



Agenda Item

February 22, 2021

TO: Honorable Mayor and City Council through City Administrator

FROM: Chris Kerr, Community Development Director

SUBJECT: **Public Hearing for ANX 2020-04 & ZC 2020-03 "SWIR
Annexation - Weisz Properties"**

RECOMMENDATION:

Open the public hearing and make a motion to postpone this item to March 8, 2021.

BACKGROUND/DISCUSSION:

Due to the recent ice storm causing emergency circumstances in Woodburn, staff is recommending postponing the public hearing for the "SWIR Annexation - Weisz Properties" (ANX 2020-04 & ZC 2020-03) to March 8.

FINANCIAL IMPACT:

By opening the public hearing and making a motion to continue it, the City saves the additional costs re-noticing the hearing and delaying the development application.

Attachments:

Land Use Hearing Packet

Agenda Item Review: City Administrator ___x___ City Attorney ___x___ Finance ___x___

February 22, 2021

TO: Honorable Mayor and City Council through City Administrator

FROM: Chris Kerr, Community Development Director

SUBJECT: **Annexation of three lots totaling approximately 73 acres of land within the Southwest Industrial Reserve (SWIR) overlay district (ANX 2020-04) and Zoning Map Change (ZC 2020-03) to update the zoning map to reflect the annexation**

RECOMMENDATION:

Conduct a public hearing and make a motion to tentatively approve the land use applications, directing staff to submit an ordinance for consideration at the next City Council meeting.

BACKGROUND:

The item before the Council is action on an Annexation and Zoning Map Change application package (ANX 2020-04 & ZC 2020-03) by Mackenzie on behalf of Specht Woodburn LLC. The subject properties are Tax Lots 052W140000200, 600, and 800 (no assigned addresses) and are located within the Southwest Industrial Reserve (SWIR) overlay district. The lots total approximately 73 acres of undeveloped farmland.

The territory is eligible for annexation because it is within the City urban growth boundary (UGB).

Upon annexation, the City would need to designate the property with City zoning. The Comprehensive Plan land use map designates the territory Industrial and within the SWIR overlay district. Per Comprehensive Plan Policy Table 1, the default compatible zoning district is the SWIR zoning district, which the applicant accepts.

No development is proposed with this application package.

The Planning Commission on January 14, 2021 heard and unanimously recommended approval of the application package. The applicant's team and one resident (Stephen Rippeteau, 562 Prairie St, Woodburn, OR, 97071) were the only individuals to testify at that hearing. Mr. Rippeteau shared concerns about

future industrial development of the properties and how the adjacent residential properties will be protected from noise, heavy truck traffic, and other disturbances.

DISCUSSION:

Annexation is a policy decision by the Council and is also a land use decision under Oregon law.

Decision-making criteria for annexation are in Woodburn Development Ordinance (WDO) 5.04.01C. The attached Planning Commission staff report of January 14, 2021 addresses the criteria and finds them met.

FINANCIAL IMPACT:

Annexing the territory into city limits would subject it to City taxing authority, including property tax that generates the largest source of funding for general fund services such as the library, policing, and parks and recreation.

The City permanent tax rate is \$6.0534 per thousand dollars – equal to a millage rate of 6.0534 mils – as set by Oregon Ballot Measure 50 in 1997-98. The property is undeveloped farmland. The table below simplifies and grossly estimates tax revenue:

Tax Lot Number	Marion County Assessed Value (AV)	Gross Estimate of City Property Tax (6.0534 mils)
052W140000200	\$13,170	\$79.72
052W140000600	\$20,090	\$121.61
052W140000800	\$76,030	\$460.24
	Total:	\$661.57

The estimate neither accounts for how the City might assess property value differently than Marion County nor excludes the unknown cost of providing basic utility services to the properties that the City does not already provide. Crucially, future site development would increase the assessed valuation (AV) while also increasing City utility and other service costs.

Attachments:

1. Planning Commission January 14, 2021 Staff Report



Staff Report

To: Planning Commission

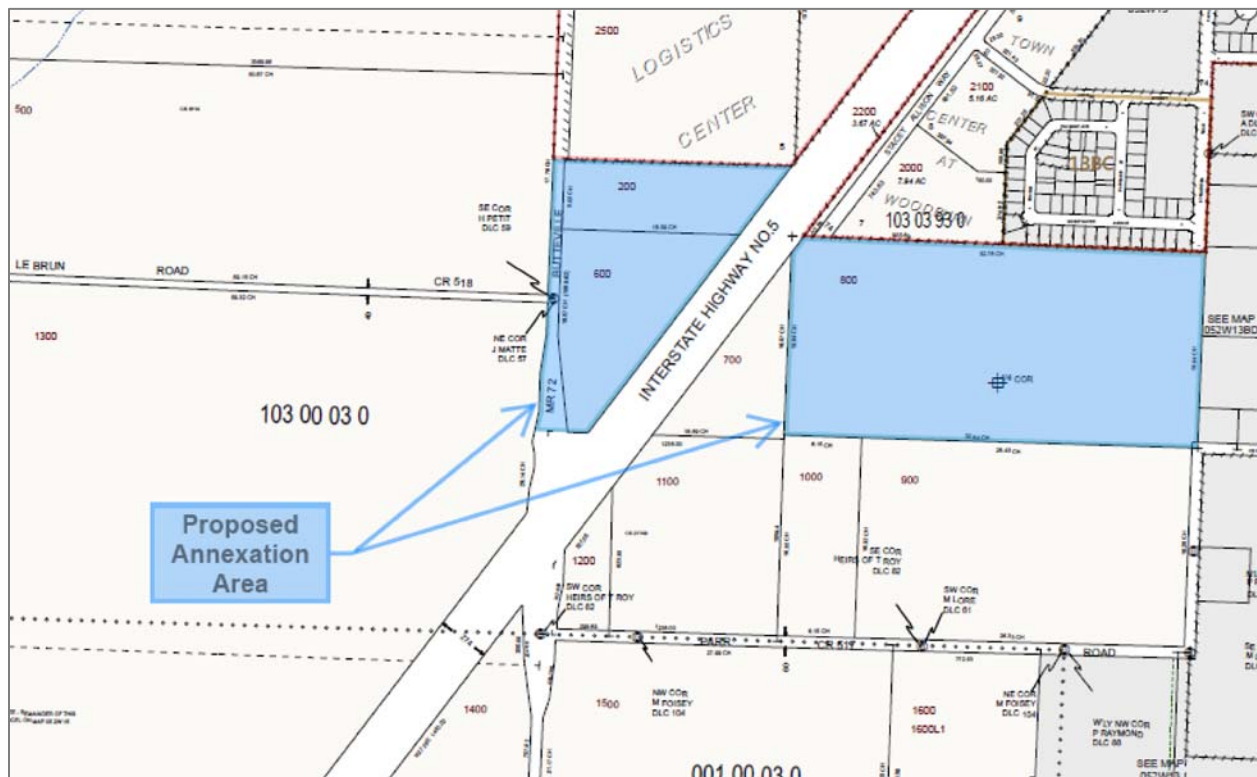
Through: Chris Kerr, AICP, Community Development Director *CK*

From: Dan Handel, AICP, Associate Planner

Meeting Date: January 14, 2021 (Prepared January 7, 2021)

Item: SWIR Annexation - Weisz Properties (ANX 2020-04 & ZC 2020-03)

Tax Lots: 052W140000200, 600, & 800



Marion County Assessor Tax Map with subject properties highlighted.

Issue before the Planning Commission

Action on a Type IV application package: Annexation ANX 2020-04 and Zone Map Change ZC 2020-03.

The City Council is the final decision-making body on Type IV applications. The Planning Commission's task is therefore to make a recommendation on the application package, which staff will forward to the Council for its review, deliberation, and decision.

Executive Summary

The proposed annexation includes three properties located at southwestern city limits with a total area of approximately 73 acres. Two of the properties are west of Interstate 5 along Butteville Road, while the third is east of I-5 and south of Stacy Allison Way and the Paradise Point subdivision. These properties were included in the latest expansion of the urban growth boundary (UGB), which was adopted by City Council on December 14, 2015 via Ordinance No. 2530. There are no assigned addresses to any of the properties. All are undeveloped farmland with no known environmental constraints.

The subject properties are classified as Industrial by the Woodburn Comprehensive Plan and are within the Southwest Industrial Reserve (SWIR) and Interchange Management Area (IMA) overlay districts. No development is proposed at this time. The applicant is requesting the annexation and zone map change to better prepare the site for development at a later time. Development within the SWIR overlay district is guided by the SWIR Master Plan adopted by City Council on December 11, 2017 (Resolution No. 2110).



Annexation territory outlined in purple.

Staff finds that the proposal meets applicable Woodburn Development Ordinance (WDO) provisions per the analyses and findings (Attachment 101).

Recommendation

Approval: Staff recommends that the Planning Commission consider the staff report and attachments and recommend to the City Council that it approve the application package.

Actions

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

1. Recommend approval per staff recommendations,
2. Recommend approval with conditions, or
3. Recommend denial, based on WDO criteria or other City provisions.

If the Planning Commission acts upon a recommendation, staff would proceed to a City Council hearing, tentatively scheduled for February 8, 2021, with the Commission recommendation.

Attachment List

101. Analyses & Findings
102. Marked Tax Map
103. SWIR Master Plan excerpt (Figures 6, 8, & 9)
104. Transportation System Plan (TSP) Figure 2 “Functional Roadway Classification”

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:

<i>Symbol</i>	<i>Category</i>	<i>Indication</i>
✓	Requirement (or guideline) met	No action needed
✗	Requirement (or guideline) not met	Correction needed
⊖	Requirement (or guideline) not applicable	No action needed

Section references are to the [Woodburn Development Ordinance \(WDO\)](#).

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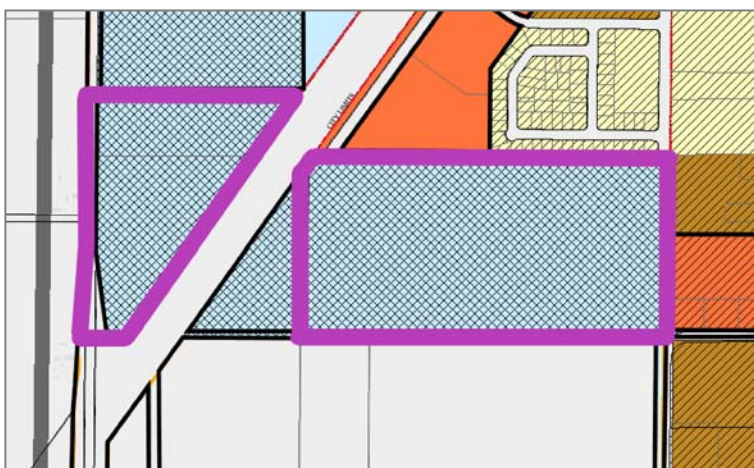
Location

<i>Addresses</i>	n/a – none assigned
<i>Tax Lots</i>	052W140000200, 600, & 800
<i>Nearest intersection</i>	Parr Rd & Butteville Rd

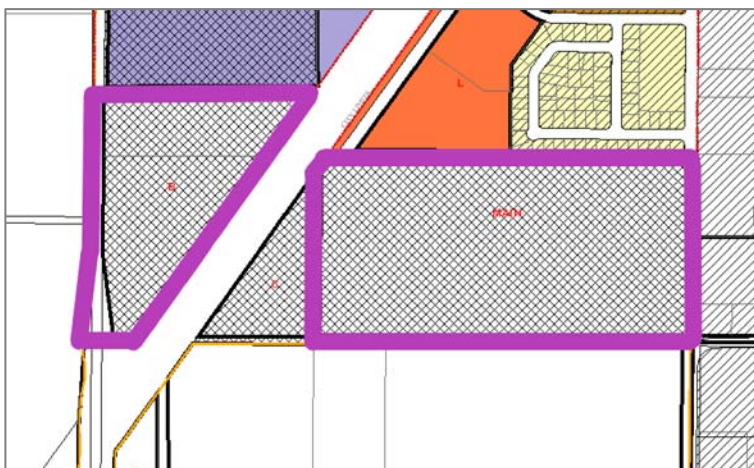
Land Use & Zoning

<i>Comprehensive Plan Land Use Designation</i>	Industrial
<i>Zoning District, Upon Annexation</i>	Southwest Industrial Reserve (SWIR)
<i>Overlay Districts</i>	SWIR; Interchange Management Area (IMA)
<i>Existing Uses</i>	Undeveloped; farmland

For context, the comprehensive plan land use map designations and zoning are illustrated below and the zoning is tabulated further below:



Comprehensive Plan Map with subject properties outlined in purple.



Zoning Map with subject properties outlined in purple.

<i>Cardinal Direction</i>	<i>Adjacent Zoning</i>
North	East of I-5: Commercial General (CG); Nodal Single-Family Residential (RSN) West of I-5: SWIR
East	East of I-5: Nodal Multi-Family Residential (RMN); CG West of I-5: CG; SWIR
South	East of I-5: No City zoning; outside City Limits West of I-5: No City zoning; outside City Limits
West	East of I-5: SWIR West of I-5: No City zoning; outside City Limits

Statutory Dates

<i>Application Completeness</i>	December 3, 2020
<i>120-Day Final Decision Deadline</i>	April 2, 2021 per Oregon Revised Statutes (ORS) 227.178 . (The nearest and prior regularly scheduled City Council meeting is March 22, 2021.)

Annexation 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.

The application package includes “Annexation” and “Official Zoning Map Change, Owner Initiated”, both of which are Type IV reviews per 5.04. The applicant requested a consolidated Type IV review for the proposal.

✓ The provision is met.

2.05 Overlay Districts

2.05.02 Interchange Management Area Overlay District

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.

The subject properties are within the IMA overlay district and encompass land within subareas B and D. Annexation is a Type IV application however there is no development proposed alongside the proposed annexation therefore the provisions are not applicable.

⊖ The provisions are not applicable.

2.05.06 Southwest Industrial Reserve

A. Purpose

The Southwest Industrial Reserve (SWIR) is intended to protect suitable industrial sites in Southwest Woodburn, near Interstate 5, for the exclusive use of targeted industries identified in the Comprehensive Plan. This broad objective is accomplished by master planning, retention of large industrial parcels, and restricting non-industrial land uses.

B. Application of the SWIR Zone

Land designated on the Comprehensive Land Use Plan Map as Southwest Industrial Reserve shall only be zoned SWIR.

The Comprehensive Plan Map designates the subject properties as within the SWIR. Per Figure 2.04A, the properties encompass land within SWIR Development Subareas B and D. Upon annexation into City limits, the Zoning Map will be updated to illustrate the subject properties zoned SWIR.

C. Dimensional Standards:

The following dimensional standards shall be the minimum requirements for all development within the SWIR zone:

- 1. Land divisions may only be approved following approval of a master plan, as required in this ordinance.**
- 2. Lots in a SWIR zone shall comply with the standards of Table 2.04F. For a land division, at least one lot shall be sized to meet each of the required lot size ranges listed in Table 2.04F for each site, except that smaller required lots may be combined to create larger required lots.**

No land division is included with the proposal.

D. Master Planning Requirement

- 1. A master development plan shall be approved by the City Council for the entire area designated SWIR on the Comprehensive Land Use Plan Map, prior to annexation of any property within the SWIR Comprehensive Plan Map designation. The master plan shall be conceptual and non-binding in nature, but may be used as a general guide for development within the SWIR.**
- 2. The required master plan shall show:**
 - a. The location and rights-of-way for existing and planned streets, which shall provide access to all existing and proposed parcels, consistent with the Transportation System Plan;**
 - b. The location and size of existing and planned sanitary sewer, storm water and water facilities, at adequate levels to serve existing and proposed industrial development;**
 - c. The location and area of the Riparian Corridor and Wetlands Overlay District (RCWOD) as it affects existing and proposed industrial parcels. Planned streets and public facilities that cannot reasonably avoid the RCWOD shall be indicated;**
 - d. Parcels consistent with the lot sizes indicated in Table 2.05B;**
 - e. Pedestrian and bicycle connections consistent with the TSP.**

A SWIR master plan was adopted by the City Council in 2017 via Resolution No. 2110. This plan will guide future development review for the subject properties.

E. Removal of the SWIR Zone

Removal of the SWIR zone from any area or parcel shall require the following:

- 1. A revised Economic Opportunities Analysis and Industrial Site Suitability Analysis, consistent with the Goal 9 Rule (OAR Chapter 660, Division 9);**
- 2. A new Statewide Planning Goal 2 Exception that explains why other land within or adjacent to the UGB, that does not require an exception, cannot meet the purported need;**

- 3. A Comprehensive Plan Amendment that demonstrates compliance with all applicable Statewide Planning Goals, applicable goals and policies of the Marion County Framework Plan, and applicable goals and policies of the Comprehensive Plan;**
- 4. A Zoning Map amendment that demonstrates consistency with the Comprehensive Plan.**

The applicant is not requesting to remove the SWIR designation for the subject properties.

✓ The provisions are met.

5.04 Type IV (Quasi-Judicial) Decisions

5.04.01 Annexation

A. Purpose: The purpose of this Type IV review is to provide a procedure to incorporate contiguous territory into the City in compliance with state requirements, Woodburn Comprehensive Plan, and Woodburn Development Ordinance.

The subject properties are contiguous with City limits. This staff report reviews the proposal for compliance with the Woodburn Comprehensive Plan and WDO, both of which were acknowledged by the state to be in compliance with statewide planning goals.

B. Mandatory Pre-Application Conference: Prior to requesting annexation to the City, a Pre-Application Conference (Section 4.01.04) is required. This provides the city an opportunity to understand the proposed annexation and an opportunity to provide information on the likely impacts, limitations, requirements, approval standards, and other information that may affect the proposal.

A pre-application meeting for the proposal was held on October 13, 2020 (PRE 2020-23).

C. Criteria:

- 1. Compliance with applicable Woodburn Comprehensive Plan goals and policies regarding annexation.**

Section G. "Growth Management and Annexation" of the Woodburn Comprehensive Plan includes Annexation Goal G-2 and Annexation Policies G-2.1, G-2.2, and G-2.3.

The SWIR Master Plan, which was approved via Resolution 2110 in 2017, illustrates the conceptual layout of public services throughout the SWIR overlay district, which the subject properties are within. Tables 2.04E & F as well as section 2.05.06 of the WDO include provisions and standards for retaining large parcels of land for industrial development within the SWIR overlay district. The annexation criteria of 5.04.01C. also reflect the intent of the annexation policies in the Comprehensive Plan.

Because the proposal is consistent with the SWIR Master Plan and WDO criteria for the SWIR overlay district, it is also consistent with the applicable Woodburn Comprehensive Plan goals and policies for annexations.

2. Territory to be annexed shall be contiguous to the City and shall either:

- a. Link to planned public facilities with adequate capacity to serve existing and future development of the property as indicated by the Woodburn Comprehensive Plan; or**
- b. Guarantee that public facilities have adequate capacity to serve existing and future development of the property.**

Tax Lot 800 is adjacent to land annexed into City limits in 1992 via Ordinance No. 2095. Tax Lots 200 & 600 are adjacent to land annexed into City limits in 2017 via Ordinance No. 2548.

The application materials include a letter from the City Engineer (dated November 4, 2020) certifying there are no capacity issues with public water and sanitary sewer facilities. The SWIR Master Plan includes conceptual utility extension plans to serve land within the SWIR overlay district. These utility extensions would occur at the time of development of the subject properties.

3. Annexations shall show a demonstrated community need for additional territory and development based on the following considerations:

a. Lands designated for residential and community uses should demonstrate substantial conformance to the following:

- 1) The territory to be annexed should be contiguous to the City on two or more sides;**
- 2) The territory to be annexed should not increase the inventory of buildable land designated on the Comprehensive Plan as Low or Medium Density Residential within the City to more than a 5-year supply;**
- 3) The territory proposed for annexation should reflect the City's goals for directing growth by using public facility capacity that has been funded by the City's capital improvement program;**
- 4) The site is feasible for development and provides either:**
 - a) Completion or extension of the arterial/collector street pattern as depicted on the Woodburn Transportation System Plan; or**
 - b) Connects existing stub streets, or other discontinuous streets, with another public street.**
- 5) Annexed fulfills a substantial unmet community need, that has been identified by the City Council after a public hearing. Examples of community needs include park space and conservation of significant natural or historic resources.**

The subject properties are within the SWIR overlay district, which is an industrial land designation. These criteria are not applicable.

b. Lands designated for commercial, industrial and other uses should demonstrate substantial conformance to the following criteria:

- 1) The proposed use of the territory to be annexed shall be for industrial or other uses providing employment opportunities;**
- 2) The proposed industrial or commercial use of the territory does not require the expansion of infrastructure, additional service capacity, or incentives that are in excess of the costs normally borne by the community for development;**
- 3) The proposed industrial or commercial use of the territory provides an economic opportunity for the City to diversify its economy.**

The subject properties are within the SWIR overlay district, which is an industrial land designation. No development is proposed alongside the subject annexation. The approved SWIR Master Plan includes conceptual layouts for public infrastructure within the SWIR overlay district; this infrastructure would be constructed at private expense on site-by-site basis as development is proposed. Regarding 3), the applicant's narrative states on page 39:

"The subject property has significant potential to attract large-scale industrial users seeking locations with excellent access to Interstate 5, consistent with goals identified in the July 2016 Woodburn Target Industries Analysis (WTIA) (See Exhibit F). Because such sites are scarce in the region, annexation will set the stage for significant opportunities to grow and diversify the City's economy. This criterion is satisfied."

Staff concurs.

D. Procedures:

- 1. An annexation may be initiated by petition based on the written consent of:**
 - a. The owners of more than half of the territory proposed for annexation and more than half of the resident electors within the territory proposed to be annexed; or**
 - b. One hundred percent of the owners and fifty percent of the electors within the territory proposed to be annexed; or**
 - c. A lesser number of property owners.**
- 2. If an annexation is initiated by property owners of less than half of property to be annexed, after holding a public hearing and if the City Council approves the proposed annexation, the City Council shall call for an election within the territory to be annexed. Otherwise no election on a proposed annexation is required.**

The applicant's narrative addresses these provisions on page 39:

"This annexation request is submitted by the sole owner of the property, two (2) tracts containing a combined approximately 74 acres, representing a 100% ownership share. There is no residence on the subject property and no registered electors."

E. Zoning Designation for Annexed Property: All land annexed to the City shall be designated consistent with the Woodburn Comprehensive Plan, unless an application to re-designate the property is approved as part of the annexation process.

The Comprehensive Plan designates the subject properties as Industrial and within the SWIR overlay district. The territory will be assigned to the SWIR zoning district upon annexation.

F. The timing of public improvements is as follows:

- 1. Street dedication is required upon annexation.**
- 2. Dedication of public utility easements (PUE) is required upon annexation.**
- 3. Street improvements are required upon development.**
- 4. Connection to the sanitary sewer system is required upon development or septic failure.**
- 5. Connection to the public water system is required upon development or well failure.**
- 6. Connection to the public storm drain system is required upon development.**

The applicant's narrative states on page 40:

"... improvements will be required in conjunction with industrial development to meet projected levels of travel demand. These improvements are specified both by the TSP and the approved SWIR Master Plan. Street improvements and dedications can be required by conditions of approval in the Design Review process, to ensure that they are coordinated with developments. Additionally, right-of-way dedications can then be completed based on as-built documentation as part of the City's approval of public works construction and acceptance of the right-of-way dedications."

Staff concurs.

✓ The provisions of 5.04.01 are met.

Zoning Map Change Provisions

5.04.04 Official Zoning Map Change, Owner Initiated

A. Purpose: The purpose of an Owner Initiated Official Zoning Map Change is to provide a procedure to change the Official Zoning Map, in a manner consistent with the Woodburn Comprehensive Plan.

B. Criteria: The following criteria shall be considered in evaluating an Official Zoning Map Change;

- 1. Demonstrated need for the proposed use and the other permitted uses within the proposed zoning designation.**
- 2. Demonstrated need that the subject property best meets the need relative to other properties in the existing developable land inventory already designated with the same zone considering size, location, configuration, visibility and other significant attributes of the subject property.**
- 3. Demonstration that amendments which significantly affect transportation facilities ensure that allowed land uses are consistent with the function, capacity, and level of service of the facility identified in the Transportation System Plan. This shall be accomplished by one of the following:**
 - a. Limiting allowed land uses to be consistent with the planned function of the transportation facility; or**

b. Amending the Transportation System Plan to ensure that existing, improved, or new transportation facilities are adequate to support the proposed land uses consistent with the requirement of the Transportation Planning Rule; or,

c. Altering land use designations, densities, or design requirements to reduce demand for automobile travel and meet travel needs through other modes of transportation.

C. Delineation: Upon approval, a zone change shall be delineated on the Official Zoning Map by the Director. A zone change subject to specific conditions shall be annotated on the Official Zoning Map to indicate that such conditions are attached to the designation.

The landowner of the subject properties is requesting annexation into City limits. By its very nature, annexation of territory results in a change to the City limits boundary and the territory being annexed must be assigned to one or more zoning districts.

The Comprehensive Plan designates the subject properties as Industrial and within the SWIR overlay district. The territory will therefore be assigned to the SWIR zoning district and the Zoning Map will be updated to reflect this.

The SWIR Master Plan, approved by City Council via Resolution No. 2110 in 2017, demonstrates the purpose of the overlay zone and the need for land within it as well as conceptually illustrates the layout of public facilities as land is annexed and developed.

✓ The provisions are met.

Applicant Identity

<i>Applicant</i>	Peter Skei, Project Manager Specht Development Co.
<i>Applicant's Representative</i>	Lee Leighton, AICP, Planner IV Mackenzie
<i>Landowner(s)</i>	Weisz Family LLC



MARION COUNTY, OREGON
SEC 14 T5S R2W W.M.
SCALE 1" = 400'

LEGEND

- LINE TYPES
- Historical Boundary
 - Taxlot Boundary
 - Road Right-of-Way
 - Railroad Right-of-Way
 - Private Road ROW
 - Subdivision/Plat Bndry
 - Waterline - Taxlot Bndry
 - Waterline - Non Bndry
- CORNER TYPES
- + 1/16TH Section Cor.
 - ⊕ 1/4 Section Cor.
 - ⊙ DLC Corner
 - ⊕ 16 15
 - ⊕ 21 22
 - Section Corner
- NUMBERS
- Tax Code Number
- 00 00 0
- Acres
- All acres listed are Net Acres, excluding any portions of the taxlot within public ROWs
- 0.25 AC

NOTES

Tick Marks: A tick mark in the road indicates that the labeled dimension extends into the public ROW

CANCELLED NUMBERS

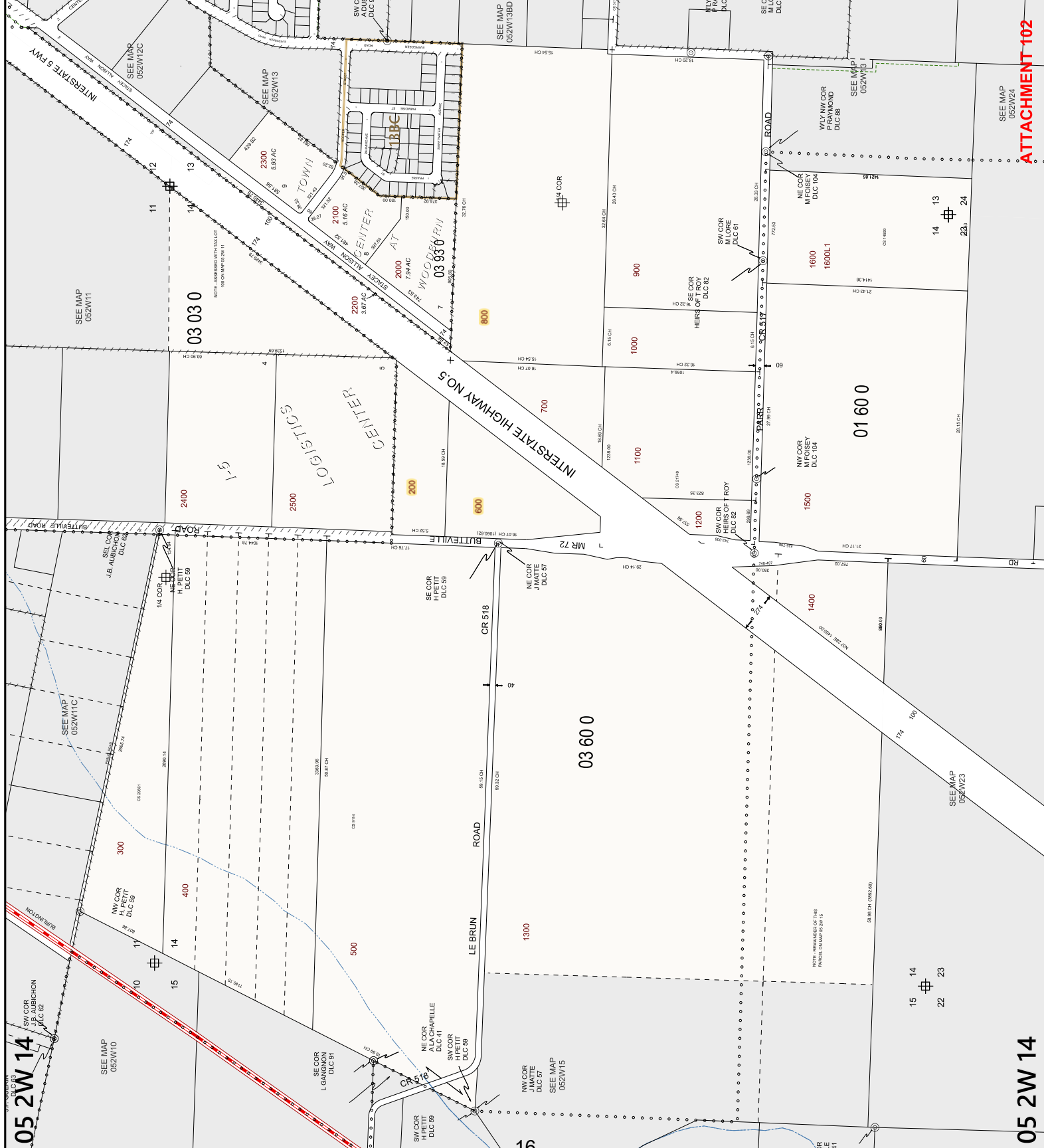
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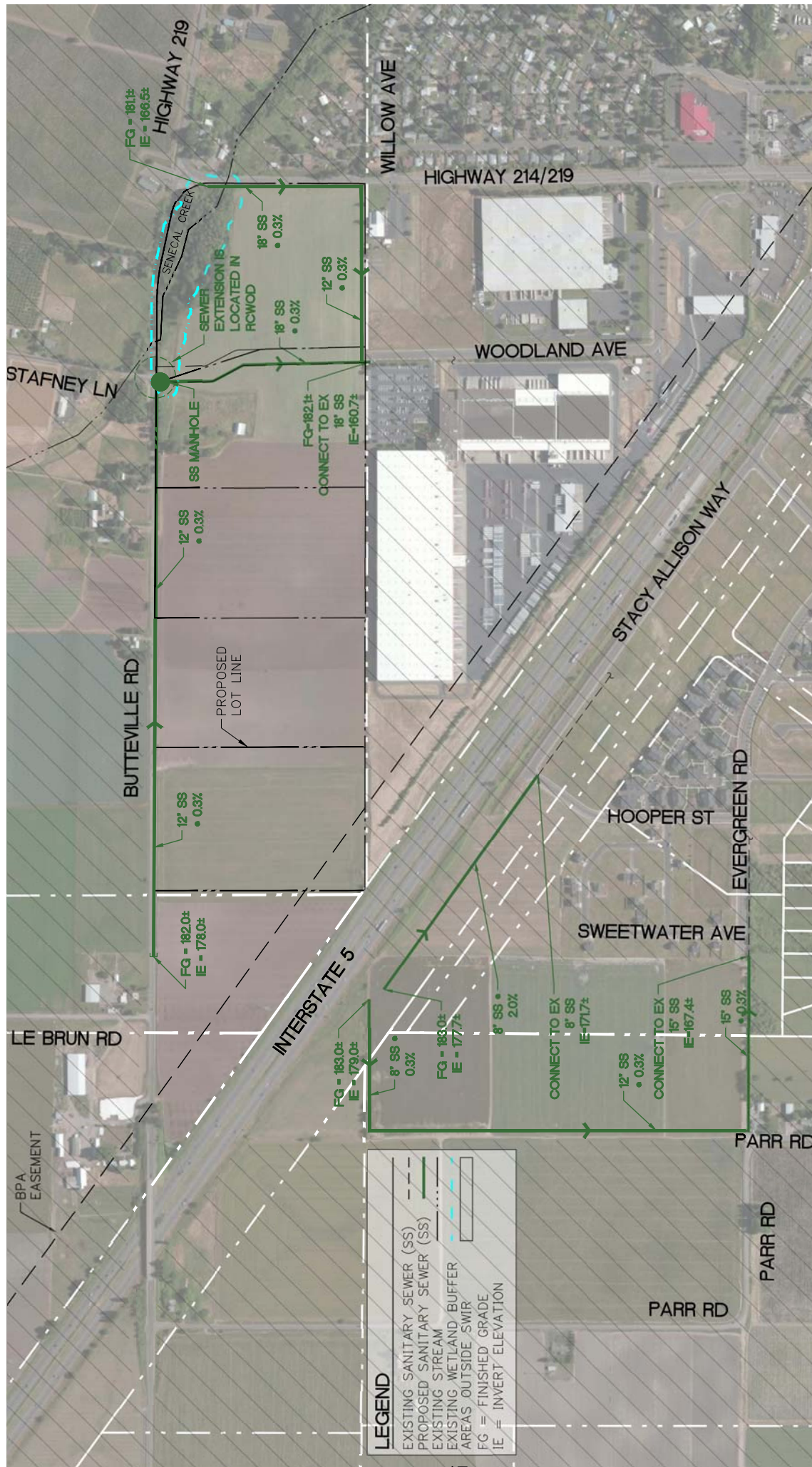
DISCLAIMER: THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSES ONLY



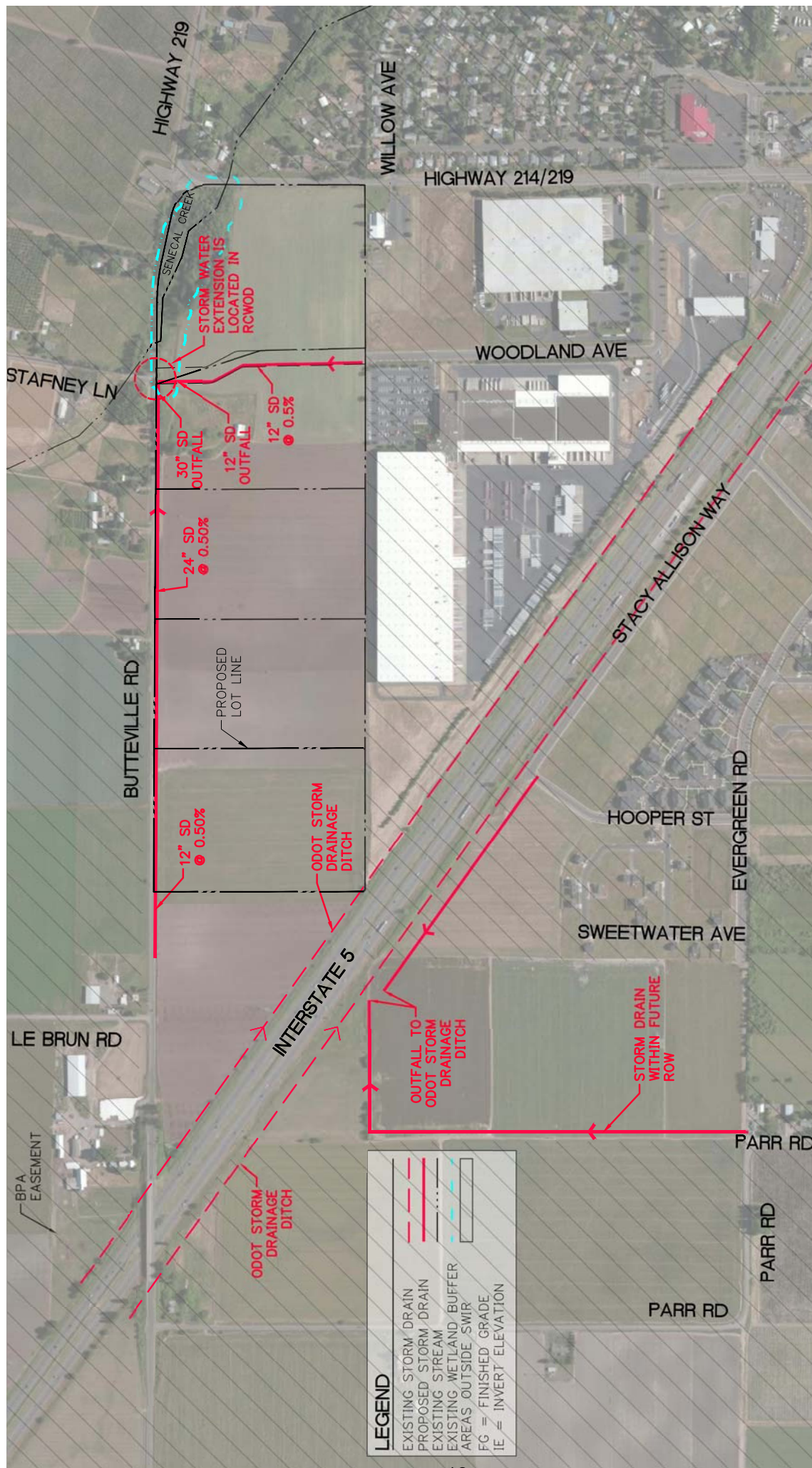
FOR ADDITIONAL MAPS VISIT OUR WEBSITE AT
www.co.marion.or.us

PLOT DATE: 10/16/2020

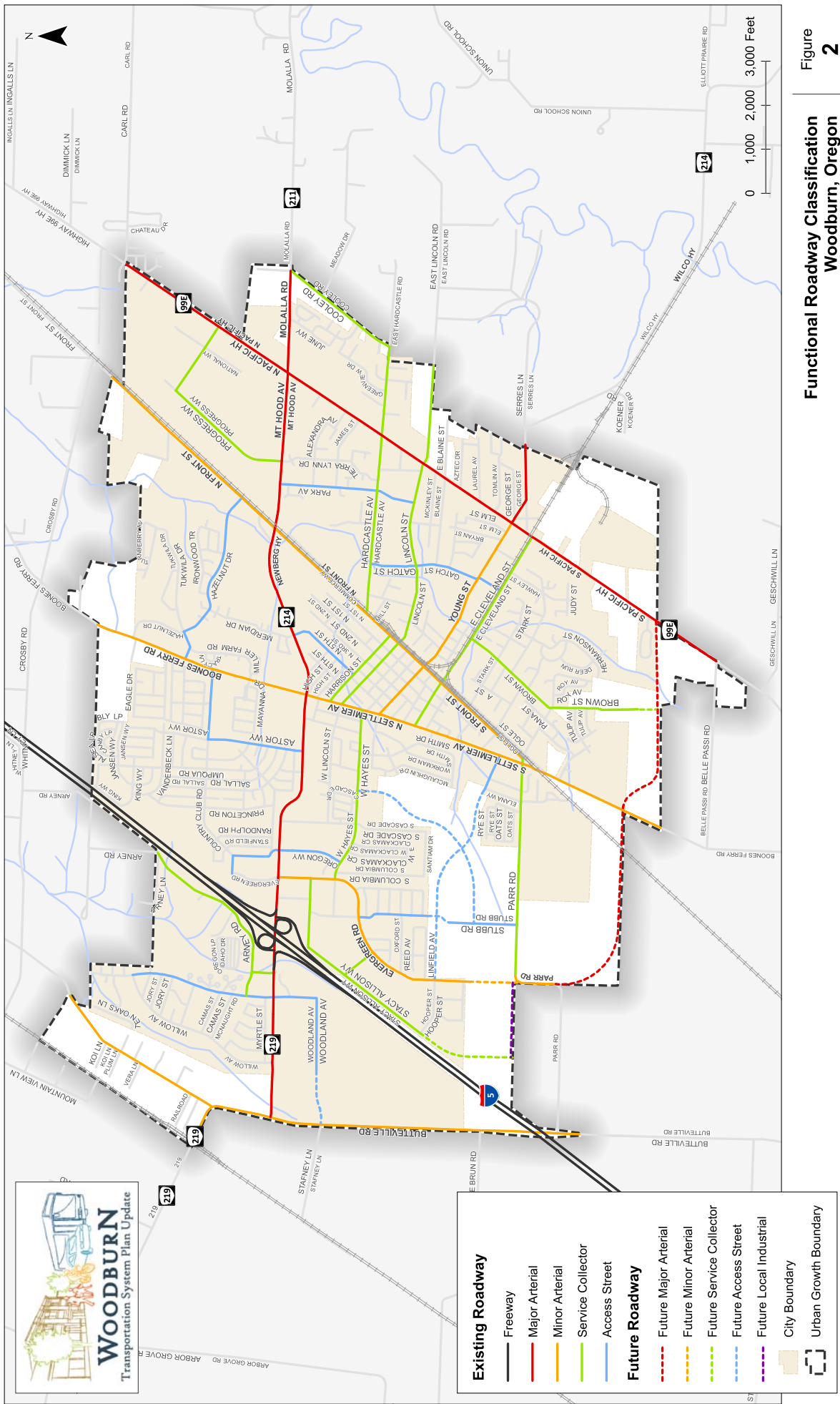




WOODBURN SWIR MASTER PLAN
FIGURE 6. SANITARY SEWER SYSTEM



WOODBURN SWIR MASTER PLAN
FIGURE 8. STORM SEWER SYSTEM



Note: Future roadway alignments are approximate and subject to further refinement.

Coordinate System: WAD 1983 HARN StatePlane Oregon North FIPS 3601 Feet Intl
Data Source: City of Woodburn, Oregon Department of Transportation

COUNCIL BILL NO. 3143

ORDINANCE NO. 2584

AN ORDINANCE PROVIDING FOR ALTERNATIVE PERMITTING PROCEDURES FOR A PERIOD OF 90 DAYS; PROVIDING FOR THE REMOVAL OF CERTAIN IMMINENTLY DANGEROUS TREES AS DEFINED BY THIS ORDINANCE; TEMPORARILY SUSPENDING CERTAIN ENFORCEMENT ACTIONS; WAIVING PERMIT FEES; AND DECLARING AN EMERGENCY

WHEREAS, the City has an inherent interest in preserving the wooded character of Woodburn and protecting trees as a natural resource of the City; and

WHEREAS, the City has adopted certain standards and regulations governing the removal of both "Street Trees" (Ordinance No. 2424) and "Significant Trees" on Private Property (Woodburn Development Ordinance 3.06.07); and

WHEREAS, during President's Day Weekend 2021, a winter ice storm caused a high volume of tree impacts along streets, in parks, and on private property in the City; and such impacts have resulted in imminent danger or risk to the residents of Woodburn; and

WHEREAS, the City recognizes that even as a result of the winter ice storm, emergency tree work must be justified and proportional to the immediate risk to people and structures; and

WHEREAS, the City Council now desires to address the resulting dangerous tree risk through a temporary suspension of certain enforcement procedures where a person has otherwise followed the alternative provisional permitting procedure provided under this Ordinance; **NOW THEREFORE**,

THE CITY ORDAINS AS FOLLOWS:

Section 1. Definitions.

A. "Imminently Dangerous," as used in this Ordinance, means a tree that has suddenly uprooted (cracking appears in the soil/pavement around the tree) or a tree that has suddenly started splitting (where the main branches connect to the trunk), and as a result poses an immediate risk of collapse and/or hazard to people, structures, or vehicles. "Imminently Dangerous" does not include a tree where hazardous conditions can be alleviated by pruning or trimming the tree or undertaking other preventative maintenance.

B. "Tree Inspector" means an employee designated by the City to inspect Street Trees and Significant Trees on Private Property and make determinations on whether a tree is Imminently Dangerous for purposes of the City granting a removal permit under this Ordinance.

C. All terms not otherwise defined herein shall have the meaning assigned to them either under Ordinance No. 2424 or the Woodburn Development Ordinance ("WDO").

Section 2. Alternative Permitting Procedure for Removal of Imminently Dangerous Street Trees. Permits to remove Imminently Dangerous Street Trees shall be granted pursuant to the criteria and under the procedures established and set out by Ordinance No. 2424, with the following exceptions:

A. An application for a permit to remove a Street Tree does not need to be supported by a report prepared by a certified arborist when, alternatively, a City Tree Inspector, based upon the Inspector's training and experience, has the opinion that the Street Tree is Imminently Dangerous under this Ordinance.

B. An Imminently Dangerous Street Tree may be removed prior to obtaining a permit in an emergency, so long as the owner applies for a permit within fourteen (14) days of the removal, pursuant to this Section and all remaining provisions of Ordinance 2424. In such cases, the property owner should provide written and photographic documentation of the condition of the tree prior to its removal.

All remaining procedures related to trees under Ordinance No. 2424, remain in full force and effect, and the adoption of this Ordinance shall not preclude any action against any person who otherwise violates Ordinance No. 2424, except as modified above.

Section 3. Alternative Permitting Procedure for Removal of Imminently Dangerous Significant Trees on Private Property. Permits to remove Imminently Dangerous Significant Trees on Private Property shall be granted pursuant to the criteria and under the procedures established and set out by WDO 3.06.07, as supplemented by the following alternative permitting procedure:

A. An application for a permit to remove a Significant Tree on Private Property does not need to be supported by a report prepared by a certified arborist when, alternatively, a City Tree Inspector, based upon the Inspector's training and experience, has the opinion that the Significant Tree is Imminently Dangerous under this Ordinance.

B. Approval of a Significant Tree removal permit may be issued between November 1 and May 1 when the tree is determined to be Imminently Dangerous by a City Tree Inspector.

C. An Imminently Dangerous Significant Tree may be removed prior to obtaining a permit in an emergency, so long as the owner applies for a permit within fourteen (14) days of the removal, pursuant to this Section and all remaining provisions of the WDO. In such cases, the property owner should provide written and photographic documentation of the condition of the tree prior to its removal.

All remaining procedures related to trees under WDO 3.06.07, remain in full force and effect, and the adoption of this Ordinance shall not preclude any action against any person who otherwise violates WDO 3.06.07, except as modified above.

Section 4. Temporary Suspension of Certain Enforcement Proceedings.

Enforcement Procedures under Ordinance No. 2424 and WDO 4.02.03 shall be temporarily suspended for a period of ninety (90) days for circumstances where a person: (i) follows either of the alternative permitting procedures outlined above for the removal of an Imminently Dangerous Street Tree or a Significant Tree on Private Property; and (ii) otherwise complies with all remaining permitting procedures under either Ordinance No. 2424 or the WDO, as applicable.

Section 5. Temporary Waiver of Permit Fees. The City permit fees that would otherwise apply for the removal of a Street Tree or Significant Tree on Private Property shall be waived where a City Tree Inspector has, based upon the Inspector's training and experience, has the opinion that the tree is Imminently Dangerous and may be removed under the procedures outlined by this Ordinance.

Section 6. Permit Denial. If the City denies a tree-removal permit under this Ordinance, the applicant may still apply for a tree-removal permit through the standard process under either Ordinance No. 2424 or the WDO, as applicable.

Section 7. Violation & Enforcement.

A. A violation of any provision of this Ordinance constitutes a Class 1 Civil Infraction.

B. All violations of this Ordinance that are filed in the Woodburn Municipal Court as Civil Infractions shall be processed according to the procedures contained in the Woodburn Civil Infraction Ordinance.

C. Each day that a violation of this Ordinance is committed or permitted to continue shall constitute a separate Civil Infraction.

D. In addition to filing a Civil Infraction proceeding in the Woodburn Municipal Court, the City may initiate an enforcement proceeding in the Marion County Circuit Court.

E. The remedies provided for in this Section are cumulative and not mutually exclusive.

Section 8. Severability. The sections and subsections of this Ordinance are severable. The invalidity of any section or subsection shall not affect the validity of the remaining sections and subsections.

Section 9. Duration. Unless otherwise extended by action of the City Council, the provisions of this Ordinance shall expire ninety (90)-days following its passage.

Section 10. Emergency Clause. This Ordinance being necessary for the immediate preservation of the public peace, health and safety so the City may allow for emergency removal of certain imminently dangerous trees, an emergency is declared to exist and this ordinance shall take effect immediately upon passage and approval by the Mayor.

Approved as to form: _____
City Attorney Date

Approved: _____
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