilities (including costs of the City with respect to its employees), of every kind and nature whatsoever, including but not limited to damages for injury or death or damage to person or property, and regardless of the merit of any of the same, and against all liability to others, and against any loss, cost, and expense resulting or arising out of any of the same, including any attorney fees, accountant fees, expert witness or consultant fees, court costs, per diem expense, traveling and transportation expense, or other costs or expense arising out of or pertaining to the exercise or the enjoyment of any franchise hereunder by Grantee, or the granting thereof by the City.
- (d) The Grantee shall at the sole risk and expense of Grantee, upon demand of the City, made by and through the City Attorney, appear in and defend any and all suits, actions, or other legal proceedings, whether judicial, quasi-judicial, administrative, legislative, or otherwise brought or instituted or had by third persons or duly constituted authorities, against or affecting the City, its officers, commissions, agents, consultants, or employees, and arising out of or pertaining to the exercise or the enjoyment of such franchise, or the granting thereof by the City.
 - (1) alternatively, in the discretion of the City Administrator, the City may, on behalf of itself, and/or any of its officers, agents, consultants or employees, elect to employ, at Grantee's expense, attorneys to appear and defend such actions.
 - (2) the Grantee shall pay and satisfy and shall cause to be paid and satisfied any judgment, decree, order, directive, or demand rendered, made or issued against Grantee, the City, its officers, boards, commissions, agents, consultants, or employees in any of these premises; and such indemnity shall exist and continue without reference to or limitation by the amount of any bond, policy of insurance, security deposit, undertaking or other assurance required hereunder, or otherwise; provided, that neither Grantee nor City shall make or enter into any compromise or settlement of any claim, demand, cause of action, action, suit or other proceedings, without first obtaining the written consent of the other.

Page 28-COUNCIL BILL NO. 652 ORDINANCE NO. 1766

- (e) Upon being granted a franchise, and upon the filing of the acceptance required under section 8 hereof, the Grantee shall file with the City Reocrder and shall thereafter, during the entire term of such franchise, maintain in full force the effect each of the following policies of insurance:
- (1) General Comprehensive Liability Insurance in a form satisfactory to and an amount approved by the City Attorney, together with bodily injury and property damage liability insurance with such limits as may be required by the Council, but not less than five Mundred thousand dollars (500,000) for each person injured, and one million dollars (\$1,000,000) aggregate per single accident or occurrence, and five hundred thousand (500,000) for property damage; The City shall be named as an additional insured on all such insurance policies and such policies shall provide they cannot be cancelled unless at least thirty (30) days prior written notice of intent to terminate or cancel has been given to the City.
 - (i) the City shall be named as an additional insured in any of said insurance policies.
 - (ii) where such insurance is provided by a policy which also covers Grantee or any other entity or person, it shall contain the standard cross liability endorsement.
 - (2) Workers Compensation Insurance coverage in at least the minimum amounts required by law. If a Grantee fails to obtain or maintain such required insurance coverage, the City, may without notice to Grantee, obtain at Grantee's sole expense, such coverage, or forthwith terminate, without prior notice, the franchise as granted.
- (f) Any of the indemnifications specified in this section may be reduced, in part or whole, in term or amount by Council after three years from date of award of franchise if the purpose of the above required bond, security fund or insurance is deemed by Council to have been served and no longer required. Once reduced, in part or whole, the full requirements, in term and amount, may be reimposed as indicated above at Council's sole discretion and at Grantee's sole expense.

Section 25. Franchise Fee

(A) In consideration of the granting and exercise of a franchise to construct and operate a cable communications system in the City, the Grantee shall pay to the City during the life of the franchise, a franchise fee equivalent to a percentage, as stipulated in the franchise ordinance, of the Grantee's gross revenues including, but not limited to, Basic Service Revenues, Non Basic Revenues, Advertising Revenues, Lease Revenues, and Date transfer Revenues, for the purpose of defraying administrative expenses associated with the conduct and performance of the City's authority, responsibilities, and police power in the promotion of safety, convenience, comfort, prosperity, and general welfare of the citizens of the City, and in consideration of the City's granting and Grantee's exercising a franchise to use the streets, as defined in Section 2 herein.

- (B) The percentage payments shall be made in the manner, amounts and at times directed in the franchise ordinance.
- (C) At the discretion of the Council, a percentage of portion of the fee payments may be ear-marked to assist in the funding of certain non-basic service, e.g.-public and educational access, etc.
- (D) A Grantee shall file with the City Recorder, within 90 days after the expiration of any calendar year or portion thereof during which its franchise is in force, a financial statement certified by a responsible officer of the Grantee, showing in detail the Gross Revenues, and defined herein, of the Grantee during the preceding calendar year of portion thereof. Additionally, Grantee shall submit to the City copies of all FCC Form 325 and 326 reports (and any future revisions of replacements thereof) within ten days after submission to the FCC.
- (E) The City or its representative shall have the right to inspect the Grantee's records to determine if proper payments have been made to the City. The cost of such audits shall be borne by Grantee if the same results in increasing by more than 2%, the Grantee's annual payment to the City.
- (F) No acceptance of any payment shall be construed as a release or as an accord and satisfaction of any claim the City may have for further or additional sums payable under this Ordinance or the Franchise Ordinance or associated Resolution or Ordinance for the performance of any other obligation thereunder.

Section 26. <u>Conditions on Right-of-Way Occupancy.</u>

- (a) Any pavments, sidewalks, curbing or other paved area taken up or any excavations made by a Grantee shall be done under permits issued for the work by the proper officials of the City, and under their supervision and direction, and shall be done in such manner as to give the least inconvenience to the inhabitants of the City. A Grantee shall, at its own cost and expense, and in a manner approved by the proper City officials, replace and restore any such pavements, sidewalks, curbing or other paved areas in as good a condition as before the work involving such disturbance was done, and shall also make and keep full and complete plats, maps and records showing the exact locations of its facilities located within the public streets, right -of-ways, and easements of the City. These maps shall be available for inspection at any time during business hours by City officials.
- (b) A Grantee shall, at its expense, protect, support, temporarily disconnect, relocate, or remove, any of its property when required by the City by reason of traffic conditions, public safety, road construction, change of street grade, installation of sewers, drains, water pipes, power lines, signal lines, tracks, or any other type of municipal improvements; provided; however, that the Grantee may, at the sole option of the City, have the privilege of abandoning property in place.
- (c) A Grantee shall, on the request of any person holding a building moving permit issued by the City, temporary removal or raising or lowering of wires shall be paid by the person requesting same, and the Grantee shall have the authority to require such payment in advance. The Grantee shall be given not less than 48 hours advance notice to arrange for such temporary wire changes.
- (d) A Grantee shall have authority to trim the trees upon and overhanging the public streets so as to prevent the branches of such trees from

coming in contact with the wires and cables of the Grantee under the same rules and regulations applied to public utilities within the City, except that, at the option of the Council, such trimming may be done by it or under its supervision and direction at the expense of the Grantee.

- (e) In all sections of the City where the cable, wires, or other similar facilities of public utilities are placed underground, the Grantee shall place its cables, wires, or other like facilities underground to the maximum extent that existing technology reasonably permits the Grantee to do so.
- (f) In all sections of the City where wires, cables and other system appurtenances are mounted above ground, every reasonable effort shall be made to minimize obstruction of the view of residents, and every reasonable effort shall be made to preclude an unsightly system installation.

Section 27. Rights Reserved to the City.

- (a) Nothing herein and/or in the franchise shall be deemed or construed to impair or affect, in any way, to any extent, the right of the City to acquire the property of the Grantee, either by purchase or through the exercise of the right of eminent domain, at a fair and just value, which shall not include any amount for the franchise itself or for any of the rights or privileges granted thereby, and nothing herein contained shall be construed to contract away or to modify or abridge, whether for a term or in perpetuity, the City's right of eminent domain.
- (b) There shall be reserved to the City every right and power which is required to be reserved or provided by law, and the Grantee, by its acceptance of the franchise, agrees to be bound thereby and to comply with any action or agreements of the City in its exercise of such rights of power, theretofore, or thereafter enacted or established.
- (c) Neither the granting of the franchise nor any provision thereof shall constitute a waiver or bar to the exercise of any governmental right or power of the City.
- (d) The City hereby reserves to itself the right to intervene in any suit, action, or proceeding involving any provision of this ordinance and/or Grantee's franchise. The Council may do all things which are necessary and convenient in the exercise of its jurisdiction under this Ordinance and/or Grantee's franchise, and may determine any question of fact which may arise during the existence of any franchise granted. The City Administrator with the approval of the City Attorney as to matters of law, is hereby authorized and empowered to adjust, settle, or compromise any controversy or charge arising from the operations of any Grantee under the franchise, either on behalf of the City, the Grantee or any subscriber, in the best interest of the public.
- (e) The City option, when for sufficient cause as deemed by the City Administrator, may require that the annual proof-of-performance test, addressed in Section 13 of this Ordinance, be conducted or observed by a qualified member of the City's staff or its designated representative. The City reserves the right to have the measurements, associated with City observed performance tests, conducted at City selected test points and to a greater number of test points then the minimum required by Section 76.601, FCC Rules.

- (f) Any delegable right, power or duty of the Council, the City or any officials of the City may be transferred or delegated to an appropriate officer, employee, or department of the City.
- (g) The City reserves the right to promulgate other reasonable technical and operational performance standards for system franchises granted pursuant to this Ordinance.
- (h) The City reserves the right to enact reasonable regulations pertaining to franchises granted pursuant to this Ordinance which may include, but is not limited to:
 - (1) Construction and use of poles;
 - (2) Use of poles and conduits by City;
 - (3) Common user;
 - (4) Filing of pole user agreement;
 - (5) Reservation of street rights;
 - (6) Restoration of streets;
 - (7) Movement of facilities; and
 - (8) Trimming of trees.
- (i) The City reserves the right to further regulate the conduct of the Grantee in regard to the privacy and property rights of private citizens. Such regulations may include but are not limited to the security of all records maintained by the Grantee containing privacy sensitive information, personnel practices relating to such records and any other matters related to privacy and individual rights.
- (j) Should the State of Oregon, or any agency of the Federal Government or agency thereof subsequently require the Grantee to act in a manner which is inconsistent with any provisions of this ordinance, Franchise Ordinance or associated Resolutions and Orders, the Grantee shall so notify the City. Upon receipt of such notification, the City shall determine if a material provision of the franchise is affected. Upon such determination, the City shall have the right to modify or amend any of the sections of the franchise to such reasonable extent as may be necessary to carry out the full intent and purpose of this Ordinance or the Franchise Ordinance. The City may terminate the franchise in the event the City determines the substantial and material compliance with the original proposed terms of the franchise has been frustrated by such State or Federal Requirement.

Page 32-COUNCIL BILL NO. 652 ORDINANCE NO. 1766

- (k) No Grantee nor any major stockholder of a Grantee shall directly or indirectly with the City use the position as cable Grantee to gain a competitive advantage in the business of selling, leasing, renting, servicing or repairing radio or television sets or other receivers or parts thereof, or data access and transfer equipment which make use of entertainment and information signals, provided that nothing therein shall prevent Grantee from making modifications to the tuner input circuit of the subscribers' communications transmitters and/or receivers, and the fine tuning of the customers' operating controls only, to ensure proper operation under conditions of cable connection at the time of installation or in repairing receivers and other equipment belonging to other cable system operators for use in the conduct of their businesses.
- (1) The Grantee shall permit the City to fasten signs, wires, and cables and stretch such wires and cables on any and all poles of the Grantee provided that the Grantee shall not be responsible for any damage without his fault resulting to the signs, wires, cables or property of the City resulting from such use of its poles by the City.
- (m) The Grantee shall manage all of its operations in accordance with a policy of totally open books and records. The City shall have the right to inspect at any time during normal business hours, at the local and parent corporation offices of the Grantee, all books, records, maps, plans, income tax returns, financila statements, service complaint logs, performance test results and other like materials of the Grantee which relate to the operation of the Grantee. Access to the aforementioned records shall not be denied by the Grantee on the basis that said records contain "proprietary" information.
- (n) Communications with Regulatory Agencies. Copies of all petitions, applications, communications, and reports submitted by the Grantee to the Federal Communications Commission, Securities and Exchange Commission, or any other Federal or State regulatory commission or agency having jurisdiction in respect to any matters affecting cable communications operations authorized pursuant to the franchise, shall also be submitted simultaneously to the Grantor. Copies of responses or any other communications from the regulatory agencies to the Grantee shall likewise be furnished simultaneously to the Grantor.
- (o) Any intra-state interconnection of interactive services between the system operated by Grantee and any other system shall be subject to the regulatory authority of the City.
- (p) The reservation of any particular right shall not be construed to limit the promulgation of other reasonable rules and regulations.

Section 28. Equal Opportunity Employment and Affirmative Action Plan.

(a) In the carrying out of the construction, maintenance and operation of the cable television system, the Grantee shall not discriminate against any employee or applicant for employment because of race, creed, color, sex, or national origin

Page 33 - COUNCIL BILL NO. 652 ORDINANCE NO. 1766

- (b) The Grantee shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, sex, or national origin. Such action shall include, but not be limited to the following: employment upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rate of pay or other form of compensation, and selection for training, including apprenticeship.
- (c) The Grantee shall post in conspicuous places available to employees and applicants for employment, notices setting forth the provisions of this non-discriminating clause.
- (d) The Grantee shall, in all solicitations or advertisements for employees placed by or on behalf of the Grantee state that all qualified applicants will receive compensation for employment without regard to race, creed, color, sex, or national origin.
- (e) The Grantee shall incorporate the foregoing requirements in all of its contracts for work relative to construction, maintenance and operation of the cable television system, other than contracts for standard commercial supplies or raw materials, and shall require all of its contractors for such work to incorporate such requirements in all subcontracts for such work.

SECTION 29. Adoption of Rules and Regulations

- (a) At any time, the Council may adopt reasonable rules, regulations and standards governing the operation of cable communications systems in the City, consistent with the provisions of this Ordinance, and the Franchise Ordinance. Such rules, regulations and standards shall apply to and shall govern the operations of the Grantee of any cable communications franchise, and are expressly delcared to be a part of any such franchise.
- (b) Prior to adopting any such rule, regulation, or standard, the Council shall conduct a duly noticed hearing thereon. At the time set for such hearing, or at any adjournment thereof, the Council shall proceed to hear any relevant evidence relating to the matter. Thereafter, the Council by Resolution, may adopt, amend or modify such rules and regulations.
- (c) The standards adopted may govern the engineering, construction, installation, service, and maintenance of all cable communications systems in the City, including but not limited to standards governing carrier levels, signal-to-noise ratios, hum modulation, distortion levels, channel interactions and interreactions, and composite beat levels.

Section 30. Amendment of This Ordinance and the Franchise Ordinance

The Council shall amend this Ordinance and any franchise issued thereunder, upon its own motion or the application of a Grantee whenever amendment is necessary to enable a Grantee to utilize new developments in television or radio signal transmission which would improve and update cable communications service in the City, or to comply with any modifications in the Rules of the FCC. Amendments to Section 76.31 of the FCC Rules will be incorporated into this Ordinance within one year of their adoption or at the time of franchise renewal, whichever comes first. No amendment shall be adopted except after full, open public hearing affording due process, and no amendment substantially amending

the existing rights and obligations of the Grantee shall be adopted without Grantee's comment.

Section 31. Miscellaneous Provisions.

- (a) A franchise granted to provide service within the City shall authorize, and permit the Grantee to solicit, self, distribute, and make a charge to subscribers within the City for connection to the cable communication system of Grantee, and of the City in order to provide service outside the City.
- (b) A franchise, easement, license or other permit to anyone other than a Grantee to traverse any portion of the City in order to provide service outside the City shall not authorize nor permit said person to solicit, sell, distribute, or make any charge to subscribers with the City, nor to render any service or connect any subscriber within the City to the cable communication service system of Grantee.
- (c) When not otherwise prescribed herein, all matters herein required to be filed with the City shall be filed with the City Administrator.

Section 32. Violations.

- (a) It shall be unlawful for any person to construct install or maintain within any public right-of-way in the City, or within any other public property of the City, or within any privately-owned area within the City which has not yet become a public right-of-way but is designated or delineated as a proposed public right-of-way on any tentative subdivision map approved by the City, and equipment or facilities for distributing any television signals or radio signals through a cable communications system, unless a franchise authorizing such use of such street or property or area has first been obtained pursuant to the provisions of this ordinance and unless such franchise is in all force and effect.
- (b) It shall be unlawful for any person, firm or corporation to make or use any unauthorized connection, whether physically, electrically, acoustically, inductively or otherwise with any part of any cable communications system within this City for the purpose of enabling himself or others to receive or use any television signal, radio signal, picture, program, sound, information, or other system service without payment to the owner of said system.
- (c) It shall be unlawful for any person, without the consent of the Grantee, to willfully tamper with, remove or injure any cables, wires or equipment used for distribution of television signals, radio signals, pictures, programs, sound, information, data, or other system service, except for those actions by the City deemed necessary to fulfill their responsibilities.

Page 35-COUNCIL BILL NO. 652 ORDINANCE 1766

Section 33. Serverability.

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held illegal, invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portion hereof. The Council hereby declares that it would have approved this Ordinance and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared illegal, invalid or unconstitutional. The invalidity of any portion of the Ordinance shall not abate, reduce or otherwise affect any consideration or other obligation required of the Grantee of any franchise granted hereunder.

Section 34. Notices.

Every direction, notice, or order to be served upon a Grantee shall be sent to the local office described in Section 18 of this Ordinance. Every notice to be served upon the City shall be delivered, or sent by certified mail to the City Administrator at City Hall, 270 Montgomery Street, Woodburn Oregon 97071. The delivery of such be deemed to have been at time of receipt.

APPROVED: E. WALTER LAWSON, MAYOR

Passed by the Council

Submitted to the Mayor

Approved by the Mayor

Filed in the Office of the Recorder

September 21, 1981

September 22, 1981

September 22, 1981

September 22, 1981

Attest:

Barney O. Burris, Recorder City of Woodburn, Oregon

Approved as to form:

Page 37 - COUNCIL BILL NO. 652 ORDINANCE NO. 1766 I, BARNEY O. BURRIS, Recorder of the City of Woodburn, do hereby certify that I caused to be posted three copies of Ordinance No. 1766, one of which said copies posted in the City Hall on the bulletin board adjacent to the entrance to the Recorder's Office, in full view of the traveling public; a second one of said copies posted on the Woodburn Public Library bulletin board at 280 Garfield Street, in full view of the traveling public; a third one of said copies posted on the Woodburn Community Center bulletin board at 491 N. Third St., in full view of the traveling public; that all of said places are public places within the corporate limits of the City of Woodburn and all of said copies were posted on the 25th day of September , 1981.

Barney O. Barris, Recorder City of Woodburn, Oregon

ORDINANCE NO. 2582

AN ORDINANCE REPEALING ORDINANCE 1766 AS PART OF THE ORDINANCE REVIEW/REVISION PROJECT AND DECLARING AN EMERGENCY

WHEREAS, in 1981 the City of Woodburn enacted Ordinance 1766 to regulate and control cable television systems within the City; and

WHEREAS, the current ordinance unduly restricts the City's ability to negotiate certain franchise terms and provisions related to new cable services and offerings based on ever-changing technology; and

WHEREAS, the 1992 Cable Act codified a regulatory plan that already provides the City with a framework for regulating cable television companies through its franchise authority; and

WHEREAS, through the Ordinance Review/Revision Project, it has come to the City Council's attention that Ordinance 1766 (An Ordinance Relating to the Construction, Operation, Regulation and Control of Cable Communication Systems within the City's Territorial Limits) is still in force, but is no longer functional or needed; and

WHEREAS, by repealing the current ordinance, the City would still maintain, but have greater flexibility to regulate the construction, operation, and control of cable communications systems within the City's territorial limits through the Franchise process alone; and

WHEREAS, the City Council finds, after an operational review by the involved department(s) and upon legal advice by the City Attorney's Office there is no longer a need for Ordinance 1766; NOW, THEREFORE,

THE CITY OF WOODBURN ORDAINS AS FOLLOWS:

- **Section 1**. The City Council finds there is no longer a need for Ordinance 1766.
 - **Section 2.** Ordinance 1766 is hereby repealed.
- **Section 3.** This Ordinance being necessary for the immediate preservation of the public peace, health and safety (so that the modifications made by the City Council in the course of the Ordinance Review/Revision Project may be implemented without delay) an emergency is declared to exist and this

Page 1 – COUNCIL BILL NO. 3130 ORDINANCE NO. 2582

Ordinance shall take approved by the Ma		on passage by the Council and
Approved as to form		
	City Attorney	Date
	Approved:	
	Eric	Swenson, Mayor
Passed by the Counc		
Submitted to the Ma	yor _	
Approved by the Ma	yor _	
Filed in the Office of	the Recorder	
ATTEST:		
Heather Pie	rson, City Recorder	
City of Woo	dburn, Oregon	

RESOLUTION NO. 2156

A RESOLUTION AUTHORIZING APPLICATION FOR- AND ACCEPTANCE OF A COMMUNITY DEVELOPMENT BLOCK GRANT FOR THE REHABILITATION OF THE FAMILY RESOURCE CENTER AND EDUCATIONAL FACILITY OWNED AND OPERATED BY FARMWORKER HOUSING DEVELOPMENT CORPORATION; AND AUTHORIZING THE CITY ADMINISTRATOR TO SIGN AND EXECUTE ALL NECESSARY DOCUMENTS TO THAT EFFECT

WHEREAS, Business Oregon is accepting proposals for the 2020-2021 Community Development Block Grant Program funding cycle; and

WHEREAS, the City of Woodburn is eligible to apply for a 2020-2021 Community Development Block Grant for funds from the U.S. Department of Housing and Urban Development to be used for public facilities and housing improvements, primarily for persons with low and moderate incomes; and

WHEREAS, the City of Woodburn desires to participate in this funding program to the greatest extent possible as a means to rehabilitate the family resource center and educational facility owned and operated by the nonprofit entity, Farmworker Housing Development Corporation ("FHDC"); and

WHEREAS, on July 13, 2020, the City Council held a public hearing to consider the application for a Community Development Block Grant for the above-identified purpose; NOW, THEREFORE,

THE CITY OF WOODBURN RESOLVES AS FOLLOWS:

Section 1. The City Administrator is authorized to apply for, and if awarded, accept Community Development Block Grant funding from Business Oregon for the purposes of rehabilitating the family resource center and educational facility owned and operated by FHDC.

Section 2. The City Administrator is authorized to execute any and all documents related to the grant application and to effectuate the award.

Approved as to	Form:	<u></u>	
	City Attorney	Date	

Page 1 – COUNCIL BILL NO. 3131 RESOLUTION NO. 2156

APPROVE	D:
	Eric Swenson, Mayor
Passed by the Council Submitted to the Mayor	
Approved by the Mayor Filed in the Office of the Recorder	
ATTEST:	
Heather Pierson, City Recorder City of Woodburn, Oregon	

RESOLUTION NO. 2157

A RESOLUTION APPROVING TRANSFERS OF FY 2020-2021 APPROPRIATIONS AND APPROVING A SUPPLEMENTAL BUDGET

WHEREAS, ORS 294.463(1) permits "transfers of appropriations" within any fund "when authorized by official resolution or ordinance of the governing body"; and

WHEREAS, ORS 294.463(2) limits "transfers of general operating contingency appropriations to no more than fifteen (15) percent of the total appropriations of the fund" unless adopted pursuant to a supplemental budget; and

WHEREAS, transfers made pursuant to any of the above must state the need for the transfer, the purpose for the authorized expenditure, and the amount of the appropriation transferred; and

WHEREAS, ORS 294.471(1)(a) permits supplemental budgets when "an occurrence of condition which had not been ascertained at the time of the preparation of a budget for the current year or current budget period which requires a change in financial planning"; and

WHEREAS, ORS 294.473 requires the governing body to hold a public hearing on the supplemental budget when the estimated expenditures contained in the supplemental budget for fiscal year or budget period differ by ten (10) percent or more of any one of the individual funds contained in the regular budget for that fiscal year; and

WHEREAS, the transfers contained herein are made pursuant to ORS 294.463; and

WHEREAS, the supplemental budget contained herein is made pursuant to ORS 294.471; and

WHEREAS, a public hearing was held July 13, 2020 on the supplemental budget changes, NOW, THEREFORE,

THE CITY OF WOODBURN RESOLVES AS FOLLOWS:

Section 1. That pursuant to the applicable ORS provisions cited above, the City Council hereby approves the transfers of appropriations and supplemental budget for FY 2020-21 in the amounts shown below for the purposes of funding the CDBG Housing Rehab Program Funds.

Page 1 – COUNCIL BILL NO. 3132 RESOLUTION NO. 2157

		SUN	IMARY OF PR	OPOSED BUDGET CHA	ANGES			
Harris Bakakili			ARE REVISED	TOTALS IN THOSE FU	NDS BEING	MODIFIED		
Housing Rehabili Resource 1 2	Original	Change	Revised	Requirement Material & Service Contingency	es	Original 17,940 413,910	Change 413,910 (413,910)	Revised 431,850
Revised Total Fu	nd Resources		-	Revised Total Fund	l Requirem	ents		431,850
Comments: Trans	sfer of Contingen	cy balance to	Materials & Se	ervices for CDBG Housi	ing Rehab F	Program Fund	ds	
Approved	as to Form	n: City At	torney		_)ate		_
			APPRC	OVED: Eric Sw	enson,	Mayor		
Passed by Submitted Approved Filed in the	to the Ma by the Ma	yor ayor	order	- - -				
	ather Pierso	•						



Agenda Item

July 13, 2020

TO: Honorable Mayor and City Council through the City Administrator

FROM: Anthony Turley, Finance Director

SUBJECT: **Bond Defeasance**

RECOMMENDATION:

Authorize the City Administrator to engage bond council, a financial advisor, and any other professional service needed and to use funds appropriated in the City of Woodburn adopted budget for FY 2020-21 to defease the wastewater revenue and refunding bonds series 2011A and series 2011B.

BACKGROUND:

In December 2011 the City of Woodburn successfully refinanced several outstanding wastewater loans and bonds. The refinancing included the refinancing of loan draw-downs to date of loan R98413 and R98414. The refinancing also provided the City of Woodburn with additional capital to begin Phase II of the Wastewater Treatment Plant (plant) project.

Phase II of the Wastewater Treatment Plant project was halted by litigation between the Department of Environmental Quality (DEQ) and environmental groups. DEQ lost the lawsuit resulting in the plant operating without a valid discharge permit and the construction projects slated to be completed with the bond proceeds obsolete. The result of this process is that the City now has almost \$12,000,000 in unspent bond proceeds that cannot be used for other purposes.

With the advice of both bond council and our financial advisors city staff propose using the unspent bond proceeds and a portion of the reserve for future debt service in the City's Sewer Fund, to purchase financial instruments that would meet the requirements to defease the debt. This action would prepare the City for the capital construction requirements when a new permit is issued from the DEQ for discharge requirements.

Agenda Item Review: City Administrator ___x__ City Attorney ___x__ Finance __x__

DISCUSSION:

With the advice of both bond council and our financial advisors city staff propose using the unspent bond proceeds and a portion of the reserve for future debt service in the City's Sewer Fund, to purchase financial instruments that would meet the requirements to defease the debt. This action would prepare the City for the capital construction requirements when a new permit is issued from the DEQ for discharge requirements.

FINANCIAL IMPACT:

Sources:		
Other Sources of Funds: Cash Contribution from Bond Proceeds Cash Contribution from Debt Service Res	11,947,433.00 serve <u>1,539,299.45</u>	13,486,732.45
Uses:		
Refunding Escrow Deposits: Cash Deposit SLGS Purchases	0.45 <u>13,470,732.00</u> 13,470,732.45	
Cost of Issuance: Hawkins* Piper* Escrow Verification* Escrow Deposit Agent*	8,000.00 5,000.00 1,500.00 1,500.00 16,000.00	
_	13,486,732.45	

RESOLUTION NO. 2158

A RESOLUTION AUTHORIZING DEFEASANCE AND PREPAYMENT OF SERIES 2011 BONDS

WHEREAS, The City previously issued its Wastewater Revenue and Refunding Bonds, Series 2011A (Current Interest Bonds) (the "Series 2011A Bonds") and Wastewater Revenue and Refunding Bonds, Series 2011B (Deferred Interest Bonds) (the "Series 2011B Bonds," and together with the Series 2011A Bonds, the "Series 2011 Bonds") pursuant to the City's Master Wastewater System Revenue Bond Declaration, dated as of December 6, 2011 (the "Master Declaration"). The Series 2011 Bonds refunded certain of the City's outstanding borrowings, financed improvements to the wastewater system, funded a reserve subaccount, and paid costs of issuance of the 2011 Bonds; and

WHEREAS, The City now finds it desirable to authorize the defeasance and prepayment of all or a portion of the City's outstanding Series 2011 Bonds pursuant to the Master Declaration; and

WHEREAS, The City's Bond Council and Financial Advisor recommend that it is in the City's best interest, NOW, THEREFORE,

THE CITY OF WOODBURN RESOLVES AS FOLLOWS:

Section 1. Authorization of Defeasance and Prepayment of Series 2011 Bonds. The City is hereby authorized to defease and prepay all or a portion of the City's outstanding Series 2011 Bonds pursuant to the Master Declaration.

Section 2. Delegation. The City Administrator or the Finance Director or designee of the City Administrator or the Finance Director (each a "City Official") are hereby authorized, on behalf of the City, and without further action by the City, to:

- a) select all or a portion of the outstanding Series 2011 Bonds to be defeased and called for prepayment;
- b) use any legally available funds to accomplish the defeasance and prepayment;
- c) engage the services of an escrow agent, independent certified public accountant, and any other professionals whose services are desirable to accomplish the defeasance;

Page 1 - Council Bill No. 3133 Resolution No. 2158

- d) enter into one or more escrow deposit agreements and take all other actions necessary or desirable to accomplish the defeasance and prepayment; and
- e) execute all documents on behalf of the City and take any other action that may be desirable to carry out this resolution.

Approved as to form:	
City Atto	prney Date
,	Approved:
	Eric Swenson, Mayor
Passed by the Council	
Submitted to the Mayor	
Approved by the Mayor	
Filed in the Office of the Record	ler
ATTEST:	
Heather Pierson, City R	Recorder .



Azenda Item

July 13, 2020

TO: Honorable Mayor and City Council

FROM: Scott Derickson, City Administrator

N. Robert Shields, City Attorney

SUBJECT: Collective Bargaining Agreement with Woodburn Police Association

RECOMMENDATION:

Adopt the resolution authorizing a one-year Collective Bargaining Agreement between the City and the Woodburn Police Association ("the WPA").

BACKGROUND:

The City and the WPA have a history of mutual respect and good communication. Over the years, the parties have negotiated numerous Collective Bargaining Agreements. During the current year, negotiations on the expiring Agreement between the City and the WPA were just beginning when the COVID-19 pandemic erupted.

DISCUSSION:

After a series of discussions, and due to the pandemic, the City tentatively agreed with the WPA to postpone large scale bargaining and to roll-over the current Agreement for a one year period. The idea is to get past the crisis and into more stable times for more productive long term bargaining.

The one-year Agreement is identical to the 2017-2020 Collective Bargaining Agreement, except it includes Article 17(A), Wages, as follows:

Effective and retroactive to <u>June 28, 2020</u>, the City shall increase the wage scale reflected in Appendix A for all members by 2.8%.

The WPA voted to ratify the new one-year Agreement.

FINANCIAL IMPACT:

The one-year roll-over Collective Bargaining Agreement is con	sistent with the
City of Woodburn Budget.	

Agenda Item Review: City Administrator __x___ City Attorney __x___ Finance __x__

Bob Shields

From: Sent: To: Cc: Subject:	Bob Shields <bob.shields@ci.woodburn.or.us> Wednesday, June 24, 2020 11:36 AM Ryan Lufkin Jim Ferraris; Mel Gregg Re: Supposal for roll-over from Woodburn Police Association</bob.shields@ci.woodburn.or.us>
Ryan,	
As per our recent telephone call, only change to the collective bar	I am prepared, on behalf of the City, to tentatively agree to the WPA's Supposal. The gaining agreement would be to Article 17 (A) as follows:
Article 17(A) Wages	
Effective and retroactive to <u>June</u> by 2.8%.	28, 2020, the City shall increase the wage scale reflected in Appendix A for all members
Per the HR Director, Mel, the dat language (2.8%) and eliminated t	e is moved up a couple of days to reflect the pay period. Also, I left the operative the parenthetical reference to what this percentage is based upon.
Thanks for your work on this. It I this will carry over into resolving	nas been helpful and I am confident our good and straightforward communication on future WPA/City issues.
Please let me know what you nee	ed from me for the WPA to vote. Thanks.
Bob	
N. Robert Shields City of Woodburn City Attorney Ph. (503)982-5228 — Fax. (503)9	82-5243

PUBLIC SAFETY LABOR GROUP

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Portland, OR 97229

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Bob Shields
City of Woodburn
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RE: What-If Supposal for Woodburn Police Association

Bob:

The Woodburn Police Association recognizes that we are currently in the middle of an unprecedented public health crisis related to the pandemic of COVID-19. Given the economic uncertainty surrounding the lasting impacts of quarantine we offer this supposal to push back large scale contract bargaining for one year so that we might all, hopefully, get past the crisis and into more stable economic times for more productive long term bargaining next year. In essence, the Association is proposing a one-year roll-over the current CBA with a modification to salary to simply reflect the rise in inflation over the previous year. This will allow our members to see a raise in wages that simply keeps them at pace with inflation.

The Association suggests keeping all current CBA language as-is, modifying dates to conform a one-year extension of current CBA language, and additional modifications as below:

Article 17(A) Wages

Effective and retroactive to July 1, 2020, the City shall increase the wage scale reflected in Appendix A for all members by 2.8% (this being the already published percentage change in the CPI-U West Region - Size Class B/C for the year ending December 2019).

We hope that the City recognizes that this supposal preserves the status quo contract language for essential workers who have had the burden of working during this COVID-19 disaster. We recognize the potential economic challenges facing all municipalities as a result of the pandemic but hope that essential workers like police officers are at least provided an opportunity not to fall behind inflation.

Sincerely,

Ryan Lufkin

WPA Effective 6/28/20

Compensation Schedule Sworn Officer (shown in dollars per h
per hour)

46.51	45.59	44.27	43.39	41.19	39.40	37.65	35.87	34.55	33.20	Officer-Adv Adv Lang	3.3
	43.69	42.42	41.57	39.44	37.76	36.06	34.36	33.09	31.83	Officer-Adv Basic Lang	3.2
	42.61	41.37	40.54	38.49	36.82	35.18	33.51	32.28	31.05	Officer-Advanced	3.1
П	43.53	42.26	41.41	39.32	37.60	35.82	34.23	32.98	31.70	Officer-Inter Adv Lang	2.3
	41.71	40.49	39.68	37.66	36.04	34.42	32.79	31.58	30.37	Officer-Inter Basic Lang	2.2
П	40.68	39.50	38.70	36.73	35.15	33.56	31.99	30.81	29.63	Officer-Intermediate	2.1
	41.46	40.25	39.43	37.43	35.82	34.21	32.60	31.40	30.19	Officer-Advanced Lang	1.3
	39.72	38.56	37.79	35.85	34.30	32.76	31.22	30.07	28.93	Officer-Basic Language	1.2
П	38.74	37.60	36.86	34.98	33.47	31.97	30.46	29.35	28.21	Officer	1.1
+15 years	+10 years	Step 8	Step 7	Step 6	Step 5	Step 4	Step 3	Step 2	Step 1	Position	GRADE
Step 10 @	Step 9 @								() ()		

Compensation Schedule NON Sworn Officer (shown in dollars per hour)

CE	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step
ode Enforcement	21.16	22.00	22.85	23.99	25.11	26.24	27.65	28

RESOLUTION NO. 2159

A RESOLUTION AUTHORIZING EXECUTION OF A COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY OF WOODBURN AND THE WOODBURN POLICE ASSOCIATION BEGINNING ON JULY 1, 2020 AND ENDING ON JUNE 30, 2021

WHEREAS, the purpose of labor negotiations is to reach an agreement on matters relating to wages, hours, working conditions, and fringe benefits for certain represented employees; and

WHEREAS, the City of Woodburn ("the City") and the Woodburn Police Association ("the WPA") have a history of mutual respect and good communication and have negotiated numerous Collective Bargaining Agreements over the last several years; and

WHEREAS, the most recent Collective Bargaining Agreement between the City and the WPA expired on June 30, 2020 and the parties were prepared to bargain the entire Collective Bargaining Agreement; and

WHEREAS, due to the impacts of COVID-19, the lead negotiators for both parties tentatively agreed to a one-year roll-over of the last Collective Bargaining Agreement with a modification to salary to simply reflect inflation based upon the regional Consumer Price Index; and

WHEREAS, the WPA recently ratified this one-year Agreement at its membership meeting and this Agreement is before the City Council for approval; NOW THEREFORE,

THE CITY OF WOODBURN RESOLVES AS FOLLOWS:

Section 1. That the form of Agreement tentatively agreed to by the parties and ratified by the WPA membership is attached to this Resolution as Exhibit "A."

Section 2. That the City Administrator is authorized to execute the Agreement on behalf of the City once it is in an approved final form.

Approved as to form:			
	City Attorney	Date	
Page 1- Council Bill No. 31	Approved:		

Page 1- Council Bill No. 3134 Resolution No. 2159

Passed by the Council	
Submitted to the Mayor	
Approved by the Mayor	
Filed in the Office of the Recorder	
ATTEST:	
Heather Pierson, City Recorder	
City of Woodburn, Oregon	

Eric Swenson, Mayor

Page 2- Council Bill No. 3134 Resolution No. 2159

Collective Bargaining Agreement

Between

The City of Woodburn

And

The Woodburn Police Association

Term:

Effective 2017 - 2020 2020 - 2021

INDEX

PREAMBLE
ARTICLE 1 – RECOGNITION
ARTICLE 2 - ASSOCIATION SECURITY1-2
2A – ASSOCIATION DUES1-2
2B - BULLETIN BOARDS AND USE OF CITY FACILITIES
2C - ASSOCIATION ACTIVITIES
2D - PAYROLL DEDUCTIONS
ARTICLE 3 - NON-DISCRIMINATION
ARTICLE 4 - MANAGEMENT RIGHTS3
ARTICLE 5 - STRIKES AND LOCKOUTS
5A – LOCKOUT3
5B- STRIKE 3
ARTICLE 6 - ASSOCIATION BUSINESS 3-4
6A – ASSOCIATION REPRESENTATIVES
6B – SPECIAL CONFERENCES4
6C – ASSOCIATION MEETINGS4
ARTICLE 7 - PERSONNEL MANUAL/CONTRACT4
ARTICLE 8 – SENIORITY 4-7
8A – DEFINITION OF SENIORITY4
8B – BREAKS IN SENIORITY 4-5
8C – ADJUSTMENTS IN SENIORITY DATES 5-6
8D – APPLICATION OF SENIORITY6

8E – GENERAL PROVISIONS 6-	-7
ARTICLE 9 - OUTSIDE EMPLOYMENT	7
ARTICLE 10 - WORKING OUT OF CLASSIFICATION, ACTING IN CAPACITY,	
AND CORPORAL POSITION7-	-8
10A – WORKING OUT OF CLASSIFICATION	7
10B – ACTING IN CAPACITY	8
10C – CORPORAL POSITION	.8
ARTICLE 11 - HOURS OF WORK 8-1	.3
11A – WORKDAY 8-	.9
11B – MEALS AND BREAKS	9
11C - DETECTIVES	9
11D – WORKWEEK9-1	.0
11E – SHIFT CHANGES 1	.0
11F – SAFETY RELEASE 1	.0
11G – SHIFT TRADES 10-1	.1
11H – SHIRFT ROTATION 11-1	.3
11I – ON-CALL DETECTIVE	.3
11J – OFF-DUTY CONTACTS	.3
ARTICLE 12 – OVERTIME	.4
12A – OVERTIME WORK	.4
12B – CALL-OUTS AND HOLDOVERS 1	.4
12C – DUTY-CONNECTED COURT APPEARANCE 1	.4
ARTICLE 13 - TIME OFF IN LIEU OF HOLIDAYS AND HOLIDAY PAY 14-1	.6
13A – SWORN EMPLOYEE ACCRUAL 14-1	.5

13B – SWORN EMPLOYEE TIME OFF IN LIEU OF HOLIDAYS 1
13C – COMMUNITY SERVICE OFFICER HOLIDAY PAY 15-1
13D – SWORN AND COMMUNITY SERVICE OFFICER UTILIZATION 1
13E – TERMINATION OF SWORN AND COMMUNITY SERVICE OFFICER
EMPLOYMENT1
ARTICLE 14 – VACATIONS 16-1
14A – ACCRUAL RATE 16-1
14B – UTILIZATION 17-1
14C – CANCELLATION OF VACATION 18-1
14D – CONVERSION OF VACATION
14E – TERMINATION OF EMPLOYMENT 1
ARTICLE 15 - SICK LEAVE 19-2
15A – ACCRUAL
15B – UTILIZATION 1
15C – SICK LEAVE VERIFICATION
15D – LIMITATIONS AND GENERAL CONDITIONS
15E – CATASTROPHIC LEAVE
15F – INJURY LEAVE
ARTICLE 16 - OTHER LEAVES AND LIGHT-DUTY ASSIGNMENTS 21-2
16A – JURY DUTY2
16B – VOTING LEAVE 2
16C – LEAVE OF ABSENCE WITHOUT PAY 21-2
16D – FAMILY MEDICAL LEAVE2
16E – LIMITED DUTY ASSIGNMENTS 22-2

16F – BEREAVEMENT LEAVE
16G – MILITARY LEAVE24
ARTICLE 17- WAGES
17A – APPENDIX A24
17B – DPSST CERTIFICATION PAY
17C – STEP ADVANCEMENT 25
17D – DENIAL OF STEP
ARTICLE 18 -PREMIUM PAY AND INCENTIVE PAY 25-27
18A – MOTORCYCLE PATROL PREMIUM 25
18B – CANINE OFFICER PREMIUM25
18C – MARION COUNTY INTERAGENCY SWAT TEAM PREMIUM 25
18D – FIELD TRAINING OFFICER (FTO) PREMIUM
18E – LANGUAGE INCENTIVE 26
18F – DETECTIVES AND SCHOOL RESOURCE OFFICER (SRO) PREMIUM 26
18G – MOBILE CRISIS REPONSE TEAM OFFICER
18H – PHYSICAL FITNESS INCENTIVE 26-27
ARTICLE 19 – EXPENSES
ARTICLE 19A – TUITION REIMBURSEMENT27-28
ARTICLE 20 – CLOTHING AND UNIFORM
ARTICLE 20A – LIABILITY INSURANCE28-29
ARTICLE 21 - MANDATORY TRAINING 29-30
21A – TRAINING DEFINED
21B – COST OF TRAINING
21C – PAY FOR TRAINING29

21D – SCHEDULING OF TRAINING	29
21E – FIREARMS QUALIFICATION	30
ARTICLE 22 – HEALTH INSURANCE AND OTHER BENEFITS	30-31
22A – MEDICAL	30
22B – VISION	30
22C – DENTAL	30
22D – FUNDING	30
22E – LIFE INSURANCE	30-31
22F – DOMESTIC PARTNERS	31
22G – RETIREMENT	31
22H - LONG TERM DISABILITY INSURANCE	31
ARTICLE 23 - PERSONNEL FILE	31-32
23A – FILE REVIEW	31
23B – REMOVAL	31-32
23C – FILE ADDITIONS	32
ARTICLE 24 - PROBATIONARY PERIODS	32
ARTICLE 25 – DISCIPLINARY ACTIONS AND PROCEDURES	32-35
25A – FORMS OF DISCIPLINE INCLUDE	32-33
25B – DUE PROCESS	33-34
25C – PRE-DISCIPLINARY LOUDERMILL HEARINGS	34-35
25D – IMPOSING DISCIPLINE	35
25E – PERSONNEL FILES	35
25F – OFFICER INVOLVED SHOOTINGS	35
25G – PAID ADMINISTRATIVE LEAVE	35

ARTICLE 26 – FUNDING
ARTICLE 26A - DEPARTMENT SEARCHES
ARTICLE 27- SUBSTANCE ABUSE POLICY
27A – PURPOSE
27B – APPLICANT DRUG TESTING
27C – PROHIBITED CONDUCT
27D – DISCLOSURE OF MEDICATIONS
27E – EMPLOYEE TESTING
27F – TESTING PROCEDURES40
27G – CONSEQUENCES OF VIOLATIONS 40-41
ARTICLE 28 - GRIEVANCE PROCEDURE
28A – DEFINITION42
28B – TIME LIMITS
28C – PROCEDURE 42-43
ARTICLE 29 - SAVINGS CLAUSE
ARTICLE 30 – TERM OF AGREEMENT
APPENDIX A – WAGE SCALE
APPENDIX B - OFFICER INVOLVED SHOOTING
APPENDIX C – INSURANCE INFORMATION49

PREAMBLE

This Agreement is agreed to between the City of Woodburn, Oregon, hereinafter called the City, and the Woodburn Police Association, hereinafter called the Association. This Agreement is entered into for the purpose of fixing the wage scale, schedule of hours, and conditions of employment affecting members of the bargaining unit.

The purpose of this Agreement is to set forth the full agreement between the parties on matters relating to employment relations.

ARTICLE 1 – RECOGNITION

The City recognizes the Association as the sole collective bargaining agent for all regular and probationary employees employed in job classifications of sworn police officer and non-sworn community service officer covered by this Agreement, as listed in Appendix A.

The parties further agree that the classifications of Sergeant, Lieutenant, Deputy Chief, Chief and Executive Assistant are specifically excluded from the bargaining unit.

Part-time employees shall have all such benefits prorated based FTE status (e.g., 0.50 FTE will have benefits prorated by 50%); however, part-time employees who are less than 0.50 FTE shall not be eligible for benefits under Articles 13, 14, 15 and 22.

ARTICLE 2 - ASSOCIATION SECURITY

- A. <u>Association Dues</u>: The City agrees to deduct once each month from the pay of employees covered by this Agreement as applicable:
 - 1. The Association membership dues and assessments of those Association members who individually request such deductions in writing.
 - 2. In lieu of paragraph 1 of this Article, a monthly service fee equal to the cost, to the extent permitted by law, of negotiations and contract administration as certified in writing by the Association to the City, not, however, to exceed the uniformly required dues of members, from any employee who is a member of the bargaining unit and who has not joined the Association within thirty (30) days of this Agreement, or within thirty (30) days of becoming an employee, whichever is later.
 - 3. The Association expressly agrees that it will safeguard the rights of non-Association employees, based upon bona fide religious tenets or teachings of a church or religious body of which such employee is a member in accordance with applicable law. As to any such employee, such sums paid by such employee shall be equivalent to regular Association dues and shall be paid to a non-religious charity mutually agreed upon by the employee making such payment and the Association, or in lieu thereof the employee shall request that such in-lieu-of-dues

- payment be not deducted and shall make such payment to a charity as heretofore stated and shall furnish written proof to the Association and the City, when requested, that this has been done.
- 4. The amounts to be deducted shall be certified to the City by the Treasurer of the Association, and the aggregate biweekly deductions (not to exceed two pay periods during any calendar month) for all employees shall be remitted, by Automatic Clearing House (ACH) transfer as requested by the Association, together with an itemized statement, to the Treasurer of the Association for the succeeding month after such deductions are made. Such itemized statement shall also include annotation as to any new hires or terminations. Notification of new hires shall take place at the time the first dues payment is to be paid and shall include the employee's name, Social Security number, mailing address, and job title.
- 5. Provided the City acts in compliance with the provisions of this Article, the Association will indemnify, defend, and hold the City harmless against any claims made and against any suit instituted against the City as a result of the City's enforcement of the above provisions or as a result of any check-off errors.
- B. <u>Bulletin Boards and Use of City Facilities</u>: The City agrees to furnish and maintain a bulletin board within the Police Department to be used by the Association for the posting of notices and bulletins related to the Association. The City also agrees to permit the Association to utilize available City facilities for meetings with employees conducted in accordance with established City rules applicable to other groups within the community. All requests for use of meeting rooms within the Police Department must be approved by the Chief of Police or his designee.
- C. <u>Association Activities</u>: Except as otherwise provided in the Agreement, during their working hours, Association members shall not engage in solicitation for membership in the Association, the collection of fees or dues for the Association, or carry on other business activities of the Association, provided that this provision shall not prohibit conversations concerning Association matters which do not interfere with the work and duties of any City employee.
- D. <u>Payroll Deductions</u>: All other previously established payroll deductions shall continue to be offered so long as the present level of employee participation does not decrease.

ARTICLE 3 - NON-DISCRIMINATION

The provisions of this Agreement shall be applied equally to all employees in the bargaining unit without discrimination as to age, marital status, race, color, sex, creed, religion, national origin, political affiliation or other protected status or activities, in accordance with applicable law.

ARTICLE 4 - MANAGEMENT RIGHTS

The City shall retain the exclusive right to exercise the customary rights and functions of management, including, but not limited to, directing the activities of the Department, determining the levels of service and methods of operations, including subcontracting and the introduction of new equipment; the right to hire, layoff, transfer, and promote; to discipline or discharge probationary employees without limitation and non-probationary employees for just cause; to determine work schedules and assign work, and any other such right (and function) not specifically referred to in this Agreement. Management rights, except where abridged by specific provisions of this Agreement, are not subject to the grievance procedure.

It is further understood and agreed that if the City does not exercise a management right reserved to it or if the City exercises a management right reserved to it a particular way, such conduct shall not be deemed a waiver of its right to begin exercising such a right in the future or to exercise such a right differently in the future. However, nothing in this paragraph shall be considered to be a waiver by the Association of bargaining rights afforded under the Public Employees Collective Bargaining Act (PECBA).

ARTICLE 5 - STRIKES AND LOCKOUTS

In as much as there are other means, both by law and through this Agreement for the resolution of disagreements that may from time to time arise, the parties agree as follows:

- A. <u>Lockout</u>: During the term of this Agreement, the City shall not, as a result of a dispute with the Association, deny employment to any employee covered by the terms of this Agreement.
- B. <u>Strike</u>: During the term of this Agreement, the Association or its members will not participate in any strike, slowdown, or work stoppage, including the observance of the picket line of another labor organization. In the event of a violation of the above by the Association or members of the bargaining unit, the City may discipline, including discharge, any employee involved in such prohibited activity on a uniform or selective basis.

ARTICLE 6 - ASSOCIATION BUSINESS

A. <u>Association Representatives</u>: The Association agrees to notify the City in writing of all members selected to serve as official representatives. Employees designated as Association representatives shall be allowed time off with regular pay for the purpose of representing employees in disciplinary interviews and attending grievance procedure meetings, when such meetings occur during the employee's scheduled work hours. In addition, a maximum of two (2) representatives of the Association will be allowed time off with regular pay to attend negotiation and mediation sessions that occur during their scheduled work hours.

- B. <u>Special Conferences</u>: Special conferences for important matters may be arranged between the Association and the City upon mutual agreement of the parties. Such meetings shall be arranged in advance, and an agenda of matters to be discussed at the meeting shall be presented at the time the agreement to confer is made. Two (2) official Association members shall be permitted to attend such conferences without loss of pay to the extent such meetings are scheduled during onduty hours of the members so attending.
- C. <u>Association Meetings</u>: On duty employees may attend Association Meetings held at Department facilities no more than six (6) per year and no longer than one (1) hour in duration. The Association shall give the Department reasonable notice, unless a shorter notice period is agreed upon, so that an appropriate meeting room can be scheduled. On duty employees attending Association Meetings shall respond to all calls as directed by a supervisor.

ARTICLE 7 - PERSONNEL MANUAL/CONTRACT

The City agrees to furnish each employee of the bargaining unit with written or electronic copy of the City HR Rules, Administrative Policies and Procedures, Department Rules and Regulations and a copy of this contract. The cost of printing and assembling copies of this contract will be borne by the Association. New employees shall be provided with the above at the time of their hire. All updates, additions, and/or modifications to the City HR Rules, Administrative Policies and Procedures, and Department Rules and Regulations shall also be supplied to the Association in writing at least 14 days prior to implementation. In the event of any conflict between the City HR Rules, Administrative Policies and Procedures, Department Rules and Regulations and the contract, the contract governs.

ARTICLE 8 – SENIORITY

- A. <u>Definition of Seniority</u>: Seniority shall be defined as the length of an employee's unbroken employment within a classification in the bargaining unit. When two or more employees begin employment on the same day in a job classification represented by the bargaining unit, seniority is established upon the order of the first badge issuance based upon the final ranking in the recruitment process. Probationary employees shall not be considered to have seniority, but shall be credited with seniority to their first day of employment in the bargaining unit immediately upon completion of probation.
- B. <u>Breaks in Seniority</u>: Except as stated in Section C, below, employees will continue to accrue seniority unless and until their seniority is broken. Seniority will be broken and the employment relationship will be severed if any of the following events occur:
 - 1. Voluntary resignation or retirement;
 - 2. Discharge of a regular employee for just cause or a probationary employee "at will;"

- 3. Layoff or continuous absence from work due to off-the-job injury/illness for more than twenty-four (24) month's duration;
- 4. Failure to notify the Chief of Police or his designee of intent to return to work pursuant to a recall notice sent by certified mail, return receipt requested, to the last address provided to the City through personnel records within seven (7) calendar days of receipt of such notification or ten (10) days of mailing, whichever occurs later;
- 5. Failure to report for work immediately upon expiration of an authorized leave of absence or, in the case of an absence due to off or on-the-job injury/ illness, failure to report for available work within seven (7) days of receipt of notice of a limited or full medical release to return to work;
- 6. Absence from work due to an on-the-job injury/illness in accordance with ORS Chapter 659 Workers' Compensation and Return to Work; *or*
- 7. Job abandonment.

Employees who are serving in the military will continue to receive seniority and reinstatement according to applicable law.

C. Adjustments in Seniority Dates

Employee seniority dates will be adjusted in the following circumstances:

1. Promotions to Positions outside the Bargaining Unit

Employees who are promoted to positions within the Police Department that are excluded from the bargaining unit, but are returned to bargaining unit positions by the City return with the seniority they would have accrued had they remained in the bargaining unit.

2. Leaves of Absence

Employees who are absent from work on a leave of absence will continue to accrue seniority, provided they are drawing pay (e.g. vacation, holiday or sick leave) and for up to thirty (30) days following depletion of their paid leave banks. Thereafter, seniority will no longer accrue. This provision will not be applied to employees who are designated as being on FMLA, OFLA, military or jury duty leave.

3. Promotion to Police Officer Classification

If an employee in the community service officer classification is promoted to a police officer position, the employee shall be subject to the standard police officer probationary period. The transferring employee shall maintain his/her seniority

within the community service officer classification should the employee seek to bump back from the police officer classification to the community service officer classification during the police officer probationary period so long as the employee continues to meet the minimum qualification for the community service officer position.

D. <u>Application of Seniority</u>

Seniority shall apply to the following employment decisions:

- 1. <u>Layoff</u>: In the event of a layoff for any reason, bargaining unit employees shall be laid off as follows: First, probationary employees shall be laid off. If there are no probationary employees and/or the layoff of regular employees becomes necessary, such layoffs shall be in the order of lowest seniority first as defined in A and C above.
- 2. <u>Recall</u>: Regular employees shall be called back from layoff in inverse order of layoff. Recall notices shall specify a minimum of ten (10) days from the date of mailing for the employee to return to work. The City may, however, specify a later reporting date.
 - Employees who wish to waive re-employment rights may do so by written notification to the City.
- 3. <u>Shift Scheduling</u>: Employees are entitled to use their seniority to bid for shift preferences in accordance with Article 11, Section G.
- 4. <u>Vacation Preferences</u>: Employees are entitled to use their seniority to bid for vacation time off in accordance with Article 14, Section B.

E. General Provisions

- 1. <u>Seniority Lists</u>: The City shall provide the Association with a seniority list upon request.
- 2. Reinstatement of Seniority: If an employee is discharged, grieves the discharge at arbitration or civil court, prevails and is reinstated, he/she shall receive seniority credit for the period from discharge to reinstatement. Also, employees returning from layoff or leave of absence which does not result in a break in seniority as set forth in Section B, above shall have all previously accrued seniority reinstated and/or adjusted in accordance with Sections B and C, above.
- 3. Restoration and Accrual of Benefits: Employees returning from layoff or leave of absence that does not result in a break in seniority as set forth in Section B, above shall have all previously accrued unused sick leave, holiday and vacation benefits restored, but shall not accrue benefits for the period of the layoff or leave of absence, except for continuation of health insurance premiums as required by

applicable law. In the event an employee suffers a break in seniority before drawing all accrued sick leave, holiday and vacation benefits, any unused holiday and vacation benefits will be paid to the employee at the time his/her seniority is broken and employment is severed, consistent with applicable law.

ARTICLE 9 - OUTSIDE EMPLOYMENT

Employees wishing to engage in off-duty employment with another employer must obtain approval from the Chief by submission of a request in writing for such approval. Likewise, employees wishing to make a material change in the nature or hours of outside employment currently approved by the City must obtain approval by submission of a written request for such approval. Such written requests shall specify the name of the prospective employer, the job title of the position, a description of the nature of the work to be performed. Upon receipt of such request, the City shall have the right to contact the prospective employer to independently determine the nature of the employment being considered. The City shall normally approve or deny a request for outside employment within seven (7) business days of its receipt.

The Chief may deny a request for approval of outside employment if there is a conflict of interest or the nature or hours of work required for such employment would interfere with the ability of the employee to perform required duties, including duties required to be performed outside the employee's regular working hours. For purposes of this Article, a conflict of interest shall include any circumstance where the employee's or overall department effectiveness would or might be impaired as a result of the public's knowledge of the nature of the outside employment or where such employment presents legal or other conflicts of interest which could or might interfere with the employee's effectiveness as a law enforcement officer. When permission to engage in outside employment is granted, it shall not be construed to in any manner compromise the employee's obligation to the City to be available for overtime, call-out, and shift change on the same basis as other employees who work in the same classification. In addition, the employee shall schedule the outside employment in such a manner so as to have at least eight (8) hours off for rest prior to the start of each regularly scheduled City shift.

ARTICLE 10 – WORKING OUT OF CLASSIFICATION, ACTING IN CAPACITY, AND CORPORAL POSITION

A. <u>Working out of classification</u>: An employee is working out of classification when the employee is assigned to fulfill the duties and responsibilities of a classification higher than the classification the employee currently holds. An employee working out of classification shall receive a five percent (5%) pay increase to base pay for all hours worked in such assignment.

If neither a Corporal nor a Sergeant is physically on-duty for any part of a patrol shift, an Officer will be assigned to the duties of a Corporal on that patrol shift and shall receive a five percent (5%) pay increase to base pay for all hours worked out of class as a Corporal. The supervisor will be responsible for making the assignment. If an Officer is not assigned, the most senior Officer will assume the duties of Corporal during the shift.

B. <u>Acting in Capacity:</u> An employee is acting in capacity when the Chief of Police assigns the duties of a higher classification on a full time continuous basis. Acting in capacity assignments are typically used when a position is vacant and the assignment will last longer than two (2) weeks. Acting in capacity assignments are temporary and not intended to be permanent. An employee formally designated as acting in capacity shall be paid for the duration of the assignment at their regular rate of pay plus five percent (5%), or at the Step 1 of the higher classification, whichever is greater. In no case shall the compensation exceed the top step of the higher paid classification.

C. <u>Corporal Position</u>:

- 1. An employee selected by the City for the position of Corporal shall be paid an additional amount equal to five percent (5%) of his/her base pay for each month or part thereof that the employee holds the position of Corporal.
- 2. Employees holding the position of Corporal shall function as supervisor in the absence of the Sergeant.
- 3. The Corporal position shall remain part of the bargaining unit represented by the Woodburn Police Association, and the City specifically agrees that the duties assigned or performed by Corporals shall not make Corporals supervisors as defined by the Public Employees Collective Bargaining Act.
- 4. The term in which an employee successfully performs the duties of Corporal will be for a period of two years. After the two year period, the incumbent Corporal may re-apply for consideration; the City will also consider new applicants.
- 5. The Corporal position will only be open to incumbent Corporals and new applicants who have completed probation and have at least two years of experience as a Woodburn Police Officer.

ARTICLE 11 - HOURS OF WORK

A. <u>Workday</u>: A day is defined as a twenty-four-hour (24-hour) period commencing with the employee's scheduled shift. A regular workweek for sworn employees shall consist of either eight (8) consecutive hours per day on a five-day schedule (5-8 schedule) or compressed schedule. A compressed schedule shall be defined as any workweek which is not a 5-8 schedule. Whether regular or compressed schedule, workdays shall be consecutive. All sworn employees shall be assigned a work schedule that complies with the Fair Labor Standards Act (FLSA) requirements, and as implemented at the sole discretion of the City of Woodburn.

When a twelve hour workday is implemented the parties agree to the adoption of a regular and recurring 28 day work period (beginning January 1st of each year) pursuant to Section 7 (k) of the Fair Labor Standards Act, 29 U.S.C. § 207 (k) and the implementation of a twelve (12) hour workday. Under the existing patrol schedule as of the ratification of this contract, the Workday and Workweek shall be amended to consist of a consecutive twelve (12) hour workday, and will provide for a twelve (12) hour work schedule: This schedule shall consist of two (2) consecutive twelve (12) hour work days followed by two (2) consecutive days off, three (3) consecutive twelve (12) hour work days followed by two (2) consecutive days off, two (2) consecutive twelve (12) hour work days followed by three (3) consecutive days off. Day Shift shall be 0600 to 1800 followed by Night Shift from 1800 to 0600.

The provisions of this section shall not apply during the week when a shift rotation occurs.

The City reserves the right to implement or discontinue a compressed workweek schedule and reestablish a 5-8 work schedule as currently provided after providing fourteen (14) days written notice, without any further need to bargain concerning the decision or the impacts of the decision to do so.

All non-sworn employees shall be assigned a regular work schedule consisting of five (5) consecutive eight-hour (8-hour) workdays with a one-hour (1-hour) unpaid lunch, generally Monday through Friday, followed by two (2) consecutive days off. At the sole discretion of the City of Woodburn, non-sworn employees may be assigned a regular work schedule consisting of four (4) consecutive ten-hour (10-hour) workdays, with the same starting time for each day.

- B. <u>Meals and Breaks</u>: Except for court days, training days, and days when traveling outside the City, employees shall be entitled to two (2) ten (10) minute breaks per workday, and one (1) thirty (30)-minute meal period per workday. These breaks and meal periods shall be paid time. Employees working a twelve (12) hour shift shall receive three (3) fifteen (15) minute breaks and one (1) thirty (30) minute meal period per workday. Employees may combine their daily breaks at their discretion, subject to operating needs. During the employee's break and meal period, the employee shall remain on on-duty status and shall be subject to call-out in cases of immediate need.
- C. <u>Detectives</u>: Detectives will work a regular forty (40) hour week. Generally, the schedule will be based on five (5) consecutive eight-hour (8-hour) workdays with a paid lunch, generally Monday through Friday. Detectives will be allowed to work a 4/10 schedule at the Chief's option. If a 4/10 schedule is implemented, the Chief may direct that a 10 hour work schedule be discontinued at any time during the year. Detectives will be allowed to flex schedules for the purposes of meeting daily needs for regular scheduled shifts with supervisory approval.
- D. <u>Workweek</u>: A normal workweek shall consist of forty (40) hours of work during a sevenday (7-day) calendar period commencing 0001 Sunday and ending midnight of the following Saturday. When working a four-twelve (4-12) plan, a normal workweek shall consist of up to one hundred seventy-one (171) hours worked in a twenty-eight (28) day work period. When working an alternate twelve (12) hour shift, the normal workweek shall be as established by the given schedule and in compliance with the FLSA. For employees assigned to work a four-twelve (4-12)

plan or an alternate twelve (12) hour plan on a regular basis, the City hereby adopts and establishes a regular, recurring period of work which shall consist of twenty eight (28) days for the police officers so assigned, in accordance with the Fair Labor Standards Act, Section 7(k). It is understood, that in earlier negotiations for working 12's, the employees will receive additional holiday pay as established in Article 13. (Note: Overtime training hours will be paid as per FLSA, 29 USC § 207 (k).

- E. <u>Shift Changes</u>: The Department reserves the right to make shift change with seven (7) calendar days advance notice. Shift changes, including changes due to mandatory training that occur without seven (7) calendar day prior notification will be subject to the overtime requirements of Article 12 for the hours worked or in training except for those hours worked, which overlap with the regularly scheduled shift. If a shift change without seven (7) calendar days prior notification is the result of another employee's use of sick leave, bereavement leave, administrative leave, holiday leave taken as a result of a personal emergency, resignation with less than seven (7) calendar days (actually worked) notice, or absence from work due to a workers' compensation injury (except for scheduled medical appointments with sufficient notice given to the City), the schedule change shall, for purposes of overtime payment, be treated as though seven (7) calendar days prior notification had been given. Employees may voluntarily waive the seven (7) calendar day notice requirement.
- F. <u>Safety Release</u>: Any employee who works sixteen (16) or more hours in a twenty-four (24) hour period shall receive no less than eight (8) hours off before returning to work. When an employee who has worked sixteen (16) or more continuous hours and those hours have reached the employee's next regularly scheduled shift, the employee shall receive pay at his/her overtime rate until the employee can be relieved of duty.

In the event that an employee is released from duty as a result of the Safety Release during normally scheduled hours, the employee must make up those hours by utilizing holiday time, vacation time or during non-scheduled hours at the employee's discretion and the provisions of Article 12 and Article 11 Section D do not apply.

- G. <u>Shift Trades</u>: Shift trades, which are voluntary between employees, will be allowed when both employees submit written request twenty-four (24) hours in advance specifying the trade that is to be made, subject to the following:
 - 1. The request will be initiated by personal contact with a supervisor.
 - 2. No employee will work two shifts without at least eight (8) hours off between said shifts.
 - 3. City operations and employee safety will not be adversely affected by the shift trade. When a shift trade occurs, each employee will for pay purposes, be treated as though he/she worked his/her scheduled shift. However, in the event of a shift extension, the employee working the extra time off receives the pay for same at his/her established overtime rate.

4. The employee initiating the trade is responsible to ensure the trade is fulfilled. If the trade is not fulfilled, it will be considered an unexcused absence.

H. Shift Rotation:

- 1. <u>Shift Scheduling</u>: When operating under a 5-8 plan the regular shift rotation shall occur approximately every three (3) months on the Monday of the first full week of that month beginning in January. The shift scheduling process shall allow the employee to select two (2) of the four (4) shift schedules (after seven years with the Department, an employee may select all four shift schedules he or she is to work during the year), as follows:
 - a. On or around October 15 of each year, the City shall first post a master schedule of the anticipated available shifts for each quarter of the year and the first quarter of the following year, which shall include days and hours to be worked for each position.
 - b. Each employee, starting with the employee who has the most seniority, shall in turn indicate his or her preference as to any two (2) of the four (4) shift tours that he or she wishes to work among those indicated on the master schedule that have not been previously selected by more senior employees. However, any patrol officer who at the time of selection of shifts for the following year worked twenty (20) or more days in a three-month (3-month) shift tour on a shift other than the shift he/she selected as a result of shift reassignment pursuant to Section G 1c below, shall select by seniority three (3) of the four (4) shift tours that he or she will work. Employees shall be allotted seven (7) days in which to complete the shift bidding process.
 - c. Within seven (7) days after all employees have made two (2) (or 3, if applicable) shift tour selections, the City shall, without limits as to its discretion, schedule the remaining shift tours for each employee so as to complete the work schedule for the year from the listed shifts.

2. Compressed Workweek Schedule:

- a. When operating under a compressed workweek schedule, shift bidding shall occur on or about October 15th and employees shall have seven (7) days in which to complete the shift bidding process.
- b. Shift rotation while working a compressed workweek schedule will occur on a quarterly basis as near as possible to the first of the months of January, April, July, and October. It is understood that this compressed workweek schedule is based on a no overtime expense to the City by virtue of rotation.
- c. Shift scheduling shall occur as follows: Shifts schedules will be posted along with the vacation bidding schedule under Article 14.b. The City shall

first post a master schedule of the anticipated available shifts for each quarter of the year, which shall include days and hours to be worked for each position.

- 1. Starting with the most senior officer, each officer shall bid either day shift, overlap shift or night shift for each quarter, one of which will be a different shift than the other assignments (e.g. 3 day shifts, 1 overlap shift and 1 night shift.)
- 2. Once each member has bid, the city shall construct the patrol teams based upon the quarterly seniority bid and operational needs.
- 3. <u>Exceptions</u>: With regard to the above procedure, it is recognized that the scheduling of shifts on the basis of employee preference will not be allowed to interfere with the City's ability to provide the best and most cost-effective service to the public. By way of example therefore, the following exceptions to the above shift scheduling procedures are made:
 - a. Probationary employees shall not be subject to the provisions of this Section G1, above.
 - b. Employees assigned to a particular activity that is traditionally associated with specific work schedules shall not be subject to the provisions of this Section.

Examples of such assignments include the following:

- (1) Investigations/Detectives
- (2) Inter-Agency Task Force Assignment
- (3) Traffic Detail Motorcycle Patrol
- (4) School Resource Officer
- (5) Mobile Crisis Response Team
- (6) Canine Unit
- (7) Community Service Officer

It is further understood and agreed that in the event an employee requests or is transferred from a specialty assignment to patrol duties during a shift schedule period, such a change will not trigger an obligation to conduct new shift rotations or alter current shift preferences made pursuant to Section G1, above. The City

shall assign any such employee a shift for the remainder of the current shift schedule which is based on operational needs. Officers scheduled to end an assignment may shift bid with other officers during the normal shift bid process in anticipation of the end of the assignment.

- 4. Discontinuance of compressed workweek shifts: Shift rotation in Section G will not apply to a compressed workweek schedule. Should the Chief of Police direct that a compressed workweek schedule be discontinued at any time during the year, a shift bidding process by seniority shall be conducted. The shift bidding shall be for the remainder of the current calendar year and the balance of the next calendar year, prior to the annual shift bidding process. The shift bidding shall be accomplished in accordance with the Section G1 and G3, except that the initial posting of the schedule for bid shall be not more than sixty (60) days after the discontinuance of the compressed workweek shift. All non-priority vacations and time off will be cancelled; the Department will then analyze the impact of shift bidding on the scheduled priority vacations that are in conflict with a more senior officer's priority vacation and allowing the re-bidding of that priority vacation at another time, this will be followed by requests for Vacations and Holidays as outlined more specifically under Article 14B1 of the agreement. The parties agree that seniority bid priority vacations, and vacations cancelled under such a circumstance, are the result of shift re-bidding selections by employees and are not under the control of the City, it is therefore agreed that Article 14 Section C is waived in this situation.
- I. On-Call Detective: Each week, commencing at 0800 hours on Tuesday and ending at 0759 hours the following Tuesday, the City may assign one (1) Detective to "on-call" Detective status. The rotation schedule for on-call Detective shall be established by the City's Detective Sergeant with input from the Association members assigned to Detective duty. Requests for training or personal leave that affect the on-call schedule will be considered in establishing the on-call rotation. Trading of on-call weeks between Detectives shall be permitted, with advance approval from the Detective Sergeant or designee. At the end of each on-call week, the Detective who completed the previous on-call week will be compensated an additional four (4) hours straight pay. All on-call Detectives must be able to respond to the call-out within one (1) hour of contact.
- J. Off-Duty Contacts: All employees, excluding on-call Detectives, who receive telephone calls or other contacts from the Department regarding work-related matters while off-duty shall be compensated as follows: If the contact exceeds seven (7) minutes in duration, the employee shall be compensated a minimum of one-half (1/2) hour or actual time spent on such call at his/her regular overtime rate of pay, whichever is greater. If the contact takes seven (7) minutes or less, it will be considered minor and will not be compensated. Employees are responsible for reporting all contacts of more than seven (7) minutes as time worked.

ARTICLE 12 – OVERTIME

A. Overtime Work: As used in this Agreement, overtime shall mean that time an employee is authorized and directed to work in excess of eight (8) ten (10) hours or twelve (12) hours, as appropriate, in one or on any day, or in addition to a scheduled forty-hour (40-hour) shift week. Overtime shall be computed to the nearest quarter (1/4) hour. The City has the unqualified right to require employees to work overtime. If an employee is assigned to a twelve (12) hour shift, the employee shall receive overtime pay if the employee works more than twelve (12) hours per day or more than one hundred seventy-one (171) hours in a twenty-eight (28) day work period.

B. <u>Call-Outs and Holdovers</u>:

- 1. <u>Selection</u>: The City reserves the right to call out any and all employees based on Department need or emergency. Shift holdover shall be offered on the basis of seniority.
- 2. <u>Exclusions</u>: Exemptions from Section 1, above shall be the same as those listed in Article 11, Section G3b.
- 3. Payment: For sworn employees, time worked that is not in conjunction with a shift shall be paid at a minimum four (4) hours pay at time and one and one-half (1 ½) the employee's regular rate of pay. For non-sworn employees, time worked that is not in conjunction with a shift shall be paid at a minimum two (2) hours pay at time and one and one-half (1 ½) the employee's regular rate of pay. However, call-out will not be paid for scheduled Departmental meetings, Field Training Officer (FTO), Corporal and Chief's forum meetings, if the employee is given seven (7) days written notice of the meetings. Such notice may be delivered to an employee's Departmental mail box or electronically. If an employee is called out to work and that call-out is subsequently canceled, the employee shall receive a call-out, unless such cancellation occurs within ten (10) minutes of the first notification to report to work.
- C. <u>Duty-Connected Court Appearance</u>: A court or administrative appearance in conjunction with services performed as a Woodburn Police Officer shall be considered time worked, and any expenses associated with such appearances shall be reimbursed. Pay for court or administrative appearances in conjunction with law enforcement services performed prior to an officer's employment as a Woodburn Police Officer will be determined by the City on a case-by-case basis. All witness fees, mileage allowance, and related remuneration paid to the employee for such appearances shall be turned over to the City.

ARTICLE 13 - TIME OFF IN LIEU OF HOLIDAYS AND HOLIDAY PAY

A. <u>Sworn Employee Accrual</u>: Sworn employees will except as provided below for twelve (12) hour shifts accrue 8.67 hours per month for time off in lieu of holidays. For the purposes of accrual of time off in lieu of holidays, a "month" shall be defined as including any month during

which a sworn employee is actively working or is on vacation, holiday or other leaves of absence paid by the City. Time off in lieu of holiday benefits do not accrue during periods that a sworn employee is on layoff or unpaid leaves of absence, except for FMLA/OFLA/Military Leave. In the event a sworn employee is on layoff or unpaid leave for part of a month, his/her holiday pay accrual will be credited for a full month, provided the sworn employee has worked during that month.

В. Sworn Employee Time Off in Lieu of Holidays: Time off in lieu of holiday, which is taken by sworn employee, will be charged to the nearest quarter (1/4) hour, to the sworn employee's accumulated holiday time account. Sworn employees may only accrue a maximum of one hundred twenty (120) hours of time off in lieu of holidays. Sworn employees will be allowed to carry over time off in lieu of holidays to a maximum of one hundred twenty (120) hours from one fiscal year to another. During any month in which a twelve (12) hour shift is implemented, all sworn employees shall receive thirteen (13) hours of time off in lieu of holiday for that month. Sworn employees shall have their holiday accumulation increased to one hundred fifty six (156) hours during the period of time in which a twelve (12) hour shift is implemented. All sworn employees actually working twelve (12) hour shifts shall receive fifteen (15) hours of time off in lieu of holiday for that month. Such sworn employees shall have their holiday accumulation increased to one hundred eighty (180) hours during the period of time in which a twelve (12) hour shift is implemented. The sworn employee shall be compensated in cash for all holiday time that is in excess of their allotted maximum annual accrual at the conclusion of a three (3) month period ending quarterly. In the event the twelve (12) hour shift is eliminated, employees over the maximum accumulation set forth in the Collective Bargaining Agreement shall be entitled to carry over those hours until such time as they have voluntarily reduced those hours to the amount set forth therein.

C. <u>Community Service Officer Holiday Pay:</u>

1. Community Service Officer employees shall have the following paid holidays:

New Year's Day January 1

Martin Luther King Day
Presidents Day
Third Monday in January
Third Monday in February
Memorial Day
Last Monday in May

Fourth of July July 4

Labor Day First Monday in September

Veterans Day November 11

Thanksgiving Day

Fourth Thursday in November

Day after Thanksgiving Day

Friday after the fourth Thursday of

November

Christmas Eve last half of the shift on December 24

Christmas Day December 25

After completion of six (6) months of continuous service, each Community Service Officer shall be entitled to one (1) floating holiday with pay during each fiscal year. The floating holiday shall be taken at the option of the Community Service Officer, subject to the operating requirements of the Department.

Community Service Officers working a 5-8's plan shall receive 8 hours of holiday pay for the paid holidays. Community Service Officers working a 4-10's plan shall receive 10 hours of holiday pay for the paid holidays.

2. If a Community Service Officer's scheduled day off falls on an above-listed holiday, s/he shall be granted a postponed holiday with pay to be taken at the mutual convenience of the employee and the Department.

If the Community Service Officer is on authorized vacation or sick leave with pay when a holiday occurs, such holiday shall not be charged against such leave. Eligible Community Service Officers shall receive one day's pay (8 hours if on 5-8's; 10 hours if on 4-10's) for each of the holidays listed above on which they perform no work.

Community Service Officers required to work on a recognized holiday shall be compensated in cash for all hours worked on the holiday and one-and-one-half times (1-1/2) times the established straight-time rate, in addition to their regular holiday pay. In lieu of holiday premium pay, the City and a Community Service Officer may agree to an alternative day off with pay. Such agreement shall be in written form and executed prior to the holiday.

D. <u>Sworn and Community Service Officer Utilization</u>: Holiday time off that is taken in conjunction with a vacation pursuant to Article 14 shall not be subjected to the following provisions: Requests for accrued holiday time off shall be in writing and submitted to the on duty supervisor. Such requests shall be approved or denied within one (1) business day of the date that the request is received by a supervisor. Holiday time off requests shall not be accepted by the City during the vacation bidding process under Article 14. The City shall not be required to approve a holiday time-off request if doing so would require or result in inadequate coverage or the payment of overtime to another employee.

During the paid holiday listed in C1 of this Article, the Chief may, at his discretion, close the Criminal Investigations Unit and require all detectives scheduled to work on the holiday and assigned to the Unit to either: (1) utilize holiday or vacation time during the period of the closure or (2) be assigned to the Operations Division during the period of the closure as supplemental patrol.

E. <u>Termination of Sworn and Community Service Officer Employment</u>: Upon the termination, resignation or other break in seniority of a regular, non-probationary employee, all earned but unused holiday time shall be paid at his/her current wage rate.

ARTICLE 14 – VACATIONS

A. <u>Accrual Rate</u>: The accrual of vacation for sworn and non-sworn employees shall be as follows:

Length of Service	Monthly Accrual	Number of hours Accrued Annually	Maximum Accrual
0-59 months			
(0-4 years)	8 hours	96 hours	192 hours
60-119 months			
(5-9 years)	11 hours	132 hours	264 hours
120-179 months			
(10-14 years)	13 hours	156 hours	312 hours
180-239 months			
(15-19 years)	14 hours	168 hours	336 hours
240-299 months			
(20-24 years)	16 hours	192 hours	384 hours
300 + months			
(25 + years)	17 hours	204 hours	408 hours

Vacation benefits shall be credited as earned for each month of service, in accordance with A, above, except that vacation accrued during the first twelve (12) months of continuous service shall not be credited as earned vacation until the employee completes the first twelve (12) months of continuous service. For the purpose of vacation accrual "month of service" shall be defined as including any month during which an employee is actively working or is on vacation, holiday or other leaves of absence paid by the City. Vacation benefits do not accrue during periods that an employee is on layoff or unpaid leaves of absence. In the event an employee is on layoff or unpaid leave for part of a month, his/her vacation will be credited for a full month, provided the employee has worked during that month. For purposes of vacation accrual, the City may credit laterally hired officers for their years of service worked at their prior agency.

- B. <u>Utilization</u>: Any vacation accrued in excess of two (2) times an employee's annual accrual will be forfeited, provided that in the event an employee is unable due to departmental operational needs to take a vacation, he or she may request and be granted a waiver in writing so as to allow for the accrual beyond the above maximum for a specified period. Such waiver period shall normally not exceed four (4) months in duration.
 - 1. <u>Bidding under a compressed workweek:</u> When the Department is operating on a compressed workweek, priority vacation bidding will take place on or around November 1st of each year with the posting of a team schedule. Bidding will be conducted within each team on the basis of seniority, with the senior-most officer having the first vacation choice. Employees shall be allotted eight (8) days in which to complete the seniority-based vacation sign-up process and the City shall have fourteen (14) days after its completion in which to approve or deny the vacation requests, and to accept alternative vacation dates for those denied. During this process, bumping of bids by seniority will be allowed.

Once priority vacation bidding is completed, non-priority vacation and holiday requests will be accepted based on seniority for one week, seven (7) days, after the entire priority vacation bid process is complete. Employees will only be able to bid for time off that each officer has already accrued. The City will then have one week, seven (7) days, in which to complete the non-priority vacation and holiday requests. Any holiday or vacation time off requested after this process will be based on a first come first serve basis. Notwithstanding the above, in the event the City implements a compressed workweek schedule, the City and Association may agree to an alternative vacation bidding process. Any such agreement will be confirmed in writing.

2. <u>Bidding under the Five-Eight (5/8) Plan:</u> When the Department is operating on a five-eight (5/8) plan, priority vacation bidding will take place on or around November 1st of each year. Each employee shall be allowed to sign up for one (1) continuous vacation period for the ensuing shift bid year. The above-specified vacation sign-up shall be conducted on the basis of seniority, with the most senior employee having the first vacation choice. Employees shall indicate their first and second choice for vacation dates on the bid. Employees shall be allotted eight (8) days in which to complete the seniority-based vacation sign-up process and the City shall have fourteen (14) days after its completion in which to approve or deny the vacation requests, and to accept alternative vacation dates for those denied. During this process, bumping of bids by seniority will be allowed.

All vacation shall be in increments of one (l) hour, or longer, Requests for vacation in increments of more than two (2) days must be submitted at least ten (10) calendar days in advance. Requests for vacation increments of two (2) or less days may be submitted at any time. All vacation requests shall be approved or denied on a first-request-received-has-priority basis within three (3) business days of the day of receipt of the request, but not before the seniority bidding process has been completed for the period in question. An employee may combine his/her accumulated holiday time with vacation when scheduling vacation time off.

C. <u>Cancellation of Vacation</u>: In the event an employee is involuntarily required to work during his/ her vacation, he/she shall receive overtime at the applicable rate for all time worked during the scheduled vacation and shall have the option of receiving vacation pay for the time involved (for a total of two-and-one-half times the regular hourly rate) or having the vacation time reinstated to his/her vacation account for use at a later time. This section does not apply to vacations of one (1) day or less that are not contiguous with an additional approved holiday or vacation day(s) off when the City provides 72 hours' notice to the affected officer or when the vacation cancellation is caused by another employee's use of sick time.

In addition, if an employee's seniority-bid vacation is canceled by the City for reasons that are not beyond the control of the City, and if the employee has made non-refundable deposits that must thereby be forfeited, he/she shall be eligible for reimbursement subject to the following. At the time of notification of vacation cancellation, which must be hand-delivered to the employee, the employee must advise the City of the fact that certain non-refundable deposits may have been made and the nature of those deposits. Within seventy-two (72) hours of receipt of the notice of

vacation cancellation, the employee must submit appropriate documentation to verify any non-refundable deposits. The provisions of this section shall not prevent an employee from voluntarily canceling and/or rescheduling a vacation without the payment of a premium for the time involved.

- D. <u>Conversion of Vacation</u>: An employee may make a written request to convert vacation into sick leave or bereavement leave in circumstances where this is justified. With the Chief's approval, authorized vacation time may be converted to sick leave or bereavement leave when the employee experiences a major illness or injury while on vacation or; while on vacation, an event occurs in the employee's family where the employee would qualify for bereavement leave.
- E. <u>Termination of Employment</u>: Upon the termination, resignation or other break in seniority of a regular, non-probationary employee, earned but unused vacation time shall be paid at his/her current wage rate.

ARTICLE 15 - SICK LEAVE

- A. <u>Accrual</u>: Sick leave with pay shall accrue at the rate of eight (8) hours, per month of employment, to a maximum accrual of nine hundred sixty (960) hours. For the purpose of accrual of paid sick leave benefits, a "month" shall be defined as including any month during which an employee is actively working or is on vacation, holiday or other leaves of absence paid by the City. Paid sick leave benefits do not accrue during periods that an employee is on layoff or unpaid leaves of absence, except FMLA/OFLA/Military Leave. In the event an employee is on layoff or unpaid leave for part of a month, his/her sick leave accrual will be credited for a full month, provided the employee has worked during that month.
- B. <u>Utilization</u>: Sick leave shall be available for the following:
 - 1. Employees may use sick leave when unable to perform their work duties by reason of illness, off-the-job injury, pregnancy, necessity for medical or dental care, or by serious illness in their immediate families requiring the presence of the employee, or any other purpose provided by FMLA, OFLA, or Oregon SB 454 (2015) for such period as the employee has sick leave credit.
 - 2. <u>Personal Illness or Injury that is Job Related/Workers' Compensation</u>: Sick leave payments will be made for the three (3) day waiting period before Worker's Compensation time-loss benefits begin.
- C. <u>Sick Leave Verification</u>: The City may require an employee to submit verification of eligibility for sick leave from an employee's doctor or health care professional as whenever the employee's sick leave usage exceeds three (3) consecutive workdays or whenever the City has a reasonable belief based upon objective and articulable facts that a misuse of sick leave has occurred. Receipt of verification may be required as a condition of payment. In the event verification is required, out-of-pocket costs billed by the doctor or health care professional to

obtain the necessary verification shall be paid by the City to the extent such costs are not covered by insurance. Verification may be required for absences due to illnesses and injuries of the employee and/or members of his/her immediate family, consistent with applicable law.

D. Limitations and General Conditions:

- 1. <u>New Employees</u>: Sick leave shall not be available for utilization until after the first ninety (90) days of employment have been completed.
- 2. <u>Notification</u>: The employee shall notify his or her immediate supervisor in accordance with procedures that may be established by such supervisor of the need for sick leave as, soon as possible after his or her knowledge of the need.
- 3. Appearance in Court: If an employee is required to appear in court during their scheduled shift on a day that the employee is off on sick leave, the employee shall, notwithstanding the requirements of Article 11, Hours of Work, and Article 12, Overtime, not be eligible for extra pay for the first eight (8) hours of the court appearance. An employee shall not be charged sick leave for the hours worked pursuant to this section. If an employee is required to appear in court outside of their scheduled shift, they will be paid at the overtime rate in accordance with Article 12.
- 4. <u>Verification of Medical Limitations</u>: Employees must be able to resume their normal work duties upon return to work. A doctor's certificate verifying that the employee is able to resume his or her essential work duties in a manner that does not threaten his/her safety or the safety of others may be required. The City reserves the right to require employees to submit verification of medical ability to safely perform their job duties, as well as confirmation of the precise nature of any limitations on an employee's ability to safely perform his/her job duties as a condition of returning the employee to work.
- E. <u>Catastrophic Leave</u>: An employee may donate sick leave under the Catastrophic Leave Program as provided in the City Catastrophic Leave Policy and Procedures. If, during the term of this Agreement, the City Catastrophic Leave Policy changes to allow employees additional options for the donation of sick leave or other types of leave, these new provisions of the policy shall also be applied by the City to Association members.
- F. <u>Injury Leave</u>: Employees who sustain an injury or illness compensable under Oregon's Worker's Compensation laws, and are eligible to receive time loss payments will be paid the difference between their regular gross wages and injury time loss payments for up to one thousand forty (1,040) hours per claim, unless state or federal law provides otherwise. These payments made by the City will be counted as injury leave on payroll records. The employee shall continue to accrue paid leave and health insurance during this period. PERS will be paid on

injury leave as allowed by PERS. Employees will be allowed to use injury leave to attend health care provider appointments related to a workers' compensation claim.

After Injury Leave is exhausted, employees shall use available leave for the differential between the employees' time loss payments and their regular gross wages. Whether employees have available leave or not an occupationally disabled employee provided they pay their share of the premium, shall continue to receive health insurance benefits for a period of twenty-four (24) months from the date of disability, or for the duration of employment, whichever is less. After the twenty-four (24) month period, employees will be eligible to purchase continued coverage under the City's health insurance program in accordance with federal and state laws until the employee returns to work or is terminated. Leave accruals will be pro-rated based on leave hours used. Employee shall use accrued leave for the purpose of attending health care provider appointments related to a workers' compensation claim.

If an employee's worker's compensation claim is disputed, and a final decision is issued through the Workers' Compensation Board or Oregon courts reversing previous determination that an employee's injury or illness was not compensable, injury leave benefit will be paid and all prior time charged against an employee's accrued leaves shall be restored to the employee.

If an employee qualifies for Worker's Compensation time loss benefits and is given a light-duty assignment, the employee shall suffer no loss of pay or benefits and will be paid his/her regular pay while on light duty without deduction from his/her sick leave bank in accordance with Article 16 Section E.

ARTICLE 16 - OTHER LEAVES AND LIGHT-DUTY ASSIGNMENTS

- A. <u>Jury Duty</u>: An employee shall continue to receive his/her regular salary for the period of required services as a juror. All monies received for jury duty, except personal vehicle mileage, will be surrendered to the City. Employees on jury duty shall be changed to a duty assignment commencing at 8:00 a.m. and ending at 5:00 p.m. and shall not receive a paid lunch period for the time served on jury duty. In addition, if the deliberations of the jury extend beyond 5:00 p.m., the employee shall not be entitled to any overtime pay. Employees will report for work when less than a normal workday is required by such duty.
- B. <u>Voting Leave</u>: When an employee's work schedule is such that he/she would not be able to vote prior to or after his/her normally scheduled working hours, he/she may be granted a reasonable time off duty to vote without loss of pay or accrued vacation or sick leave.
- C. <u>Leave of Absence Without Pay</u>: It is the expectation of the City that employees will be judicious in their use of paid leave and that the need for leave without pay will be a rare occurrence. In the event of exhaustion of vacation, holiday, and sick leave time, the Chief of Police may authorize leave without pay due to unavoidable absence from work up to thirty (30) days. Requests for such leaves must be in writing and must establish reasonable justification for the approval by the City. Leaves of absence without pay for longer than thirty (30) days must be approved by the

City Administrator. Such leave shall not be approved for the purpose of accepting employment outside the City.

D. <u>Family Medical Leave</u>: The City will comply with the Family Medical Leave Act (FMLA) and Oregon Family Leave Act (OFLA). Employees who are absent from work for FMLA or OFLA qualifying reasons, but who are not eligible to receive sick leave benefits will be paid accrued holiday pay and/or vacation pay for their absences. In the event an employee does not specify whether he/she prefers to utilize holiday or vacation pay, holiday pay shall be utilized first, then vacation pay.

The employee shall continue to receive health, long-term disability and life insurance benefits during the time the employee is on designated leave under the Family Medical Leave Act (FMLA). Following the expiration of the FMLA entitlement period, health, long-term disability, and life insurance benefits will continue to be paid by the City, provided that the employee continues to have leave hours charged against their leave bank (sick, vacation, holiday).

Effective upon ratification, for purposes of calculating FMLA and/or OFLA leave, the "rolling" year method permitted under 29 CFR 825.200(b)(4) shall be used. Under this method, each time an employee takes FMLA leave, the remaining leave entitlement would be any balance of the 12 weeks of FMLA leave that had not been used during the immediately preceding 12 months. For example, if an employee has taken eight weeks of FMLA leave during the past 12 months, an additional four weeks of FMLA leave could be taken.

- E. <u>Limited Duty Assignments</u>: When an officer who is recovering from an injury or illness compensable under Workers' Compensation is certified as fit for limited or light-duty but not full duty, the City shall provide light-duty employment subject to the following limitations and conditions:
 - 1. The maximum duration of such employment shall be six (6) months from date of release unless the parties agree to extend the assignment.
 - 2. Pay for such position shall be as follows:
 - a. The employee shall receive one hundred percent (100%) of his or her regular rate including incentive pay, but not including pay for premium assignments.
 - b. There shall be no charge to the employee's sick leave, holiday or vacation pay banks for the time spent working in a limited-duty capacity. Paid leave time, including sick leave, shall however, continue to accrue and be available to employees while on a limited-duty assignment. During the time an employee is on light-duty, sick leave, holiday in lieu of pay and vacation pay will accrue at the employee's regular rate. However, employees who utilize sick leave, holiday or vacation pay during a light-duty assignment will be paid at the rate applicable under Section E 2(a), above.

- 3. The City may assign an employee who is on a light-duty assignment to a different shift without regard to seniority or shift bidding preferences. When it is practical to do so, the City shall also modify the work schedule of limited-duty employees so as to allow the employee to participate in physical therapy and attend medical appointments.
- 4. There shall be a limit of two (2) full-time equivalent employee (FTE) placed on light-duty. In the event more than one (1) employee is eligible to be placed in the position, the City shall first offer such work to the sworn employee whose injury or illnesses occurred while on duty.
- 5. The officer must be able to work in the evidence room, take phone inquiries, and conduct background checks/investigations by phone, do filing and perform various other office tasks in order to qualify for the light-duty position.
- 6. The City may require a medical verification of the employee's ability to safely perform the light-duty duties described in subsection 4, above, as a condition to placing an employee in a light duty assignment. The City shall have the right to obtain a second medical opinion at its own expense in order to verify any medical opinion it has received from the employee's physician.
- 7. Light-duty work shall not be offered to an officer who is unable to perform his/her regular job duties as a result of his/her misconduct.
- 8. Light-duty work may be offered to officers injured off-the-job or for medical conditions, subject to Department approval.

F. <u>Bereavement Leave</u>:

- 1. In the event of a death in the employee's immediate family, an employee shall be granted a leave of absence of up to five (5) days per occurrence without loss of pay. The amount of bereavement leave granted (not to exceed five (5) calendar days per occurrence) shall be reasonably appropriate and necessary under all the circumstances.
- 2. Immediate family is defined as spouse, domestic partner, parent, grandparents, child(ren), step-child(ren), brother, sister, father-in-law, mother-in-law, or other relative living in the employee's household.
- 3. This leave shall be separate from sick leave and shall not accumulate from year to year. Additional unpaid bereavement leave may be available to qualifying employees under the Oregon Family Medical Leave Act (OFLA). Employees may use accrued leave while using bereavement leave that is not City-paid. City-paid bereavement leave runs concurrently with OFLA.

- 4. In the event of a death of a co-worker, employees may request and be granted vacation leave or other mutually agreeable time off to attend the funeral. In instances where the essential work of the City would be seriously handicapped by the temporary absence of a group of employees in a division, the City may set a reasonable limit on the number of employees that are to receive such leave.
- 5. In the event that the City of Woodburn revises the Bereavement Leave section of the City HR Rules during the term of this Agreement so that the bereavement benefits to employees are increased, the increase bereavement benefits shall also be given by the City to Association members.
- G. <u>Military Leave</u>: Military leave shall be granted in accordance with federal and state law.

ARTICLE 17- WAGES

A. <u>Appendix A</u>: Wages covered by this Agreement shall be in accordance with the schedule set forth in Appendix A.

Effective and retroactive to July June 282, 2017 2020, the City shall increase the wages of all Police Officers by three percent (3%) and Community Service Officers by four percent (4%) members as reflected in Appendix A by 2.8%.

Effective July 1, 2018, the City shall increase the wages of all Police Officers by two and three quarters percent (2.75%) and Community Service Officers by four (4%) percent.

Effective July 1, 2019 the City shall increase the wages of all Police Officers and Community Service Officers by two and one half (2.5%) percent.

As set forth in the Wage Schedule contained in Appendix A, sworn employees are eligible for a three percent (3%) longevity step increase upon completion of ten (10) years of service (reflected as Step 9/Longevity 1 in the Police Officer Wage Schedule in Appendix A), are eligible for an additional two percent (2%) longevity step increase, for a total of five percent (5%), upon completion of fifteen (15) years of service (reflected as Step 10/Longevity 2 in the Police Officer Wage Schedule in Appendix A), and are eligible for an additional two percent (2%) longevity step increase, for a total of seven percent (7%), upon completion of twenty (20) years of service (reflected as Step 11/Longevity 3 in the Police Officer Wage Schedule in Appendix A).

B. <u>DPSST Certification Pay</u>: Employees shall receive the following pay for maintaining intermediate and advanced certificates:

Police Officer Intermediate certificate (five percent (5%) monthly base salary) Police Officer Advanced certificate (ten percent (10%) monthly base salary) The City will continue to provide forty (40) hours of training per year. If possible, the City will offer training that satisfies DPSST standards. In the event the City provided training does not satisfy DPSST standards due to content or required hours, or in the event employees are not available when City training is offered, training shall be obtained by the employee on employee's own time and at employee's own expense. Such expenses shall not be reimbursed by the City. Employees who fail to maintain their certification will be subject to demotion, or in the event of loss of basic DPSST certification, termination.

- C. <u>Step Advancement</u>: Employees are eligible for Step advancement following completion of twelve (12) months of service at the prior Step, subject to Department approval and the salary schedule.
- D. <u>Denial of Step</u>: If a Step advancement as provided for in this Article is to be denied, the employee shall be given notice of such denial in writing. The notice of denial must also state the reason for the step denial and, where applicable, specify the standards that must be achieved before the step increase will be granted.

ARTICLE 18 -PREMIUM AND INCENTIVE PAY

Employees are eligible for the following premium and incentive pay:

- A. <u>Motorcycle Patrol Premium</u>: Any officer assigned to motorcycle patrol shall receive seven percent (7%) of hourly base pay premium while so assigned.
- B. <u>Canine Officer Premium</u>: Canine Officer and dog training activities shall be conducted primarily on-duty. Canine Officers accept and may resign from the position voluntarily. Acceptance of the assignment is based upon willingness to care for the animal off-duty as a family pet. Employees who serve as Canine Officers shall not receive overtime wages for off-duty care of the animal as a family pet.

The parties intend to compensate for the off-duty care, feeding, grooming, bathing, exercising, and kennel cleaning and maintenance time. In order to compensate the Canine Officer for weekly kennel cleaning, maintenance time, and weekly training time, the Canine Officer shall receive five percent (5%) hourly base pay premium. The parties agree that this pay differential fully compensates the Canine Officer for the amount of time required to perform these activities. Off duty training will considered hours worked and will be subject to the 28/day, 171 hour FLSA standard.

The parties agree that commuting to work with the dog does not constitute "hours of work" solely because the dog is in the vehicle. Canine Officers shall be entitled to a call back premium when duty concerns emergency care of their animal, consistent with Article 12.B.

- C. <u>Marion County Interagency SWAT Team Premium</u>: Any officer assigned to the Marion County Interagency SWAT Team shall receive premium pay in an amount equal to three percent (3%) of hourly base pay while assigned to the Marion County Interagency SWAT Team.
- D. <u>Field Training Officer (FTO) Premium</u>: Officers assigned by the Chief or designee as FTO shall receive a five percent (5%) hourly base pay premium for all hours actively engaged in FTO duties.
- E. <u>Language Incentive</u>: Any officer demonstrating oral proficiency in the Spanish or Russian languages shall receive a seven percent (7%) base pay hourly language incentive for sworn officers or a three-and-one-half percent (3.5%) base pay hourly incentive for Community Service Officers. The City is to determine the level of proficiency required and the manner of testing that proficiency. Newly hired officers shall be eligible to receive language incentive pay upon successful completion of testing administered by the City Human Resources Department. Any officer whose oral skills are not sufficient to pass the language testing exam but whose skills are deemed sufficient to utilize on the street shall receive two and one-half percent (2.5%) base pay hourly incentive. Sufficiency shall be determined by the Chief or his designee. Maximum language incentive shall be limited to seven percent (7%) for employees who have been certified to have multiple language proficiencies.

Testing for language skills shall not be unreasonably delayed and the City reserves the right to expand the language incentive program to include other languages as operational needs of the City change over time. Recertification for employees eligible to receive the Language Incentive will occur every two (2) years.

- F. <u>Detectives and School Resource Officer (SRO) Premium</u>: Officers regularly assigned as Detectives or SROs shall receive an additional seven percent (7%) of hourly base pay for the duration of the assignment.
- G. <u>Mobile Crisis Response Team Officer</u>: An Officer appointed by the Chief and assigned as a member of the Mobile Crisis Response Team (MCRT) shall receive a premium of five percent (5%) for the duration of the assignment.

H. Physical Fitness Incentive:

- 1. Establishment of Incentive: Recognizing that physical fitness is beneficial to the health and well-being of employees, in addition to lowering the potential cost of health care and work related injuries, a physical fitness incentive is established by this Article.
- 2. Opportunity to Take the ORPAT: Employees will be provided the opportunity to participate in the DPSST certified Oregon Physical Abilities Test (ORPAT) course. The department will provide four (4) opportunities during the first quarter of each calendar year. A member of the sworn command staff must be present during the test. Participation in the ORPAT test is voluntary and will be conducted during the employee's "off duty" time. If on protected leave during testing period, the

- employee will be given one opportunity to take the test upon return from protected leave. If the employee passes, the employee will receive the \$350 incentive for the calendar year.
- 3. Minimum Standard for Passing the ORPAT: The minimum standard for passing the ORPAT shall be the time established as passing by DPSST for an Entry Level Police Officer.
- 4. Physical Fitness Incentive: Employees who meet the minimum ORPAT passing standard will receive a \$350 physical fitness incentive for the calendar year during which the ORPAT was administered. Employees are eligible to receive the physical fitness incentive in future calendar years when they meet the minimum passing standard in future ORPAT tests.
- 5. Employees Who Do Not Qualify: Employees who take the ORPAT, but do not meet the minimum ORPAT passing standard, will not be deemed "physically unfit for duty" or be negatively treated by the Department.
- 6. Employees Who Fail to Participate: Employees who do not take the ORPAT shall not be negatively treated by the Department.

ARTICLE 19 – EXPENSES

Employees will be allowed use of a City vehicle, if available, as needed, to conduct City business or for approved trainings. When an employee is permitted by the Chief of Police or designee to use a personal vehicle to travel for City business or approved trainings, the employee shall be reimbursed at the then-effective IRS rate. When an employee's duties require the employee to travel outside of City limits, the City will reimburse the employee for the cost of lodging and meals in accordance with City travel policy.

ARTICLE 19A - TUITION REIMBURSEMENT

The City of Woodburn may reimburse an employee for up to 50% of the amount of tuition for courses approved by the City Administrator which are deemed directly applicable and beneficial to City goals and objectives. The tuition reimbursement policy will be limited by budgetary resources within the Department and will follow the following guidelines:

- 1. The City may reimburse an employee for the amount of tuition for approved courses conducted outside the employee's regular working hours, provided the employee has made application for approval to the City Administrator at least ten days prior to the registration for such course.
- 2. Course work eligible for reimbursement must be completed at a college or university holding statewide accreditation.

- 3. Attendance at job-related courses which are only offered during regular working hours may be approved by the Department Director and the City Administrator subject to the operating requirements of the Department. If the course is approved, leave of absences without pay or vacation time, or other paid leave time other than sick leave may be used by the employee.
- 4. Reimbursement will not include the cost of travel, books, materials, or other ancillary costs. Reimbursement will be limited to a maximum of six (6) units per semester.
- 5. Reimbursement will be provided upon showing of a successful completion of coursework- (i.e., a copy of report card or transcript, and a receipt, cancelled check, or other proof that registration has been paid by the employee).
- 6. Employee will be reimbursed 50% of tuition cost when course-work is completed with an "A" or "B" grade. Tuition will be reimbursed at only 40 % for course-work completed with a "C" grade. There will be no reimbursement for courses completed with a "D" or for failed courses. Tuition reimbursement is subject to all IRS rules.
- 7. Employees will be obligated, when deemed applicable, to share the benefit of their education and training with other City employees.

ARTICLE 20 – CLOTHING AND UNIFORM

If an employee is required to wear a uniform, the City shall furnish such uniform to the employee. The City shall pay the cost of the uniform. For sworn employees, the uniform shall include body armor, leather, weapon and other such equipment as issued by the Department. The City may approve alternative weapons and leather, or equivalent, which the employee shall provide at his/her own expense. Body armor shall be replaced in accordance with the manufacture's recommendation. The City shall replace all irreparably damaged or stolen equipment issued to employees.

The City will provide a boot allowance to uniformed employees, both sworn and non-sworn, in the amount of \$150 per year.

The City will provide a clothing allowance for employees for approved clothing while assigned to plain clothes duty, on an actual reimbursement basis, not to exceed \$750 per year.

ARTICLE 20A - LIABILITY INSURANCE

- A. The City shall continue to cover employees during the term of this Agreement with no less on-the-job liability protection than is currently in effect.
- B. A copy of the liability insurance policy will be provided to the Association by the City at the beginning of each fiscal year, or whenever any change occurs in the coverage or the carrier.

- C. Legal Defense Plan: The City will contribute towards the PORAC Legal Defense Plan that provides each employee with an attorney as a direct result of criminal charges or a criminal investigation arising out of the employee's performance of his/her duties as an employee.
 - a. Effective July 1, 2017, the City will contribute the current contribution for Plan II coverage not to exceed \$5.00 per month for each employee, paid by quarterly reimbursement of invoice provided by the Association for the "PORAC" Plan.
 - b. The Association will provide a complete legal defense plan description to the City and written notice to the City of any changes to the plan description. Substantive changes in plan benefits may be subject to notice and bargaining under ORS 243.698.
 - c. The City recognizes that it is not entitled to the work product of the attorneys involved in this program. The City recognizes there exists an attorney client privilege between the attorney and employee.

ARTICLE 21 - MANDATORY TRAINING

A. <u>Training Defined</u>: The kinds of training that may be conducted pursuant to the provisions of this Article shall include such activities as DPSST approved classes, college-level instruction, firearms qualification, and instruction as to departmental methods or procedures.

The City agrees to meet and confer with the Association with respect to the selection and scheduling of mandatory training activities.

- B. <u>Cost of Training</u>: The City shall pay all costs of mandatory training.
- C. <u>Pay for Training</u>: Notwithstanding other provisions of this Agreement and to the extent permitted by law, the City shall have the right to pay employees at their straight-time hourly rate for training activities that the employee is required to attend which do not fall within the employee's regularly scheduled hours of work. This equates to eleven (11) hours per month on a forty (40) hour work week, three (3) hours per month on a one-hundred-seventy-one (171) hour per twenty-eight (28) day work cycle or as allowed by FLSA.
- D. <u>Scheduling of Training</u>: The City may alter the regular shift schedules to enable an employee to attend non-mandatory training outside his/her regular work schedule without incurring overtime obligations for that employee, as a condition of approving attendance at such training. Shift changes for that employee are not subject to advance notice of shift scheduling. Employees attending non-mandatory training will, however, be given at least eight (8) hours off duty between shifts.

Also, when a particular class or training activity is to be offered at two or more different times, and when there is a choice between scheduling an employee to attend the training during his/her regular work hours or outside his/her regular work hours, the employee shall, to the extent

permitted by the City's reasonable operating needs, be scheduled to participate in the training during his/her regular work hours.

Whenever possible, in-service training, will occur on Tuesdays of the employee's short week and begin after 0800 hours. This provision excludes training associated with specialty positions, such as K9, TSU, and CNU.

E. <u>Firearms Qualification</u>: The City shall schedule not less than six (6) opportunities for each office to practice shooting his/her firearm each year. Included within the above-specified six (6) opportunities shall be not less than four (4) qualifications. The City shall provide adequate ammunition to complete all course of fires including tactical and qualifying training regiments. The City shall also provide training ammunition for officers who wish to qualify with an off duty or backup weapon, so long as the ammunition is of the caliber stocked by the City.

ARTICLE 22 – HEALTH INSURANCE AND OTHER BENEFITS

- A. <u>Medical</u>: The City shall provide to both sworn and non-sworn employees medical and prescription coverage through City County Insurance Services (CIS) the Regence Plan -Copay A Rx 4 or the Kaiser Medical Plan B w/Rx care.
- B. <u>Vision</u>: The City shall provide vision coverage to both sworn and non-sworn employees the VSP for Regence participants and Kaiser Vision for Kaiser participants.
- C. <u>Dental</u>: The City shall provide dental coverage to both sworn and non-sworn employees through CIS ODS II, Willamette Dental, or the Kaiser Dental Plan.

D. <u>Funding</u>:

- 1. (a). The premium insurance share for both sworn and non-sworn employees shall be ninety-five percent (95%) employer paid and five percent (5%) employee paid for the participant's medical/vision/dental benefits package calculated off of an \$2,200 per month premium cap effective December 1, 2017.
 - (b). For both Regence and Kaiser plans, any premium amounts higher than the \$2,200 monthly employer premium cap shall be paid 50% by the employee and 50% by the employer.
 - (c). If an employee splits participation in medical and dental plans (i.e., Regence Medical with Kaiser Dental or Kaiser Medical with Regence Dental), the City will determine which premium share is applicable based upon the employee's medical plan choice (i.e., Regence Medical with Kaiser Dental yields the Regence premium share; Kaiser Medical with Regence Dental yields the Kaiser premium share).

Monthly premiums and cost coverage level for the health insurance for January 1, 2018

to December 31, 2018 can be found in Appendix C.

- E. <u>Life Insurance</u>: For the duration of this Agreement, the City shall provide the following:
 - 1. A life insurance policy equivalent to current base wage with twenty-four (24) hour term life and accidental death and dismemberment policy.
 - 2. A \$10,000 on-duty life policy is in addition to the above.
 - 3. A \$1,000 twenty-four (24) hour life double-indemnity accidental death and dismemberment policy.
- F. <u>Domestic Partners</u>: For purposes of this Article, where insurance benefits are extended to "spouses," domestic partner shall be considered a spouse. A domestic partner is defined as an individual of the same sex as the employee who lives with the employee and has fulfilled the requirements contained in and completed the "Affidavit of Domestic Partnership" form which is available from Human resources. Domestic partners that have fulfilled the requirements set forth in this form will be eligible for all benefit insurance options available to "spouses" as limited by carrier contracts. Employees are obligated to promptly notify the Chief of Police when domestic relationships begin and end.
- G. <u>Retirement</u>: PERS During the life of this Agreement, the City agrees to continue to participate in the Public Employees' Retirement System, which includes crediting of accumulated sick leave toward improved retirement benefits. Effective October 1, 2008, the City shall pick up, assume, or pay the employee's contribution required by law to PERS subject to the Oregon Administrative Rules pursuant to PERS statutes.
- OPSRP During the life of this Agreement, the City agrees to continue to participate in the Oregon Public Services Retirement Plan (OPSRP) for eligible employees. Effective October 1, 2008, the City shall pick up, assume, or pay the employee's contribution required by law to OPSRP statutes.

To the extent permitted by Section 414(H-2) of the Internal Revenue Service Code, employee payroll deductions towards the cost of retirement shall be made on a pre-taxable income basis.

H. <u>Long Term Disability Insurance</u>: The employer will pay LTD to equate to 2/3 base salary, like current practice for Sergeants. Plan description to be provided to employees upon request.

ARTICLE 23 - PERSONNEL FILE

- A. <u>File Review</u>: Each employee shall have the right, upon request, to review and obtain at his/her own expense, copies of the contents of his/her personnel file, exclusive of materials received prior to the date of his/her employment by the City.
- B. <u>Removal</u>: Written reprimands, upon request of the employee, shall be removed from an employee's personnel file at the end of three (3) years from the date the written reprimand was

issued, provided there are not subsequent concerns of a similar nature or disciplinary action related to similar conduct during the intervening period of time. All other disciplinary documents shall become a permanent record in the personnel file.

Documents removed from an employee's personnel file as a result of an employee request will be placed in a confidential file maintained by the HR Director. Such documents will not be used against an employee for the purpose of establishing progressive discipline, but may be used in any arbitration and civil proceeding for the purpose of establishing consistency of disciplinary action, lack of discrimination, the existence of mitigating circumstances and compliance with legal obligations.

C. <u>File Additions</u>: Each employee shall have the right to read and sign any written material of an evaluative nature that is placed in his/her personnel file. This includes merit ratings, written reprimands, demotions, suspensions, or discharge. Any employee may respond in writing to any item placed in such personnel file, and said response shall become a part of said file.

Nothing in this Article shall restrict the ability of the Department to evaluate employees based upon performance.

ARTICLE 24 - PROBATIONARY PERIODS

Probationary periods shall apply to both new employees and employees having received a promotion. The probationary period shall be eighteen (18) months for all employees new to the Department; however, when a laterally hired, experienced and police-certified new hire is hired, such officer's probationary period shall be twelve (12) months. Employees promoted to a higher classification shall serve a twelve (12) month probationary period. At or prior to the completion of the probationary period, a new employee may be discharged and a promoted employee may be restored to his/her former classification without any reason, justification, or cause being shown.

New employees who are certified and have prior experience may be hired above the Step I rate. An employee so hired shall be eligible for advancement to the next step on the salary schedule after completion of probation. Probation may be extended for a maximum period of six months.

The City reserves the right to negotiate directly with potential lateral hires as to expenses to cover the costs of changing agencies.

ARTICLE 25 – DISCIPLINARY ACTIONS AND PROCEDURES

No regular employee shall be disciplined without just cause and due process. For purposes of this Article, "just cause" shall require that no employee shall receive a written reprimand, be suspended without pay or terminated without just cause. If a question as to just cause exists, it may be resolved by submission to binding arbitration pursuant to the provision of Article 27.

The City acknowledges the right of the employee to request a representative of the Association to be present at any interview where the employee reasonably believes that discipline may result from the interview.

Woodburn and Woodburn Police Assn. CBA Effective 2017-20202020-2021

A. <u>Forms of Discipline Include</u>: Written reprimand, suspension, reassignments or demotions (which would result in a reduction of wage rate and are attributable to misconduct, violation of policies or procedures or noncompliance with standards) and termination. Discipline for regular employees will normally be progressive, however, any level of discipline may be imposed based on the totality of circumstances and just cause.

Employee evaluations and Command Counseling are not considered to be discipline and are not subject to the grievance and arbitration procedures set forth in Article 28. Command Counseling is a less formal means of addressing concerns related to performance, daily operations and compliance with departmental standards and expectations. Command Counseling is intended to correct an employee's behavior and provide notice to the employee that the employee's uncorrected behavior could lead to discipline. Command Counseling will not be placed in an employee's personnel file, but will be maintained the supervisory files for review for yearly evaluations. Command Counseling, including any employee rebuttal, will be purged from the supervisory file after a period of one (1) year from the date of Command Counseling. Nothing in this Article shall be construed to prevent or inhibit the Chief of Police or superior officers from discussing and addressing matters pertaining to the operational needs and standards of the department with employees.

- B. <u>Due Process</u>: In the event an employee is under investigation for potential violation of policy or procedures, noncompliance with Departmental Standards or misconduct which could reasonably lead to "discipline" as defined in Section A, above, the employee will be granted the following procedural rights:
 - 1. <u>Disciplinary Interviews and Notice</u>: The employee and a member of the Association's Executive Board will be given forty-eight (48) hours advance written notice of intent to interview, except in situations where exigent circumstances exist to justify lack of notice (such as controlled substance concerns, etc.) Notice to the employee will generally be hand delivered. Notice to a member of the Executive Board may be made electronically. The notice will include: the general nature of the allegation(s) or concern(s) prompting the interview; the policies and/or standards potentially violated; and a reminder of his/her right to consult with an Association representative and to have such a representative present during the interview. This notice is not, however, required under circumstances of an investigation involving alleged criminal conduct.
 - 2. Interviews shall take place on City premises or elsewhere upon mutual agreement, unless an emergency, or special circumstances, exist to justify conducting the interview elsewhere.
 - 3. The City shall make a reasonable good faith effort to conduct employee interviews during the employee's regular working hours, except for emergencies or where interviews can be conducted by telephone.

- 4. In a non-criminal investigation, the employee may be required to answer any questions reasonably related to the subject matter under investigation. The employee may be disciplined for refusing to answer such questions. In an investigation involving potential criminal conduct, employees who are required to answer questions related to the potential criminal conduct will be issued a "Garrity" notice in writing. Such notice will advise the employee that he/she is required to answer questions related to the potential criminal conduct and will be subject to discipline for failure to do so. The notice will further advise the employee that the answers provided in response to this directive will not be used in a subsequent criminal proceeding.
- 5. In situations involving the use of deadly force, the employee shall be afforded reasonable opportunity to consult with an Association representative or attorney prior to being required to give an oral or written statement about the use of such deadly force.
- 6. The employee shall be entitled to such reasonable intermissions as the employee shall request for personal necessities.
- 7. All interviews shall be limited in scope to activities, circumstances, events, conduct or acts which pertain to the incident(s) which are the subject of the investigation. Nothing in this Section shall prohibit the City from questioning the employee about information which is developed during the course of the interview or information related to the employee's understanding of the rule or standard in question and mitigating or aggravating factors.
- 8. If the City or Association tape records the interview, a copy of the complete interview of the employee, noting all recess periods, shall be furnished, upon request, to either party. If the interviewed employee is subsequently notified of potential discipline and any part of any recording is transcribed by the City, the employee shall be given a copy of the tape prior to his/her due process hearing.
- 9. Investigations shall be conducted with no unreasonable delay. Disciplinary interviews and grievance procedure meetings will not be delayed to assure an employee's choice of a particular Association representative, unless the City has agreed.
- 10. <u>Lie Detector Tests</u>: No employee will be compelled to provide polygraph or voice stress tests.

Command Counseling shall not be considered disciplinary action and shall not be subject to the provisions of this Article.

C. <u>Pre-Disciplinary Loudermill Hearings</u>: Prior to any discipline being imposed, the employee shall be given the opportunity to meet with the Chief of Police or his designee, personally or through an Association representative or attorney, to provide additional evidence

and/or mitigating circumstances related to the disciplinary action being considered. The City will provide reasonable advance notice of the meeting and will respond to requests for information related to the conduct leading to the proposed disciplinary action, including requests for copies of investigation documents, witness statements, tape recordings and other information relied upon as a basis for the proposed disciplinary action within a reasonable period prior to the meeting, consistent with PECBA and due process obligations. The City agrees not to decide on the discipline to be imposed on the employee until after such a meeting.

D. <u>Imposing Discipline</u>: Any employee being disciplined will be given official written notice of the discipline being imposed, including a summary of the factual conclusions; the policy, procedures, standards violated and/or misconduct that occurred.

The employee and/or Association representative shall, upon request, be furnished with a copy of the investigation including all witness statements, tape recordings and other materials collected by the City to impose the discipline.

The City shall complete its investigation into an allegation of misconduct by an employer no later than six (6) months from the date of the first interview of the subject employee. The City may extend the completion date for the investigation to a maximum of twelve (12) months from the date of the first interview of the subject employee, provided that before the extension begins, the City provides written notice explaining the reason for the extension to the employee and the employee's association representative.

- E. <u>Personnel Files</u>: Disciplinary actions will be placed in employee personnel files and removed from such files in accordance with Article 23 of this Agreement.
- F. <u>Officer Involved Shootings</u>: The Department agrees to comply with the procedure for officer involved shootings, attached to this Agreement as Appendix B.
- G. <u>Paid Administrative Leave:</u> The Department reserves the right to place an employee on paid administrative leave pending an administrative and/or criminal investigation. In such a case, the employee placed on paid administrative leave shall not experience any reduction in pay including but not limited to incentives or premium pay. Nothing in this section shall be interpreted to limit or restrict the right of the Department to place the employee on an alternate shift and/or make a different employee work assignment.

ARTICLE 26 - FUNDING

The parties to this Agreement recognize that revenue needed to fund this Agreement must be approved annually by established budget procedures and, in certain circumstances, by a vote of the citizens of the City of Woodburn. All compensation provided for by this Agreement is therefore contingent upon sources of revenue, and where applicable, budget committee and voter approval. The City will not reduce the compensation specified in this Agreement, because of budgetary limitations. The City agrees to include in its annual budget request amounts sufficient to fund the compensation provided in this Agreement. In the event that the City does not receive the required

budget committee or voter approval needed to fund the annual budget, the parties agree to meet to seek possible alternatives to layoff and service reductions.

ARTICLE 26A - DEPARTMENT SEARCHES

- A. The City may conduct searches of City owned lockers, desks or other City property for the purpose of locating City equipment or City owned property that may be stored therein. In doing so the City will not be required to have reasonable suspicion or probable cause that the property or equipment will be found therein, provided that:
 - 1. Section D below does not apply when the City is seeking to retrieve needed equipment, such as Tasers, Radios and Radio Equipment, Firearms, and Current Patrol Notebooks.
 - 2. Upon opening the locker, desk or other City owned property, the City shall only retrieve the item needed, and will not conduct a search of the locker, desk, or other City property, once the item sought has been located, and the City shall not open any personally owned containers found in the locker, desk or other City owned property.
- B. An investigative search of City owned lockers, desks or other City property will only be conducted with the approval of the Chief or designee upon reasonable suspicion that a violation of policy or procedure has occurred in accordance with applicable law. All other non-assigned areas (e.g., shared desks, common office space, department vehicles) may be searched by the City at any time for any reason.
- C. Searches under Article 27, Substance Abuse Policy, may also be conducted. Personal property, such as brief cases, lunch boxes, etc. brought onto City property, as well as lockers, may be searched when the City has reasonable suspicion that alcohol or probable cause that drugs or drug-related paraphernalia may be found.
- D. Prior to the search under this Article, notice will be given to the employee who may elect to be present with an Association representative, provided that the presence does not delay the search in excess of 45 minutes. In the event the employee is unable to attend or declines to attend the search, a search will still be conducted in the presence of an Association representative.

ARTICLE 27- SUBSTANCE ABUSE POLICY

The Woodburn Police Department implements the following Substance Abuse Policy to become effective upon execution of the Agreement:

A. <u>Purpose</u>:

- 1. It is the policy of this Department that the critical mission of law enforcement services justifies maintenance of an alcohol and drug-free work environment through the use of a reasonable employee drug testing program and the enforcement of rules prohibiting the consumption of alcohol or use of drugs which interferes with this mission.
- 2. The law enforcement profession has several uniquely compelling interests that justify the use of employee alcohol and drug testing and other reasonable restrictions designed to produce an alcohol and drug-free working environment. The public has a right to expect that those who are sworn to protect them are at all times both physically and mentally prepared to assume these duties.
- 3. Therefore, in order to ensure the integrity of the Department and to preserve public trust and confidence in a fit and alcohol/drug-free law enforcement profession, this Department has adopted the following rules and procedures:

B. Applicant Drug Testing:

- 1. Applicants for employment in the Department shall be required to take a drug test as a condition of employment during a post-offer/pre-work medical examination.
- 2. Applicants shall be disqualified from further consideration for employment under the following circumstances:
 - a. Refusal to submit to a required drug test, or
 - b. A confirmed positive drug test indicating drug use prohibited by this policy.

C. Prohibited Conduct:

The following conduct is strictly prohibited:

- 1. Buying, selling, consuming, distributing or possessing drugs or alcohol, including marijuana, during working hours, including rest and meal periods, except in conjunction with the performance of work duties (confiscated evidence, approved undercover operations, etc.)
- 2. Reporting for work or returning to duty under the influence of alcohol or drugs. For the purposes of this policy, an employee is considered to be "under the influence" of alcohol if his/her alcohol concentration is .02 BAC or more. Alcohol concentration levels measuring less than .02 BAC are considered a negative test result. An employee is considered to be "under the influence" of drugs, if the employee tests positive for having such substances present in his/her body.

In no event will an employee consume any kind of alcoholic beverages within four (4) hours of the time he/she is scheduled to report for work. Where an employee is subject to call-out and he/she has consumed alcoholic beverages within the preceding eight-hour period, the employee shall be required to advise his or her supervisor of that fact, the amount and when the alcohol was consumed.

- 3. Failing to promptly report arrests, convictions and/or plea-bargains for an alcohol or drug-related criminal offense to the Chief of Police or his/her designee, irrespective of the jurisdiction where such action was taken.
- 4. Failing to comply with Department directives regarding enforcement of this Policy, including but not limited to refusing to promptly submit to required testing; giving false, diluted or altered samples; obstructing the testing process; failing to comply with rehabilitation conditions imposed by the Department or rehabilitation counselors pursuant to Article 7 of this Policy.
- 5. Failure to disclose use of over-the-counter or prescribed medication containing controlled substance, as required by Section D, below.

For the purpose of this Policy, "drugs" includes, but is not limited to the following controlled substances: opiates, cocaine, marijuana (THC), phencyclidine (PCP), amphetamines/methamphetamines and barbiturates. However, "drugs" does not include prescription and over-the-counter medications that are lawfully prescribed and used in a manner consistent with a physician's instructions and/or medication warnings. Marijuana is defined as a controlled substance for the purpose of this policy, regardless of whether or not the marijuana was distributed for medical purposes.

Employees who engage in any prohibited conduct will be subject to discipline, including discharge.

D. <u>Disclosure of Medications</u>:

Employees are responsible for consulting with their physicians and carefully reviewing medication warnings, including any warnings pertinent to the effects of use of a combination of medications. Employees who are using over-the-counter or prescribed medications which have any reported side effects that could reasonably affect their ability to safely perform all essential job duties must notify their supervisor of the substance taken and its side effects before reporting for work. Medical verification of ability to safely perform job duties may be required before the employee is allowed to continue his/her job assignment. Employees are eligible to utilize sick leave benefits pending receipt of acceptable verification.

Although the use of prescribed and over-the-counter medication as part of a medical treatment program is not grounds for disciplinary action, failure to fully disclose the use of substances which could reasonably impair the safe performance of essential job duties; illegally obtaining the substance or use which is inconsistent with prescriptions or labels will subject an employee to disciplinary action.

E. <u>Employee Testing</u>:

Employees will be required to undergo drug and/or alcohol testing as a condition of continued employment in order to ascertain prohibited drug use, as provided below:

- 1. <u>Reasonable Suspicion</u>. A supervisor may order an employee to immediately submit to a urinalysis test for drugs and/or a breathalyzer test for alcohol whenever the City has reasonable suspicion to believe that the employee has violated the provisions of this Policy concerning reporting to work or being at work "under the influence" of drugs or alcohol.
 - "Reasonable suspicion" shall be defined as suspicion based on articulated observations concerning the appearance, unusual behavior, speech, breath odor, body symptoms or other reliable indicators that an employee has consumed drugs and/or alcohol in violation of this Policy.
- 2. <u>Special Assignments</u>. A drug test shall be considered as a condition of placement in special assignments within the Department and shall be administered prior to such assignment where testing is required by the District Attorney. Such assignments will not be used as a pretense for other types of drug testing.
- 3. <u>Random</u>. During the one year period, 25% of all persons covered by this Policy shall be randomly tested for drugs during unannounced times.
 - a. The Human Resources Director shall determine the timing of such tests.
 - b. All employees shall have a number controlled by a testing service with SAMHSA/NIDA certified lab, testing and Medical Review Officer (MRO) capabilities, which shall be placed in a pool for anonymous random electronic selection. Each employee shall have an equal chance of being selected in each random selection. The City shall conduct up to four (4) random tests per year.
 - c. Individuals selected for random testing shall be notified the day the test is scheduled, preferably within two hours of the scheduled testing.
 - d. In the event the random testing of any employee is deferred because that employee is in a leave status (sick, vacation, parental leave, etc.) or on duty related travel status away from the City, that employee's test may be deferred. However, any individual whose test is deferred shall be subject to an unannounced test at any time within the following ninety (90) days.

4. <u>Rehabilitation Treatment:</u> Where testing is required pursuant to Rehabilitation and Return to Work Agreement imposed by the City or an employee's rehabilitation counselors, individualized testing may be required as outlined in that Agreement.

Urinalysis testing will be conducted for all types of drug testing and breathalyzer testing will be conducted for all types of alcohol testing.

F. Testing Procedures:

- 1. All testing will be conducted at a laboratory certified by the federal DOT and shall be conducted in accordance with the standards for procedural safeguards and testing integrity disseminated by the NIDA. All drug tests will be conducted through collection of a split sample. All positive drug tests will be confirmed by a second cross confirmatory test from the same sample using GCMS testing methodology and reviewed by a Medical Review Officer before the test result is reported as positive.
- 2. The other sample shall remain at the testing facility in frozen storage for a minimum of 90 days from the date the test was conducted. This sample shall be made available to the employee or his attorney, should the original sample result in a legal dispute or the chain of custody be broken.
- 3. Whenever there is a reason to believe that the employee may have altered or substituted the specimen to be provided or the initial test was not determinative, a second specimen may be obtained immediately, using testing procedures deemed appropriate by the testing laboratory personnel.
- 4. If the confirmatory test is positive for the presence of a controlled substance, the employee will have the option of submitting the split untested sample to a qualified and certified laboratory of the employee's own choosing.
- 5. All records pertaining to department required drug and alcohol tests, as well as compliance with rehabilitation terms shall remain confidential, and shall not be released, except on a need to know basis, in accordance with applicable law. All documents pertaining to testing and test results will be maintained in employee medical, not personnel, files.

G. Consequences of Violations:

1. Employees who Report Dependencies and Seek Assistance before Committing Policy Violation – Rehabilitation.

The City encourages employees who have drug and/or alcohol dependencies or think they may have such dependencies to seek assistance voluntarily. When an employee voluntarily reports

a drug or alcohol dependency to the Chief or his/her designee and seeks assistance before violating this Policy, that employee will be placed on a leave of absence or adjusted working hours to allow for in-patient or out-patient rehabilitation treatment as recommended by a Substance Abuse Professional (SAP).

The employee will not be permitted to work until such time as a Substance Abuse Professional agrees the employee:

- a. Has been evaluated by a Substance Abuse Professional (SAP);
- b. If recommended by the SAP, has complied with all rehabilitation/after-care prescribed; and
- c. Has a verified negative drug or alcohol test (as applicable).

In order to return to work for the City, an employee seeking assistance must agree to all treatment, rehabilitation, after-care and follow-up testing as set forth in a written Rehabilitation and Return to Work Agreement required by the City. Any employee who violates the terms of the Agreement is subject to immediate termination.

The time an employee is off work undergoing rehabilitation is unpaid. However, employees may draw their unused, accumulated sick leave, and/or vacation pay, holiday and compensatory time. Also, employees who are receiving health insurance coverage will be eligible for continuation of health insurance benefits with standard City contributions as required by the Family Medical Leave Act.

2. Employees who Report Dependencies and Seek Treatment after Committing a Policy Violation.

Employees who notify the City of drug or alcohol dependencies *after* violating this Policy are subject to discharge, irrespective of such dependencies.

The City may however, at its discretion, allow an employee to undergo evaluation and rehabilitation in lieu of discharge, provided the employee promptly complies with the terms and conditions set forth in Section H1, above. The City will consider the following factors in exercising its discretion: the employee's length of service; the employee's work record, in particular, whether the employee has committed a previous alcohol or drug policy infraction; the consequences of the violation; any other circumstances offered by the employee that mitigates against discharge.

It is understood and agreed that the references to discipline and discharge set forth in this Policy and the Rehabilitation and Return to Work Agreement are not intended to supersede "just cause" requirements.

ARTICLE 28 - GRIEVANCE PROCEDURE

- A. <u>Definition</u>: A grievance for the purpose of this Agreement is defined as an alleged violation of this Agreement.
- B. <u>Time Limits</u>: The time limits set forth in this Article shall be modified only by written agreement signed by the Association and the City. Failure by the City to respond within a specified time limit shall constitute rejection of the grievance at that step and thereby allow the Association to proceed to the next step within the applicable time limit. Failure by the Association to file a grievance or proceed to the next step within the time limit specified in each step shall constitute termination of the grievance.

For the purpose of this Article, all references to "day" or "days" shall mean business days (Monday through Friday, excluding holidays).

- C. <u>Procedure</u>: In an effort to provide for a peaceful procedure for resolution of disputes, the parties agree to the following grievance procedure:
 - <u>Step 1 Immediate Supervisor</u>: The employee or the Association shall submit the grievance in writing to the most immediate supervisor outside the bargaining unit within fifteen (15) days from the occurrence thereof or the employee's knowledge thereof. The written grievance shall include: 1) a statement of the specific City action or lack of action which is the cause of the grievance; 2) specific provision(s) of the contract by Article and Section(s) violated; and 3) remedy sought. The supervisor shall make a written response to the grievance within ten (10) days.
 - Step 2 Chief of Police: If the grievance is not resolved in Step 1, the grievance shall appealed to the Chief within ten (10) days of the date the response was received from the employee's immediate supervisor or within ten (10) days of the date that the response was due if no timely response was received. All appeals must be made in writing. The immediate supervisor shall forward to the Chief all materials submitted and received regarding the grievance. The Chief or his designee shall review the materials, conduct interviews and/or meet with Association representatives as deemed necessary and shall issue a written response no later than ten (10) days from the date of receipt of the written appeal.
 - Step 3 City Administrator: If the grievance remains unresolved, the grievance shall be submitted in writing within ten (10) days of the date of the response was received, or within ten (10) days of the date that the response was due if no timely response is received, to the City Administrator by forwarding a copy of all materials submitted or received at all prior steps to the City Administrator with a cover letter specifying that the matter is being pursued to the second step. The City Administrator and his/her designee shall meet with

the Association within ten (10) days of receipt of the grievance and shall make a written response to the grievance within ten (10) days of the meeting.

<u>Step 4 - Arbitration</u>: If the grievance is not resolved, it may be submitted within fifteen (15) days of the date the response was received, or within fifteen (15) days of the date that the response was due if no timely response was received, to the arbitrator in the following manner.

- 1. The Association shall serve written notice to the City Administrator of intent to arbitrate and on the same date request a list of five (5) names from the Employment Relations Board (ERB). Within seven (7) days of receipt of the list, the parties shall alternately strike one (1) name from the list, until only one (1) is left. The one (1) remaining shall be the arbitrator.
- 2. The arbitrator shall render a written decision within a reasonable time. The powers of the arbitrator shall be limited to interpreting this Agreement and determining if it has been violated. The arbitrator shall not have the authority to alter, modify, add to, or detract from the terms of this Agreement. The decision of the arbitrator, provided it is within the scope of this Agreement, shall be final and binding on both parties.

Expenses for the arbitrator's services and the proceedings shall be borne equally by the parties. However, each party shall be completely responsible for the cost of preparing and presenting its own case, including compensating its own representatives and witnesses. If either party desires a record of the proceedings, it shall solely bear the cost of producing such a record.

ARTICLE 29 - SAVINGS CLAUSE

Should any Article, or portion thereof, of this Agreement be held unlawful or unenforceable by any court of competent jurisdiction, by ruling by the Employment Relations Board, by statute, or by constitutional amendment, such ruling shall apply only to the specific Article or portion thereof, directly specified in the ruling. If such event occurs, the parties will enter into negotiations, consistent with ORS 243.702, for the purpose of renegotiating the unlawful or unenforceable provision.

ARTICLE 30 – TERM OF AGREEMENT

This Agreement shall be effective upon the date of ratification, unless otherwise stated herein. The terms and conditions of the Agreement shall remain in full force and effect through June 30, 20202021, and shall also remain in effect through any negotiations for a successor Agreement. This Agreement shall not be modified in whole or in part by the parties except by instrument, in writing, duly executed by both parties.

Executed this day of	, 2017 <u>2020</u> .
FOR THE CITY	FOR THE WPA
Signature	Signature
Title	Title

Step 1 Step 2 Step 3 Step 4 Step 5	Compensation Schedule NON Sworn Officer (shown in dollars per hour)	Officer (sl	hown in do	llars per ho	our)			
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22.91	Step 5		36.39	34.87	34.01		34.73	33.28	32.47		33,08	31.69	30.92	Step 5			
23.95	Step 6		38.04	36.43	35.55		36.32	34.78	33.93		34.57	33.11	32.31	Step 6			
25.23	Step 7		40.08	38.39	37.45		38.25	36.65	35.75		36.42	34.90	34.04	Step 7			
25.74	Step 8		40.89	39.17	38.21		39.04	37.40	36.48	Advis-un	37.17	35.61	34.73	Step 8	kadalaani		
			42.12	40.35	39.36		40.21	38.52	37.58		38.29	36.68	35.77	years	÷10	Step 9 @	
			42.96	41.15	40.15		41.01	39.29	38.33		39.05	37.41	36.49	years	@+15	Step 10 Step 11	
			43.82	41.98	40.95		41.83	40.08	39.10		39.83	38.16	37.22	years	@+20	Step 11	

Effective 7/1/201

Compensation Schedule Sworn Officer (shown in dollars per hour)

APPENDIX A - CONTINUED

 Compensation Schedule NON Sworn Officer (shown in dollars per hour)

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Woodburn and Woodburn Police Assn. CBA Effective 2017 20202020-2021

Effective //1/2019

Compensation Schedule Sworn Officer (shown in dollars per hour)

APPENDIX A - CONTINUED

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APPENDIX B

OFFICER INVOLVED SHOOTING

For officer convenience, the Law Enforcement Use of Deadly Physical Force Response Plan adopted by the Marion County Use of Deadly Physical Force Planning Authority pursuant to Senate Bill 111, Oregon Laws 2007 is appended to this Agreement. Because of the existence of other remedies, the Association and the City agree that Appendix B shall not be subject to arbitration under the grievance procedure or serve as the basis for any other claim of a violation of this Agreement.

APPENDIX C

WPA Monthly Premium Health Insurance Cost by Coverage Level Janurary 1, 2018 to December 31, 2018

	Employee	e Employee	Employee	Employee	Employee
	Only	+ 1 Child	+ Children	+ Spouse	+ Family
Copay A RX4 + VSP + Willamette Dental		1			
Copay A RX 4	\$ 622.82	\$ 1,161.14	\$ 1,545.00	\$ 1,327.08	\$ 1,781.98
VSP 3 (24/24/24)	\$ 8.59	7			\$ 21.54
Willamette Dental	\$ 50.72				\$ 155.95
Total Cost	\$ 682.13	\$ 1,249.08		-	\$ 1,959.47
Employee Cost	\$ 34.11	A STATE OF THE PROPERTY OF THE PARTY OF THE	15 CARACTER 1.14.009	The Constitution	\$ 97.97
Cost to City	\$ 648.02	\$ 1,186.63	1		\$ 1,861.50
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Copay A RX4 + VSP + ODS Dental	1	T	T	1	T
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VSP 3 (24/24/24)	\$ 622.82	\$ 1,161.14			\$ 1,781.98
ODS Dental	\$ 8.59	\$ 10.44		\$ 11.98	\$ 21.54
Total Cost	\$ 53.08	\$ 80.91		\$ 92.46	\$ 162.43
	\$ 684.49	\$ 1,252.49	THE PERSON NAMED AND THE	\$ 1,431.52	\$ 1,965.95
Employee Cost	\$ 34,22	\$ 62.62		\$ 71.58	\$ 98.30
Cost to City	\$ 650.27	\$ 1,189.87	\$ 1,619.21	\$ 1,359.94	\$ 1,867.65
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Copay A RX4 + VSP + Kaiser Dental	 	<u> </u>		ļ	
Copay A RX 4	\$ 622.82	\$ 1,161.14		\$ 1,327.08	\$ 1,781.98
VSP 3 (24/24/24)	\$ 8.59	\$ 10.44	\$ 18.61	\$ 11.98	\$ 21.54
Kaiser Dental	\$ 76.49	\$ 117.93	\$ 223.04	\$ 134.76	\$ 257.22
Total Cost	\$ 707.90	\$ 1,289.51	\$ 1,786.65	\$ 1,473.82	\$ 2,060.74
Employee Cost	\$ 35.40	\$ 64.48	\$ 89,33	\$ 73,69	\$ 103.04
Cost to City	\$ 672.51	\$ 1,225.03	\$ 1,697.32	\$ 1,400.13	\$ 1,957.70
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	Employee		Employee	Employee	Employee
				4	
Kalser Medical + Kalser Vision + Willamette Dental	Employee	Employee	Employee	Employee	Employee
Kaiser Medical	Employee	Employee	Employee	Employee	Employee
Kaiser Medical Kaiser Vision	Employee Only	Employee + 1 Child	Employee + Children	Employee + Spouse	Employee + Family
Kaiser Medical Kaiser Vision Willamette Dental	Employee Only \$ 651.97	Employee + 1 Child \$ 1,195.42	Employee + Children \$ 1,612.50	Employee + Spouse \$ 1,365.68	Employee + Family \$ 1,859.08
Kaiser Medical Kaiser Vision Willamette Dental Total Cost	Employee Only \$ 651.97 \$ 5.60	Employee + 1 Child \$ 1,195.42 \$ 10.26	Employee + Children \$ 1,612.50 \$ 13.90	Employee + Spouse \$ 1,365.68 \$ 11.76	Employee + Family \$ 1,859.08 \$ 15.95
Kaiser Medical Kaiser Vision Willamette Dental	Employee Only \$ 651.97 \$ 5.60 \$ 50.72	Employee +1 Child \$ 1,195.42 \$ 10.26 \$ 77.50	Employee + Children \$ 1,612.50 \$ 13.90 \$ 135.25	Employee + Spouse \$ 1,365.68 \$ 11.76 \$ 88.59	Employee + Family \$ 1,859.08 \$ 15.95 \$ 155.95
Kaiser Medical Kaiser Vision Willamette Dental Total Cost	Employee Only \$ 651.97 \$ 5.60 \$ 50.72 \$ 708.29	Employee +1 Child \$ 1,195.42 \$ 10.26 \$ 77.50 \$ 1,283.18	Employee + Children \$ 1,612.50 \$ 13.90 \$ 135.25 \$ 1,761.65	Employee + Spouse \$ 1,365.68 \$ 11.76 \$ 88.59 \$ 1,466.03	Employee + Family \$ 1,859.08 \$ 15.95 \$ 155.95 \$ 2,030.98
Kaiser Medical Kaiser Vision Willamette Dental Total Cost Employee Cost Cost to City	Employee Only \$ 651.97 \$ 5.60 \$ 50.72 \$ 708.29 \$ 35,41	Employee +1 Child \$ 1,195.42 \$ 10.26 \$ 77.50 \$ 1,283.18 \$ 64.16	Employee + Children \$ 1,612.50 \$ 13.90 \$ 135.25 \$ 1,761.65 \$ 88.08	Employee + Spouse \$ 1,365.68 \$ 11.76 \$ 88.59 \$ 1,466.03 \$ 73.30	Employee + Family \$ 1,859.08 \$ 15.95 \$ 155.95 \$ 2,030.98 \$ 101.55
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Kaiser Medical Kaiser Vision Willamette Dental Total Cost Employee Cost Cost to City	Employee Only \$ 651.97 \$ 5.60 \$ 50.72 \$ 708.29 \$ 35,41	Employee +1 Child \$ 1,195.42 \$ 10.26 \$ 77.50 \$ 1,283.18 \$ 64.16	Employee + Children \$ 1,612.50 \$ 13.90 \$ 135.25 \$ 1,761.65 \$ 88.08	Employee + Spouse \$ 1,365.68 \$ 11.76 \$ 88.59 \$ 1,466.03 \$ 73.30	Employee + Family \$ 1,859.08 \$ 15.95 \$ 155.95 \$ 2,030.98 \$ 101.55
Kaiser Medical Kaiser Vision Willamette Dental Total Cost Employee Cost Cost to City Kaiser Medical + Kaiser Vision + ODS Dental	Employee Only \$ 651.97 \$ 5.60 \$ 50.72 \$ 708.29 \$ 35,41 \$ 672.88	Employee +1 Child \$ 1,195.42 \$ 10.28 \$ 77.50 \$ 1,283.18 \$ 64.16 \$ 1,219.02	Employee + Children \$ 1,612.50 \$ 13.90 \$ 135.25 \$ 1,761.65 \$ 88.08 \$ 1,673.57	Employee + Spouse \$ 1,365.68 \$ 11.76 \$ 88.59 \$ 1,466.03 \$ 73.30 \$ 1,392.73	Employee + Family \$ 1,859.08 \$ 15.95 \$ 155.95 \$ 2,030.98 \$ 101.85 \$ 1,929.43
Kaiser Medical Kaiser Vision Willamette Dental Total Cost Employee Cost Cost to City Kaiser Medical + Kaiser Vision + ODS Dental Kaiser Medical	Employee Only \$ 651.97 \$ 5.60 \$ 50.72 \$ 708.29 \$ 35.41 \$ 672.88	Employee +1 Child \$ 1,195.42 \$ 10.26 \$ 77.50 \$ 1,283.18 \$ 64.16 \$ 1,219.02	Employee + Children \$ 1,612.50 \$ 13.90 \$ 135.25 \$ 1,761.65 \$ 88.08 \$ 1,673.57	Employee +Spouse \$ 1,365.68 \$ 11.76 \$ 88.59 \$ 1,466.03 \$ 73.30 \$ 1,392.73	Employee + Family \$ 1,859.08 \$ 15.95 \$ 155.95 \$ 2,030.98 \$ 101.35 \$ 1,929.43
Kaiser Medical Kaiser Vision Willamette Dental Total Cost Employee Cost Cost to City Kaiser Medical + Kaiser Vision + ODS Dental Kaiser Medical Kaiser Vision	\$ 651.97 \$ 651.97 \$ 708.29 \$ 35.41 \$ 672.88	Employee +1 Child \$ 1,195.42 \$ 10.28 \$ 77.50 \$ 1,283.18 \$ 64.16 \$ 1,219.02 \$ 1,195.42 \$ 10.26	Employee + Children \$ 1,612.50 \$ 13.90 \$ 135.25 \$ 1,761.65 \$ 88.08 \$ 1,673.57 \$ 1,612.50 \$ 13.90	Employee + Spouse \$ 1,365.68 \$ 11.76 \$ 88.59 \$ 1,466.03 \$ 73.30 \$ 1,392.73 \$ 1,365.68 \$ 11.76 \$ 92.46	Employee + Family \$ 1,859.08 \$ 15.95 \$ 1,95.95 \$ 2,030.98 \$ 101.85 \$ 1,929.43 \$ 1,859.08 \$ 15.95
Kaiser Medical Kaiser Vision Willamette Dental Total Cost Employee Cost Cost to City Kaiser Medical + Kaiser Vision + ODS Dental Kaiser Medical Kaiser Vision ODS Dental	\$ 651.97 \$ 651.97 \$ 708.29 \$ 35.41 \$ 672.88	Employee +1 Child \$ 1,195.42 \$ 10.28 \$ 77.50 \$ 1,283.18 \$ 64.16 \$ 1,219.02 \$ 10.26 \$ 80.91 \$ 1,286.59	Employee + Children \$ 1,612.50 \$ 13.90 \$ 135.25 \$ 1,761.65 \$ 88.08 \$ 1,673.57 \$ 1,612.50 \$ 13.90 \$ 140.82 \$ 1,767.22	Employee + Spouse \$ 1,365.68 \$ 11.76 \$ 88.59 \$ 1,466.03 \$ 73.30 \$ 1,392.73 \$ 1,395.68 \$ 11.76 \$ 92.46 \$ 1,469.90	Employee + Family \$ 1,859.08 \$ 15.95 \$ 155.95 \$ 2,030.98 \$ 101.35 \$ 1,929.43 \$ 1,859.08 \$ 15.95 \$ 162.43 \$ 2,037.46
Kaiser Medical Kaiser Vision Willamette Dental Total Cost Employee Cost Cost to City Kaiser Medical + Kaiser Vision + ODS Dental Kaiser Medical Kaiser Vision ODS Dental Total Cost	\$ 651.97 \$ 651.97 \$ 708.29 \$ 35.41 \$ 672.88	Employee +1 Child \$ 1,195.42 \$ 10.28 \$ 77.50 \$ 1,283.18 \$ 64.16 \$ 1,219.02 \$ 10.26 \$ 80.91 \$ 1,286.59	Employee + Children \$ 1,612.50 \$ 13.90 \$ 135.25 \$ 1,761.65 \$ 88.08 \$ 1,673.57 \$ 1,612.50 \$ 13.90 \$ 140.82 \$ 1,767.22	Employee + Spouse \$ 1,365.68 \$ 11.76 \$ 88.59 \$ 1,466.03 \$ 73.30 \$ 1,392.73 \$ 1,395.68 \$ 11.76 \$ 92.46 \$ 1,469.90 \$ 73.50	Employee + Family \$ 1,859.08 \$ 15.95 \$ 2,030.98 \$ 101.85 \$ 1,929.43 \$ 1,859.08 \$ 15.95 \$ 162.43 \$ 2,037.46 \$ 101.87
Kaiser Medical Kaiser Vision Willarnette Dental Total Cost Employee Cost Cost to City Kaiser Medical + Kaiser Vision + ODS Dental Kaiser Medical Kaiser Vision ODS Dental Total Cost Employee Cost	\$ 651.97 \$ 651.97 \$ 708.29 \$ 35.41 \$ 672.88 \$ 651.97 \$ 5.60 \$ 53.08 \$ 710.65 \$ 35.53	Employee +1 Child \$ 1,195.42 \$ 10.26 \$ 77.50 \$ 1,283.18 \$ 64.16 \$ 1,219.02 \$ 1,195.42 \$ 10.26 \$ 80.91 \$ 1,286.59 \$ 64,33	Employee + Children \$ 1,612.50 \$ 13.90 \$ 135.25 \$ 1,761.65 \$ 88.08 \$ 1,673.57 \$ 1,612.50 \$ 13.90 \$ 140.82 \$ 1,767.22 \$ 88.36	Employee + Spouse \$ 1,365.68 \$ 11.76 \$ 88.59 \$ 1,466.03 \$ 73.30 \$ 1,392.73 \$ 1,395.68 \$ 11.76 \$ 92.46 \$ 1,469.90 \$ 73.50	Employee + Family \$ 1,859.08 \$ 15.95 \$ 2,030.98 \$ 101.85 \$ 1,929.43 \$ 1,859.08 \$ 15.95 \$ 162.43 \$ 2,037.46 \$ 101.87
Kaiser Medical Kaiser Vision Willarnette Dental Total Cost Employee Cost Cost to City Kaiser Medical + Kaiser Vision + ODS Dental Kaiser Medical Kaiser Vision ODS Dental Total Cost Employee Cost	\$ 651.97 \$ 651.97 \$ 708.29 \$ 35.41 \$ 672.88 \$ 651.97 \$ 5.60 \$ 53.08 \$ 710.65 \$ 35.53	Employee +1 Child \$ 1,195.42 \$ 10.26 \$ 77.50 \$ 1,283.18 \$ 64.16 \$ 1,219.02 \$ 1,195.42 \$ 10.26 \$ 80.91 \$ 1,286.59 \$ 64,33	Employee + Children \$ 1,612.50 \$ 13.90 \$ 135.25 \$ 1,761.65 \$ 88.08 \$ 1,673.57 \$ 1,612.50 \$ 13.90 \$ 140.82 \$ 1,767.22 \$ 88.36	Employee + Spouse \$ 1,365.68 \$ 11.76 \$ 88.59 \$ 1,466.03 \$ 73.30 \$ 1,392.73 \$ 1,395.68 \$ 11.76 \$ 92.46 \$ 1,469.90 \$ 73.50	Employee + Family \$ 1,859.08 \$ 15.95 \$ 2,030.98 \$ 101.85 \$ 1,929.43 \$ 1,859.08 \$ 15.95 \$ 162.43 \$ 2,037.46 \$ 101.87
Kaiser Medical Kaiser Vision Willarmette Dental Total Cost Employee Cost Cost to City Kaiser Medical + Kaiser Vision + ODS Dental Kaiser Medical Kaiser Vision ODS Dental Total Cost Employee Cost Cost to City	\$ 651.97 \$ 651.97 \$ 708.29 \$ 35.41 \$ 672.88 \$ 651.97 \$ 5.60 \$ 53.08 \$ 710.65 \$ 35.53	Employee +1 Child \$ 1,195.42 \$ 10.26 \$ 77.50 \$ 1,283.18 \$ 64.16 \$ 1,219.02 \$ 10.26 \$ 80.91 \$ 1,286.59 \$ 64.33 \$ 1,222.26	Employee + Children \$ 1,612.50 \$ 13.90 \$ 135.25 \$ 1,761.65 \$ 88.08 \$ 1,673.57 \$ 1,612.50 \$ 13.90 \$ 140.82 \$ 1,767.22 \$ 28.36 \$ 1,678.86	Employee + Spouse \$ 1,365.68 \$ 11.76 \$ 88.59 \$ 1,466.03 \$ 73.30 \$ 1,392.73 \$ 1,395.68 \$ 11.76 \$ 92.46 \$ 1,469.90 \$ 73.50 \$ 1,396.41	Employee + Family \$ 1,859.08 \$ 15.95 \$ 2,030.98 \$ 101.85 \$ 1,929.43 \$ 1,859.08 \$ 15.95 \$ 162.43 \$ 2,037.46 \$ 101.87 \$ 1,935.59
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Kaiser Medical Kaiser Vision Willamette Dental Total Cost Employee Cost Cost to City Kaiser Medical + Kaiser Vision + ODS Dental Kaiser Medical Kaiser Vision ODS Dental Total Cost Employee Cost Cost to City Kaiser Medical + Kaiser Vision + Kaiser Dental Kaiser Medical + Kaiser Vision + Kaiser Dental Kaiser Medical + Kaiser Vision + Kaiser Dental Kaiser Medical Kaiser Dental	Employee Only \$ 651.97 \$ 5.60 \$ 50.72 \$ 708.29 \$ 35.41 \$ 672.88 \$ 651.97 \$ 5.60 \$ 53.08 \$ 710.65 \$ 35.53 \$ 675.12 \$ 651.97 \$ 5.60 \$ 76.49 \$ 734.06	Employee +1 Child \$ 1,195.42 \$ 10.28 \$ 77.50 \$ 1,283.18 \$ 64.16 \$ 1,219.02 \$ 10.26 \$ 80.91 \$ 1,286.59 \$ 64,33 \$ 1,222.26 \$ 11,195.42 \$ 10.26 \$ 11,195.42 \$ 10.26 \$ 11,195.42 \$ 10.26	Employee + Children \$ 1,612.50 \$ 13.90 \$ 135.25 \$ 1,761.65 \$ 88.08 \$ 1,673.57 \$ 1,612.50 \$ 13.90 \$ 140.82 \$ 1,767.22 \$ 38.36 \$ 1,678.86 \$ 1,612.50 \$ 13.90 \$ 1,612.50	Employee + Spouse \$ 1,365.68 \$ 11.76 \$ 88.59 \$ 1,466.03 \$ 73.30 \$ 1,392.73 \$ 1,365.68 \$ 11.76 \$ 92.46 \$ 1,469.90 \$ 73.50 \$ 1,396.41 \$ 134.76 \$ 11.76 \$ 134.76 \$ 1,512.20	Employee +Family \$ 1,859.08 \$ 15.95 \$ 2,030.98 \$ 101.55 \$ 1,929.43 \$ 1,929.43 \$ 162.43 \$ 2,037.46 \$ 101.87 \$ 1,935.59 \$ 1,859.08 \$ 15.95 \$ 2,57.22 \$ 2,132.25
Kaiser Medical Kaiser Vision Willamette Dental Total Cost Employee Cost Cost to City Kaiser Medical + Kaiser Vision + ODS Dental Kaiser Medical Kaiser Vision ODS Dental Total Cost Employee Cost Cost to City Kaiser Medical + Kaiser Vision + Kaiser Dental Kaiser Medical + Kaiser Vision + Kaiser Dental Kaiser Medical Kaiser Medical Kaiser Vision Kaiser Dental Total Cost	Employee Only \$ 651.97 \$ 5.60 \$ 50.72 \$ 708.29 \$ 35.41 \$ 672.88 \$ 651.97 \$ 5.60 \$ 53.08 \$ 710.65 \$ 35.53 \$ 675.12 \$ 651.97 \$ 5.60 \$ 78.49 \$ 734.06 \$ 36.70	Employee +1 Child \$ 1,195.42 \$ 10.26 \$ 77.50 \$ 1,283.18 \$ 64.16 \$ 1,219.02 \$ 10.26 \$ 80.91 \$ 1,286.59 \$ 64,33 \$ 1,222.26 \$ 10.26 \$ 10.26 \$ 117.93	Employee + Children \$ 1,612.50 \$ 13.90 \$ 135.25 \$ 1,761.65 \$ 88.08 \$ 1,673.57 \$ 1,612.50 \$ 13.90 \$ 1,678.86 \$ 1,678.86	Employee + Spouse \$ 1,365.68 \$ 11.76 \$ 88.59 \$ 1,466.03 \$ 73.30 \$ 1,392.73 \$ 1,365.68 \$ 11.76 \$ 92.46 \$ 1,469.90 \$ 73.50 \$ 1,396.41 \$ 1,365.68 \$ 1,365.68 \$ 1,365.68 \$ 1,365.68 \$ 1,365.68	Employee +Family \$ 1,859.08 \$ 15.95 \$ 2,030.98 \$ 101.55 \$ 1,929.43 \$ 1,859.08 \$ 162.43 \$ 2,037.46 \$ 101.87 \$ 1,935.59 \$ 1,859.08 \$ 15.95 \$ 2,57.22



Azenda Item

July 13, 2020

To: Honorable Mayor and City Council through City Administrator

From: Chris Kerr, Community Development Director CK.

Subject: Call-Up Briefing: Planning Commission Approval of a Design Review,

Street Exception, Preliminary Partition, & Variance for North Willamette Valley Habitat for Humanity at an unaddressed lot on the corner of Elm Street and Young Street (DR 2019-09, EXCP 2019-05, PAR 2019-02,

& VAR 2019-07)

RECOMMENDATION:

Staff recommends no action and briefs the Council on this item pursuant to Woodburn Development Ordinance (WDO) Section <u>4.02.02</u>. The Council may call up this item for review if desired and, by majority vote, initiate a review of this decision.

BACKGROUND:

The Woodburn Planning Commission held a public hearing via the GoToMeeting virtual meeting platform on June 25, 2020 and unanimously approved the application package; including three variances. The Commission's approval included modifications to several conditions recommended by staff, resulting in the removal of a condition for a tree on private property along Young Street and a new requirement for an architectural wall along the rear property line. No parties testified in opposition to the proposal.

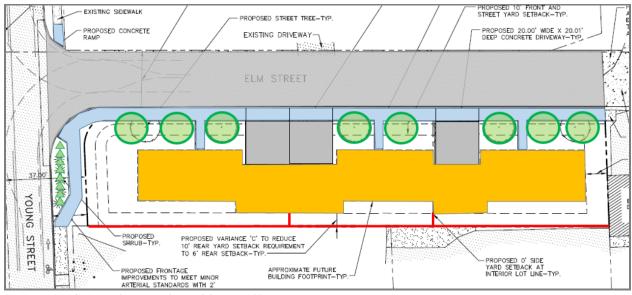
The subject property is a long and narrow undeveloped lot located at the intersection of Elm Street and Young Street, within the Mixed Use Village (MUV) zone. An image on the following page provides an aerial view of the site. The proposal included partitioning the lot into three new lots and constructing three attached single-family dwellings ("row houses"). A second image on the following page is of the approved site plan.

Agenda Item Review: City Administrator ___x__ City Attorney __x___



Aerial image of the site, outlined in yellow (Marion County Assessor, 2019)

The application package included a Street Exception request to construct custom right-of-way (ROW) improvements along Elm Street, which is currently a gravel road with no drainage facilities, sidewalks, or street trees. The approved Street Exception results in two 9-foot paved travel lanes, one 7-foot paved parking lane, curb and drainage facilities, 5-foot sidewalk, and trees along the frontage.



Approved site plan, colored by staff

The application package also included three Variance requests, the first two due to the shallow nature of the property and the third due to the type of construction proposed. The requests are:

- 1. Request to modify the Average Lot Depth from 90 feet (ft) to 50 ft.
- 2. Request to modify the Minimum Rear Setback from 10 ft to 6 ft.
- 3. Request to modify the Minimum Parking Setback from 5 ft to zero ft.



Azenda Item

July 13, 2020

To: Honorable Mayor and City Council through City Administrator

From: Chris Kerr, Community Development Director CK.

Subject: Call-Up Briefing: Planning Commission Approval of a Design Review

for Woodburn School District at 440 Parr Road (DR 2020-04)

RECOMMENDATION:

Staff recommends no action and briefs the Council on this item pursuant to Woodburn Development Ordinance (WDO) Section <u>4.02.02</u>. The Council may call up this item for review if desired and, by majority vote, initiate a review of this decision.

BACKGROUND:

The Woodburn Planning Commission held a public hearing via the GoToMeeting virtual meeting platform on June 25, 2020 and unanimously approved the application package with the conditions recommended by staff. No parties testified in opposition to the proposal.

The subject property is located at 440 Parr Road, east of Centennial Park and within the Public/Semi-Public (P/SP) zone. Heritage Elementary School and Valor Middle School occupy the property. Prior to a 2019 land use approval that resulted in a net loss of two classrooms, Heritage Elementary School had a total of 40 classrooms with a student capacity of 930.

Through this application, the applicant sought approval to construct a 2,200 square foot addition to the Heritage Elementary School annex building. The addition includes two new classrooms, bringing the total classroom count back up to 40 with no increase to total student capacity.

Agenda Item Review:	City Administratorx	City Attorneyx	