



## Agenda Item

July 3, 2024

TO: City Council

FROM: Frank Lonergan, Mayor

SUBJECT: **Committee Appointment**

The following appointment is made, subject to the approval of the Council. Please forward any adverse comments to me prior to the Council meeting on Tuesday, July 9, 2024. No reply is required if you approve of my decision.

**Woodburn Public Arts and Mural Committee**

- Kristi St. Amant

# **PROCLAMATION**

## **Designation of July as Park and Recreation Month**

**WHEREAS**, parks and recreation is an integral part of communities throughout this country, including Woodburn; and

**WHEREAS**, parks and recreation promotes health and wellness, improving the physical and mental health of people who live near parks; and

**WHEREAS**, parks and recreation promotes time spent in nature, which positively impacts mental health by increasing cognitive performance and well-being, and alleviating illnesses such as depression, attention deficit disorders, and Alzheimers; and

**WHEREAS**, parks and recreation encourages physical activities by providing space for popular sports, hiking trails, swimming pools and many other activities designed to promote active lifestyles; and

**WHEREAS**, parks and recreation is a leading provider of healthy meals, nutrition services and education; and

**WHEREAS**, park and recreation programming and education activities, such as out- of-school time programming, youth sports and environmental education, are critical to childhood development; and

**WHEREAS**, parks and recreation increases a community's economic prosperity through increased property values, expansion of the local tax base, increased tourism, the attraction and retention of businesses, and crime reduction; and

**WHEREAS**, parks and recreation is fundamental to the environmental well-being of our community; and

**WHEREAS**, parks and recreation is essential and adaptable infrastructure that makes our communities resilient in the face of natural disasters and climate change; and

**WHEREAS**, our parks and natural recreation areas ensure the ecological beauty of our community and provide a place for children and adults to connect with nature and recreate outdoors; and

**WHEREAS**, the U.S. House of Representatives has designated July as Parks and Recreation Month; and

**WHEREAS**, Woodburn recognizes the benefits derived from parks and recreation resources.

**NOW, THEREFORE**, be it proclaimed by the City of Woodburn that July 2024 is Recreation and Parks Month, and, as Mayor, I encourage all citizens of the City of Woodburn to enjoy our Parks and participate in Recreation programs.

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused the seal of the City of Woodburn to be affixed this \_\_\_\_ day of July 2024.

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Frank Lonergan, Mayor  
City of Woodburn

# **COUNCIL MEETING MINUTES**

## **JUNE 24, 2024**

**DATE**     **COUNCIL CHAMBERS, CITY HALL, CITY OF WOODBURN, COUNTY OF MARION, STATE OF OREGON, JUNE 24, 2024**

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

### **ROLL CALL**

Mayor Lonergan	Present
Councilor Cantu	Present
Councilor Cornwell	Present
Councilor Schaub	Present
Councilor Morris	Absent
Councilor Cabrales	Present
Councilor Wilk	Present

**Staff Present:** City Attorney Granum, Assistant City Administrator Row, Police Chief Pilcher, Economic Development Director Johnk, Community Services Director Cuomo, Community Development Director Kerr, Finance Director Turley, Public Works Director Stultz, Special Projects Director Wakeley, City Recorder Pierson, Planner Handel, Building Official Gitt, Community Relations Manager Herrera, Assistant City Attorney Killmer

### **ANNOUNCEMENTS**

Mayor Lonergan announced the following:

- Independence Day Celebration at Centennial Park on Thursday, July 4<sup>th</sup> from 5:30 p.m. -10:30 p.m. Includes food vendors, live music, games for the whole family and a fantastic firework show.
- In observance of Independence Day, City Hall offices, the Library, and Transit service will be closed Thursday, July 4, 2024. The Aquatic Center will be open 6:00 a.m.-11:00 a.m.
- The City Council Meeting /Community BBQ is scheduled for Tuesday, July 9, 2024, at 6:00 p.m. to coincide with the Kick-off of Music in the Park.

### **PROCLAMATIONS**

**2024 41<sup>st</sup> Annual National Night Out** - Mayor Lonergan read a proclamation calling on citizens to support the 2024 41<sup>st</sup> Annual National Night Out and declaring August 6, 2024, as the 2024 41<sup>st</sup> Annual National Night Out.

### **PRESENTATIONS**

**Fiesta Court** – Community Relations Manager Herrera introduced the Fiesta Court and provided the City Council with a 2024 Fiesta Court Tentative Calendar. Members of the Court include Irene Rodriguez Estrada, Flannery Santiago Valencia, Jazmine Ortiz, Betzabet Gascar, Aliyah Calderon, Vanessa Perez Marcelino, Kaylee Rachel Arroyo, Yatzil Morales, Perla Barragan – Chavez, and Jose Solis Gomez. Each member introduced themselves and provided information on Fiesta Court programs that they participated in.

# COUNCIL MEETING MINUTES

JUNE 24, 2024

Police Department Accreditation – Police Chief Pilcher provided information on the City’s Certificate of Accreditation.

## CONSENT AGENDA

- A. Woodburn City Council minutes of June 10, 2024,
  - B. Woodburn City Council Executive Session minutes of June 10, 2024,
  - C. Monthly Financial Report,
  - D. Redflex Report March through May 2024,
  - E. Accept the Energy Efficiency and Conservation Block Grant (EECBG) to Support EV Charging Network,
  - F. Subrecipient Agreement with DevNW and Intergovernmental Agreement (IGA) with Cities of Gervais and Hubbard– Participation in Support CDBG COVID-19 Funding for Rental Assistance.
- Schaub/Cabrales...** approve the consent agenda. The motion passed unanimously.

## PUBLIC HEARINGS

### Public Hearing for a Legislative Amendment to the Woodburn Development Ordinance Regarding Food Cart Regulations (LA 24-02)

Mayor Lonergan declared the hearing open at 7:41 p.m. for the purpose of hearing public input on the Legislative Amendment to the Woodburn Development Ordinance Regarding Food Cart Regulations (LA 24-02). Planner Handel and Community Development Director Kerr provided a staff report.

Mayor Lonergan asked if any member of the public wished to speak in support of the Legislative Amendment to the Woodburn Development Ordinance Regarding Food Cart Regulations (LA 24-02). Scott Sharp, 352 Bush St, stated that he would like to see food carts allowed in the city outside of pods. Matt Ring, 10850 Main St. NE Donald, owner of Oregon Smoke Shack food cart, stated that he would like to see food carts allowed in the City outside of pods. He read a letter from Meredith Barton, Coastal Farm store manager, supporting a permanent location for a food truck on Coastal Farm Stores property in Woodburn. Mayor Lonergan asked if any member of the public wished to speak in opposition to the Legislative Amendment to the Woodburn Development Ordinance Regarding Food Cart Regulations (LA 24-02). No members of the public wished to speak in opposition. Mayor Lonergan closed the hearing at 8:25 p.m. Mayor Lonergan stated that as a growing city, we should have regulations for the safety of our citizens. Councilor Cornwell stated that we may need to make accommodations to make sure that everyone is successful. Councilor Schaub stated that she is concerned about how this would affect the food trucks that are already here. Councilor Cabrales expressed her concerns about the rent for food carts at pods possibly being too high for the food carts that are currently operating in the City. Councilor Wilk stated that he also has concerns about the small businesses who may not be able to afford being in a pod and would like to see the City accommodate both by allowing single food carts if they meet regulations. Mayor Lonergan expressed his concerns with parking requirements. Councilor Cantu stated that she understands the concerns of the Council regarding the requirement of being in a pod but there are regulations requiring these food carts to meet certain criteria before they can do business and a food cart meeting those on their own may be cost prohibitive for them.

**Schaub/Cornwell...** to tentatively approve Legislative Amendment LA 24-02, directing staff to prepare an ordinance for consideration at the July 22, 2024, City Council meeting. On roll call vote the motion passed 3-2 with Councilors Cabrales and Wilk voting no.

City Attorney Granum noted that if the Council wants staff to make any changes to the proposed



## COUNCIL MEETING MINUTES

JUNE 24, 2024

legislative amendment, they will need to make sure that the motion reflects that.

**Schaub/Cornwell...** amend the motion to tentatively approve Legislative Amendment LA24-02, and direct staff to prepare an ordinance for consideration with some options for single cart operation. On roll call vote the motion passed unanimously.

### FY 2023-24 Supplemental Budget Request for Transfer Increase from the Water SDC Fund to the Water Capital Construction Fund for Parr Road Water Treatment Project Completion

Mayor Lonergan declared the hearing open at 8:48 p.m. for the purpose of hearing public input on the FY 2023-24 Supplemental Budget Request for Transfer Increase from the Water SDC Fund to the Water Capital Construction Fund for Parr Road Water Treatment Project Completion. Finance Director Turley provided a staff report. Mayor Lonergan asked if any member of the public wished to speak in support of the FY 2023-24 Supplemental Budget Request for Transfer Increase from the Water SDC Fund to the Water Capital Construction Fund for Parr Road Water Treatment Project Completion. No members of the public wished to speak in support. Mayor Lonergan asked if any member of the public wished to speak in opposition to the FY 2023-24 Supplemental Budget Request for Transfer Increase from the Water SDC Fund to the Water Capital Construction Fund for Parr Road Water Treatment Project Completion. No members of the public wished to speak in opposition. Mayor Lonergan closed the hearing at 8:49 p.m.

### COUNCIL BILL NO. 3255 - A RESOLUTION ADOPTING A SUPPLEMENTAL BUDGET AND APPROVING TRANSFERS OF APPROPRIATIONS FOR FY 2023-2024 FOR THE PARR ROAD WATER TREATMENT PROJECT COMPLETION

**Schaub** introduced Council Bill No. 3255. City Recorder Pierson read the bill by title only since there were no objections from Council. On roll call vote for final passage, the bill passed unanimously. Mayor Lonergan declared Council Bill No. 3255 duly passed.

### AWARD A CONTRACT TO CLAIR COMPANY INC. FOR PROFESSIONAL PLAN REVIEW AND INSPECTION SERVICES ON AN AS NEEDED BASIS AND AUTHORIZE THE CITY ADMINISTRATOR TO SIGN THE AGREEMENT

Building Official Gitt provided a staff report. **Schaub/Cabrales...** award a Contract to Clair Company Inc. for Professional Plan Review and Inspection Services on an as needed basis and authorize the City Administrator to sign the Agreement. The motion passed unanimously.

### COUNCIL BRIEFING OF PLANNING COMMISSION APPROVAL OF A DESIGN REVIEW APPLICATION FOR “COVERS FOR PLAY STRUCTURE & OUTDOOR EVENT AREA” AT NUEVO AMANECER APARTMENTS, 1274 N. 5TH ST (DR 24-05)

The Council declined to call this item up.

### CITY ADMINISTRATOR’S REPORT

The Assistant City Administrator reported the following:

- The Taste of Woodburn was very successful. Thanked the community for coming out and all the staff that worked so hard to put on that event.

### MAYOR AND COUNCIL REPORTS

Councilor Cornwell stated that she attended Taste of Woodburn, and it was pretty quiet. She asked if there were less vendors this year and asked about the status of the dog park.

Community Services Director Cuomo answered that there were less vendors. He added that a few

## COUNCIL MEETING MINUTES

**JUNE 24, 2024**

backed out at the last minute and some vendors were only able to attend on Saturday. He stated that the dog park improvements are coming along and hopes to have it open early August.

Councilor Cabrales stated that she heard great things about the Taste of Woodburn and Flavor de Futbol. She wished everyone a happy fourth of July.

Councilor Schaub stated that she appreciates the work that Jim and Renata did on the EECBG block grant. She heard from her ward that they would like more signs in English describing the food at Taste of Woodburn. She wished everyone a great fourth.

Councilor Wilk invited people to the French Prairie Kiwanis Chuckwagon breakfast on July 4<sup>th</sup>, at Legion Park from 7:00 a.m. – 10:00 a.m.

Councilor Cantu stated that she attended the Flavor de Futbol and it was a great event.

### **ADJOURNMENT**

**Cornwell/Cabrales**... move to adjourn. The motion passed unanimously. Mayor Loneran adjourned the meeting at 9:02 p.m.

APPROVED \_\_\_\_\_  
FRANK LONERGAN, MAYOR

ATTEST \_\_\_\_\_  
Heather Pierson, City Recorder  
City of Woodburn, Oregon

**CITY OF WOODBURN**  
**Community Development Department**

**MEMORANDUM**

270 Montgomery Street Woodburn, Oregon 97071

(503) 982-5246

**Date:** July 1, 2024  
**To:** Chris Kerr, Community Development Director  
**From:** Melissa Gitt, Building Official  
**Subject:** Building Activity for June 2024

	2022		2023		2024	
	No.	Dollar Amount	No.	Dollar Amount	No.	Dollar Amount
Single-Family Residential	7	\$2,234,113	10	\$2,990,358	21	\$6,649,370
Multi-Family Residential	7	\$8,591,439	0	\$0	0	\$0
Assisted Living Facilities	0	\$0	0	\$0	0	\$0
Residential Adds & Alts	13	\$199,925	35	\$382,947	17	\$166,183
Industrial	0	\$0	0	\$0	0	\$0
Commercial	2	\$132,000	3	\$2,642,400	15	\$11,398,860
Signs and Fences	0	\$0	3	\$28,254	0	\$0
Manufactured Homes	0	\$0	0	\$0	0	\$0
<b>TOTALS</b>	29	\$11,157,477	51	\$6,043,959	53	\$18,214,413
<b>Fiscal Year to Date (July 1 – June 30)</b>		<b>\$582,617,484**</b>		<b>\$105,786,914</b>		<b>\$122,431,746</b>

Totals calculated from permit valuation.

\*\*Project Basic (Amazon) permit valuation is \$451,339,834

July 9, 2024

TO: Honorable Mayor and City Council through City Administrator  
THRU: Marty Pilcher, Chief of Police  
FROM: Keith Kimberlin, Lieutenant  
SUBJECT: **Liquor License Application Alebrijes Restaurant LLC.**

**RECOMMENDATION:**

Recommend that the OLCC approve the Liquor License Application for Alebrijes Restaurant LLC.

**BACKGROUND:**

Applicant: Leopoldo Avila Quintero  
1199 Eagle Drive  
Woodburn, OR 97071  
503-980-5732

Point of  
Contact: Leopoldo Avila Quintero  
1199 Eagle Drive  
Woodburn, OR 97071  
503-980-5732

Business: Alebrijes Restaurant LLC.  
311 N. Front Street Suite A  
Woodburn, OR 97071  
503-890-5732

Owner(s): Leopoldo Quintero  
Adriana Lopez

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

License Type(s):

**Limited On Premises-** May sell and serve by the drink, at retail to consumers for consumption on licensed premises: malt beverages (beer), wine, and cider.

On June 17, 2024, the Woodburn Police Department received an application for Limited On-Premises liquor license for Alebrijes Restaurant. The business will be opening as a New Outlet, and is a restaurant-style business, with seating for 30.

The hours of operation are 10am to 8pm Sunday to Saturday. There is no entertainment listed for the location except recorded music. The Woodburn Police Department has not received any communication from the public or surrounding businesses in support of or against the proposed change.

**DISCUSSION:**

The Police Department has completed a background investigation on Alebrijes Restaurant, and the listed owner, Leopoldo Quintero. They were ran through various police databases and business related databases. Leopoldo holds a valid Oregon driver's license and no other items of concern were located during the check. The application is for a new business.

**FINANCIAL IMPACT:**

None

## Redflex Traffic Systems Report - N. Pacific Highway and Mt. Hood Avenue

### Red Light Enforcement

	Apr 2024	May 2024	June 2024	April-June 24 (Combined)
Total Processed Incidents	291	343	353	987
Obstructions*	35	33	26	94
Police Rejections*	142	158	159	459
Registration Issues*	21	19	44	84
Process Rejections*	14	28	38	80
Total Rejections	212	238	267	717
Approved Violations/Notices Printed	79	105	86	270

### Speed Enforcement (46 mph+)

	Apr 2024	May 2024	June 2024	April-June 24 (Combined)
Total Processed Incidents	358	421	440	1,219
Obstructions*	10	8	17	35
Police Rejections*	78	110	91	279
Registration Issues*	15	22	40	77
Process Rejections*	22	32	40	94
Total Rejections	125	172	188	485
Approved Violations/Notices Printed	233	249	252	734

#### \*REJECTIONS KEY\*

*Obstructions:* Driver, vehicle or license plate obstructed.

*Police Rejections:* Driver not R/O, Face Obstructed, Gender Mismatched, Incorrect DMV, Invalid Offense, Police Discretion, Safe Turn on Red, Sun Glare.

*Registration Issues:* Extended Vehicle, Out of Country Plates, Paper Plates, Wrong or No DMV.

*Process Rejections:* Camera Malfunction, Plate Burn Out, Rear Plate Camera Blurry, Poor Driver Images, Too Old

July 22, 2024

TO: Honorable Mayor and City Council through City Administrator

FROM: Curtis Stultz, Public Works Director

SUBJECT: **Acceptance of Easements and Right of Way at 2175 N Pacific Highway (Tax Lot 051W08A001800)**

## **RECOMMENDATION:**

Authorize the acceptance of right of way and three easements from Walsh Enterprises & Holdings LLC, for real property at 2175 N Pacific Highway (99E) and identified as Tax Lot 051W08A001800.

## **BACKGROUND:**

Per the conditions of the Planning Commission's Final Decision for the Fleet Sales West Shop Building Project, dated April 13, 2023, the developer is required to grant a right of way and three easements to the City.

## **DISCUSSION:**

The easements under consideration are summarized in the table below:

DEDICATED USE	LOCATION	SIZE
Public Utility Easement	99E frontage	2,562 sq. ft.
Public Utility Easement	National Way frontage	638 sq. ft.
Sanitary Sewer Easement	99E frontage	4,209 sq. ft.

Woodburn Development Ordinance (WDO) section 3.02.01B requires a minimum five-foot wide PUE along each lot line abutting a public street. PUE's are reserved for the construction, reconstruction, operation, and maintenance of public utilities on private property.

The right of way under consideration is along the frontage of National Way and totals 1357 sq. ft. The additional right of way ensures the required public improvements are within the City's right of way.

## **FINANCIAL IMPACT:**

There is no cost to the City for these easements.

Agenda Item Review: City Administrator \_\_\_x\_\_\_ City Attorney \_\_\_x\_\_\_ Finance \_x\_\_\_

AFTER RECORDING RETURN TO:

Woodburn City Recorder  
City of Woodburn  
270 Montgomery Street  
Woodburn, OR 97071

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**CITY OF WOODBURN, OREGON  
PUBLIC UTILITY EASEMENT**

Walsh Enterprises and Holdings, LLC, *GRANTOR*, grants to the CITY OF WOODBURN, OREGON, hereinafter called *CITY* a permanent easement and right-of-way, including the permanent right to construct, reconstruct, operate, and maintain public utilities on the following described land:

*See attached Exhibit "A" Legal Description of Permanent Easement and attached Exhibit "B" Sketch for Legal Description of Permanent Easement which are by this reference incorporated herein*

*GRANTOR* reserves the right to use the surface of the land for any purpose that will not be inconsistent or interfere with the use of the easement by the *CITY*. No building, permanent structures, or fences shall be placed upon, under or within the property subject to the foregoing easement during the term thereof without the written permission of the *CITY*.

Upon completion of the construction, *CITY* shall restore the surface of the property to its original condition and shall indemnify and hold *GRANTOR* harmless against any and all loss, cost, or damage arising out of the exercise of the rights granted herein.

The true consideration of this conveyance is zero dollars (\$0), and other valuable consideration, the receipt of which is acknowledged by *GRANTOR*.

*GRANTOR* covenants to *CITY* that *GRANTOR* is lawfully seized in fee simple of the above-granted premises, free from all encumbrances and that *GRANTOR* and their heirs and personal representatives shall warrant and forever defend the said premises and every part thereof to *CITY* against the lawful claims and demands of all persons claiming by, though, or under *GRANTOR*.

DATED this 17th day of June, 2024.

Walsh Enterprises and Holdings, LLC

By: JAMES R. WALSH (President)  
James R. Walsh

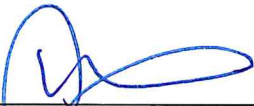


CORPORATE ACKNOWLEDGEMENT

STATE OF OREGON, County of Maxion ss.

The foregoing instrument was acknowledged before me this 27 day of June 2024 by James R Walsh,  
as President of Walsh Enterprises and Holdings LLC a corporation and the  
foregoing instrument was signed and sealed on behalf of said corporation by authority of  
its Board of Directors; and each of them acknowledged said instrument to be its voluntary  
act and deed.



  
NOTARY PUBLIC FOR OREGON  
My Commission Expires: February 16, 2028

CITY OF WOODBURN  
270 Montgomery Street  
Woodburn, OR 97071

Walsh Enterprises and Holdings, LLC  
2175 N. Pacific Hwy  
Woodburn, OR 97071

By Signature below, the City of Woodburn, Oregon  
Approves and Accepts this Conveyance Pursuant to  
ORS 93.808.

City Recorder:

\_\_\_\_\_  
Heather Pierson

**EXHIBIT A**

**Legal Description of Easement Area**

***PUBLIC UTILITY EASEMENT DESCRIPTION***

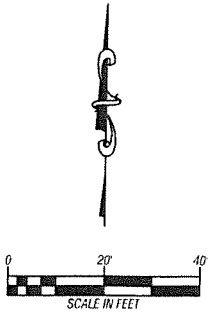
*ALL THAT PORTION OF LOT 1, "INDUSTRIAL PARK NO. 2", THE SAME IS DESCRIBED AND RECORDED IN REEL 3142, PAGE 79, MARION COUNTY, OREGON, DEED RECORDS, LYING WITHIN 60.00 FEET OF THE CENTERLINE OF PACIFIC HIGHWAY EAST (HWY 99E), AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:*

*BEGINNING AT A POINT ON THE NORTH LINE OF SAID LOT 1, SAID POINT DISTANT 50.00 FEET NORMAL OFFSET OF THE CENTERLINE OF SAID NORTH PACIFIC HIGHWAY EAST; THENCE SOUTH 32°02'16" WEST, PARALLEL TO SAID HIGHWAY, FOR A DISTANCE OF 253.10 FEET TO THE SOUTH LINE OF SAID LOT 1; THENCE CONTINUING ON SAID SOUTH LINE NORTH 89°41'49" WEST FOR A DISTANCE OF 11.76 FEET; THENCE LEAVING SOUTH LINE NORTH 32°02'16" EAST, PARALLEL TO SAID HIGHWAY, FOR DISTANCE OF 259.28 FEET TO A POINT ON THE NORTH LINE THEREOF, THENCE CONTINUING ON SAID NORTH LINE SOUTH 57°57'07" EAST FOR A DISTANCE OF 10.00 FEET TO THE POINT OF BEGINNING.*

*THE PREVIOUSLY DESCRIBED CONTAINING 2,562 SQUARE FEET, MORE OR LESS.*



LOT 1 OF "INDUSTRIAL PARK ADDITION NO. 2"  
REAL PROPERTY IN NE 1/4 OF SECTION 08  
TOWNSHIP 5 SOUTH, RANGE 1 WEST, WILLAMETTE MERIDIAN  
CITY OF WOODBURN, MARION COUNTY, OREGON



LOT 1  
"INDUSTRIAL PARK ADDITION NO. 2"

REEL 3142, PAGE 79

LOT 2  
"INDUSTRIAL PARK  
ADDITION NO. 2"

POINT OF  
BEGINNING

S57° 57' 07"E - 10.00'

50.00'

N32° 02' 16"W - 259.28'

S32° 02' 16"E - 235.10'

PACIFIC HIGHWAY 99W (100' ROW)

AREA: ± 2562 SQFT

10.0' PUBLIC  
UTILITY EASEMENT

N89° 41' 49"W - 11.76'

50.00'

LEGEND:

- FOUND MONUMENT
- △ CALCULATED POINT

EXHIBIT - B

PACIFIC HIGHWAY 99W - PUBLIC UTILITY EASEMENT

**LEI** ENGINEERING  
& SURVEYING  
OF OREGON

2564 19TH St SE  
Salem, Oregon 97302  
(503) 399-3828  
www.leiengineering.com

SCALE: 1" = 40'  
PROJECT NO.: 15-542  
DATE: 02-14-2024  
CHECKED: C. FOGERSON, PLS

REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

OREGON  
MARCH 14, 2023  
CHRIS FOGERSON  
81040

EXPIRES 12/31/2025

AFTER RECORDING RETURN TO:

Woodburn City Recorder  
City of Woodburn  
270 Montgomery Street  
Woodburn, OR 97071

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Upon completion of the construction, *CITY* shall restore the surface of the property to its original condition and shall indemnify and hold *GRANTOR* harmless against any and all loss, cost, or damage arising out of the exercise of the rights granted herein.

The true consideration of this conveyance is zero dollars (\$0), and other valuable consideration, the receipt of which is acknowledged by *GRANTOR*.

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DATED this 17th day of June, 2024.

Walsh Enterprises and Holdings, LLC

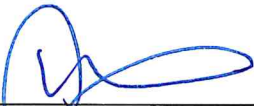
By: JAMES R. WALSH (President)  
James R. Walsh

CORPORATE ACKNOWLEDGEMENT

STATE OF OREGON, County of Maxion ss.

The foregoing instrument was acknowledged before me this 27 day of June 2024 by James R Walsh, as President of Walsh Enterprises and Holdings LLC a corporation and the foregoing instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors; and each of them acknowledged said instrument to be its voluntary act and deed.



  
NOTARY PUBLIC FOR OREGON  
My Commission Expires: February 16, 2028

CITY OF WOODBURN  
270 Montgomery Street  
Woodburn, OR 97071

Walsh Enterprises and Holdings, LLC  
2175 N. Pacific Hwy  
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City Recorder:

\_\_\_\_\_  
Heather Pierson

## **EXHIBIT A**

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#### ***PUBLIC UTILITY EASEMENT DESCRIPTION***

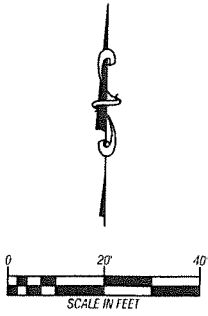
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CITY OF WOODBURN, MARION COUNTY, OREGON



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"INDUSTRIAL PARK ADDITION NO. 2"

REEL 3142, PAGE 79

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POINT OF  
BEGINNING

S57° 57' 07"E - 10.00'

50.00'

N32° 02' 16"W - 259.28'

S32° 02' 16"E - 235.10'

PACIFIC HIGHWAY 99W (100' ROW)

AREA: ± 2562 SQFT

10.0' PUBLIC  
UTILITY EASEMENT

N89° 41' 49"W - 11.76'

50.00'

LEGEND:

- FOUND MONUMENT
- △ CALCULATED POINT

EXHIBIT - B

PACIFIC HIGHWAY 99W - PUBLIC UTILITY EASEMENT

**LEI** ENGINEERING  
& SURVEYING  
OF OREGON

2564 19TH St SE  
Salem, Oregon 97302  
(503) 399-3828  
www.leiengineering.com

SCALE: 1" = 40'  
PROJECT NO.: 15-542  
DATE: 02-14-2024  
CHECKED: C. FOGERSON, PLS

REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

OREGON  
MARCH 14, 2023  
CHRIS FOGERSON  
81040

EXPIRES 12/31/2025



AFTER RECORDING RETURN TO:

Woodburn City Recorder  
City of Woodburn  
270 Montgomery Street  
Woodburn, OR 97071

---

**CITY OF WOODBURN, OREGON  
PUBLIC UTILITY EASEMENT**

Walsh Enterprises and Holdings, LLC, *GRANTOR*, grants to the CITY OF WOODBURN, OREGON, hereinafter called *CITY* a permanent easement and right-of-way, including the permanent right to construct, reconstruct, operate, and maintain public utilities on the following described land:

*See attached Exhibit "A" Legal Description of Permanent Easement and attached Exhibit "B" Sketch for Legal Description of Permanent Easement which are by this reference incorporated herein*

*GRANTOR* reserves the right to use the surface of the land for any purpose that will not be inconsistent or interfere with the use of the easement by the *CITY*. No building, permanent structures, or fences shall be placed upon, under or within the property subject to the foregoing easement during the term thereof without the written permission of the *CITY*.

Upon completion of the construction, *CITY* shall restore the surface of the property to its original condition and shall indemnify and hold *GRANTOR* harmless against any and all loss, cost, or damage arising out of the exercise of the rights granted herein.

The true consideration of this conveyance is zero dollars (\$0), and other valuable consideration, the receipt of which is acknowledged by *GRANTOR*.

*GRANTOR* covenants to *CITY* that *GRANTOR* is lawfully seized in fee simple of the above-granted premises, free from all encumbrances and that *GRANTOR* and their heirs and personal representatives shall warrant and forever defend the said premises and every part thereof to *CITY* against the lawful claims and demands of all persons claiming by, though, or under *GRANTOR*.

DATED this 27th day of June, 2024.

Walsh Enterprises and Holdings, LLC

By:

James R. WALSH (President)  
[Signature]



CORPORATE ACKNOWLEDGEMENT

STATE OF OREGON, County of M Marion ) ss.

The foregoing instrument was acknowledged before me this 27 day of June 20\_\_ by James Robert Walsh, as President of Walsh Enterprises and Holdings, LLC a corporation and the foregoing instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors; and each of them acknowledged said instrument to be its voluntary act and deed.



  
NOTARY PUBLIC FOR OREGON  
My Commission Expires: February 16, 2026

CITY OF WOODBURN  
270 Montgomery Street  
Woodburn, OR 97071

Walsh Enterprises and Holdings, LLC  
2175 N. Pacific Hwy  
Woodburn, OR 97071

By Signature below, the City of Woodburn, Oregon  
Approves and Accepts this Conveyance Pursuant to  
ORS 93.808.

City Recorder:

\_\_\_\_\_  
Heather Pierson

## **EXHIBIT A**

### **Legal Description of Easement Area**

#### ***PUBLIC UTILITY EASEMENT DESCRIPTION***

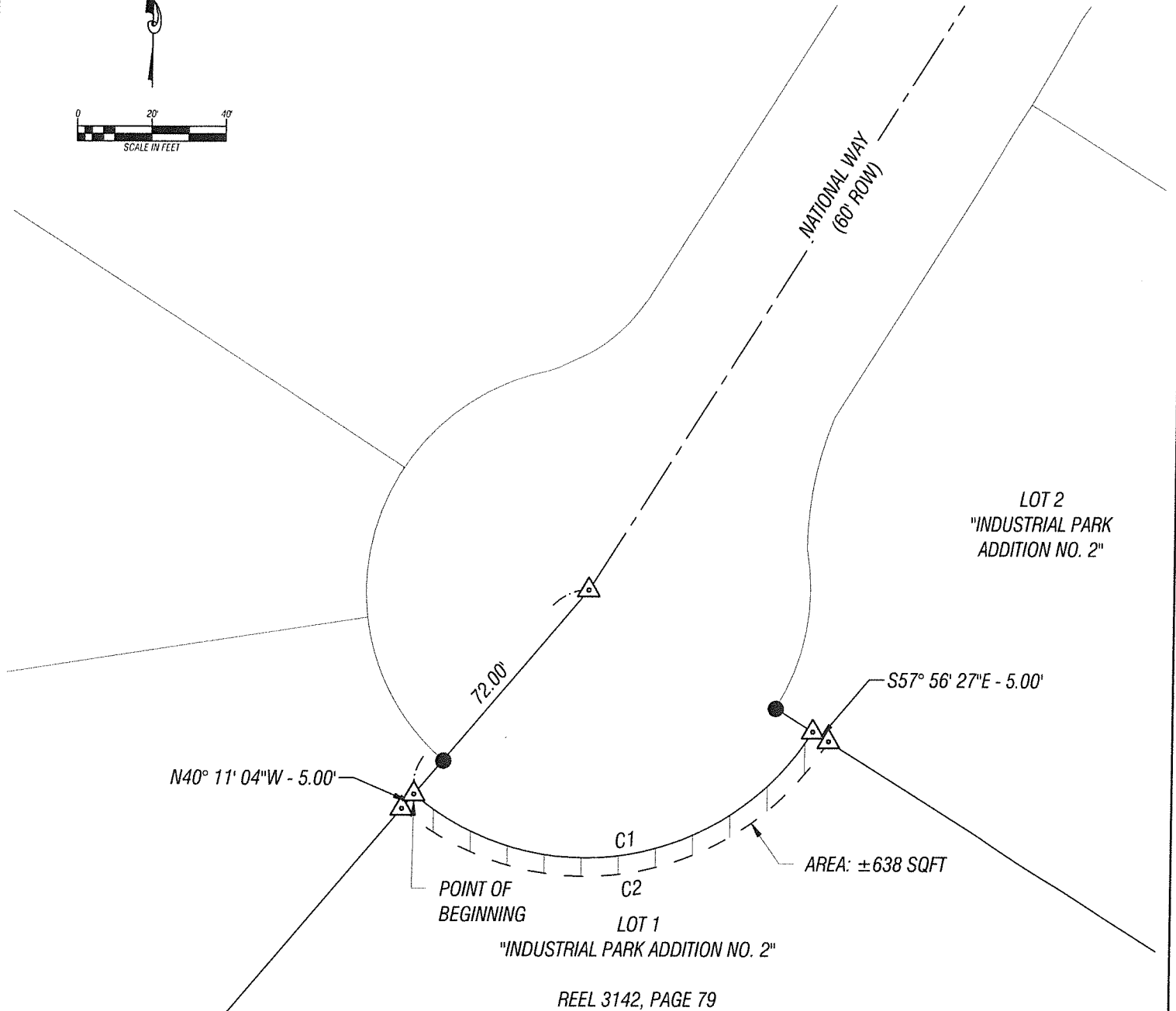
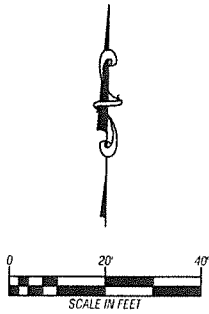
*ALL THAT PORTION OF LOT 1, "INDUSTRIAL PARK NO. 2", THE SAME IS DESCRIBED AND RECORDED IN REEL 3142, PAGE 79, MARION COUNTY, OREGON, DEED RECORDS, LYING WITHIN 77.00 FEET OF THE RADIAL CENTER OF THE CUL-DE-SAC OF NATIONAL WAY, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:*

*BEGINNING A POINT ON THE WEST LINE OF SAID LOT 1, DISTANT 568.32 FEET FROM THE SOUTHWEST CORNER THEREOF, AND 72.00 FEET FROM THE RADIAL CENTER OF SAID CUL-DE-SAC; THENCE CONTINUING ON A ON A CURVE CONCAVE TO THE NORTH WITH A RADIUS OF 72.00 FEET FOR A DISTANCE OF 123.36 FEET TO THE NORTH LINE OF SAID LOT 1, SAID CURVE CHORD BEARING NORTH 81°06'24" EAST FOR A DISTANCE OF 108.82 FEET; THENCE CONTINUING ON THE NORTH LINE OF SAID LOT 1 SOUTH 57°56'27" EAST FOR A DISTANCE OF 5.00 FEET; THENCE LEAVING SAID NORTH LINE ON A CURVE CONCAVE TO THE NORTH WITH A RADIUS OF 77.00 FEET FOR A DISTANCE OF 131.93 FEET TO THE WEST LINE -OF SAID LOT 1, SAID CURVE CHORD BEARING SOUTH 81°06'24" WEST FOR A DISTANCE OF 116.38 FEET; THENCE CONTINUING ON THE WEST LINE THEREOF NORTH 40°11'04" WEST FOR A DISTANCE OF 5.00 FEET TO THE POINT OF BEGINNING.*

*THE PREVIOUSLY DESCRIBED CONTAINING 638 SQUARE FEET, MORE OR LESS.*



LOT 1 OF "INDUSTRIAL PARK ADDITION NO. 2"  
 REAL PROPERTY IN NE 1/4 OF SECTION 08  
 TOWNSHIP 5 SOUTH, RANGE 1 WEST, WILLAMETTE MERIDIAN  
 CITY OF WOODBURN, MARION COUNTY, OREGON



REEL 3142, PAGE 79

LEGEND:

- FOUND MONUMENT
- △ CALCULATED POINT

CURVE TABLE

CURVE #	LENGTH	RADIUS	CHORD
C1	123.36	72.00	N81° 06' 24"E - 108.82
C2	131.93	77.00	S81° 06' 24"W - 116.38

EXHIBIT - B

NATIONAL WAY - PUBLIC UTILITY EASEMENT

**LEI ENGINEERING  
& SURVEYING**  
 OF OREGON

2564 19TH St SE  
 Salem, Oregon 97302  
 (503) 399-3828  
 www.leiengineering.com

SCALE: 1" = 40'  
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 CHECKED: C. FOGERSON, PLS

REGISTERED  
 PROFESSIONAL  
 LAND SURVEYOR

OREGON  
 MARCH 14, 2023  
**CHRIS FOGERSON**  
 81040

EXPIRES 12/31/2025

***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

Walsh Enterprises and Holdings, LLC, 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: See attached Exhibit "A" Legal Description of Permanent Right-of-Way Dedication and attached Exhibit "B" Sketch for Legal Description of Permanent Easement which are by this reference incorporated herein.

Exceptions: N/A.

The true and whole consideration for this conveyance is \$ Zero.

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 27<sup>th</sup> day of June, 2024.

Walsh Enterprises and Holdings, LLC  
By: [Signature]  
Name: JAMES R. WALSH  
Title: President

CORPORATE ACKNOWLEDGEMENT

State of Oregon )  
 ) ss.  
County of Melton )

This instrument was acknowledged before me on this 27 day of June, 2024,  
(day) (month) (year)  
by James R. Walsh, as President  
(Signer's Name) (Title; write N/A if not applicable)  
of Walsh Enterprises and Holdings, LLC  
(Name of Entity of whose behalf record is executed; write N/A if not applicable)



[Signature]  
Notary Public for Oregon  
My Commission Expires February 16, 2026

CITY OF WOODBURN  
270 Montgomery Street  
Woodburn, OR 97071

---

Walsh Enterprises and Holdings, LLC  
2175 N. Pacific Hwy  
Woodburn, OR 97071

By Signature below, the City of Woodburn,  
Oregon Approves and Accepts this Conveyance  
Pursuant to ORS 93.808.

City Recorder:

By: \_\_\_\_\_

**EXHIBIT A**

**DESCRIPTION OF LAND TO BE DEEDED TO THE CITY OF WOODBURN, OREGON:**

**RIGHT OF WAY DEDICATION DESCRIPTION**

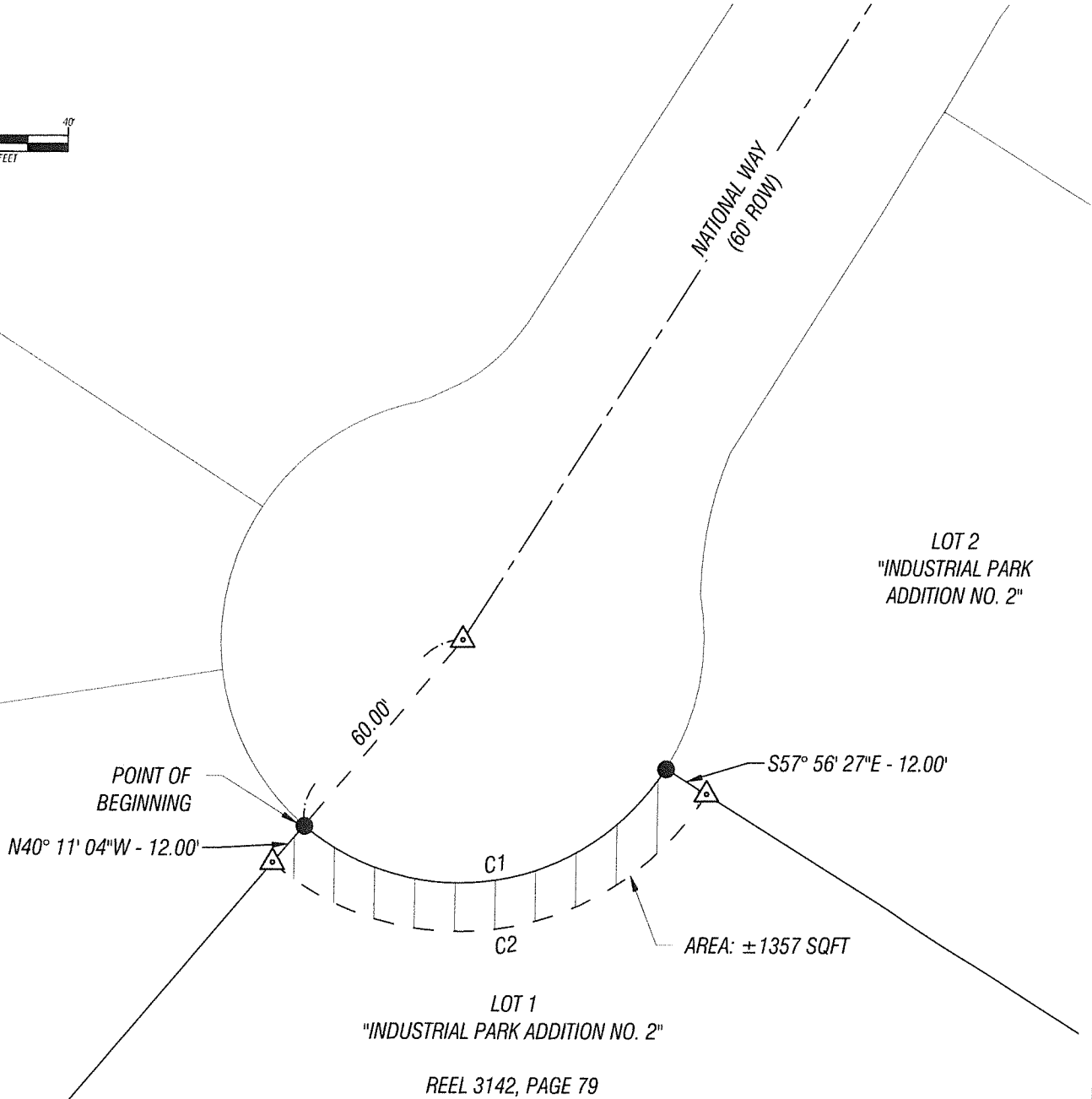
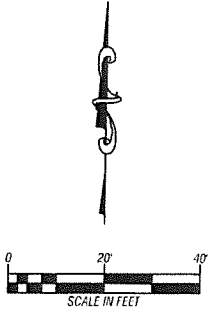
ALL THAT PORTION OF LOT 1, "INDUSTRIAL PARK NO. 2", THE SAME IS DESCRIBED AND RECORDED IN REEL 3142, PAGE 79, MARION COUNTY, OREGON, DEED RECORDS, LYING WITHIN 72.00 FEET OF THE RADIAL CENTER OF THE CUL-DE-SAC OF NATIONAL WAY, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST NORTHWESTERLY CORNER OF SAID LOT 1, THE SAID POINT BEING 60.00 FEET FROM THE RADIAL CENTER OF SAID CUL-DE-SAC; THENCE CONTINUING ON THE MARGINAL BOUNDARY OF SAID NATIONAL WAY, ON A CURVE CONCAVE TO THE NORTH WITH A RADIUS OF 60.00 FEET FOR A DISTANCE OF 102.81 FEET, SAID CURVE CHORD BEARING NORTH 81°06'13" EAST FOR A DISTANCE OF 90.69 FEET; THENCE CONTINUING ON THE NORTH LINE OF SAID LOT 1 SOUTH 57°56'27" EAST FOR A DISTANCE OF 12.00 FEET; THENCE LEAVING SAID NORTH LINE ON A CURVE CONCAVE TO THE NORTH WITH A RADIUS OF 72.00 FEET FOR A DISTANCE OF 123.36 FEET TO THE WEST LINE OF SAID LOT 1, SAID CURVE CHORD BEARING SOUTH 81°06'24" WEST FOR A DISTANCE OF 108.82 FEET; THENCE CONTINUING ON THE WEST LINE THEREOF NORTH 40°11'04" WEST FOR A DISTANCE OF 12.00 FEET TO THE POINT OF BEGINNING.

THE PREVIOUSLY DESCRIBED CONTAINING 1,357 SQUARE FEET, MORE OR LESS.



LOT 1 OF "INDUSTRIAL PARK ADDITION NO. 2"  
 REAL PROPERTY IN NE 1/4 OF SECTION 08  
 TOWNSHIP 5 SOUTH, RANGE 1 WEST, WILLAMETTE MERIDIAN  
 CITY OF WOODBURN, MARION COUNTY, OREGON



LEGEND:

- FOUND MONUMENT
- △ CALCULATED POINT

CURVE TABLE

CURVE #	LENGTH	RADIUS	CHORD
C1	102.81	60.00	N81° 06' 13"E - 90.69
C2	123.36	72.00	S81° 06' 24"W - 108.82

EXHIBIT - B

NATIONAL WAY - RIGHT OF WAY DEDICATION

**LEI ENGINEERING  
& SURVEYING**  
 OF OREGON

2564 19TH St SE  
 Salem, Oregon 97302  
 (503) 399-3828  
 www.leiengineering.com

SCALE: 1" = 40'  
 PROJECT NO.: 15-542  
 DATE: 02-14-2024  
 CHECKED: C. FOGERSON, PLS

REGISTERED  
 PROFESSIONAL  
 LAND SURVEYOR

OREGON  
 MARCH 14, 2023  
**CHRIS FOGERSON**  
 81040

EXPIRES 12/31/2025



AFTER RECORDING RETURN TO:

Woodburn City Recorder  
City of Woodburn  
270 Montgomery Street  
Woodburn, OR 97071

---

**CITY OF WOODBURN, OREGON  
PUBLIC UTILITY EASEMENT**

Walsh Enterprises and Holdings, LLC, *GRANTOR*, grants to the CITY OF WOODBURN, OREGON, hereinafter called *CITY* a permanent easement and right-of-way, including the permanent right to construct, reconstruct, operate, and maintain public utilities on the following described land:

*See attached Exhibit "A" Legal Description of Permanent Easement and attached Exhibit "B" Sketch for Legal Description of Permanent Easement which are by this reference incorporated herein*

*GRANTOR* reserves the right to use the surface of the land for any purpose that will not be inconsistent or interfere with the use of the easement by the *CITY*. No building, permanent structures, or fences shall be placed upon, under or within the property subject to the foregoing easement during the term thereof without the written permission of the *CITY*.

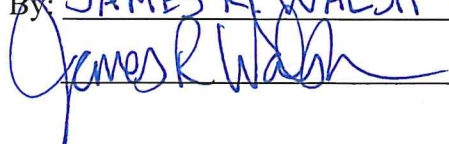
Upon completion of the construction, *CITY* shall restore the surface of the property to its original condition and shall indemnify and hold *GRANTOR* harmless against any and all loss, cost, or damage arising out of the exercise of the rights granted herein.

The true consideration of this conveyance is zero dollars (\$0), and other valuable consideration, the receipt of which is acknowledged by *GRANTOR*.

*GRANTOR* covenants to *CITY* that *GRANTOR* is lawfully seized in fee simple of the above-granted premises, free from all encumbrances and that *GRANTOR* and their heirs and personal representatives shall warrant and forever defend the said premises and every part thereof to *CITY* against the lawful claims and demands of all persons claiming by, though, or under *GRANTOR*.

DATED this 21<sup>st</sup> day of JUNE, 2024.

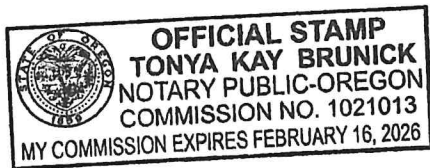
Walsh Enterprises and Holdings, LLC

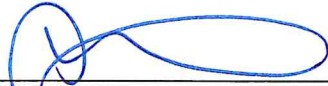
By: JAMES R. WALSH (PRESIDENT)  


CORPORATE ACKNOWLEDGEMENT

STATE OF OREGON, County of M Marion) ss.

The foregoing instrument was acknowledged before me this 27 day of June 2024 by James Robert Walsh, as President of Walsh Enterprises and Holdings a corporation and the foregoing instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors; and each of them acknowledged said instrument to be its voluntary act and deed.



  
NOTARY PUBLIC FOR OREGON  
My Commission Expires: February 16, 2026

CITY OF WOODBURN  
270 Montgomery Street  
Woodburn, OR 97071

---

Walsh Enterprises and Holdings, LLC  
2175 N. Pacific Hwy  
Woodburn, OR 97071

By Signature below, the City of Woodburn, Oregon  
Approves and Accepts this Conveyance Pursuant to  
ORS 93.808.

City Recorder:

\_\_\_\_\_  
Heather Pierson

**EXHIBIT A**

**Legal Description of Easement Area**

*PUBLIC UTILITY EASEMENT DESCRIPTION*

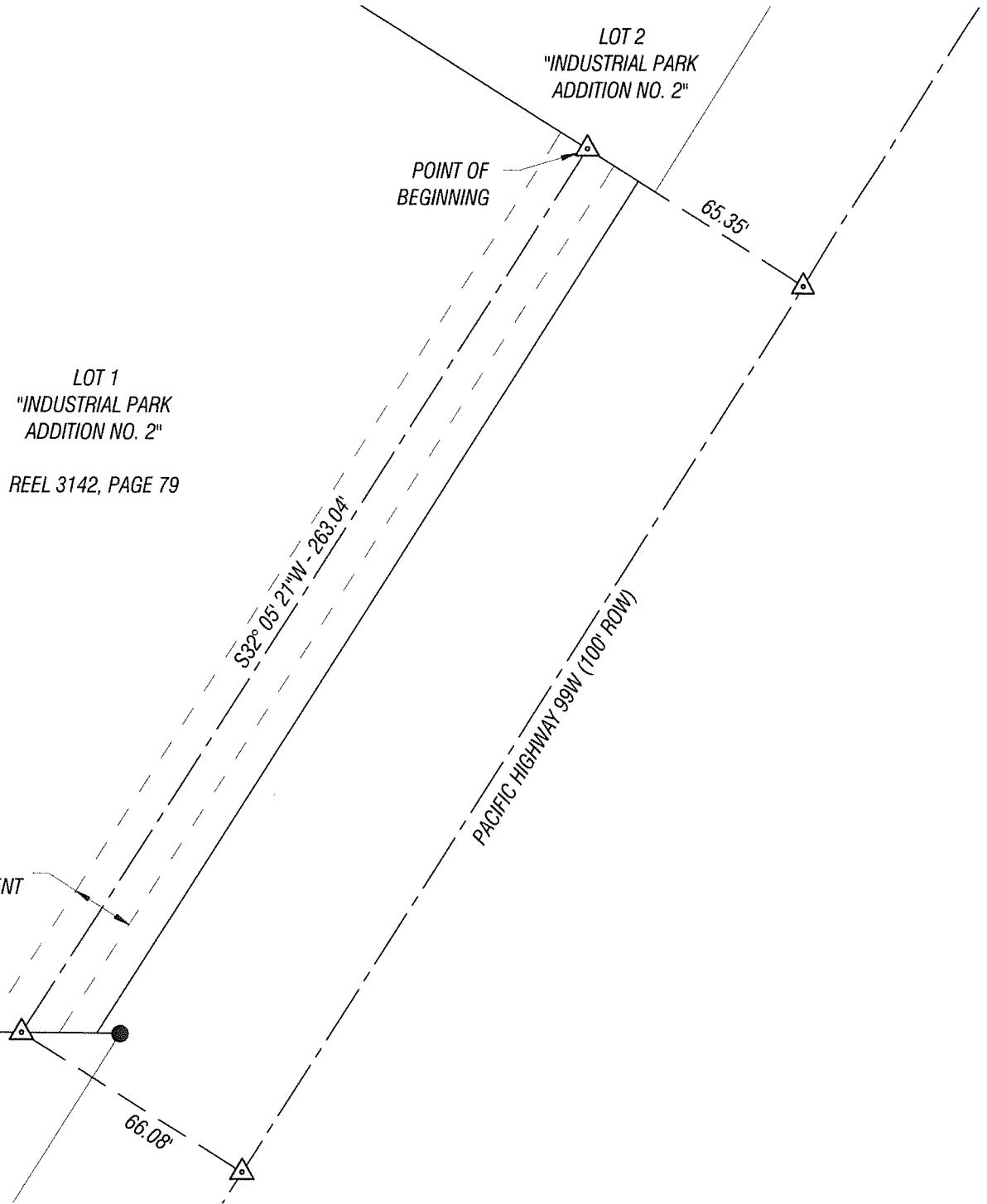
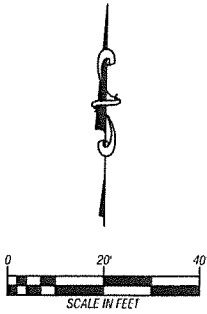
*A 16.00-FOOT STRIP OF LAND OVER, ACROSS, AND UPON LOT 1, "INDUSTRIAL PARK ADDITION NO. 2", THE SAME IS DESCRIBED AND RECORDED IN REEL 3142, PAGE 79, MARION COUNTY, OREGON, DEED RECORDS, BEING 8.00 FEET ON EITHER SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:*

*BEGINNING AT A POINT ON THE NORTH LINE OF SAID LOT 1, SAID POINT BEING DISTANT 65.35 FEET NORMAL OFFSET OF THE CENTERLINE OF PACIFIC HIGHWAY EAST (HWY 99E), AND THE NORTHERN TERMINUS OF THE LINE BEING DESCRIBED HEREIN; THENCE SOUTH 32°05'21" WEST FOR DISTANCE OF 263.04 FEET TO A POINT ON THE SOUTH LINE OF SAID LOT 1, SAID POINT BEING DISTANT 66.08 FEET NORMAL OFFSET OF THE CENTERLINE OF SAID HIGHWAY, AND THE SOUTHERN TERMINUS OF THE LINE BEING DESCRIBED HEREIN.*

*THE SIDELINES OF SAID 16.00-FOOT STRIP TO BE LENGTHENED AND SHORTENED TO TERMINATE AT THEIR RESPECTIVE BOUNDARY INTERSECTIONS.*



LOT 1 OF "INDUSTRIAL PARK ADDITION NO. 2"  
 REAL PROPERTY IN NE 1/4 OF SECTION 08  
 TOWNSHIP 5 SOUTH, RANGE 1 WEST, WILLAMETTE MERIDIAN  
 CITY OF WOODBURN, MARION COUNTY, OREGON



LEGEND:

- FOUND MONUMENT
- △ CALCULATED POINT

EXHIBIT - B

SEWER - PUBLIC UTILITY EASEMENT

**LEI ENGINEERING & SURVEYING**  
 OF OREGON

2564 19TH St SE  
 Salem, Oregon 97302  
 (503) 399-3828  
 www.leiengineering.com

SCALE: 1" = 40'  
 PROJECT NO.: 15-542  
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REGISTERED  
 PROFESSIONAL  
 LAND SURVEYOR

OREGON  
 MARCH 14, 2023  
**CHRIS FOGERSON**  
 81040

EXPIRES 12/31/2025

July 22, 2024

TO: Honorable Mayor and City Council (acting in its capacity as the Local Contract Review Board) through City Administrator

FROM: Curtis Stultz, Public Works Director

SUBJECT: **Award of Construction Contract for the Senecal Creek Bridge Repair Project**

**RECOMMENDATION:**

Award the construction contract for the Senecal Creek Bridge Repair Project to the lowest responsible and responsive bidder, Civil West Construction, LLC, in the amount of \$49,539.00. Staff is requesting approval of an additional \$10,000 for this project as a contingency for potential change orders that may arise during construction.

**BACKGROUND:**

In the fall of 2023, it was discovered that the railing attached to the bridge which carries Senecal Creek Drive over Senecal Creek was beginning to fail. To protect the travelling public, it was determined that the rail could not be repaired and needed replacement. The scope of work includes the removal and replacement of the failed handrail, and the replacement of six (6) sidewalk panels.

Bids for the Project were publicly opened June 27, 2024. Six (6) bids were received, and the results are as follows:

Civil West Construction, LLC	\$49,539.00
Auden Construction, LLC	\$73,400.00
Bent, LLC	\$78,940.00
D&D Concrete & Utilities, Inc.	\$85,000.00
Nataly's Construction LLC	\$90,310.00
Legacy Construction, Inc.	\$96,790.00

The Engineer's Estimate for the project was: \$88,909.64

---

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

The recommended award is approximately 44% lower than the Engineer's Estimate.

**DISCUSSION:**

The contract award is in conformance with public contracting laws of the State of Oregon as outlined in ORS Chapter 279C, and the laws and regulations of the City of Woodburn.

**FINANCIAL IMPACT:**

The subject project is identified in the adopted fiscal year 2024/25 Budget and funded by the Street & Storm Capital Construction Fund (Fund 363).

July 22, 2024

TO: Honorable Mayor and City Council through City Administrator  
THRU: Marty Pilcher, Chief of Police  
FROM: Keith Kimberlin, Lieutenant  
SUBJECT: **Liquor License Application for Restaurante and Cantina Los Dos  
Compas En Casa Marquez LLC**

**RECOMMENDATION:**

Recommend that the OLCC does NOT approve the Liquor License Application for the business Restaurante and Cantina Los Dos Compas En Casa Marquez LLC based upon the attached Findings.

**BACKGROUND:**

Applicant: Luis Fernando Paniagua Fernandez  
765 N. Pacific Highway #5  
Woodburn, OR 97071  
971-216-2590

Point of  
Contact: Luis Fernando Paniagua Fernandez  
765 N. Pacific Highway #5  
Woodburn, OR 97071  
971-216-2590

Business: Restaurante and Cantina Los Dos Compos En Casa Marquez LLC  
553 Front Street  
Woodburn, OR 97071  
971-216-2590

Owner(s): Luis Fernando Paniagua Fernandez  
971-261-2590

---

Agenda Item Review: City Administrator \_\_\_x\_\_\_ City Attorney \_\_\_x\_\_\_ Finance \_\_\_x\_\_\_

License Type(s):

**Full On-Premises, Commercial** - May sell and serve distilled spirits, malt beverages, wine, and cider for consumption at the business location. May sell malt beverages for off-site consumption in securely covered containers provided by the customer. May sell cocktails and wine to-go in sealed containers as of June 11, 2021. Food service required. Must purchase distilled liquor only from an Oregon Liquor store, or from another full On-Premises Sales licensee who has purchased the distilled liquor from an Oregon Liquor store.

On June 11, 2024, the Woodburn Police Department received an application for Full On-Premises commercial sales for Restaurante and Cantina Los Dos Compos En Casa Marquez LLC. The business is stated to be opening as a new Restaurant and Bar at the location of 553 Front Street, which has previously operated under the name Casa Marquez Mexican Grill & Cocktail. The seating capacity is 34 for the entire location.

The hours of operation for the business are listed as 10AM to 8PM Tuesday through Sunday, and closed on Monday. The only noted entertainment will be for recorded music at the location. The Woodburn Police Department has not received any communication from the public or surrounding businesses in support of or against the proposed applicant.

### **DISCUSSION:**

The Police Department has completed a background investigation of Restaurante and Cantina Los Dos Compos En Casa Marquez LLC., and the listed owner, Luis Fernando Paniagua-Fernandez, running their information through various police databases and business-related databases.

#### **Background on Luis Fernando Paniagua-Fernandez**

Of noted concern when completing the background check was that Mr. Paniagua-Fernandez was arrested and charged with a DUII with a BAC fail in November 2021. At the time of Mr. Paniagua-Fernandez's arrest, he was only eighteen (18) years old. It should be noted that as part of the disposition of the DUII charge, Mr. Paniagua-Fernandez completed a DUII diversion program through Marion County correctional services.

Additionally, in September 2022, Mr. Paniagua-Fernandez's vehicle was involved in a crash hit and run wherein an unidentified driver failed to report the incident and left the scene of the vehicle before police were able to arrive. When Mr. Paniagua-Fernandez was contact by police following the incident, he denied



being the operator of the vehicle, but he could not explain where his car was or why it was not in his driveway. While no citations or charges were filed against Mr. Paniagua-Fernandez as a result of that incident, it was noted in the police report that Mr. Paniagua-Fernandez had a strong odor of alcohol emanating from his person when he was talking with the responding police officer.

Background on Business Location (553 Front Street)

While the application for Restaurante and Cantina Los Dos Compos En Casa Marquez LLC has been submitted as a "New Outlet," the physical business location is currently run as a restaurant and bar with a similar name. Police have responded to that location four times over the last year due to criminal activity:

- Case No. 2023-00008905, Criminal Mischief III (Vandalism) - July 2023
- Case No. 2023-00011369, Assault IV, Criminal Mischief I (Crime Damage) - September 2023
- Case No. 2023-00013131, Criminal Mischief II (Vandalism) - October 2023
- Case No. 2024-0002638, Menacing, Unlawful Use of Weapon - March 2024

Given all the information we have received, the Woodburn Police Department is recommending that the City Council recommend denial of the OLCC Liquor License Application for Restaurante and Cantina Los Dos Compos En Casa Marquez LLC for the following reasons:

- The Applicant has demonstrated a habit of using alcoholic beverages to excess and is not of good repute or moral character;
- There is a history of serious and persistent problems involving disturbances, lewd or unlawful activities or noise in the premises proposed to be licensed and/or involving patrons of the establishment in the immediate vicinity of the premises, which are related to the sale or service of alcohol;
- Public interest or convenience does not demand a license at this location wherein the licensed premises will be located in an area of downtown Woodburn that already has 13 other licensed premises, has a history of serious or persistent problems with unlawful activities, noise or disturbances, and the applicant has no prior relevant experience in operating a licensed premise.

**FINANCIAL IMPACT:**

None

Attachments:

- Findings of Fact

**Findings Supporting the City of Woodburn’s Local Government Recommendation that OLCC deny the Liquor License Application for Restaurante and Cantina Los Dos Compos En Casa Marquez LLC for Licensed Premises at 553 N. Front Street, Woodburn, Oregon.**

**FINDINGS OF FACT**

**Nature of the Application**

- A. On June 11, 2024, the City of Woodburn (“City”), through the Woodburn Police Department, received a liquor license application (“Application”) from Restaurante and Cantina Los Dos Compos En Casa Marquez LLC (the “Applicant”).
- B. The Applicant is seeking a local government recommendation from the City, as is required by law.
- C. The Application is for a “Full On-Premises, Commercial” license. This would allow the Applicant to sell and serve distilled spirits, malt beverages, wine, and cider for consumption at the business location; to sell malt beverages for off-site consumption in securely covered containers provided by the customer; and to sell cocktails and wine to-go in sealed containers with food service required.
- D. The licensed premises would be located at 553 N. Front Street, in the center of downtown Woodburn.
- E. The hours of operation would be 10 a.m. to 8 p.m., Tuesday – Sunday (closed Monday).
- F. Entertainment at the premises would include recorded music.
- G. The business would have seating for 34 patrons and no outside seating.

(See Exhibit 1)

**Applicant’s Prior History with Alcohol & Issues of Trustworthiness**

- A. Mr. Paniagua-Fernandez was arrested and charged with a DUII with a BAC fail in November 2021. At the time of Mr. Paniagua-Fernandez’s arrest, he was just eighteen (18) years old. (See Exhibit 2)
- B. As part of the disposition of his DUII charge, Mr. Paniagua-Fernandez completed a DUII diversion program through Marion County correctional services, which concluded in January 2023. (See Exhibit 3)
- C. In September 2022, Mr. Paniagua-Fernandez’s vehicle was involved in a crash hit and run wherein an unidentified driver failed to report the incident and fled the scene and the crashed vehicle before police were able to arrive. The vehicle was located by police showing significant damage and deployed airbags after it appeared to have hit a number

of street trees and a fire hydrant along Kirksey Street in Woodburn. Several empty beer bottles were also located inside the vehicle. When Mr. Paniagua-Fernandez was contact by police in the immediate hours following the incident, he denied being the operator of the vehicle, but he could not explain where his car was or why it was not in his driveway. While no citations or charges were filed against Mr. Paniagua-Fernandez as a result of that incident, it was noted in the police report that Mr. Paniagua-Fernandez appeared to be in street clothes at the time police contact him, even though he claimed to have been sleeping, and he had a strong odor of alcohol emanating from his person when he was talking with the responding police officer. (See Exhibit 4)

#### Proposed Licensed Premises Location & Problematic History

- A. The site of the proposed licensed premises is located at 355 North Front Street in downtown Woodburn.
- B. Downtown Woodburn is an area of the City that has a history of persistent problems with unlawful activities involving drugs and alcohol. (See Exhibit 5)
- C. OLCC records show that there are already 13 licensed premises in the Woodburn downtown (See Exhibit 6).
- D. The application for Restaurante and Cantina Los Dos Compos En Casa Marquez LLC has been submitted as a “New Outlet,” however, the physical business location has been run as a restaurant and bar with a similar name for many years (“Casa Marquez Mexican Grill & Cocktail”). Police have responded to that location four times over the last year due to problems involving disturbances and unlawful activities in the premises or by patrons in the immediate vicinity of the premises. Below is a summary of each incident:
  - Case No. 2023-00008905, Criminal Mischief III (Vandalism): Reported disturbance that started in the bar and resulted in a bottle being thrown at a vehicle outside the business (July 2023). (See Exhibit 7)
  - Case No. 2023-00011369, Assault IV, Criminal Mischief I (Crime Damage): Report of domestic disturbance inside the business location that included a reported assault of another patron (September 2023). (See Exhibit 8)
  - Case No. 2023-00013131, Criminal Mischief II (Vandalism): Report of a very intoxicated individual that was refused further service and then broke the window of the business (October 2023). (See Exhibit 9)
  - Case No. 2024-0002638, Menacing, Unlawful Use of Weapon: Report of a disturbance in the bar that included an aggressive confrontation and later a patron following another out of the bar and producing a handgun (March 2024). (See Exhibit 10)<sup>1</sup>
- E. Applicant has no prior relevant experience in operating a licensed premise.

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<sup>1</sup> Exhibits 8-10 are provided in an abbreviated redacted format pursuant to Oregon Public Records Law exemptions ORS 192.345(1) and (3).

## APPLICABLE LAW

### **A. OAR 845-005-0308 – Valid Bases for Adverse Local Government Recommendation**

(3) For the unfavorable recommendation of a local governing body to be valid, the grounds must be found in the license refusal bases of ORS 471.313(4), 471.313(5), OAR 845-005-0320, 845-005-0325, or 845-005-326, or the license restrictions bases of 845-005-0355, and must be supported by reliable factual information.

### **B. ORS 471.313 – Grounds for Refusing to Issue License or for Issuing Restricted License**

The Oregon Liquor and Cannabis Commission may refuse to issue a license, or may issue a restricted license, to any applicant under the provisions of this Chapter if the commission has reasonable ground to believe any of the following to be true:

(1) That there are sufficient licensed premises in the locality set out in the application, or that the granting of a license in the locality set out in the application is not demanded by public interest or convenience. . . .

\* \* \*

(4) That the applicant:

(a) Is in the habit of using alcoholic beverages, habit-forming drugs or controlled substances to excess.

\* \* \*

(f) Is not of good repute or moral character.

\* \* \*

(5) That there is a history of serious and persistent problems involving disturbances, lewd or unlawful activities or noise either in the premises proposed to be licensed or involving patrons of the establishment in the immediate vicinity of the premises if the activities in the immediate vicinity of the premises are related to the sale or service of alcohol under the exercise of the license privilege. Behavior which is grounds for refusal of a license under this section, where so related to the sale or service of alcohol, includes, but is not limited to obtrusive or excessive noise, music or sound vibrations; public drunkenness; fights; altercations; harassment; unlawful drug sales; alcohol or related litter; trespassing on private property; and public urination. . . .

### **C. OAR 845-005-0325 – License Refusal Reasons: Applicant Qualifications**

The Commission may refuse to license an applicant if any of the criteria in this rule apply.

\* \* \*

(4) The applicant has a recent history or record of using alcohol or controlled substances to excess.

**D. OAR 845-005-0326 – License Not Demanded by Public Interest or Convenience**

ORS 471.313(1) allows the Commission to deny a license that public interest or convenience does not demand. The following are some of the public interest or convenience reasons for which the Commission may deny a license unless the applicant shows good cause to overcome the criteria.

**(3) Problem Areas:**

- (a) The licensed premises will be located in an area that has a history of serious or persistent problems with unlawful activities, noise or disturbances. These problems need not be alcohol-related.

**CONCLUSION**

- A. The City Council's unfavorable local government recommendation is based on the license refusal bases of ORS 471.313(4), 471.313(5), 845-005-0325, and 845-005-326 and is supported by reliable factual information.
- B. The Applicant's recent DUII arrest occurred in late 2021 when the applicant was just eighteen years old. In a second encounter with police less than a year later (September 2022), while Applicant was still under supervision with Marion County Corrections, and following a crash involving Applicant's vehicle, Applicant was again observed as being under the influence of alcohol. Accordingly, given this recent history of an underaged individual using alcohol to excess, OLCC should find that the Applicant's liquor license is not in the public's interest and the Application should be denied.
- C. During the incident in September 2022 involving the Applicant's vehicle being involved in a crash hit and run, Applicant was considered by Woodburn police officers to be less than truthful, candid, or forthright concerning his whereabouts during the incident or the status of his vehicle. While Mr. Paniagua-Fernandez would not admit to being the operator of the vehicle, it remains troubling that the involved vehicle was registered in his name and he could not account for the whereabouts of his vehicle or why it was not in the driveway of his residence. When being questioned by Woodburn police, Mr. Paniagua-Fernandez was also observed as being in street clothes when he had allegedly just been sleeping and he had a strong odor commonly associated with that of an alcoholic beverage emanating from his person. Accordingly, given the heightened concern about Applicant's past behavior and lack of cooperation and candor with local law enforcement, OLCC should find that the Applicant's liquor license is not in the public's interest and the Application should be denied.
- D. OLCC has a statutory authority to refuse a liquor license where there is a history of serious and persistent problems involving disturbances, lewd or unlawful activities or

noise either in the premises proposed to be licensed or involving patrons of the establishment in the immediate vicinity of the premises if the activities in the immediate vicinity of the premises are related to the sale or service of alcohol under the exercise of the license privilege. Based on police records for the location of the proposed licensed premises, there have been at least four troubling calls for service with associated criminal activity at this location in the past year. Incidents have included assault, vandalism, menacing, and unlawful use of a weapon (See Exhibits 7-10). Accordingly, since there has been this history of serious and persistent problems at the premise location, the Application should be denied.

- E. The proposed licensed premises, located at 355 North Front Street, is in the heart of downtown Woodburn. Despite extensive efforts by the City to improve and enhance the quality of life downtown for all Woodburn residents, the downtown area still has a history of persistent problems with unlawful activities involving drugs, alcohol, and other crimes. This is well documented by Woodburn Police Department records (See Exhibit 5).

Under OAR 845-005-0326(3), the burden is on the Applicant to show that alcoholic beverage sale or service will not contribute to further downtown problems and the Applicant has not done this. Furthermore, Applicant has no prior relevant experience operating a licensed premise.

- F. OLCC has a statutory authority to refuse a liquor license where it determines that there are already sufficient licensed premises in the locality set out in the application. Based on OLCC's records, there are currently 13 licensed premises in the Woodburn downtown core (See Exhibit 6). Accordingly, since there are already sufficient licensed premises in the Woodburn downtown, the Application should be denied.
- G. Accordingly, the City Council's local government recommendation to deny the liquor license for Restaurante and Cantina Los Dos Compos En Casa Marquez LLC, which is pending before OLCC, is valid and supported by these findings, and OLCC should deny the Restaurante and Cantina Los Dos Compos En Casa Marquez LLC liquor license.

# LIQUOR LICENSE APPLICATION

Page 1 of 4

Check the appropriate license request option:

☒ New Outlet | ☐ Change of Ownership | ☐ Greater Privilege | ☐ Ad

Select the license type you are applying for.

More information about all license types is available [online](#).

## Full On-Premises

- ☒ Commercial  
☐ Caterer  
☐ Public Passenger Carrier  
☐ Other Public Location  
☐ For Profit Private Club  
☐ Nonprofit Private Club

## Winery

- ☐ Primary location  
Additional locations: ☐ 2nd ☐ 3rd ☐ 4th ☐ 5th

## Brewery

- ☐ Primary location  
Additional locations: ☐ 2nd ☐ 3rd

## Brewery-Public House

- ☐ Primary location  
Additional locations: ☐ 2nd ☐ 3rd

## Grower Sales Privilege

- ☐ Primary location  
Additional locations: ☐ 2nd ☐ 3rd

## Distillery

- ☐ Primary location  
Additional tasting locations: (Use the DISTT form [HERE](#))

## ☐ Limited On-Premises

## ☐ Off Premises

## ☐ Warehouse

## ☐ Wholesale Malt Beverage and Wine

City of Woodburn - 270 Montgomery St.  
Receipt #: 2024-00089502  
From: RESTAURANTE AND CANTINA LOS DOS C  
EN CASA MARQUEZ-LIQUOR  
06/11/2024 4:12:52 PM

3219 - Other Licenses	100.00
Receipt Total	100.00
Total Charge	100.00
Total Remitted	100.00
Total Received	100.00

Thank you for your payment!

Customer Copy

### LOCAL GOVERNMENT

After providing your recommendation, return this form to the applicant **WITH** the recommendation marked below.

Name of City OR County (not both)

City of Woodburn  
270 Montgomery St.  
Woodburn, OR 97071

Please make sure the name of the Local Government is printed legibly or stamped below.

Date application received:

Optional: Date Stamp Received Below

- ☐ Recommend this license be granted  
☐ Recommend this license be denied  
☐ No Recommendation/Neutral

Printed Name

Date

Signature

RESTAURANTE AND CANTINA LOS DOS COMPAS EN CASA MARQUEZ LLC

Trade Name

EXHIBIT 1

Page 1 of 12

# LIQUOR LICENSE APPLICATION

Page 2 of 4

## APPLICANT INFORMATION

Identify the applicants applying for the license. This is the entity (example: corporation or LLC) or individual(s) applying for the license. Please add an additional page if more space is needed.

Name of entity or individual applicant #1: Luis Fernando Paniagua Fernandez	Name of entity or individual applicant #2:
Name of entity or individual applicant #3:	Name of entity or individual applicant #4:

## BUSINESS INFORMATION

Trade Name of the Business (name customers will see):

RESTAURANTE AND CANTINA LOS DOS COMPAS EN CASA MARQUEZ LLC

Premises street address (The physical location of the business and where the liquor license will be posted):

553 N Front st

City: Woodburn	Zip Code: 97071	County: marion
-------------------	--------------------	-------------------

Business phone number: 971 216 2590	Business email: [REDACTED]
--	-------------------------------

Business mailing address (where we will send any items by mail as described in OAR 845-004-0065(1)):

765 S pacific hwy Unit 5

City: Woodburn	State: OR	Zip Code: 97071
-------------------	--------------	--------------------

Does the business address currently have an OLCC liquor license? ☒ Yes ☐ No

Does the business address currently have an OLCC marijuana license? ☐ Yes ☒ No

**APPLICATION CONTACT INFORMATION** – Provide the point of contact for this application. If this individual is not an applicant or licensee, the Authorized Representative Form must be completed and submitted with this application.

Application Contact Name:

Luis Fernando Paniagua Fernandez

Phone number: [REDACTED]	Email: [REDACTED]
-----------------------------	----------------------



# LIQUOR LICENSE APPLICATION

Page 3 of 4

## TERMS

- "Real property" means the real estate (land) and generally whatever is erected or affixed to the land (for example, the building) at the business address.
- "Common area" is a privately owned area where two or more parties (property tenants) have permission to use the area in common. Examples include the walking areas between stores at a shopping center, lobbies, hallways, patios, parking lots, etc. An area's designation as a "common area" is typically identified in the lease or rental agreement.

## ATTESTATION – OWNERSHIP AND CONTROL OF THE BUSINESS AND PREMISES

- Each applicant listed in the "Application Information" section of this form has read and understands OAR 845-005-0311 and attests that:
  1. At least one applicant listed in the "Application Information" section of this form has the legal right to occupy and control the real property proposed to be licensed as shown by a property deed, lease, rental agreement, or similar document.
  2. No person not listed as an applicant in the "Application Information" section of this form has an ownership interest in the business proposed to be licensed, unless the person qualifies to have that ownership interest waived under OAR 845-005-0311.
  3. The licensed premises at the premises street address proposed to be licensed either:
    - a. Does not include any common areas; or
    - b. Does include one or more common areas; however, only the applicant(s) have the exclusive right to engage in alcohol sales and service in the area to be included as part of the licensed premises.
      - In this circumstance, the applicant(s) acknowledges responsibility for ensuring compliance with liquor laws within and in the immediate vicinity of the licensed premises, including in portions of the premises that are situated in "common areas" and that this requirement applies at all times, even when the business is closed.
  4. The licensed premises at the premises street address either:
    - a. Has no area on property controlled by a public entity (like a city, county, or state); or
    - b. Has one or more areas on property controlled by a public entity (like a city, county, or state) and the public entity has given at least one of the applicant(s) permission to exercise the privileges of the license in the area.

# LIQUOR LICENSE APPLICATION

RESTAURANTE AND CANTINA LOS DOS COMPAS EN CASA MARQUEZ LLC

Page 4 of 4

**Applicant Signature(s):** Each individual listed in the applicant information box on page 2 (entity or individuals applying for the license) must sign the application.

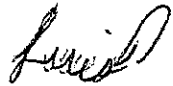
If an applicant listed in the applicant information box on page 2 is an entity (such as a corporation or limited liability company), at least one member or officer of the entity must sign the application.

- Each applicant listed in the "Application Information" section of this form has read and understands OAR 845-006-0362 and attests that:

1. Upon licensure, each licensee is responsible for the conduct of others on the licensed premises, including in outdoor areas.
2. The licensed premises will be controlled to promote public safety and prevent problems and violations, with particular emphasis on preventing minors from obtaining or consuming alcoholic beverages, preventing over-service of alcoholic beverages, preventing open containers of alcoholic beverages from leaving the licensed premises unless allowed by OLCC rules, and preventing noisy, disorderly, and unlawful activity on the licensed premises.

I attest that all answers on all forms and documents, and all information provided to the OLCC as a part of this application, are true and complete.

Luis Fernando Paniagua Fernandez



06/10/2024

Applicant name

Signature

Date

Applicant name

Signature

Date

Applicant name

Signature

Date

Applicant name

Signature

Date

**Applicant/Licensee Representative(s):** If you would like to designate a person/entity to act on your behalf you must complete the Authorized Representative Form. You may submit the form with the application or anytime thereafter. The form must be received by the OLCC before the representative can receive or submit information for the applicant.

*Please note that applicants/licensees are responsible for all information provided, even if an authorized representative submits additional forms on behalf of the applicant.*

**EXHIBIT 1**

**Page 4 of 12**



# OREGON LIQUOR & CANNABIS COMMISSION INDIVIDUAL HISTORY FORM

[PRINT FORM](#)[RESET FORM](#)

1. Name (Print):	Fernandez Paniagua	Luis	Fernando
	Last	First	Middle
2. Other names used (maiden, other):			
3. Do you have a Social Security Number (SSN) issued by the United States Social Security Administration? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>			
If yes, you must list your SSN: [REDACTED]			
<b>SOCIAL SECURITY NUMBER DISCLOSURE:</b> As part of your application for an initial or renewal license, Federal and State laws require you to provide your Social Security Number (SSN) to the Oregon Liquor Control Commission (OLCC) for child support enforcement purposes (42 USC § 666(a)(13) & ORS 25.785). If you are an applicant or licensee and fail to provide your SSN, the OLCC may refuse to process your application. Your SSN will be used only for child support enforcement purposes unless you indicate below.			
Based on our authority under ORS 471.311 and OAR 845-005-0312(6), we are requesting your <u>voluntary consent</u> to use your SSN for the following administrative purposes only: to match your license application to your Alcohol Server Education records (where applicable), and to ensure your identity for criminal records checks. OLCC will not deny you any rights, benefits or privileges otherwise provided by law if you do not consent to use of your SSN for these administrative purposes (5 USC § 552(a)).			
4. Do you consent to the OLCC's use of my SSN as described above? Check this box: <input checked="" type="checkbox"/>			
5. Date of Birth (DOB):	[REDACTED]	[REDACTED]	[REDACTED]
	(mm)	(dd)	(yyyy)
6. Driver License or State ID #:	[REDACTED]	7. State OR	
8. Contact Phone: [REDACTED]			
9. E-mail Address: [REDACTED]			
10. Mailing Address:	765 S Pacific Hwy Unit 5	Woodburn	OR 9707
	(Number and Street)	(City)	(State) (Zip Code)
11. In the past 10 years, have you been convicted of a felony or a misdemeanor in a U.S. state outside of Oregon?			
No <input checked="" type="checkbox"/> Yes <input type="checkbox"/> (If yes, explain in the space provided, below) Unsure <input type="checkbox"/> Choose this option and provide an explanation if, for example: you were arrested or went to court, but are unsure of whether there was a conviction; you paid a fine or served probation or parole, but are unsure of whether there was a conviction; or if you know you had a conviction, but you are unsure of whether the conviction has been removed from your record, etc.			



OREGON LIQUOR & CANNABIS COMMISSION  
**INDIVIDUAL HISTORY FORM**

12. Do you, or any entity that you are a part of, currently hold or have you previously held a recreational marijuana license in Oregon? (Note: marijuana worker permits are not marijuana licenses.)

No ☒ Yes ☐ Please list licenses (and year(s) licensed) below    Unsure ☐ Please include an explanation:

13. Do you, or any entity that you are a part of, hold an alcohol license in a U.S. state outside of Oregon?

No ☒ Yes ☐ Please list licenses (and year(s) licensed) below    Unsure ☐ Please include an explanation:

14. Do you or any entity that you are a part of, have any other liquor license applications pending with the OLCC?

No ☒ Yes ☐ Please list applications below    Unsure ☐ Please include an explanation:

You must sign your own form (electronic signature acceptable). Another individual, such as your attorney or an individual with power of attorney, **may not** sign your form.

**Affirmation**

Even if I receive assistance in completing this form, I affirm by my signature below, that my answers on this form are true and complete. I understand the OLCC will use the above information to check my records, including but not limited to my criminal history. I understand that if my answers are not true and complete, the OLCC may deny my license application.

Name (Print):	Fernandez Paniagua Last	Luis First	Fernando Middle
Signature:	<i>Luis J.?</i>		Date: 06/10/2024

This box for OLCC use ONLY

\_\_\_\_\_ Does the individual currently hold, or has the individual previously held, an OLCC- issued liquor license?



## OREGON LIQUOR & CANNABIS COMMISSION BUSINESS INFORMATION

Please Print or Type

Applicant Name: Luis Fernando Paniagua Fernandez

Phone: [REDACTED]

Trade Name (dba): RESTAURANTE AND CANTINA LOS DOS COMPAS EN CASA MARQUEZ LLC

Business Location Address: 553 N Front st

City: Woodburn

ZIP Code: 97071

### DAYS AND HOURS OF OPERATION

Business Hours:

Outdoor Area Hours:

The outdoor area is used for:

Sunday 10 to 8  
Monday closed to  
Tuesday 10 to 8  
Wednesday 10 to 8  
Thursday 10 to 8  
Friday 10 to 8

Sunday to  
Monday to  
Tuesday to  
Wednesday to  
Thursday to  
Friday to

☐ Food service Hours: to  
☐ Alcohol service Hours: to  
☐ Enclosed, how

The exterior area is adequately viewed and/or supervised by Service Permittees.

Saturday 10 to 8

Saturday to

(Investigator's Initials)

Seasonal Variations: ☐ Yes ☐ No If yes, explain:

### ENTERTAINMENT

Check ALL that apply:

- |  |   |
|--|---|
| <input type="checkbox"/> Live Music                                    | <input type="checkbox"/> Karaoke                |
| <input checked="" type="checkbox"/> Recorded Music                     | <input type="checkbox"/> Coin-operated Games    |
| <input type="checkbox"/> DJ Music                                      | <input type="checkbox"/> Video Lottery Machines |
| <input type="checkbox"/> Dancing <input type="checkbox"/> Nude Dancing | <input type="checkbox"/> Social Gaming          |
| <input type="checkbox"/> Live Entertainment                            | <input type="checkbox"/> Pool Tables            |
| <input type="checkbox"/> Minor Entertainers                            | <input type="checkbox"/> Other: _____           |

\*Minor Entertainers in an area prohibited to minors need prior approval from the OLCC

### DAYS & HOURS OF LIVE OR DJ MUSIC

Sunday to  
Monday to  
Tuesday to  
Wednesday to  
Thursday to  
Friday to  
Saturday to

### SEATING COUNT

Restaurant: 34 Outdoor: 0 Lounge: 0

Banquet: 0 Other (explain): 0 Total Seating: 0

#### OLCC USE ONLY

Investigator Verified Seating: (Y) (N)

Investigator Initials: \_\_\_\_\_

Date: \_\_\_\_\_

I understand if my answers are not true and complete, the OLCC may deny my license application.

Applicant Signature: Luis A.

Date: 06/10/2024

[www.oregon.gov/olcc](http://www.oregon.gov/olcc)



**FULL ON-PREMISES, COMMERCIAL (F-COM)  
FULL ON-PREMISES, FOR-PROFIT PRIVATE CLUB (F-FPC)  
FOOD SERVICE AFFIRMATION**

Applicant / Licensee Luis Fernando Paniagua Fernandez

Trade Name of the Business (Name Customers Will See)

RESTAURANTE AND CANTINA LOS DOS COMPAS EN CASA MARQUEZ LLC

Business Address \_\_\_\_\_  
(Number, Street Address, City, and Zip Code)

I affirm that I have read OLCC 845-006-0459, OLCC 845-006-0460, and OLCC 845-006-0466 and

I affirm:

- I understand that "meal" means a food item, or combination of food items, prepared or cooked on the licensed premises that the Commission determines is a main course and is a serving of food sufficient to satisfy the appetite of one individual. Food items that are appetizers, snacks, and desserts do not qualify as a meal. Examples include, but are not limited to, popcorn, peanuts, chips, a serving of food that is not sufficient to satisfy the appetite of one individual, and food items offered by the licensee as other than a meal.
- I understand that "dining seats" means seating at tables or food counters as defined in OLCC 845-006-0340(2)(i) located in areas of the licensed premises regularly open to the public where the Commission determines that each table top or seating area provides a minimum space that will accommodate a place setting consisting of a plate or dish, glassware, napkin and utensils for each seat. Seats at counters in entertainment areas and at bars as defined in OLCC 845-006-0340 do not qualify as dining seating.
- I will have at least 30 dining seats during a time period which must last at least two hours prior to 10:00 p.m.
- I will make at least five different meals available at all times and in all areas where alcohol service is available. However, I may make fewer than five different meals available if the OLCC has determined that the clearly dominant emphasis in the areas with alcoholic beverage service is food service.
- I will always have a food preparation area and equipment on my licensed premises that are adequate to meet the food service requirements of this license.
- I am authorized to sign this form on behalf of the applicant or licensee.

Name (print) Luis Fernando Paniagua Fernandez Date 06/10/2024

Signature 



Oregon Liquor &amp; Cannabis Commission

**LIMITED LIABILITY COMPANY (LLC) QUESTIONNAIRE****PRINT FORM****RESET FORM**LLC Name RESTAURANTE AND CANTINA LOS DOS COMPAS EN CASA MARQUEZ LLC

Trade Name of Business (Name Customers Will See) \_\_\_\_\_

The LLC named in this document is a (see page 1 for definitions):



Manager-Managed LLC



Member-Managed LLC

**This section is ONLY for a manager-managed LLC.** (Directions on page 1. You may include information on a separate sheet.)

Name of Managing Member (please print)	Name of Managing Member (please print)
Luis Fernando Paniagua Fernandez	

**This section is for BOTH a manager-managed LLC and a member-managed LLC.** (Directions on page 1. You may include information on a separate sheet.)

Name of Member (please print)	Percentage of issued membership held

**This section is ONLY for an LLC with the listed officers.** (Directions on page 1. You may include information on a separate sheet.)

Title	Name (please print)
President	
Secretary	
Treasurer	
Vice president with responsibility over the operation of the business	

**SERVER EDUCATION DESIGNEE** (Directions on page 1)

Name (please print)	Date of Birth
Luis Fernando Paniagua Fernandez	

**SIGNATURE** (Directions on page 1)

NAME of Signing Person (please type or print)

Luis PaniaguaDATE 06/10/2024

SIGNATURE of signing person (may electronically sign)

**This box for OLCC use ONLY**

Does the entity hold, or has it ever held, an OLCC-issued liquor license? \_\_\_\_\_




# OREGON LIQUOR & CANNABIS COMMISSION FLOOR PLAN

## INSTRUCTIONS

1. Your floor plan **MUST** be submitted on the Floor Plan Form below
2. Use a separate Floor Plan Form for each level or floor of the building. The floor plan(s) must show the specific areas of your premises.
3. Label areas i.e. dining area, bar, lounge, lottery, outside patio and sidewalk cafe areas.
4. Food Counters should be labeled as such, and not as a Bar. At a Food Counter, food service/consumption is the predominant activity. At a Bar, alcohol service/consumption is the predominant activity. Please label Food Counters and Bars accordingly.
5. Include all tables and chairs. (See Example below)
6. If you have an outdoor area, please show it in reference to the licensed building.
7. If you have sidewalk seating please contact your local government to see if a permit is required for use.
8. If this is a Food Cart Pod please label the floor plan where the alcohol will be served from, where food will be served, where the seating will be and any other food carts that are in the pod.

Please do not use complex architect drawings as your floor plan, unless they are clearly readable and show all the tables and chairs.

### RESTAURANT EXAMPLE

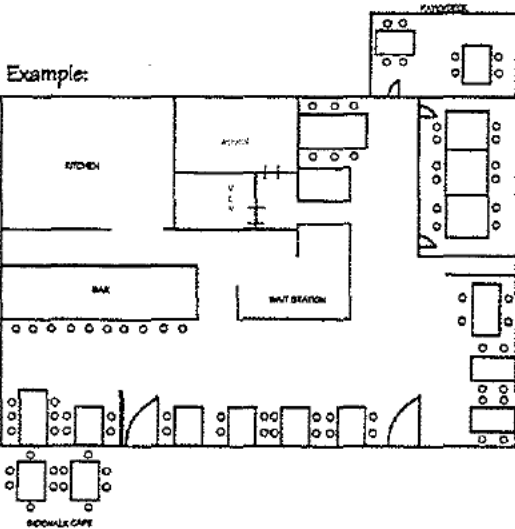
 OREGON LIQUOR & CANNABIS COMMISSION  
**FLOOR PLAN FORM**

Your floor plan must be submitted on this form

My Restaurant LLC  
Applicant Name

My Restaurant  
Trade Name (Optional)

**Example:**




Labels: KITCHEN, BAR, DINING AREA, SIDEWALK CAFE, RESTROOM, OUTDOOR SEATING

\_\_\_\_\_  
OLCC USE ONLY  
SEAL OR POSTING ASSIGNMENT (12)

Date: \_\_\_\_\_ Initials: \_\_\_\_\_

(Rev. 02/22)

### FOOD CART POD EXAMPLE

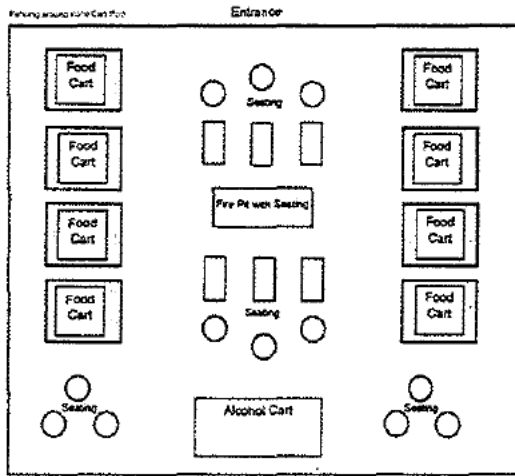
 OREGON LIQUOR & CANNABIS COMMISSION  
**FLOOR PLAN FORM**

Your floor plan must be submitted on this form

Food Carts LLC  
Applicant Name

Everyday Food Cart Pod  
Trade Name (Optional)

**Entrance**



Labels: Food Cart, Seating, Pre-Paid with Seating, Alcohol Cart

\_\_\_\_\_  
OLCC USE ONLY  
SEAL OR POSTING ASSIGNMENT (12)

Date: \_\_\_\_\_ Initials: \_\_\_\_\_

(Rev. 02/22)





# OREGON LIQUOR & CANNABIS COMMISSION FLOOR PLAN FORM

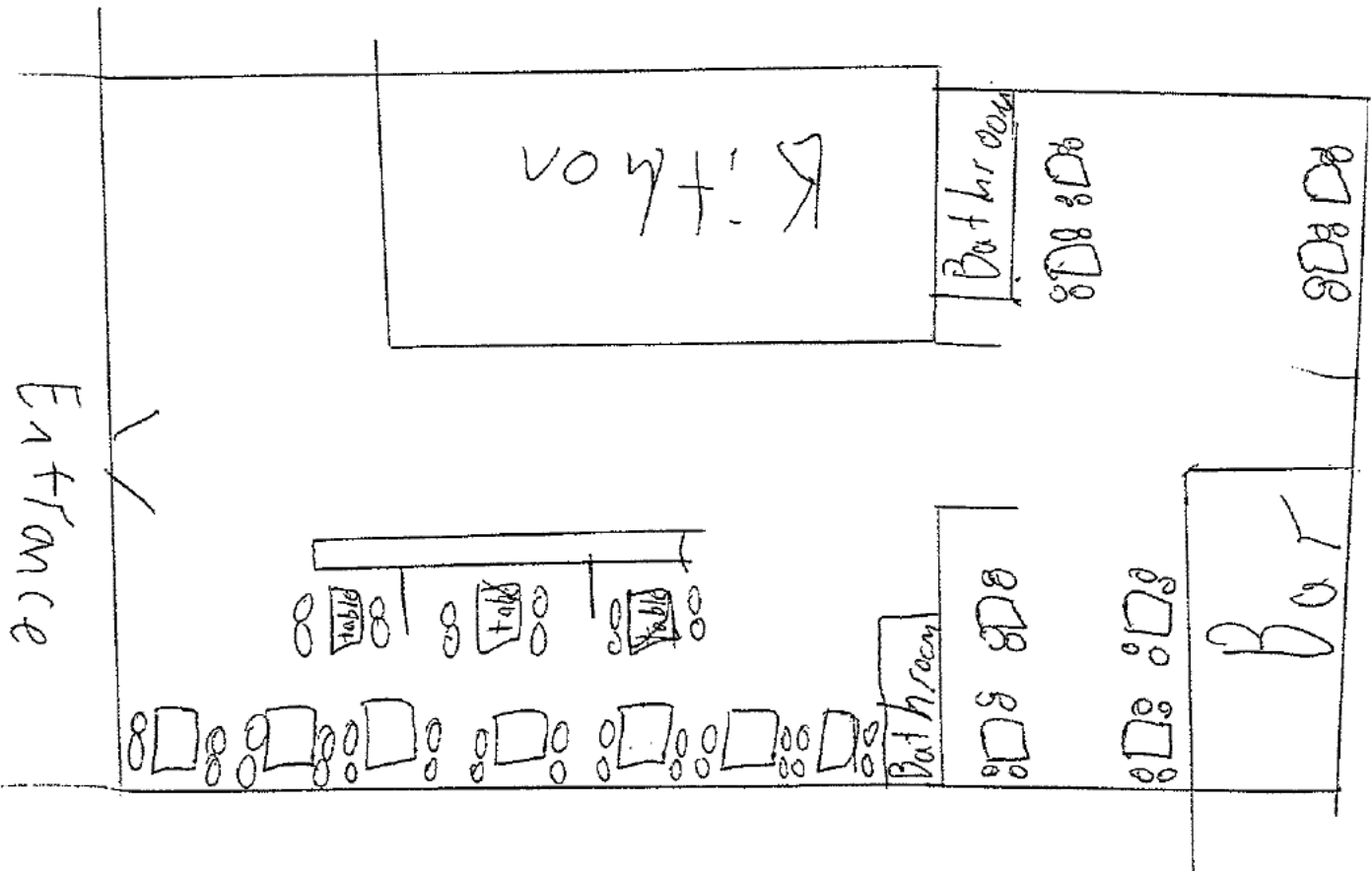
Your floor plan must be submitted on this form

Luis Fernando Paniagua Fernandez

Applicant Name

RESTAURANTE AND CANTINA LOS DOS COMPAS EN CASA MARQUEZ LLC

Trade Name (dba)



.....OLCC USE ONLY.....  
MINOR POSTING ASSIGNMENT(S)

*hust*

Date: *06/10/24* Initials: *hust*

**EXHIBIT 1**

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
OF MARION COUNTY, STATE OF OREGON

NO. \_\_\_\_\_

In the Matter of the Application of

For a recommendation regarding the  
application to the Oregon Liquor  
Control Commission for

RECOMMENDATION

This matter coming before the Board of County Commissioners on the application of

\_\_\_\_\_ for a recommendation to the Oregon  
Liquor Control Commission under the provisions of ORS 471.166; and the Board having referred  
said application to the Sheriff of Marion County, Oregon, and having the report of said Sheriff that  
the applicant has not been convicted of a crime involving a violation of the liquor control laws, or  
the gambling laws, or of crimes involving moral turpitude, and that the applicant is of good moral  
character, a citizen of the United States of America, and otherwise qualified to be licensed under  
the Oregon Liquor Control Act;

IT IS, THEREFORE RECOMMENDED TO THE OREGON LIQUOR CONTROL COMMISSION  
that the application of the above be refused \_\_\_\_\_ granted \_\_\_\_\_.

Dated at Salem, Marion County, Oregon this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

\_\_\_\_\_ County Commissioner

\_\_\_\_\_ County Commissioner

\_\_\_\_\_ County Commissioner

Approved by \_\_\_\_\_  
County Sheriff

Name of Licensee	Home Address	Date of Birth
Luis Fernando Paniagua Fernandez	765 S. pacific hwy unit 5 Woodburn OR 97071	_____
Name of Business	Address of Business	
RESTAURANTE AND CANTINA LOS DOS COMPAS EN CASA MARQUEZ LLC	553 N Front st Woodburn OR 97071	
Managing Agent	Home Address	Date of Birth
Luis Fernando Paniagua Fernandez	765 S pacific hwy unit 5 Woodburn OR 97071	_____
I, <u>Luis Fernando Paniagua Fernandez</u> , will operate my establishment according to the statutes and rules of the OLCC. I authorize Marion County to conduct background checks, including criminal history checks. I also agree to cooperate with agencies of Marion County in reviewing this application.		
Date:	06/10/2024	<u>Luis P.</u> Applicant's signature

# WOODBURN POLICE DEPARTMENT

## ARREST REPORT

1060 MT HOOD AVE, WOODBURN, OR 97071

CASE NO.2021-00012876

ARREST LOCATION <b>1084 PANA STREET</b>		ARREST DATE / TIME <b>11/13/2021 00:14</b>		REPORT DATE / TIME <b>11/12/2021 23:37</b>		ARREST TYPE <b>Summoned Citation</b>	
A R R E S T E E	SUBJECT CODE <b>Adult</b>		NAME (LAST, FIRST, MIDDLE) <b>PANIAGUA FERNANDEZ, LUIS FERNANDO</b>				
	ALIAS #1			ALIAS #2			
	ADDRESS (STREET ADDRESS, CITY, STATE, ZIP) <b>765 S PACIFIC HIGHWAY 5 WOODBURN, OR 97071-</b>					PRIMARY PHONE <b>(971)216-2690</b>	
	DOB <b>18</b>		AGE <b>18</b>		RACE <b>Hispanic or Latino</b>		SEX <b>M</b>
	HEIGHT <b>5 5</b>		WEIGHT <b>150</b>		HAIR COLOR <b>Black</b>		EYE COLOR <b>Brown</b>
	DRIVERS LICENSE NO <b>---</b>		STATE <b>OR</b>				
	SOCIAL SECURITY NUMBER <b>---</b>		SID NUMBER		FBI NUMBER		FINGER PRINT CONTROL NUMBER
	SCARS, MARKS, & TATTOOS			SCARS, MARKS, & TATTOOS			
ADDITIONAL							
C H A R G E S	#	STATUTE/ORDINANCE #	COMMIT/ATTEMPT	COUNTS	DESCRIPTION OF STATUTE/ORDINANCE		DOMESTIC
	1	813.010	Committed	1	DRIVING UNDER THE INFLUENCE OF INTOXICANTS		
	2	811.140	Committed	1	RECKLESS DRIVING		
	3						
	4						
	5						
6							

ARRESTING OFFICER <b>Mitchell, Josh, ,</b>
REVIEWING SUPERVISOR <b>Titus, Christopher 11/14/2021</b>

# WOODBURN POLICE DEPARTMENT

## CASE REPORT

1060 MT HOOD AVE  
WOODBURN OR  
97071

CASE# 2021-00012876

☒ AXON VIDEO

☐ AXON PHOTOS

EVENT	REPORTED DATE/TIME	OCCURRED INCIDENT TYPE	CASE STATUS
	11/12/2021 23:37	DUII	Closed by Arrest (Our Agency)
	OCCURRED FROM DATE/TIME	OCCURRED THRU DATE/TIME	LOCATION OF OCCURRENCE
	11/12/2021 23:37	11/12/2021 23:37	1084 PANA STREET COUNTRY LN / PANA CT WOODBURN

OFFENSES	STATE DESCRIPTION	CC INITS	ATTEMPT/COMMIT
	813.010 DRIVING UNDER THE INFLUENCE OF INTOXICANTS	1	Committed
	811.140 RECKLESS DRIVING	1	Committed

SUBJECT	SUBJECT TYPE	NAME (LAST FIRST MIDDLE SUFFIX)					
	Arrestee	PANIAGUA FERNANDEZ, LUIS FERNANDO					
	DOE	AGE or AGE RANGE	ADDRESS (STREET, CITY, STATE, ZIP)				
	18	765 S PACIFIC HIGHWAY 5 WOODBURN, OR 97071					
	RACE	SEX	HEIGHT or RANGE	WEIGHT or RANGE	HAIR	EYE	
	Hispanic or Latino	Male					
	DL NUMBER/STATE	PRIMARY PHONE / PHONE TYPE	OTHER PHONE / PHONE TYPE		SSN		
	OR	HOME (971)216-2690					

SUBJECT	SUBJECT TYPE	NAME (LAST FIRST MIDDLE SUFFIX)					
	Other	PANIAGUA MILLAN, ISRAEL					
	DOE	AGE or AGE RANGE	ADDRESS (STREET, CITY, STATE, ZIP)				
	21	1084 PANA STREET WOODBURN, OR 97071					
	RACE	SEX	HEIGHT or RANGE	WEIGHT or RANGE	HAIR	EYE	
	Hispanic or Latino	Male					
	DL NUMBER/STATE	PRIMARY PHONE / PHONE TYPE	OTHER PHONE / PHONE TYPE		SSN		
	OR						

SUBJECT	SUBJECT TYPE	NAME (LAST FIRST MIDDLE SUFFIX)					
	Complainant	JANSON, CHRISTINA MARIE					
	DOE	AGE or AGE RANGE	ADDRESS (STREET, CITY, STATE, ZIP)				
	43	1054 PANA STREET WOODBURN, OR 97071					
	RACE	SEX	HEIGHT or RANGE	WEIGHT or RANGE	HAIR	EYE	
	White	Female					
	DL NUMBER/STATE	PRIMARY PHONE / PHONE TYPE	OTHER PHONE / PHONE TYPE		SSN		
	OR	HOME (503)312-2208					

REPORTING OFFICER	DATE	REVIEWED BY
Mitchell, Josh, 60298	11/12/2021	Titus, Christopher 11/14/2021

# WOODBURN POLICE DEPARTMENT

## CASE REPORT

CASE# 2021-00012876

1060 MT HOOD AVE  
WOODBURN OR  
97071

### VEHICLES as PROPERTY

PROPERTY VEHICLE	PROPERTY CODE		PROPERTY TYPE		VALUE
	16-Suspect Vehicle		Vehicle - Automobile - 321		
	VEH YR	TYPE/MAKE/MODEL			STYLE
	2017	Auto CHEVROLET SILVERADO			
	PLATE / STATE		VIN	TOP COLOR	BOTTOM COLOR
TB29745 / OR		1GCUKREC8HF184261	Silver		
ADDITIONAL DESCRIPTIVE INFORMATION					
VEHICLE LUIS WAS DRIVING					

PROPERTY VEHICLE	PROPERTY CODE		PROPERTY TYPE		VALUE
	VEH YR	TYPE/MAKE/MODEL			STYLE
	PLATE / STATE		VIN	TOP COLOR	BOTTOM COLOR
ADDITIONAL DESCRIPTIVE INFORMATION					

PROPERTY VEHICLE	PROPERTY CODE		PROPERTY TYPE		VALUE
	VEH YR	TYPE/MAKE/MODEL			STYLE
	PLATE / STATE		VIN	TOP COLOR	BOTTOM COLOR
ADDITIONAL DESCRIPTIVE INFORMATION					

PROPERTY VEHICLE	PROPERTY CODE		PROPERTY TYPE		VALUE
	VEH YR	TYPE/MAKE/MODEL			STYLE
	PLATE / STATE		VIN	TOP COLOR	BOTTOM COLOR
ADDITIONAL DESCRIPTIVE INFORMATION					

PROPERTY VEHICLE	PROPERTY CODE		PROPERTY TYPE		VALUE
	VEH YR	TYPE/MAKE/MODEL			STYLE
	PLATE / STATE		VIN	TOP COLOR	BOTTOM COLOR
ADDITIONAL DESCRIPTIVE INFORMATION					

REPORTING OFFICER	DATE	REVIEWED BY
Mitchell, Josh, 60298	11/12/2021	Titus, Christopher 11/14/2021

**WOODBURN POLICE DEPARTMENT****CASE REPORT**CASE# **2021-00012876**1060 MT HOOD AVE  
WOODBURN OR  
97071**NARRATIVE**REPORT BY: JOSH MITCHELL  
FORWARD TO: MARION COUNTY DA and DMVSUBJECT:  
PANIAGUA FERNANDEZ, LUIS  
CITATIONS:  
#85461 - DRIVING UNDER THE INFLUENCE OF INTOXICANTS (DUI) ORS 813.010  
#85462 - RECKLESS DRIVING ORS 811.140SUMMARY:

On 11/12/2021 I responded to a suspicious vehicle at 1084 Pana Street, Woodburn OR 97071 with substantial front end damage. The caller had previously called in on the vehicle due to erratic driving. The caller called the first time because they believed the vehicle had crashed into something and police needed to be notified. I arrived to call shortly after other Woodburn Officers. We determined the vehicle was in a crash outside the city and determined who the driver was. While speaking with the driver he appeared intoxicated. The driver denied drinking any alcoholic since he arrived at the Pana Street address. I asked the driver to consent to Standardized Field Sobriety Tests (SFSTs) and he consented. I completed SFSTs with the driver and confirmed the driver was impaired. I arrested the driver for DUI and Reckless Driving and transported him to the Woodburn Police Department (WPD). The driver submitted a breath sample and he was determined to have a .11% BAC. The driver was issued citations and given a ride to 1084 Pana Street.

NARRATIVE:

On 11/12/2021 at approximately 2349 hours, I was dispatched to 1084 Pana Street, Woodburn OR 97071 for suspicious vehicle with substantial front end damage.

The caller, Christina Janson, advised there was a group of people gathered around a silver Chevrolet Silverado (TB29745) and she believed the vehicle was involved in the crash. Christina and her husband had called in numerous times earlier in the night about the same vehicle driving recklessly by their house. Earlier in the evening Cpl. Stewart had made a traffic stop on the vehicle (#21-12872) near Evergreen Road and Newberg Highway, Woodburn Oregon.

Sgt. Titus and Cpl. Stewart arrived at 1084 Pana Street prior to me and spoke with Luis Paniagua Fernandez and Israel Paniagua Millan. Cpl. Stewart advised that Luis was the driver and sole occupant of the vehicle earlier in the evening, however, Israel said he was the driver when the truck was crashed.

I arrived on scene and we determined Israel was not involved in the crash and Luis was, in fact, the driver of vehicle when he crashed it. Luis was asked where he crashed and he was not sure. Luis said he believed he crashed into a ditch and he did not hit any vehicles or hurt anyone. Cpl. Stewart requested the information of the crash be relayed to nearby police agencies. Both Keizer PD and Gervais PD advised they were not aware of any crash within their jurisdiction.

I spoke with Israel and he told me Luis was the driver. Israel told me when Luis crashed he called Israel. Israel told me he offered to drive to Luis and pick Luis up. Israel told me Luis refused and drove the truck back to 1084 Pana Street. Israel told me the truck was no longer able to run but was legally parked on the roadway. I looked at the Silverado and observed it had severe passenger side front end damage and the front passenger side tire was flat. Israel told me when Luis got home he was mad he messed up his truck and was punching his vehicle. Israel told me Luis went inside the house briefly but came back outside. Israel told me Luis had been home for approximately 5 minutes before Woodburn Police arrived.

REPORTING OFFICER

DATE

REVIEWED BY

**Mitchell, Josh, 60298****11/12/2021****Titus, Christopher 11/14/2021**

3 OF 5

**WOODBURN POLICE DEPARTMENT****CASE REPORT**CASE# **2021-00012876**1060 MT HOOD AVE  
WOODBURN OR  
97071**NARRATIVE (continuation)**

Israel told me Luis had been drinking and it was likely the reason he crashed.

I spoke with Luis and noticed he had slightly slurred speech and dazed and lethargic demeanor. I asked Luis about why he crashed and he could not tell me why or where he crashed. I asked Luis what he did when he got back to the Pana Street after the crash. Luis told me he got home and spoke to Israel and was upset about his truck so he started hitting his truck. I asked if Luis went inside the house once he was home and he told me yes. I asked if he had drank any alcohol since he got back to the Pana Street address or when he went inside the house and Luis told me no. Luis admitted he did have 2 "Mike's hard lemonades" earlier before he crashed.

I told Luis I believed he was impaired and asked if he would perform SFSTs and he told me he would. I walked Luis over to the sidewalk and began my SFSTs process.

**STANDARDIZED FIELD SOBRIETY TEST:**

I asked Luis if he had any head injuries, diabetes, medical impairments that would affect his balance and he told me no. At this point I could smell a strong odor of an alcoholic beverage coming from Luis' breath.

**HORIZONTAL GAZE NYSTAGMUS (HGN) TEST:**

I had Luis stand in the appropriate position for the test and explained the HGN test entirely. Luis told me he understood the instructions for the test. I checked Luis' eyes and observed equal pupil size, no resting nystagmus and equal tracking in both eyes. Luis exhibited the following validated clues.

- Lack of smooth pursuit; both eyes
- Distinct and sustained nystagmus at maximum deviation; both eyes.

Luis during the test would not follow the stimulus so I had to complete more passes than usual.

**WALK AND TURN (WAT) TEST:**

I told Luis to imagine a straight line on the sidewalk for the WAT test. Luis told me he would rather use a line on the roadway for the test. Luis completed his WAT test on the roadway. I had Luis stand in the appropriate position for the test and told him to stay in the position until he was told to start the test. Luis told me he understood. I explained and demonstrated the WAT test and Luis told me he understood the instructions. Luis exhibited the following validated clues.

- Fail to maintain balance
- Improper turn; small, shuffling, steps with both feet to turn. Lifted his lead foot off the ground for the turn
- Wrong number of steps; 10 steps down, 10 steps back

**ONE LEG STAND (OLS) TEST:**

I had Luis stand in the proper position on the sidewalk and explained and demonstrated the OLS stand test entirely. Luis told me he understood the test. Luis exhibited the following validated clues.

- Sways
- Puts foot down

REPORTING OFFICER

**Mitchell, Josh, 60298**

DATE

**11/12/2021**

REVIEWED BY

**Titus, Christopher 11/14/2021**

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**WOODBURN POLICE DEPARTMENT****CASE REPORT**CASE# **2021-00012876**1060 MT HOOD AVE  
WOODBURN OR  
97071**NARRATIVE (continuation)**

I asked Luis on a scale from 1 to 10; 1 being completely sober, 10 being fall down drunk, where would he put himself in terms of his intoxication. Luis told me he believed he was a 2 out of 10. I asked Luis if he felt he was able to safely operate his vehicle tonight and he told me yes. I expressed that I did not believe he could safely operate the vehicle since he crashed.

At approximately 0014 hours, Luis was placed under arrest for DUII and Reckless Driving. I searched and placed Luis in the back of my patrol vehicle. Cpl. Stewart looked inside Luis' vehicle and found opened containers of alcohol. Cpl. Stewart took photos of the truck (ADS-2). The truck was legally parked and was left at the location. I transported Luis to the Woodburn Police Department.

At approximately 0032 hours, I began my observation period with Luis, after I checked the inside of his mouth and observed nothing of concern. At approximately 0033 hours, I read Luis his Miranda Rights from a prepared card and he advised he understood his rights. During my observation period, I stayed within approximately 6 feet of Luis and I read him Section 1A of the Implied Consent Form. I asked Luis if he would submit to a breath test and he told me he would. At approximately 0050 hours, I ended my observation period after I checked Luis' mouth and saw nothing of concern. I asked Luis if he had vomited and he told me he did not. I explained to Luis how to successfully submit a breath sample to the Intoxylizer 8000 (SN# 80-001581). Luis submitted 2 breath samples and it was determined he had a .11% BAC.

I completed citations for DUII and Reckless driving and issued the citations to Luis. I provided him with a copy of his breath test results, a copy of the implied consent form and his copy of his temporary driver's permit. At approximately 0121 hours, I advised METCOM Luis had been cited and released from my custody. I gave Luis a courtesy ride to 1084 Pana Street, Woodburn OR 97071.

My contact with Luis at 1084 Pana Street and the Intoxylizer process was recorded on my Axon body worn camera (JTM-1), refer to the video for specifics about this case.

Case closed by arrest.

REPORTING OFFICER

**Mitchell, Josh, 60298**

DATE

**11/12/2021**

REVIEWED BY

**Titus, Christopher 11/14/2021**

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DEPARTMENT OF TRANSPORTATION  
DRIVER AND MOTOR VEHICLE SERVICES  
1905 LANA AVE NE, SALEM OREGON 97314

# IMPLIED CONSENT COMBINED REPORT

NOTICE OF SUSPENSION - TEMPORARY DRIVER PERMIT - POLICE REPORT TO DMV

(ORS 813.100, 813.110, 813.120, 813.131, 813.410, 813.420 and 813.300)

NAME OF DRIVER (PLEASE PRINT LAST, FIRST, MIDDLE) <b># Paniagua Fernandez, Luis</b>	DRIVER LICENSE/FILE REFERENCE NO. [REDACTED]	CDL/CLP? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	STATE <b>OR</b>
ADDRESS (CITY, STATE, ZIP CODE) <b>765 S Pacific Highway #5, Woodburn OR 97071</b>			DATE OF BIRTH [REDACTED]
EXACT DATE AND TIME OF ARREST <b>11/13/21 0014 hrs</b>	COUNTY OF ARREST <b>Marion</b>	NEAREST CITY TO ARREST SITE <b>Woodburn</b>	

You were arrested for driving under the influence of intoxicants (DUII) and you were asked to submit to a test under the Motorist Implied Consent Law. At the time the request was made, there were reasonable grounds to believe that you were driving under the influence of intoxicants.

Before being asked to submit to a test, you were informed of the required rights and consequences information by the reporting officer or \_\_\_\_\_.

You were given a copy of this form and the Commercial Motor Vehicle (CMV) Implied Consent Addendum, if applicable, as written notice. If requested, you were given a reasonable opportunity to contact counsel or others.

**Your driving privileges will be suspended at 12:01 A.M. on the 30th day after the date of arrest (unless otherwise indicated) for the period of time and for the reason indicated below.**

## BREATH TEST FAILURE:

☒ **You failed a breath test. [.08% or greater; any amount if under age 21]** Your suspension for failing the test will be for:

▶ **90 days**, if you have NOT been convicted of DUII; suspended under the Implied Consent Law; or participated in a DUII diversion or similar program within the last five years [ORS 813.430]; or

▶ **1 year**, if you have been convicted of DUII; suspended under the Implied Consent Law; or participated in a DUII diversion or similar program within the last five years [ORS 813.430].

-OR-

INSTRUMENT SERIAL NUMBER

**80-001581**

☐ You were driving a Commercial Motor Vehicle (CMV) and the breath test result was .04% or greater but less than .08%. No suspension of base driving privileges. [See attached **CMV Implied Consent Addendum**.]

The person administering the breath test was qualified under ORS 813.160 and the methods, procedures and equipment used in the test complied with ORS 813.160. The test was administered by the reporting officer or \_\_\_\_\_.

## TEST REFUSAL:

(Can NOT be in addition to a breath test failure above. Exception: Only a urine test refusal and suspension length may be marked in addition to a Breath Test Failure.)

### Mark type of test(s) refused:

☐ You refused to submit to a **breath test**.

☐ You refused to submit to a **blood test** when receiving medical care in a health care facility immediately after a motor vehicle accident.

☐ You refused to submit to a **urine test**. You had been involved in an accident resulting in injury or property damage or you had already submitted to a breath test and the result was less than .08%. The officer who requested the urine test was certified by the Department of Public Safety Standards and Training as having completed 8 hours of training in recognition of drug impaired driving, and had reasonable suspicion that you had been driving while under the influence of cannabis, a controlled substance, an inhalant or any combination of cannabis, a controlled substance, an inhalant and intoxicating liquor. **NOTE:** The suspension will be consecutive to any other suspension imposed under the Motorist Implied Consent Law. The urine test was requested by the reporting officer or \_\_\_\_\_.

### Your suspension for refusing a test(s) will be for:

▶ **1 year**, if you have NOT been convicted of DUII; suspended under the Implied Consent Law; or participated in a DUII diversion or similar program within the last five years [ORS 813.430]; or

▶ **3 years**, if you have been convicted of DUII; suspended under the Implied Consent Law; or participated in a DUII diversion or similar program within the last five years [ORS 813.430].

**If you hold CDP\***, were driving a motor vehicle or CMV and you refused to submit to a test, your CDP will also be suspended in accordance with ORS 809.510 and 809.520 for:

▶ **3 years**, if you have **not** received a conviction or CDP suspension as described in ORS 809.510; or

▶ **Lifetime**, if you have received a conviction or CDP suspension as described in ORS 809.510.

**NOTE:** Your CDP suspension will be concurrent to any other suspension imposed under the Motorist Implied Consent Law.

\* Pursuant to ORS 807.018, you hold CDP if you have an unexpired commercial learner driver permit, or your most recently issued license is or was a commercial driver license, without regard to whether that license is expired or your commercial driving privileges are suspended, canceled or revoked.

☐ The driver did not fail a breath test nor refuse to submit to a breath, blood or urine test. (Do not forward copy to DMV. Keep for your own records.)

### Notes to officer:

- If the person was driving a CMV, complete and attach the CMV Implied Consent Addendum (Form 735-75A), in addition to this form.
- A vehicle that transports hazardous materials or is designed to transport 16 or more passengers is a CMV, regardless of size.

☒ If the person requests a hearing, I request that the hearing be conducted in person.

**I affirm by my signature that the foregoing events occurred.**

SIGNATURE OF REPORTING OFFICER <b>X</b> <i>Josh Mitchell</i>	AGENCY <b>Woodburn</b>	TELEPHONE NUMBER <b>503 982 2345</b>
PRINT NAME AND AGENCY I.D. No. OF REPORTING OFFICER <b>Josh Mitchell / B21</b>	DPSST# <b>60298</b>	

## HEARING REQUESTS

If you request a hearing, your request **MUST** be in writing. If you refused to submit to a test or failed a breath test, your request **MUST BE RECEIVED** at the Hearings Case Management Unit on the tenth day following this arrest, or you lose your right to a hearing. If you fail a blood test, DMV will notify you and provide you with information on how to request a hearing. Your request should include: your full name and address; date of arrest; driver license (or file reference) number; date of birth; if you require a language interpreter or are hearing impaired; dates and times when you or your attorney cannot appear at a hearing; a telephone number where you can be reached between 8 a.m. and 5 p.m. on weekdays; if you want an in-person hearing; and issues you propose to raise. The Office of Administrative Hearings (OAH) will conduct the hearing by telephone unless you, or the reporting officer, request an in-person hearing. The OAH will conduct an in-person hearing, if requested, in the county of arrest or at a place within 100 air miles of the place of this arrest. The OAH will notify you of the time and place of the hearing. **You may mail, fax, or hand deliver your written request for Hearing to:** Hearings Case Management Unit, 1905 Lana Avenue NE, Salem Oregon 97314. FAX number (503) 945-5521. **You may also submit your request for hearing using the implied consent hearing request form provided on DMV's Web site - OregonDMV.com.** Questions about a hearing? Call: (503) 945-5545.

Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department (OMD) at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through: <http://legalassistance.law.af.mil>. The OMD does not have a toll-free telephone number.

This document represents an Order of DMV pursuant to ORS 813.410. If no hearing is requested, the allegations contained in this document will be accepted as fact.

CUSTOMER SERVICES MANAGER

**X** *[Signature]*



OREGON STATE POLICE FORENSIC SERVICES DIVISION

INTOXILYZER 8000® OPERATOR'S CHECKLIST

(Please Print)

Test Date 11/13/21

Driver's Name (Last, First, Middle) Panigga Fernandez, Luis

Arresting Officer (Print) Josh Mitchell

Arresting Officer's Department Woodburn PD

OPERATIONAL CHECKLIST

- ☒ 1. **Pre-test observation period:** The operator is certain that the subject has not taken anything by mouth (drinking, smoking, eating, taking medications, etc.), vomited, or regurgitated liquid from the stomach into the mouth for at least fifteen (15) minutes before taking the breath test.  

Observer Name (Print): Josh Mitchell

Start pre-test observation time: 0032 End pre-test observation time: 0050

Timepiece used: ☐ Instrument ☒ Wristwatch ☐ Other: \_\_\_\_\_
- ☒ 2. When the instrument display indicates "Ready to Start", push "Start Test" button to initiate the testing sequence.
- ☒ 3. Using either the instrument's bar code scanner or keyboard, enter the operator and subject information requested by the instrument.
- ☒ 4. After instructing the subject on how to give a proper breath sample, have the subject provide a proper breath sample when "Please blow into mouthpiece to activate tone." appears on display. **When the instrument has accepted the sample, continue the required observation period.**
- ☒ 5. When "Please blow into mouthpiece to activate tone." again appears on display, have the subject provide a proper breath sample. When the instrument has accepted the sample, wait for the instrument to complete the testing sequence.
- ☒ 6. When the instrument display indicates "Comments", enter any appropriate comments regarding the testing sequence.
- ☒ 7. Remove the test report(s) from the printer.

Comments: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Instrument Serial # 80-001581

Operator's Name (Print) Josh Mitchell

Operator's Department Woodburn PD

WOODBURN POLICE DEPT  
 Location

Operator's Signature [Signature]

Operator's Permit # 060298

**OREGON DEPARTMENT OF STATE POLICE  
FORENSIC SERVICES DIVISION  
BREATH TEST REPORT**

TEST DATE: 11/13/2021

INSTRUMENT: CMI INTOXILYZER - ALCOHOL ANALYZER MODEL 8000  
SN: 80-001581 TEST LOCATION: WOODBURN POLICE DEPT

SUBJECT NAME: PANIAGUA FERNANDEZ, LUIS FERNANDO  
SUBJECT LICENSE #: XXXXXXXXXX  
SUBJECT DOB: XXXXXXXXXX

Test	%BAC	Status	Time
Air Blank	0.000	PASS	00:52 PST
Diagnostics	OK	PASS	00:52 PST
Air Blank	0.000	PASS	00:53 PST
Subject Sample	0.121	OBTAINED	00:53 PST
Air Blank	0.000	PASS	00:54 PST
Air Blank	0.000	PASS	00:55 PST
Subject Sample	0.114	OBTAINED	00:56 PST
Air Blank	0.000	PASS	00:56 PST
Control Sample	0.082	PASS	00:57 PST
Air Blank	0.000	PASS	00:57 PST



\*\* EXPECTED VALUE FOR CONTROL: 0.085 %BAC \*\*

<b>TEST RESULT: 0.11 %BAC</b>
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ADDITIONAL INSTRUCTIONS: Any observations made by the operator during the testing sequence may be recorded in the comments section below.

OPERATOR'S NAME: MITCHELL, JOSHUA T  
OPERATOR'S PERMIT #: 060298  
TEST METHOD: OAR 257-030-0130

The above-named individual has satisfactorily met the requirements of ORS 813.160 in the chemical analysis of a person's breath and is approved to operate the above listed equipment using the above listed method as specified by the Department of State Police.

COMMENTS:

## REGISTER OF ACTIONS

CASE No. 21CR60813

State of Oregon vs Luis Fernando Paniagua-Fernandez

§  
§  
§  
§  
§  
§

Case Type: **Offense Misdemeanor**  
Date Filed: **12/14/2021**  
Location: **Marion**  
District Attorney Number: **21-11826-A**

### PARTY INFORMATION

**Defendant** **Paniagua-Fernandez, Luis Fernando**  
765 S PACIFIC HWY UNIT 5  
Woodburn, OR 97071

Male  
DOB: 2003  
5' 5", 150 lbs

**Attorneys**  
**Laura D Schifano**  
*Court Appointed*  
503-506-6016(W)

**Plaintiff** **State of Oregon**

**Katharine Rose Semple**  
503 588-5222(W)

### CHARGE INFORMATION

**Charges: Paniagua-Fernandez, Luis Fernando**

1. Driving Under the Influence of Intoxicants

**Statute**  
813.010(4)

**Level**  
Misdemeanor Class A

**Date**  
11/13/2021

### EVENTS & ORDERS OF THE COURT

#### DISPOSITIONS

01/14/2022 **Plea** (Judicial Officer: Zimmerman, Natasha A.)  
1. Driving Under the Influence of Intoxicants  
Guilty  
Created: 01/14/2022 2:19 PM

01/14/2022 **Disposition** (Judicial Officer: Zimmerman, Natasha A.)  
1. Driving Under the Influence of Intoxicants  
Diverted  
Created: 01/14/2022 2:19 PM

01/14/2022 **Diversions** (Judicial Officer: Zimmerman, Natasha A.)  
1. Driving Under the Influence of Intoxicants  
Sentencing Details  
Decision Date: 01/14/2022  
Probation Non-Probation Conditions (Active)  
Start Date: 01/14/2022  
Duration: 12 Months  
Estimated End Date: 01/14/2023  
Judicial Officer: Zimmerman, Natasha A.  
Special Conditions: Fingerprint - Book - Photo, 01/14/2022, Report to Marion County Correctional Facility for fingerprints and photographs. Following processing at the Marion County Correctional Facility the defendant is authorized for release.  
Financial Review, 01/14/2022, It is hereby further ordered and adjudged that the clerk apply payment upon this money award as provided by law and apply any bail or security on deposit herein toward this money award and, to the extent permitted by law, disburse them first to compensatory fines, then to restitution, Crime Victim Assessment, fines, assessments, fees and then to other costs adjudged herein.  
Alcohol Treatment Program, 01/14/2022, Participate in an alcohol evaluation. Enter and successfully complete any course of treatment, including after and follow-up care determined to be necessary and as designated by the Evaluator or the Probation Officer.  
Program Victim Impact Panel, 01/14/2022, Attend and successfully complete a Victim Impact Panel The defendant is to contact the Marion County Victim Impact Panel.  
No - Alcohol, 01/14/2022, Do not use or possess alcohol, intoxicants, inhalants or controlled substances.  
No - Entry Bar/Tavern/OLCC Licensed Premises, 01/14/2022, Do not enter into bars, taverns or liquor stores.  
No Drive Without License, 01/14/2022, Do not operate a vehicle without a valid license and insurance.  
No - Violate No Laws, 01/14/2022, Obey all municipal, county, state and federal laws.  
Court Review, 01/14/2022, Appear in Court at the Marion County Court Annex located at 4000 Aumsville Highway, Salem, Oregon, on 10/14/22 at 10:00AM, to show proof of completion.  
Fee Totals:

	Amount	Reduction	Owed
DUII Diversion	\$490.00		\$490.00
Fee Totals \$	\$490.00		\$490.00
Fee Modifier			

Created: 01/14/2022 2:19 PM

#### OTHER EVENTS AND HEARINGS

12/14/2021 [Information](#)  
Created: 12/14/2021 4:22 PM

12/14/2021 [Certificate - Victim Notification](#)  
Created: 12/14/2021 4:22 PM

12/15/2021 **Arraignment** (9:00 AM) (Judicial Officer Bureta, Jodie)  
Result: Held  
Created: 12/14/2021 3:13 PM

12/15/2021 **Order - Appointing Counsel** (Judicial Officer: Bureta, Jodie )  
*Attorney: SCHIFANO, L*  
Signed: 12/15/2021  
Created: 12/15/2021 9:55 AM

12/15/2021 **Arraignment** (Judicial Officer: Bureta, Jodie )  
*INFORMATION*  
Created: 12/15/2021 9:55 AM

12/15/2021 **Agreement - Conditional Release**  
Created: 12/15/2021 9:55 AM

01/14/2022 **Hearing - Plea** (1:30 PM) (Judicial Officer Zimmerman, Natasha A.)  
*DIVERSION*  
*01/14/2022 Reset by Court to 01/14/2022*  
Result: Held  
Created: 12/15/2021 9:56 AM

01/14/2022 **Agreement - Diversion**  
Created: 01/14/2022 2:15 PM

01/14/2022 **Petition - Diversion Agreement** (Judicial Officer: Zimmerman, Natasha A. )  
Created: 01/14/2022 2:15 PM

01/14/2022 **Order - Diversion** (Judicial Officer: Zimmerman, Natasha A. )  
*DUII*  
Signed: 01/14/2022  
Created: 01/14/2022 2:16 PM

01/14/2022 **Order - Referral** (Judicial Officer: Zimmerman, Natasha A. )  
*DUII*  
Signed: 01/14/2022  
Created: 01/14/2022 2:16 PM

01/14/2022 **Victim Impact - Panel Referral**  
Created: 01/14/2022 2:16 PM

01/24/2022 **Report**  
*CSI-DUII. Referred to Marion Co Health - Woodburn*  
Created: 01/24/2022 2:10 PM

10/13/2022 **Notice - Compliance**  
*CSI:DUII*  
Created: 10/13/2022 11:58 AM

10/14/2022 **Hearing - Further Proceedings** (10:00 AM) (Judicial Officer Gardiner, Jennifer)  
Result: Failure to Appear  
Created: 01/14/2022 2:20 PM

10/14/2022 **Acknowledgment**  
*Appear or Warrant*  
Created: 10/14/2022 10:16 AM

11/03/2022 **Hearing - Further Proceedings** (10:00 AM) (Judicial Officer Gardiner, Jennifer)  
*Appear or Motion to terminate diversion shall be filed*  
Result: Held  
Created: 10/14/2022 10:13 AM

11/03/2022 **Victim Impact - Panel Referral**  
*01.04.23.*  
Created: 11/03/2022 10:04 AM

11/03/2022 **Acknowledgment**  
Created: 11/03/2022 10:04 AM

11/21/2022 **Letter - Completion**  
*CSI:DUII*  
Created: 11/21/2022 2:36 PM

01/09/2023 **Hearing - Further Proceedings** (10:00 AM) (Judicial Officer Partridge, Lindsay R)  
Result: Held  
Created: 11/03/2022 10:05 AM

01/09/2023 **Victim Impact - Panel Completion**  
Created: 01/09/2023 10:48 AM

01/11/2023 **Victim Impact - Panel Completion**  
Created: 01/11/2023 11:30 AM

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**FINANCIAL INFORMATION**

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	<b>Defendant</b> Paniagua-Fernandez, Luis Fernando	
	Total Financial Assessment	490.00
	Total Payments and Credits	490.00
	<b>Balance Due as of 07/11/2024</b>	<b>0.00</b>
01/14/2022	Transaction Assessment	490.00
11/03/2022	Counter Payment      Receipt # 2022-44296-TP      Paniagua-Fernandez, Luis Fernando	(490.00)

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF MARION

THE STATE OF OREGON )  
Plaintiff, ) No. 21-11826-A FH  
vs. ) INFORMATION  
LUIS FERNANDO PANIAGUA-FERNANDEZ, )  
(DOB: [REDACTED]) )  
Defendant )

The above named defendant is accused by PAIGE E. CLARKSON, District Attorney for the  
County of Marion, by this information of the crimes of:

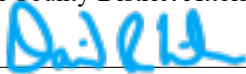
Count 1: ORS 813.010 DRIVING WHILE UNDER THE INFLUENCE OF INTOXICANTS (A  
Misdemeanor)

committed as follows:

COUNT 1: The defendant, on or about November 13, 2021, in Marion County, Oregon, did unlawfully  
drive a vehicle upon premises open to the public while under the influence of intoxicants.

Dated at Salem, Oregon, this 9th day of December, 2021

PAIGE E. CLARKSON  
Marion County District Attorney

By:   
KATHARINE SEMPLE, OSB 162011  
Deputy District Attorney

12/15/21 @ 9:00 AM

KRS/ ndm

AGENCY: WBP AGENCY#: 21-12876

IDENTIFIERS: M Ht:5'5 Wt: 150 Hair: BLK Eyes:BRO SID:

INST: No CNTRL#\*\*Def needs printed\*\*

11/13/2021 COPIES: 1=Defendant; 1=File; 1=mcso

PAIGE E. CLARKSON  
District Attorney for Marion County, Oregon  
555 Court Street NE, Suite 3250  
P.O. BOX 14500  
SALEM, OR 97309

21CR60813  
ORDV  
Order - Diversion  
14764382



IN THE CIRCUIT COURT OF THE STATE OF ORE  
FOR THE COUNTY OF Marion  
CITY OF Salem

State of Oregon

Case No: 21CR60813

v.

ORDER RE: DUII DIVERSION

Luis Pontagva-Fernandez  
Defendant

ODL: [REDACTED]

DOB: [REDACTED]

STATE OF OREGON  
Marion County Circuit Courts

JAN 14 2022

The alleged DUII occurred on (date) 11/13/21

Based on Defendant's *DUII Diversion Petition and Agreement*, **THE COURT ORDERS:**

**FILED**

The petition for diversion is

☐ Denied

☒ **Allowed.** The court withholds entry of a judgment of conviction pending completion or termination of the diversion agreement and orders that:

- 1) Defendant is ordered to comply with all terms in the *Petition and Agreement*  
Assessment Evaluator information: see referral
- 2) The diversion period is 1 year beginning (date) 1/14/22 and ending (date) 1/13/23  
☐ Defendant must file a motion to dismiss after the diversion period ends in order for the court to dismiss the charge (if this option is not checked the defendant does not need to file a motion to dismiss)
- 3) Defendant must pay a fee of **\$490.00** to the court for the diversion as required by statute unless waived or deferred. Payment is due ☐ immediately or ☒ **per payment schedule:**  
\$ / month due by the day of each month beginning  
☒ other: due on 10/14/2022
- 4) ☒ Defendant must attend a victim impact panel approved by this court ☒ and must pay a participation fee to that program **Victim Impact Panel Date:** see referral
- 5) ☐ Defendant must pay court-appointed attorney fees  
☐ in an amount of \$ on a schedule determined by the court. The court finds that the defendant has the ability to pay court-appointed attorney fees.  
☐ as ordered in a separate limited judgment or order
- 6) ☒ Defendant must install and use an **ignition interlock device (IID)** in any vehicle operated by the Defendant during the period of the agreement when the Defendant has driving privileges \*  
☐ Defendant need not install an IID because Defendant:  
☐ meets the requirements for medical exemption under Oregon Department of Transportation rules and is exempt from the IID requirement  
☐ submitted to a blood, breath, or urine test that showed no cannabis, inhalants, or controlled substances, and a BAC below 0.08%
- 7) ☒ Defendant must be booked and fingerprinted by 10/14/2022.
- 8) Restitution/Other: \_\_\_\_\_

Judge Signature:

1/14/2022

[Signature] patern

\*if Defendant is required to operate an employer-owned motor vehicle, an IID need not be installed if Defendant notifies employer of the IID requirement and has written proof of the notification

DUII Diversion - Order - Diversion (Form 2)

Page 1 of 1

(Aug 2013)

**EXHIBIT 3**

**Page 4 of 12**



IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF Marion  
CITY OF Salem

State of Oregon

Case No: 21CR60813


v.

PETITION AND  
AGREEMENT

Luis Paniagua-Fernandez  
Defendant

DUII Diversion

Date of DUII Offense: 11/13/21

Defendant's Residence:			
<u>765 S Pacific Hwy</u>	<u>Unit 5</u>	<u>Woodburn, OR</u>	<u>97071</u>
Street	City	State	ZIP
Mailing Address (if different)			
			SID# (if known):

DEFENDANT'S AGREEMENT AND WAIVER

I am the Defendant. I ask the court to grant a diversion under ORS 813.200 to 813.270 for the charge of driving under the influence of intoxicants (DUII). If the court allows this petition:

- (1) I have read and understand all of the information in the attached *Explanation of Rights and DUII Diversion Agreement* and I agree to:
  - a) Pay the required diversion fees and any restitution ordered
  - b) Complete an alcohol and drug abuse assessment and any recommended treatment
  - c) Attend a victim impact panel as ordered by the court
  - d) Not use alcohol or other intoxicants except as allowed in the attached *Explanation of Rights and DUII Diversion Agreement*
  - e) Install and use an approved Ignition Interlock Device (IID) if ordered by the court
  - f) Keep the court advised of my current mailing address
- (2) I plead guilty or no contest to the DUII charge as shown in the *Petition to Plead Guilty or No Contest* submitted with this diversion petition
- (3) I waive (give up) the rights listed in the *Petition to Plead Guilty or No Contest*
- (4) I waive my former jeopardy rights under the federal or state constitutions and ORS 131.505 to 131.525 in any future action on the charge or any other offenses based on the same criminal incident

Luis P.  
Defendant's Signature

Luis Paniagua  
Defendant's Name (typed or printed)

12/22/21  
Date

**NOTE:** The Defendant's Declaration of Eligibility, and Petition to Plead Guilty or No Contest must be filed with this form and served on the district attorney or city attorney who filed the charge



IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF Marion  
CITY OF Salem

State of Oregon

Case No: 21CE60813

v.

**PETITION TO PLEAD  
GUILTY OR NO CONTEST**

Luis Poniagua-Fernandez  
Defendant

*DUII Diversion*

1. My true name is (first, middle, last) Luis Fernando Poniagua-Fernandez  
I also am known as \_\_\_\_\_
2. I am 18 years old. The highest grade level of school I have completed is 10<sup>th</sup> grade
3. My physical and mental health are satisfactory. I am not under the influence of any drugs or intoxicants, except \_\_\_\_\_
4. The following statement best describes me:
  - ☒ I am able to read, write, and understand English, and I have read this petition completely
  - ☐ I am able to understand English, and this petition has been read aloud to me completely
  - ☐ I am unable to read English, and this petition has been read aloud to me completely in English
  - ☐ I am unable to read, write, or understand English, and this petition has been read aloud to me in the \_\_\_\_\_ language by \_\_\_\_\_, who is qualified to translate English into the \_\_\_\_\_ language
5. ☒ I am ☐ am not represented by a lawyer. I understand that I have the right to hire a lawyer or have the court appoint a lawyer to represent me if the court finds that I cannot afford to hire a lawyer.  
☐ I choose to give up my right to a lawyer. I will represent myself. (\_\_\_\_\_) [initial here]
6. If represented by a lawyer, I have told my lawyer all the facts I know about the charge against me. My lawyer has advised me of the nature of the charge and the defenses, if any, that I have in this case. I am satisfied with the advice and help my lawyer has given me.
7. I understand that I have the following rights: a) the right to jury trial; b) the right to confront and question all witnesses who testify against me at trial; c) the right to remain silent about all facts of the case; d) the right to subpoena witnesses and evidence in my favor; e) the right to have my lawyer assist me at trial; f) the right to testify at trial; g) the right to have the jury told, if I decided not to testify at trial, that they cannot hold that decision against me; and h) the right to require the prosecutor to prove my guilt beyond a reasonable doubt.
8. I understand that I give up all of the rights listed in paragraph 7 when I plead guilty or no contest. I understand I give up: a) any defenses I may have to the charge; b) objections to evidence; and c) challenges to the accusatory instrument.
9. By this petition, I am pleading ☒ guilty ☐ no contest to the crime of driving under the influence of intoxicants (DUII) which is a Class A misdemeanor under Oregon law. The maximum penalties, applicable if I do not enter diversion or if I fail to comply with the conditions of diversion are 364 days in jail and a fine of \$6,250 or \$10,000 if the offense was committed in a motor vehicle and there was a passenger younger than 18 and at least three years younger than me. The minimum penalties are 48 hours of imprisonment or 80 hours of community service and a fine of:
  - \$1,000 if this is my first conviction

- \$1,500 if this is my second conviction
- \$2,000 if this is my third conviction and I am not sentenced to a term of imprisonment
- \$2,000 if my blood alcohol level (BAC) was 0.15 percent or greater

If I do not enter diversion or if I fail to comply with the conditions of diversion, there will be a mandatory suspension of my driving privileges for:

- 1 year if this is my first conviction
  - 3 years if this is my second conviction within 5 years
  - my lifetime if this is my third or subsequent conviction
10. I understand that if I am not a U.S. citizen, this plea may result in my removal from this country, exclusion from admission to the United States, or denial of naturalization.
  11. I understand that I will be required to pay all of the fees listed in the *Summary of DUII Diversion Fees*, unless the court finds me unable to pay and waives all or part of these fees. These fees include an alcohol or drug abuse assessment and any recommended or court-ordered treatment. The court may order me to attend a victim impact panel and pay a participation fee. I may be required to reimburse the state for the cost, if any, of a court-appointed attorney.
  12. I am submitting this plea along with a petition to enter the diversion program under ORS 813.200 to 813.270. I understand that if the court grants the petition, the court will accept this plea but will not enter a judgment of conviction at this time.
  13. I understand that:
    - a. If I fully comply with the conditions of the diversion agreement within the period authorized by law and by the court, the court will dismiss the charge with prejudice under ORS 813.250. If the court does not have a policy of automatically dismissing the DUII charge at the end of one year, I will have to file a motion at the end of the diversion period requesting that the charge be dismissed.
    - b. If I fail to comply with the diversion agreement within the diversion period, the court will enter a judgment of conviction on the charge and will sentence me
  14. I understand that if the court enters judgment on this plea for failing to comply with the diversion agreement, it is the same as a conviction. This court can find me guilty of the crime of DUII based on this plea alone, without receiving any evidence.
  15. I understand that if the court denies the diversion petition and I go to trial, nothing in this petition will be used against me
  16. This plea is based only on what is written on this petition. No promises have been made to me by my lawyer or any officer or agent of any branch of government (federal, state, or local) that I will receive a particular sentence or form of treatment from this or any other court, on these or any other charges, other than what is set forth in this petition.
  17. ☐ I plead no contest or  
☒ I plead guilty because in marion County, Oregon, I did the following: on or about November 13, 2021, I unlawfully drove a vehicle upon premises open to the public while under the influence of intoxicants.

18. I ☐ am ☒ am not currently on probation, parole, or post-prison supervision. I know that if I am and the court enters judgment on this plea, my failure to comply with the conditions of the diversion agreement may cause my probation, parole, or post-prison supervision to be revoked and I may be required to serve jail or prison time in that case in addition to any sentence imposed in this case.
19. I understand the charge against me and the information in this petition. I am signing this petition and entering this plea voluntarily, intelligently, and knowingly.
20. I understand that if I fail to comply with the terms of the diversion and the court enters a judgment of conviction, I have the right to appeal the conviction. My right to an appeal will be explained to me when the court enters the judgment of conviction.

Luis  
Defendant's Signature

Luis Paniagua  
Defendant's Name (printed)

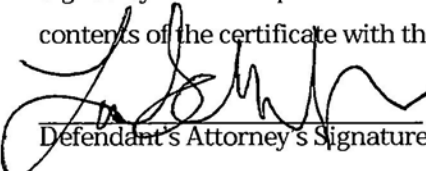
12/22/21  
Date

### CERTIFICATE OF COUNSEL

I am the attorney for the defendant in this proceeding and I certify that:

1. I have fully explained to my client the charge and possible defenses that may apply in this case
2. I have personally examined this plea petition, explained all of its provisions to my client, and discussed fully with my client all matters described and referred to in the petition
3. I have explained to my client the maximum penalty and other consequences of entering a guilty or no contest plea, including possible immigration consequences
4. To the best of my knowledge and belief, my client's decision to enter this plea is made voluntarily, intelligently, and knowingly
5. I have told my client that if he or she is eligible for court-appointed counsel and wishes to pursue an appeal, I will transmit the information necessary to perfect the appeal to the Office of Public Defense Services

Signed by me in the presence of the above-named defendant/petitioner and after full discussion of the contents of the certificate with the defendant on (date) 12/22/21

  
Defendant's Attorney's Signature

Laura D. Schifano  
Attorney Name (typed or printed)

205728  
Bar Number

### CERTIFICATE OF INTERPRETER

I, the undersigned interpreter, certify that I have read aloud the petition to the above defendant in the \_\_\_\_\_ language

Signed by me in the presence of the above-named defendant on (date) \_\_\_\_\_

\_\_\_\_\_  
Interpreter's Signature

\_\_\_\_\_  
Interpreter Name (printed)

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF Marion  
CITY OF Salem

State of Oregon

Case No: 21UR60813

v.

**ORDER ON PETITION TO PLEAD  
GUILTY OR NO CONTEST**

Luis Ponfaga-Fernandez  
Defendant

(DUI Diversion)

Regarding Count 1

**The court finds:**

That the defendant's plea of ☐ no contest ☒ guilty is knowingly, intelligently, and voluntarily made

**ORDER:**

The court ☒ accepts ☐ denies the plea petition for purposes of ORS 813.200 to 813.270

Judge Signature:

1/14/2022

U. S. District Court

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF Marion  
CITY OF Salem

State of Oregon

Case No: 21CR60813

v.

DEFENDANT'S DECLARATION OF  
ELIGIBILITY

Luis Poniatgra-Fernandez  
Defendant

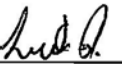
*DUII Diversion*

I am eligible to participate in a driving under the influence of intoxicants (DUII) diversion program because:

1. I have never been convicted of a felony DUII offense in Oregon or any other place
2. On the date I sign the attached petition for a DUII diversion agreement:
  - a. Except for the DUII charge in this case, there is no charge pending against me in Oregon or any other place for an offense involving operation of a vehicle while:
    - under the influence of alcohol, cannabis, a controlled substance, an inhalant, or any combination of the four, or
    - having a blood alcohol content above the allowable blood alcohol content
  - b. I am not participating in a DUII diversion program or any similar alcohol or drug rehabilitation program in Oregon or any other place except:
    - a program I may have entered as a result of the DUII charge in this case, or
    - a charge for minor in possession of alcohol under ORS 471.430
  - c. There is no charge of an offense pending against me in Oregon or any other place for any degree of aggravated vehicular homicide, murder, manslaughter, criminally negligent homicide, or assault that resulted from the operation of a motor vehicle
3. During the fifteen (15) years before the date of the alleged DUII offense in this case and from the time between the alleged DUII offense and the date I sign the attached petition:
  - a. I have not been convicted in Oregon or any other place for an offense involving the operation of a vehicle while:
    - under the influence of alcohol, cannabis, a controlled substance, an inhalant, or any combination of the four, or
    - having a blood alcohol content above the allowable blood alcohol content
  - b. I have not participated in a DUII diversion program or any similar alcohol or drug rehabilitation program in Oregon or any other place except a program I may have entered as a result of a charge for minor in possession of alcohol under ORS 471.430
  - c. I have not been convicted, in Oregon or any other place, on any charge of an offense in any degree for aggravated vehicular homicide, murder, manslaughter, criminally negligent homicide, or assault that resulted from the operation of a motor vehicle,  
**and**
  - d. If this is my second or subsequent diversion, I have not been convicted of any criminal offenses involving a motor vehicle

4. The DUII offense described in the attached petition did not involve any deaths or any physical injury to any other person (*"physical injury" means impairment of physical condition or substantial pain*)
5. At the time of the alleged offense, I did not have commercial driving privileges
6. At the time of the alleged offense, I was not operating a commercial motor vehicle

**I hereby declare that the above statement is true to the best of my knowledge and belief. I understand it is made for use as evidence in court and I am subject to penalty for perjury.**

  
Defendant's Signature

Luis Paniagua  
Defendant's Name (printed)

12/22/21  
Date

**NOTE:** this declaration must be completed by Defendant and filed with DUII diversion *Petition and Agreement (with attached Explanation of Rights and DUII Diversion Agreement)*, Order re: *DUII Diversion, Petition to Plead Guilty or No Contest*, and Order on *Petition to Plead Guilty or No Contest*

# WOODBURN POLICE DEPARTMENT

**CASE REPORT**  
1060 MT HOOD AVE  
WOODBURN OR  
97071

CASE# **2022-00011326**

☒ AXON VIDEO  
☒ AXON PHOTOS

<b>EVENT</b>	REPORTED DATE/TIME <b>09/15/2022 04:10</b>	OCCURRED INCIDENT TYPE <b>Hit and Run</b>	CASE STATUS <b>Inactive</b>
	OCCURRED FROM DATE/TIME <b>09/15/2022 04:10</b>	OCCURRED THRU DATE/TIME <b>09/15/2022 04:10</b>	LOCATION OF OCCURRENCE <b>KIRKSEY STREET WOODBURN</b>

<b>OFFENSES</b>	STATE DESCRIPTION	CC INITS	ATTEMPT/COMMIT
	<b>811.750 HIT AND RUN - PASSENGER FAIL TO REPORT</b>	<b>1</b>	<b>Committed</b>

<b>SUBJECT</b>	SUBJECT TYPE <b>Suspect</b>	NAME (LAST FIRST MIDDLE SUFFIX) <b>PANIAGUA FERNANDEZ, LUIS FERNANDO</b>					
	DOE [REDACTED] <b>19</b>	ADDRESS (STREET, CITY, STATE, ZIP) <b>1084 PANA STREET WOODBURN, OR 97071</b>					
	RACE <b>Hispanic or Latino</b>	SEX <b>Male</b>	HEIGHT or RANGE <b>505</b>	WEIGHT or RANGE <b>152</b>	HAIR <b>Bald</b>	EYE <b>Brown</b>	
	DL NUMBER/STATE [REDACTED] <b>OR</b>	PRIMARY PHONE / PHONE TYPE	OTHER PHONE / PHONE TYPE		SSN		

<b>SUBJECT</b>	SUBJECT TYPE <b>Victim</b>	NAME (LAST FIRST MIDDLE SUFFIX) <b>PUBLIC WORKS,</b>					
	DOE [REDACTED]	ADDRESS (STREET, CITY, STATE, ZIP) <b>270 MONTGOMERY STREET WOODBURN, OR 97071</b>					
	RACE	SEX	HEIGHT or RANGE	WEIGHT or RANGE	HAIR	EYE	
	DL NUMBER/STATE	PRIMARY PHONE / PHONE TYPE	OTHER PHONE / PHONE TYPE <b>WORK PHONE (503)982-5240</b>		SSN		

<b>SUBJECT</b>	SUBJECT TYPE	NAME (LAST FIRST MIDDLE SUFFIX)					
	DOE	ADDRESS (STREET, CITY, STATE, ZIP)					
	RACE	SEX	HEIGHT or RANGE	WEIGHT or RANGE	HAIR	EYE	
	DL NUMBER/STATE	PRIMARY PHONE / PHONE TYPE	OTHER PHONE / PHONE TYPE		SSN		

REPORTING OFFICER <b>Alcorn, Cade, B40</b>	DATE <b>09/15/2022</b>	REVIEWED BY <b>Carpenter, Geoffrey 09/21/2022</b>
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# WOODBURN POLICE DEPARTMENT

## CASE REPORT

CASE# 2022-00011326

1060 MT HOOD AVE  
WOODBURN OR  
97071

### VEHICLES as PROPERTY

PROPERTY VEHICLE	PROPERTY CODE		PROPERTY TYPE		VALUE
	16-Suspect Vehicle		Vehicle - Automobile - 321		
	VEH YR	TYPE/MAKE/MODEL			STYLE
	2022	Auto TOYOTA TACOMA			
	PLATE / STATE		VIN	TOP COLOR	BOTTOM COLOR
TB36699 / OR		3TYSZ5AN5NT078594			
ADDITIONAL DESCRIPTIVE INFORMATION					

PROPERTY VEHICLE	PROPERTY CODE		PROPERTY TYPE		VALUE
	VEH YR	TYPE/MAKE/MODEL			STYLE
	PLATE / STATE		VIN	TOP COLOR	BOTTOM COLOR
ADDITIONAL DESCRIPTIVE INFORMATION					

PROPERTY VEHICLE	PROPERTY CODE		PROPERTY TYPE		VALUE
	VEH YR	TYPE/MAKE/MODEL			STYLE
	PLATE / STATE		VIN	TOP COLOR	BOTTOM COLOR
ADDITIONAL DESCRIPTIVE INFORMATION					

PROPERTY VEHICLE	PROPERTY CODE		PROPERTY TYPE		VALUE
	VEH YR	TYPE/MAKE/MODEL			STYLE
	PLATE / STATE		VIN	TOP COLOR	BOTTOM COLOR
ADDITIONAL DESCRIPTIVE INFORMATION					

PROPERTY VEHICLE	PROPERTY CODE		PROPERTY TYPE		VALUE
	VEH YR	TYPE/MAKE/MODEL			STYLE
	PLATE / STATE		VIN	TOP COLOR	BOTTOM COLOR
ADDITIONAL DESCRIPTIVE INFORMATION					

REPORTING OFFICER	DATE	REVIEWED BY
Alcorn, Cade, B40	09/15/2022	Carpenter, Geoffrey 09/21/2022

**WOODBURN POLICE DEPARTMENT****CASE REPORT**CASE# **2022-00011326**1060 MT HOOD AVE  
WOODBURN OR  
97071**NARRATIVE**

OFFICER CADE ALCORN

CASE INACTIVE

On September 15, 2022, at approximately 4:12 a.m., I was dispatched to respond to a motor vehicle crash in the area of Ben Brown Drive and Killian Spring Drive in Woodburn, Oregon. Dispatch advised there was one vehicle in the middle of the road and someone was screaming. While I responded to the crash I was told a vehicle had drove up to the crash and was driving away.

I arrived in the area of the Ben Brown Drive and Killian Spring Drive and began attempting to locate the other involved vehicles. I was unsuccessful in finding any vehicles fleeing from the scene.

At approximately 4:36 a.m., I arrived on scene and saw a 2022 Toyota Tacoma with no license plate with significant damage parked in the middle of Kirksey Street. The vehicle was unoccupied with the airbags deployed. I noticed several empty beer bottles inside of the vehicle and one smashed on the roadways blacktop outside of the driver's door.

It appeared the vehicle was driving north bound on Kirksey road and went into the south bound lane. There were black tire marks alongside the curb for approximately 100 feet. The tire marks showed the vehicle's tires had hopped over the curb and began driving on the grass. A few trees were knocked out of the ground and the vehicle collided with fire hydrant that was bolted into the ground. The vehicle knocked the fire hydrant out of the ground and a few feet into roadway. The vehicle left tire marks in the roadway where it had spun out and came to a stop in facing south bound in the north bound lane of travel.

I asked dispatch to have a tow company respond to my location for a hit and run crash and the vehicle being a hazard. I performed an inventory of the vehicle and found plates for the vehicle located inside. The plates of the vehicle were numbered TB36699.

I ran the VIN/plates and the vehicle came back to Luis Paniagua Fernandez. I looked at the registered owner's information and went to 765 S. Pacific Highway Unit 5, Woodburn, Oregon. I was advised by the homeowners Luis did not live there and lived at 1084 Pana St., Woodburn, Oregon.

I went to 1084 Pana St. and spoke and was advised Luis was in his room sleeping. I talked with Luis who had a strong odor commonly associated with that of an alcoholic beverage emanating from his person. Luis was sleeping in jeans and a long sleeve t-shirt and was denying being in the accident. I asked Luis where he was at and he told me he had been sleeping and had work in the morning. Luis told me he did not know where his vehicle was and did not know it was not in the driveway of the residence. I did not observe visible injury on Luis and Luis would not admit to being the operator of the vehicle.

End of report.

REPORTING OFFICER

**Alcorn, Cade, B40**


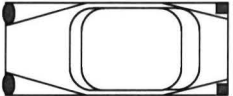

DATE

**09/15/2022**

REVIEWED BY

**Carpenter, Geoffrey 09/21/2022**

3 OF 3

<b>DMV</b>		<b>OREGON POLICE TRAFFIC CRASH REPORT</b>					PAGE <b>1</b> OF <b>2</b>												
POLICE INCIDENT / CASE NUMBER <b>2022-00011326</b>		CRASH DATE <b>09/15/2022</b>		DAY OF WEEK <b>M T W T F S S N</b>		CRASH TIME <b>04:10 AM PM</b>		POLICE NOTIFIED <b>04:12 AM PM</b>		POLICE ARRIVAL <b>04:36 AM PM</b>		DMV FILE NUMBER							
COUNTY <b>Marion</b>		ROAD ON WHICH CRASH OCCURRED <b>Kirksey Road</b>				LATITUDE <b>45.137788</b>		LONGITUDE <b>-122.873856</b>		MILE POST <b>N/A</b>		DMV CODE							
<input checked="" type="checkbox"/> WITHIN _____ FEET N S OF NEAREST INTERSECTING ROAD <input type="checkbox"/> NEAR .25 MILES E W <b>Ben Brown Drive</b>				<input checked="" type="checkbox"/> WITHIN _____ FEET N S OF NEAREST CITY / TOWN <input type="checkbox"/> NEAR _____ MILES E W <b>Woodburn</b>															
<input type="checkbox"/> PROPERTY DAMAGE <input type="checkbox"/> PUBLIC PROPERTY DAMAGE ESTIMATE: <input type="checkbox"/> UNDER \$2500 <input type="checkbox"/> OVER \$2500 <input type="checkbox"/> UNKNOWN				<input type="checkbox"/> HAZ. MATERIALS <input type="checkbox"/> PHOTOS TAKEN <input type="checkbox"/> TRAIN R/R <input type="checkbox"/> TRUCK / BUS															
UNIT # <b>1</b>		NAME (LAST, FIRST, MIDDLE) <b>Paniagua Fernandez, Luis Fernando</b>				STATE <b>OR</b>		SEX <b>M</b>		RACE <b>H</b>									
PED BIC <b>1084 Pana St., Woodburn, Oregon</b>		ADDRESS				PHONE: <input type="checkbox"/> HOME <input type="checkbox"/> WORK <input type="checkbox"/> CELL ( )													
PRK <b>VEHICLE OWNER</b>		VEHICLE OWNER				PHONE: <input type="checkbox"/> HOME <input type="checkbox"/> WORK <input type="checkbox"/> CELL ( )													
PRP <input checked="" type="checkbox"/> SAME																			
FIRE <b>Y N</b>		STD SPD <b>25</b>		PST SPD <b>25</b>		INSURANCE COMPANY <input type="checkbox"/> NONE <b>Alpha Property+Casualty</b>		INSURANCE POLICY NUMBER <b>5198206</b>											
EJECTED <b>Y P N</b>		EXTRCTD <b>Y N</b>		VEHICLE IDENTIFICATION NUMBER (VIN) <b>3TYSZ5AN5NT078594</b>		LICENSE PLATE NUMBER <b>TB36699</b>		STATE <b>OR</b>		YEAR <b>2022</b>		MAKE <b>Toyota</b>		MODEL <b>Tacoma</b>		STYLE <b>4DR</b>		COLOR <b>Gry</b>	
VEHICLE TOWED DUE TO VEHICLE DAMAGE <input checked="" type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> UNKNOWN BY: <b>Baker and Baker</b> TO: <b>Baker and Baker</b>				DRIVER TAKEN: <input checked="" type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> UNKNOWN BY: TO:															
VEHICLE DAMAGE 				MARK ALL THAT APPLY: DAMAGE ESTIMATE <input type="checkbox"/> ROLLOVER <input type="checkbox"/> NONE <input type="checkbox"/> UNDERCAR <input type="checkbox"/> UNDER \$2500 <input type="checkbox"/> TOTALED <input checked="" type="checkbox"/> OVER \$2500 <input type="checkbox"/> UNKNOWN															
INJURY: <input type="checkbox"/> NO APPARENT <input checked="" type="checkbox"/> POSSIBLE <input type="checkbox"/> SUSPECTED MINOR <input type="checkbox"/> SUSPECTED SERIOUS <input type="checkbox"/> FATAL				EQUIPMENT: <input type="checkbox"/> NO EQP USED <input type="checkbox"/> LAP ONLY <input type="checkbox"/> LAP / SHLDR <input type="checkbox"/> CHLD RST-PRP <input checked="" type="checkbox"/> A/BAG-DEPLYD <input type="checkbox"/> NONE INSTLD <input checked="" type="checkbox"/> UNKNOWN <input type="checkbox"/> SHLDR ONLY <input type="checkbox"/> HELMET <input type="checkbox"/> CHLD RST-IMPR <input type="checkbox"/> A/BAG-NOT DP															
ACTION / ARREST / CITES																			
SUSPECT NAME <b>Luis Fernando Paniagua Fernandez</b>				AKA				IN CUSTODY <input checked="" type="checkbox"/> Y <input type="checkbox"/> N											
ADDRESS <b>1084 Pana St., Woodburn, Oregon</b>				OTHER INFORMATION:															
SEX <b>M</b>				RACE <b>H</b>		HT <b>5'05</b>		WT <b>152</b>		HAIR <b>Black</b>		EYES <b>Brown</b>		LOCAL ID					
UNIT #		NAME (LAST, FIRST, MIDDLE) <b>City of Woodburn Public Works</b>				DRIVER LICENSE NUMBER		STATE		SEX		RACE		DOB					
PED BIC <b>270 Montgomery St., Woodburn, Oregon</b>		ADDRESS				PHONE: <input type="checkbox"/> HOME <input checked="" type="checkbox"/> WORK <input type="checkbox"/> CELL ( <b>503</b> ) <b>982-5240</b>													
PRK <b>VEHICLE OWNER</b>		VEHICLE OWNER				PHONE: <input type="checkbox"/> HOME <input type="checkbox"/> WORK <input type="checkbox"/> CELL ( )													
PRP <input type="checkbox"/> SAME																			
FIRE <b>Y N</b>		STD SPD		PST SPD		INSURANCE COMPANY <input type="checkbox"/> NONE		INSURANCE POLICY NUMBER											
EJECTED <b>Y P N</b>		EXTRCTD <b>Y N</b>		VEHICLE IDENTIFICATION NUMBER (VIN)		LICENSE PLATE NUMBER		STATE		YEAR		MAKE		MODEL		STYLE		COLOR	
VEHICLE TOWED DUE TO VEHICLE DAMAGE <input checked="" type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> UNKNOWN BY: TO:				DRIVER TAKEN: <input checked="" type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> UNKNOWN BY: TO:															
VEHICLE DAMAGE 				MARK ALL THAT APPLY: DAMAGE ESTIMATE <input type="checkbox"/> ROLLOVER <input type="checkbox"/> NONE <input type="checkbox"/> UNDERCAR <input type="checkbox"/> UNDER \$2500 <input type="checkbox"/> TOTALED <input checked="" type="checkbox"/> OVER \$2500 <input type="checkbox"/> UNKNOWN															
INJURY: <input type="checkbox"/> NO APPARENT <input type="checkbox"/> POSSIBLE <input type="checkbox"/> SUSPECTED MINOR <input type="checkbox"/> SUSPECTED SERIOUS <input type="checkbox"/> FATAL				EQUIPMENT: <input type="checkbox"/> NO EQP USED <input type="checkbox"/> LAP ONLY <input type="checkbox"/> LAP / SHLDR <input type="checkbox"/> CHLD RST-PRP <input type="checkbox"/> A/BAG-DEPLYD <input type="checkbox"/> NONE INSTLD <input type="checkbox"/> UNKNOWN <input type="checkbox"/> SHLDR ONLY <input type="checkbox"/> HELMET <input type="checkbox"/> CHLD RST-IMPR <input type="checkbox"/> A/BAG-NOT DP															
ACTION / ARREST / CITES																			
USE ARROW TO SHOW FIRST IMPACT (SHADE IN DAMAGED AREA)																			
UNIT #		<input type="checkbox"/> PASSENGER NAME <input type="checkbox"/> WITNESS				ADDRESS													
SEX		RACE		DOB		PHONE: <input type="checkbox"/> HOME <input type="checkbox"/> WORK <input type="checkbox"/> CELL ( )		INJURY: <input type="checkbox"/> NO APPARENT <input type="checkbox"/> POSSIBLE <input type="checkbox"/> SUSP MINOR <input type="checkbox"/> SUSP SERIOUS <input type="checkbox"/> FATAL		LOCATION LF CF RF LR CR RR		OTHER:		EJECTED <b>Y P N</b>		EXTRCTD <b>Y N</b>			
PASSENGER TAKEN: <input checked="" type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> UNKNOWN BY: TO:				EQUIPMENT: <input type="checkbox"/> NO EQP USED <input type="checkbox"/> LAP ONLY <input type="checkbox"/> LAP / SHLDR <input type="checkbox"/> CHLD RST-PRP <input type="checkbox"/> A/BAG-DEPLYD <input type="checkbox"/> NONE INSTLD <input type="checkbox"/> UNKNOWN <input type="checkbox"/> SHLDR ONLY <input type="checkbox"/> HELMET <input type="checkbox"/> CHLD RST-IMPR <input type="checkbox"/> A/BAG-NOT DP															
UNIT #		<input type="checkbox"/> PASSENGER NAME <input type="checkbox"/> WITNESS				ADDRESS													
SEX		RACE		DOB		PHONE: <input type="checkbox"/> HOME <input type="checkbox"/> WORK <input type="checkbox"/> CELL ( )		INJURY: <input type="checkbox"/> NO APPARENT <input type="checkbox"/> POSSIBLE <input type="checkbox"/> SUSP MINOR <input type="checkbox"/> SUSP SERIOUS <input type="checkbox"/> FATAL		LOCATION LF CF RF LR CR RR		OTHER:		EJECTED <b>Y P N</b>		EXTRCTD <b>Y N</b>			
PASSENGER TAKEN: <input checked="" type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> UNKNOWN BY: TO:				EQUIPMENT: <input type="checkbox"/> NO EQP USED <input type="checkbox"/> LAP ONLY <input type="checkbox"/> LAP / SHLDR <input type="checkbox"/> CHLD RST-PRP <input type="checkbox"/> A/BAG-DEPLYD <input type="checkbox"/> NONE INSTLD <input type="checkbox"/> UNKNOWN <input type="checkbox"/> SHLDR ONLY <input type="checkbox"/> HELMET <input type="checkbox"/> CHLD RST-IMPR <input type="checkbox"/> A/BAG-NOT DP															
UNIT #		<input type="checkbox"/> PASSENGER NAME <input type="checkbox"/> WITNESS				ADDRESS													
SEX		RACE		DOB		PHONE: <input type="checkbox"/> HOME <input type="checkbox"/> WORK <input type="checkbox"/> CELL ( )		INJURY: <input type="checkbox"/> NO APPARENT <input type="checkbox"/> POSSIBLE <input type="checkbox"/> SUSP MINOR <input type="checkbox"/> SUSP SERIOUS <input type="checkbox"/> FATAL		LOCATION LF CF RF LR CR RR		OTHER:		EJECTED <b>Y P N</b>		EXTRCTD <b>Y N</b>			
PASSENGER TAKEN: <input checked="" type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> UNKNOWN BY: TO:				EQUIPMENT: <input type="checkbox"/> NO EQP USED <input type="checkbox"/> LAP ONLY <input type="checkbox"/> LAP / SHLDR <input type="checkbox"/> CHLD RST-PRP <input type="checkbox"/> A/BAG-DEPLYD <input type="checkbox"/> NONE INSTLD <input type="checkbox"/> UNKNOWN <input type="checkbox"/> SHLDR ONLY <input type="checkbox"/> HELMET <input type="checkbox"/> CHLD RST-IMPR <input type="checkbox"/> A/BAG-NOT DP															
DISTRIBUTION <b>City Of Woodburn Public Works - Jeff Crabtree</b>																			
OFFICER NAME / NUMBER <b>C. Alcorn 59057</b>						DATE <b>09/20/2022</b>				AGENCY <b>Woodburn PD</b>				APPROVED BY 					
735-46A (1-20)						EXHIBIT TK# 300018													

POLICE INCIDENT / CASE NUMBER <b>2022-00011326</b>	EMS NOTIFIED <b>04:17</b> <b>AM</b>	EMS ARRIVAL <b>04:18</b> <b>AM</b>	LOCAL CODES <b>A</b> <b>B</b>			PAGE <b>2</b>	OF <b>2</b>
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**Check ONE box in all categories. Check ALL boxes that apply in categories with (\*).**

<b>FIRST HARMFUL EVENT</b> <b>NON COLLISION</b> <input type="checkbox"/> OVERTURN <input type="checkbox"/> FIRE / EXPLOSION <input type="checkbox"/> IMMERSION <input type="checkbox"/> GAS INHALATION <input type="checkbox"/> OTHER NON COLLISION <input type="checkbox"/> MEDICAL (Explain):  <b>COLLISION WITH</b> <input type="checkbox"/> PEDESTRIAN <input type="checkbox"/> PARKED MOTOR VEHICLE <input type="checkbox"/> RAILWAY TRAIN <input type="checkbox"/> BICYCLIST  <b>CRASH TYPE</b> <input type="checkbox"/> HEAD ON <input type="checkbox"/> REAR END <input checked="" type="checkbox"/> ANGLE <input type="checkbox"/> SIDESWIPE <input type="checkbox"/> SECONDARY CRASH <input type="checkbox"/> MANNER UNKNOWN  <b>FIXED OBJECT</b> <input type="checkbox"/> BARRICADE <input type="checkbox"/> BOULDER / ROCK <input type="checkbox"/> BRIDGE O/PASS or RAILING <input type="checkbox"/> BUILDING <input type="checkbox"/> CULVERT HEADWALL <input type="checkbox"/> CURBING <input type="checkbox"/> DITCH <input type="checkbox"/> DIVIDER - CNCRT or STEEL <input type="checkbox"/> FENCE - NOT MEDIAN <input checked="" type="checkbox"/> FIRE HYDRANT <input type="checkbox"/> HIGHWAY GUARDRAIL <input type="checkbox"/> HIGHWAY SIGN <input type="checkbox"/> IMPACT ABSORBER <input type="checkbox"/> LIGHT STANDARD <input type="checkbox"/> MAILBOX <input type="checkbox"/> OVERHEAD SIGN POST <input type="checkbox"/> OVERHEAD STRUCTURE <input type="checkbox"/> PIER or COLUMN <input type="checkbox"/> RETAINING WALL <input type="checkbox"/> SIDESLOPE EARTH <input type="checkbox"/> SIDESLOPE ROCK or STONE <input type="checkbox"/> TRAFFIC SIGNAL POST <input type="checkbox"/> TREE <input type="checkbox"/> UNDERPASS TUNNEL <input type="checkbox"/> UTILITY POLE <input type="checkbox"/> OTHER FIXED (Explain):  <b>OTHER OBJECT (NOT FIXED)</b> <input type="checkbox"/> ANIMAL <input type="checkbox"/> THROWN / FALLING OBJECT <input type="checkbox"/> UNKNOWN <input type="checkbox"/> OTHER OBJECT (Explain):  <b>EVENT LOCATION</b> <b>ON ROADWAY</b> <input checked="" type="checkbox"/> NON-INTERSECTION <input type="checkbox"/> INTERSECTION <input type="checkbox"/> INTERSECTION RELATED <input type="checkbox"/> DRIVEWAY ACCESS <input type="checkbox"/> INTERCHANGE AREA <input type="checkbox"/> RAILROAD CROSSING <input type="checkbox"/> BRIDGE <input type="checkbox"/> TUNNEL <input type="checkbox"/> OTHER ON-ROAD AREA <b>OFF ROADWAY</b> <input type="checkbox"/> SHOULDER <input type="checkbox"/> TURNOUT <input type="checkbox"/> ROADSIDE <input type="checkbox"/> BEYOND RIGHT OF WAY <input type="checkbox"/> MEDIAN <input type="checkbox"/> DRIVEWAY <input type="checkbox"/> PRIVATE DRIVE <input type="checkbox"/> RAILROAD CROSSING <input type="checkbox"/> OTHER OFF ROAD <input type="checkbox"/> PARKING LOT <input type="checkbox"/> UNKNOWN <b>SPECIAL ZONE</b> <input checked="" type="checkbox"/> NONE <input type="checkbox"/> CONSTRUCTION <input type="checkbox"/> MAINTENANCE - ORS 811.230 <input type="checkbox"/> UTILITY <input type="checkbox"/> SNOW <input type="checkbox"/> SCHOOL <input type="checkbox"/> UNKNOWN WORK <input type="checkbox"/> OTHER	<b>WEATHER</b> <input checked="" type="checkbox"/> CLEAR <input type="checkbox"/> CLOUDY (OVERCAST) <input type="checkbox"/> RAIN <input type="checkbox"/> SNOW <input type="checkbox"/> SLEET / HAIL / ETC <input type="checkbox"/> FOG / SMOG <input type="checkbox"/> SMOKE <input type="checkbox"/> BLOWING SAND / DIRT <input type="checkbox"/> SEVERE CROSSWIND <input type="checkbox"/> OTHER / UNKNOWN  <b>SURFACE CONDITION</b> <b>#1 #2</b> <input type="checkbox"/> DRY <input type="checkbox"/> WET <input type="checkbox"/> SNOW / SLUSH <input type="checkbox"/> ICY <input type="checkbox"/> MUDDY <input type="checkbox"/> DEBRIS <input type="checkbox"/> RUTS / HOLES / BUMPS <input type="checkbox"/> WORN / POLISHED <input type="checkbox"/> LOW / SOFT SHOULDER <input type="checkbox"/> OTHER (Explain):  <b>SURFACE TYPE</b> <b>#1 #2</b> <input checked="" type="checkbox"/> CONCRETE <input type="checkbox"/> BLACKTOP / ASPHALT <input type="checkbox"/> GRAVEL <input type="checkbox"/> DIRT <input type="checkbox"/> OTHER  <b>LIGHT</b> <input type="checkbox"/> FULL DAYLIGHT <input type="checkbox"/> DAWN <input type="checkbox"/> DUSK <input checked="" type="checkbox"/> DARK - LIGHTED WAY <input type="checkbox"/> DARK - NOT LIGHTED <input type="checkbox"/> UNKNOWN  <b>TRAFFIC CONTROL TYPE</b> <b>#1 #2</b> <input checked="" type="checkbox"/> NONE <input type="checkbox"/> SCHOOL BUS LIGHTS <input type="checkbox"/> OFFICER / CROSSING <input type="checkbox"/> GUARD or FLAGGER <input type="checkbox"/> TRAFFIC SIGNAL w/ <input type="checkbox"/> PEDESTRIAN CONTROL <input type="checkbox"/> TRAFFIC SIGNAL <input type="checkbox"/> FLASHING BEACON <input type="checkbox"/> STOP SIGN <input type="checkbox"/> YIELD SIGN <input type="checkbox"/> RR CROSSING GATES <input type="checkbox"/> RR CROSSING BUCKS <input type="checkbox"/> RR FLASHING SIGNAL <input type="checkbox"/> RR CROSSING w/ <input type="checkbox"/> PAVEMENT MARKINGS <input type="checkbox"/> LANE CONTRLS / LINES <input type="checkbox"/> STRIPES / DEVICES <input type="checkbox"/> SCHOOL SIGNAL <input type="checkbox"/> OTHER REG SIGN <input type="checkbox"/> TURN LANES <input type="checkbox"/> UNKNOWN  <b>TRAFFIC CONTROL DEVICE CONDITION</b> <b>#1 #2</b> <input type="checkbox"/> NO MALFUNCTION <input type="checkbox"/> DOWN / MISSING <input type="checkbox"/> TURNED FROM <input type="checkbox"/> PROPER POSITION <input type="checkbox"/> OBSCURED BY <input type="checkbox"/> OTHER SIGNS <input type="checkbox"/> OBSCURED BY <input type="checkbox"/> PARKED VEHICLE <input type="checkbox"/> OBSCURED BY <input type="checkbox"/> VEGETATION <input type="checkbox"/> LIGHTS MALFUNCTION <input type="checkbox"/> LIGHTS STUCK <input type="checkbox"/> GATES INOPERATIVE <input type="checkbox"/> GATE ARM MISSING <input type="checkbox"/> OTHER RR MALFUNCTION <input type="checkbox"/> OTHER IMPAIRMENT <input checked="" type="checkbox"/> UNKNOWN	<b>ROAD CHARACTER</b> <b>#1 #2</b> <input type="checkbox"/> STRAIGHT and LEVEL <input type="checkbox"/> STRAIGHT w/ GRADE <input checked="" type="checkbox"/> CURVED and LEVEL <input type="checkbox"/> CURVED w/ GRADE  <b>VEH #1 1 NUMBER OF LANES</b>  <b>VEH #2 — NUMBER OF LANES</b>  <b>2 TOTAL NUMBER OF LANES</b>  <b>ROAD FLOW</b> <b>#1 #2</b> <input type="checkbox"/> ONE WAY TRAFFIC <input checked="" type="checkbox"/> NOT PHYSLY DIVIDED  <b>MEDIAN TYPE</b> <input type="checkbox"/> UNPAVED <input type="checkbox"/> BARRIER <input type="checkbox"/> PAVED <input type="checkbox"/> CONT LEFT TURN  <b>DRIVER LICENSE VIOLATION</b> <b>DRIVER #1 #2</b> <input type="checkbox"/> NONE <input type="checkbox"/> INSTRUCTION PERMIT <input type="checkbox"/> LICENSE RESTRICTION <input type="checkbox"/> EXPIRED LICENSE <input type="checkbox"/> OUT OF CLASS <input type="checkbox"/> SUSPENDED / REVOKED <input type="checkbox"/> UNLICENSED  <b>* DRIVER FACTORS</b> <b>DRIVER #1 #2</b> <input type="checkbox"/> NONE <input type="checkbox"/> CELL PHONE USE <input type="checkbox"/> OBSTRUCTED VIEW <input type="checkbox"/> FAILED TO YIELD ROW <input type="checkbox"/> DISRGRD TRAF SIGN <input type="checkbox"/> TOO FAST FOR COND <input type="checkbox"/> MADE IMPROPER TURN <input type="checkbox"/> WRONG SIDEWAY <input type="checkbox"/> FOLLOW TOO CLOSELY <input type="checkbox"/> IMPROPER LANE CHNG <input type="checkbox"/> IMPROPER BACKING <input type="checkbox"/> IMPROPER PASSING <input type="checkbox"/> IMPROPER SIGNAL <input type="checkbox"/> IMPROPER PARKING <input type="checkbox"/> FATIGUE / DROWSY <input type="checkbox"/> ILL <input type="checkbox"/> BLACKOUT <input type="checkbox"/> INATTENTIVE <input type="checkbox"/> DISTRACTED <input type="checkbox"/> UNKNOWN <input type="checkbox"/> IMPROP RESTR EQP USE <input type="checkbox"/> OTHER (Explain):  <b>* IMPAIRMENT</b> <b>DRIVER #1 #2</b> <input type="checkbox"/> NONE <input type="checkbox"/> UNDER INFL - DRUGS <input type="checkbox"/> UNDER INFL - ALCOHOL <input type="checkbox"/> UNDER INFL - MEDS <input type="checkbox"/> UNDER INFL-MARIJUANA <input type="checkbox"/> UNKNOWN  <b>DETERMINED BY:</b> <input type="checkbox"/> INTOXILYZER TEST <input type="checkbox"/> BLOOD OR URINE TEST <input type="checkbox"/> FIELD SOB. TEST <input type="checkbox"/> OBSERVED (SPEECH, ODOR, ETC.) <input type="checkbox"/> DRE EVALUATION <input type="checkbox"/> STATEMENTS <input type="checkbox"/> UNKNOWN <input type="checkbox"/> OTHER (Explain):  <b>RESULTS OF TEST:</b> <b>D1 % D2 %</b> <input type="checkbox"/> NO TEST GIVEN <input type="checkbox"/> TEST REFUSED <input type="checkbox"/> TESTED FOR DRUGS <input type="checkbox"/> RESLTS NOT AVAILABLE	<b>*VEH RELATED FACTORS</b> <b>#1 #2</b> <input type="checkbox"/> NONE <input type="checkbox"/> BRAKES <input type="checkbox"/> STEERING <input type="checkbox"/> POWER PLANT <input type="checkbox"/> SUSPENSION <input type="checkbox"/> TIRES <input type="checkbox"/> EXHAUST <input type="checkbox"/> LIGHTS <input type="checkbox"/> SIGNALS <input type="checkbox"/> WINDOWS / WINDSHLD <input type="checkbox"/> RESTRANT SYSTEM <input type="checkbox"/> WHEELS <input type="checkbox"/> COUPLING <input type="checkbox"/> CARGO <input type="checkbox"/> OTHER  <b>VEHICLE MOVEMENT</b> <b>#1 #2</b> <input type="checkbox"/> BACKING <input type="checkbox"/> STOPPED <input type="checkbox"/> STRAIGHT AHEAD <input type="checkbox"/> TURNING RIGHT <input type="checkbox"/> TURNING LEFT <input type="checkbox"/> MAKING U-TURN <input type="checkbox"/> ENTER TRAFFIC LANE <input type="checkbox"/> LEAVE TRAFFIC LANE <input type="checkbox"/> OVERTAKING <input type="checkbox"/> CHANGING LANES <input type="checkbox"/> AVOIDING MANEUVER <input type="checkbox"/> MERGING <input type="checkbox"/> PARKING <input checked="" type="checkbox"/> NEGOTIATING A CURVE <input type="checkbox"/> OTHER  <b>TRAILER TYPE</b> <b>#1 #2</b> <input type="checkbox"/> LOG BUNK <input type="checkbox"/> SEMITRAILER <input type="checkbox"/> POLE TRAILER <input type="checkbox"/> FULL TRAILER <input type="checkbox"/> MOBILE HOME <input type="checkbox"/> UTILITY TRAILER <input type="checkbox"/> TRAVEL TRAILER <input type="checkbox"/> BOAT TRAILER <input type="checkbox"/> FARM EQUIPMENT <input type="checkbox"/> HORSE TRAILER <input type="checkbox"/> VEHICLE IN TOW <input type="checkbox"/> OTHER / UNKNOWN	<b>TRUCK CONFIGURATION</b> <b>#1 #2</b> <input type="checkbox"/> TRUCK (2 or 3 AXLE) <input type="checkbox"/> TRUCK / TRACTOR-SEMI <input type="checkbox"/> TRUCK and TRAILER <input type="checkbox"/> DOUBLE TRAILERS <input type="checkbox"/> TRIPLE TRAILERS <input type="checkbox"/> DROMEDARY and SEMI <input type="checkbox"/> HEAVY HAUL CONFIG <input type="checkbox"/> BUS <input type="checkbox"/> OTHER (Explain):  <b>* PASSENGER FACTORS</b> <b>PASS UNIT #1</b> <b>#1 #2</b> <input type="checkbox"/> NONE <input type="checkbox"/> INTERFERED w/DRIVER <input type="checkbox"/> UNDER INFL - DRUGS <input type="checkbox"/> UNDER INFL - ALCOHOL <input type="checkbox"/> UNKNOWN <input type="checkbox"/> IMPROP RESTR EQP USE <input type="checkbox"/> OTHER (Explain):  <b>PASS UNIT #2</b> <b>#1 #2</b> <input type="checkbox"/> NONE <input type="checkbox"/> INTERFERED w/DRIVER <input type="checkbox"/> UNDER INFL - DRUGS <input type="checkbox"/> UNDER INFL - ALCOHOL <input type="checkbox"/> UNKNOWN <input type="checkbox"/> IMPROP RESTR EQP USE <input type="checkbox"/> OTHER (Explain):  <b>PEDESTRIAN LOCATION</b> <b>IN ROAD</b> <input type="checkbox"/> IN X-WALK <input type="checkbox"/> NOT IN X-WALK <input type="checkbox"/> NO X-WALK AVAILABLE  <b>INTERSECTION</b> <input type="checkbox"/> IN X-WALK <input type="checkbox"/> NOT IN X-WALK <input type="checkbox"/> NO X-WALK AVAILABLE  <b>OTHER</b> <input type="checkbox"/> NOT IN ROADWAY <input type="checkbox"/> SHOULDER <input type="checkbox"/> MEDIAN <input type="checkbox"/> BIKE LANE <input type="checkbox"/> UNKNOWN	<b>PEDESTRIAN TYPE</b> <input checked="" type="checkbox"/> NONE <input type="checkbox"/> PEDESTRIAN <input type="checkbox"/> BICYCLIST <input type="checkbox"/> CONVEYANCE <input type="checkbox"/> WHEELCHAIR <input type="checkbox"/> ANIMAL RIDER <input type="checkbox"/> RIDER of ANIM DRAWN VEH <input type="checkbox"/> UNKNOWN <input type="checkbox"/> OTHER (Explain):  <input type="checkbox"/> ENTER / CROSS ROAD <input type="checkbox"/> WALK / RIDE w/TRAFF <input type="checkbox"/> WALK / RIDE AGAINST <input type="checkbox"/> STEP ON / OFF VEHICLE <input type="checkbox"/> STEP ON / OFF SCH BUS <input type="checkbox"/> APPROCH / LEAVE SC BUS <input type="checkbox"/> APPROACH / LEAVE VEH <input type="checkbox"/> WORK / PUSHING VEHICLE <input type="checkbox"/> OTHER WORKING <input type="checkbox"/> PLAYING <input type="checkbox"/> STANDING <input type="checkbox"/> LYING DOWN <input type="checkbox"/> UNKNOWN  <b>PED / BIKE VISIBILITY</b> <b>CLOTHING</b> <input type="checkbox"/> NO CONTRAST w/BKGRND <input type="checkbox"/> CONTRASTED w/BKGRND <input type="checkbox"/> REFLECTIVE <b>OTHER</b> <input type="checkbox"/> OTHER LIGHT SOURCE <input type="checkbox"/> UNKNOWN  <b>* PED / BIKE FACTORS</b> <input type="checkbox"/> NONE <input type="checkbox"/> FAILED TO YIELD ROW <input type="checkbox"/> DISREGARD TRAFFIC SIGN <input type="checkbox"/> ILLEGALLY IN ROAD <input type="checkbox"/> EQUIPMENT VIOLATION <input type="checkbox"/> CLOTHING NOT VISIBLE <input type="checkbox"/> UNDER INFL - DRUGS <input type="checkbox"/> UNDER INFL - ALCOHOL <input type="checkbox"/> INATTENTIVE <input type="checkbox"/> DISTRACTED <input type="checkbox"/> CELL PHONE <input type="checkbox"/> UNKNOWN <input type="checkbox"/> OTHER (Explain):
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**North**

**SKETCH & NARRATIVE**

SKID MARKS TO (FEET) \_\_\_\_\_  
 DISTANCE AFTER (FEET) \_\_\_\_\_

UNIT **1** **2**

**Unit 1 was heading north bound on Kirskey Road towards Ben Brown Drive. Unit 1 went into oncoming south bound lane and drove with its tires driver side tires against the curb. Unit 1 hopped the curb and drove in the grass near the sidewalk before hitting a yellow fire hydrant and knocking it completely out of the ground.**

**Unit 1 continued negotiating the curve and came back onto roadway before spinning out. There was extensive damage to the driver side of the vehicle with all airbags deployed. Unit 1 came to a rest facing west in the north bound lane.**

**Woodburn Police Department**  
 1060 Mt. Hood Avenue  
 Woodburn, Oregon 97071  
 (503) 982-2345



22-11326

**TOWED VEHICLE NOTICE**

A motor vehicle in which you have a legal interest has been identified as being in violation of state law and has been taken into custody and removed by the Woodburn Police Department. It is being stored at your expense until such time as the person(s) entitled to possession of the motor vehicle provide proof of ownership and compliance with financial responsibility requirements under Oregon state law.

**The vehicle has been taken to the following towing and storage facility in Woodburn, OR:**

☒ Baker & Baker AAA, 2875 Newberg Hwy (503)981-9597      [ ] M&M Towing, 947 S Pacific Hwy (503)982-2751

**TOWING AND STORAGE CHARGES:**

The vehicle is subject to towing and storage charges. You can contact the above listed facility for information on the exact charges that must be paid before the vehicle will be released and procedures for obtaining release of the vehicle.

**LIEN FOR TOWING AND STORAGE CHARGES:**

The vehicle and its contents are subject to a lien for towing and storage charges and will be subject to sale by the towing and storage facility where it is located.

**TO CLAIM THE VEHICLE:**

You may claim your motor vehicle by providing proof of ownership or the right to possession and either payment of the towing & storage charges or the deposit of cash security or a bond equal to the amount of the charges. You must also provide written documentation of ownership and written, verifiable, insurance documentation from an insurance company. You must obtain a release from the police department (on Monday through Friday from 8:00 a.m. until 5:00 p.m.) in order for your motor vehicle to be released by the towing company. The police department will charge you an administrative fee of \$150.00 to provide for the release of your motor vehicle. (no personal checks accepted)

**REQUEST FOR HEARING:**

If you want to contest the validity of the towing of your motor vehicle, or the reasonableness of the storage charges, you may request a hearing. You must file your request in writing with the Woodburn Municipal Court, 270 Montgomery Street, Woodburn, Oregon, 97071. **Your request must be made within five (5) calendar days after the motor vehicle was impounded.**

Location: KIRKSEY ST.; WOODBURN, OR

Police Officer: ALCORN

D.P.S.S.T. #: 59057

Date/Time: 09/15/22 04:40 A.M.

Citation Number: \_\_\_\_\_

Vehicle License #: TB36699

Make: TOYOTA

Color: GRY

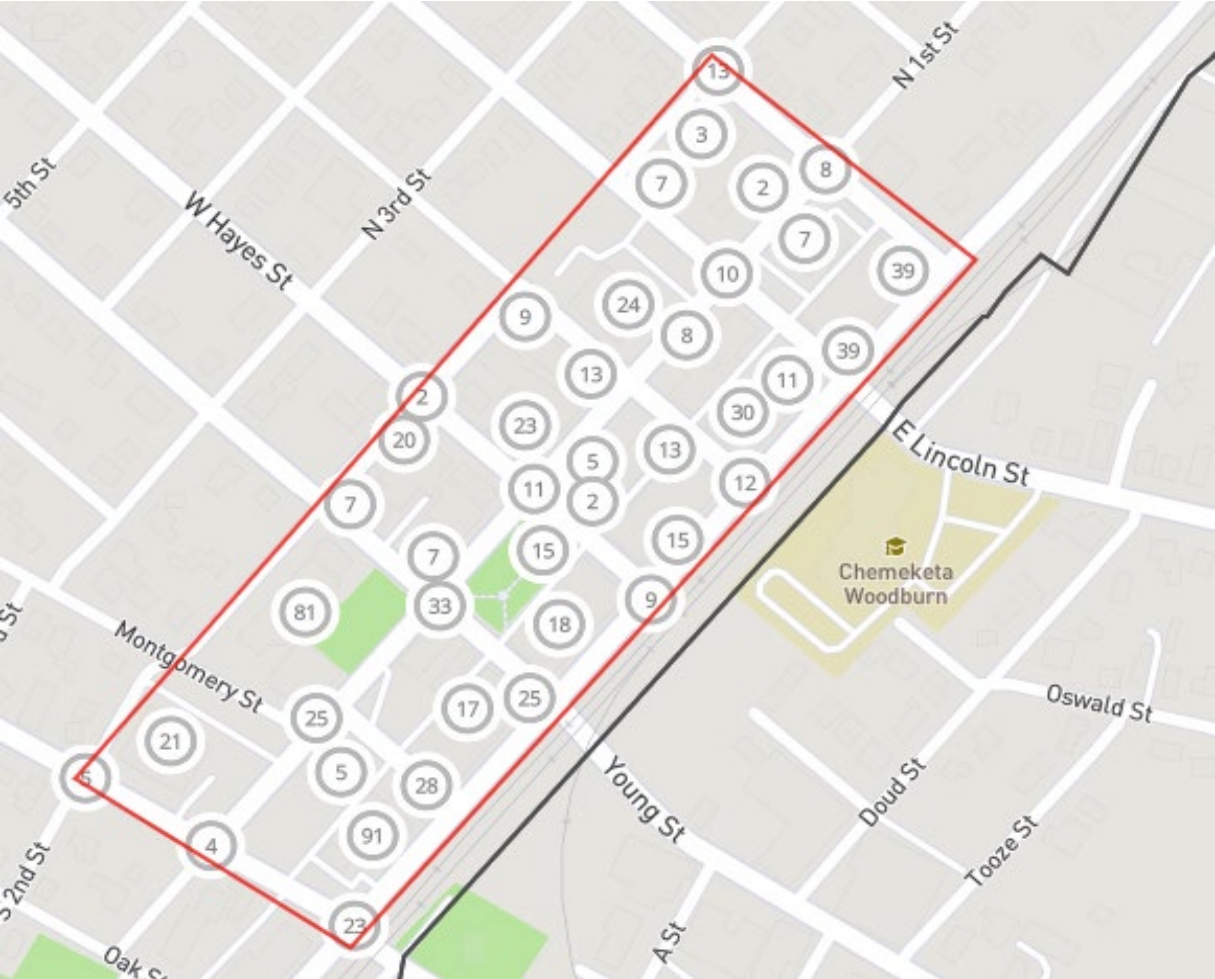
CONDITION	YES	NO	ITEM	YES	NO	ITEM	YES	NO	TIRES/WHEELS	YES	NO	ITEM	IDENTIFICATION No.
WRECKED	<input checked="" type="checkbox"/>		SEAT (FRONT)	<input checked="" type="checkbox"/>		MONEY		<input checked="" type="checkbox"/>	LEFT FRONT	<input checked="" type="checkbox"/>		CAMPER	
BURNED		<input checked="" type="checkbox"/>	SEAT (REAR)	<input checked="" type="checkbox"/>		CAR SEAT		<input checked="" type="checkbox"/>	RIGHT FRONT	<input checked="" type="checkbox"/>		CARGO	
VANDALIZED		<input checked="" type="checkbox"/>	RADIO	<input checked="" type="checkbox"/>					LEFT REAR	<input checked="" type="checkbox"/>			
BODY METAL/ STRIP		<input checked="" type="checkbox"/>	TAPE DECK/ CD PLAYER	<input checked="" type="checkbox"/>		TOOLS			RIGHT REAR	<input checked="" type="checkbox"/>		TRAILER	
MISC PARTS STRIP		<input checked="" type="checkbox"/>	TAPES/CDs		<input checked="" type="checkbox"/>	MISC:			SPARE			OTHER	
ENG/TRANS STRIP		<input checked="" type="checkbox"/>	CLOTHING						HUB CAPS				
VIN SWITCH		<input checked="" type="checkbox"/>	IGNITION KEY	<input checked="" type="checkbox"/>					SPECIAL WHEELS				

☐ In addition to any other statutory authority to tow this vehicle I am also towing this vehicle for Community Caretaking pursuant to ORS 133.033(2)(a)(A) or (2)(b)(a) because I cannot be assured that the vehicle or its contents will not come to serious harm or theft if left at its current location.

VEHICLE INVOLVED IN HIT & RUN. LEFT UNLOCKED, AIRBAGS DEPLOYED,



Downtown Core calls for service 07/14/2023-07/14/2025		
Call Type	Calls	
TRES		74
TRF		72
SUSP PERSON/VEHICLE		55
INTOX SUBJECT		37
PUBL		35
FIR		28
ABATG		22
SUSP ACTIVITY		21
ALRM AUDIBLE		20
GRAF		19
WRNT		19
AREA		18
FOOT PATROL		16
MVA NON INJ		16
EDP		15
ORD		14
DIST		14
WELFARE CHECK		14
LOIT		13
ANIM		12
HIT RUN		12
THEFT COLD		12
FRAUD COLD		12
ATL		11
ILLEGAL CAMPING		10
PARKING VIOLATION		10
PROPERTY		8
DUII		8
EXTRA		7
ABAN		7
VAND		7
SHOTS HEARD		6
HARS		6
ASLT		6
THEFT 1		6
CIVIL		5
EVAL F		4
BURG COLD		4
DRUG		4
TRFA		4
ALRM SILENT/HOLDUP		4
911 HANGUP		4
INFO		3
AOA		2
FOUND CHILD		2
FRAUD 1		2
DRIV		2
LIQ		2
MENACE		2
MVA INJURY F		2
ORD TALL GRASS		2
ROBBERY ARMED		2
RSTR		2
SEX OFFENSE		2
TEST CAD PD		2
UNK MED F		2
UNC F		1
FAMD NC		1
GUN		1
KDNP		1
SICK F		1
SUIC THREAT		1
BURG 1		1
BLEED F		1
ELUDE		1
JUV PROBLEM		1
BACKYARD F		1
THREATS		1
DOA		1
FAMD		1
CARD F		1
ORDS		1
HEAD F		1
NOISE		1
MEDIC STANDBY F		1
DHS		1
Total Calls		740



License No.	Premises No.	Effective Date	Expiration	Tradename	Licensee Name	Type	License Action	Premises Street Address	Premises City	Prem County	Prem State	Prem Zip
379337	40170	4/1/24	3/31/25	A & J MARKET	THAPAS CORPORATION	O		134 HARRISON ST	WOODBURN	MARION	OR	97071
381299	64490	4/1/24	3/31/25	ALEBRIJES MARKET	ALEBRIJES MARKET LLC	O		425 N 1ST ST	WOODBURN	MARION	OR	97071
381776	65998	4/1/24	3/31/25	CASA MARQUEZ MEXICAN GRILL	MDI CORPORATION CASA MARQUEZ MEXICAN GRILL	F-COM		553 N. FRONT STREET	WOODBURN	MARION	OR	97071
379778	42438	4/1/24	3/31/25	EL TULE TAQUERIA	VICENTA ZARAGOZA CABRERA	L		450 N FIRST ST	WOODBURN	MARION	OR	97071
379803	27173	4/1/24	3/31/25	EZ STOP GROCERY & DELI	BAAJ CORPORATION	O		111 N FRONT ST	WOODBURN	MARION	OR	97071
382511	54609	4/1/24	3/31/25	HUERTA'S MARKET LLC	HUERTA'S MARKET LLC	O		311 N FRONT ST STE B	WOODBURN	MARION	OR	97071
381563	65924	4/1/24	3/31/25	LA CASA DE LOS MACHETES	LA CASA DE LOS MACHETES LLC	L		445 N 1ST ST	WOODBURN	MARION	OR	97071
380100	54010	4/1/24	3/31/25	LOS CUATRO HERMANOS MEXICAN RESTAURANT	TRAPALA BREWPUB & ROTISSERIA LLC	F-COM		152 GARFIELD ST	WOODBURN	MARION	OR	97071
383624	64177	4/5/24	3/31/25	LOS HERMANOS CHAPIN	LOS HERMANOS CHAPIN INC	O		153 GRANT ST	WOODBURN	MARION	OR	97071
380584	65652	4/1/24	3/31/25	SANTA ANA MEXICAN FOOD	SANTA ANA MEXICAN FOOD LLC	L		537 N FRONT ST	WOODBURN	MARION	OR	97071
381413	64808	4/1/24	3/31/25	SUPER MERCADO LOS TARASCAS	SUPER MERCADO LOS TARASCAS CORP	O		397 N FRONT ST	WOODBURN	MARION	OR	97071
381502	62538	4/1/24	3/31/25	TEQUILA'S BISTRO BAR	TEQUILA'S BISTRO BAR LLC	F-COM		347 N FRONT ST #3	WOODBURN	MARION	OR	97071
380893	51907	4/1/24	3/31/25	TRAPALA RESTAURANT	TRAPALA RESTAURANT LLC	F-COM		430 N 1ST ST	WOODBURN	MARION	OR	97071

# WOODBURN POLICE DEPARTMENT

## CASE REPORT

1060 MT HOOD AVE  
WOODBURN OR  
97071

CASE# 2023-00008905

☒ AXON VIDEO

☒ AXON PHOTOS

EVENT	REPORTED DATE/TIME <b>07/15/2023 19:43</b>	OCCURRED INCIDENT TYPE <b>Criminal Mischief</b>	CASE STATUS <b>Inactive</b>
	OCCURRED FROM DATE/TIME <b>07/15/2023 19:43</b>	OCCURRED THRU DATE/TIME <b>07/15/2023 19:43</b>	LOCATION OF OCCURRENCE <b>553 FRONT STREET GRANT ST / E LINCOLN ST, W LINCOLN ST WOODBURN</b>

OFFENSES	STATUTE/DESCRIPTION	COUNTS	ATTEMPT/COMMIT
	<b>164.345 CRIMINAL MISCHIEF III (VANDALISM)</b>	<b>1</b>	<b>Attempted</b>

SUBJECT	SUBJECT TYPE <b>Suspect</b>	NAME (LAST FIRST MIDDLE SUFFIX) <b>ZIRANGUA, IZABEL</b>						
	DOE <b>[REDACTED]</b>	AGE or AGE RANGE <b>28</b>	ADDRESS (STREET, CITY, STATE, ZIP) <b>990 PACIFIC 12 WOODBURN, OR 97071</b>					
	RACE <b>Hispanic or Latino</b>	SEX <b>Female</b>	HEIGHT or RANGE <b>52</b>	WEIGHT or RANGE <b>130</b>	HAIR <b>Brow</b>	EYE <b>Brown</b>		
	DL NUMBER/STATE <b>[REDACTED]</b>	PRIMARY PHONE / PHONE TYPE <b>(503)619-5402 HOME</b>	OTHER PHONE / PHONE TYPE		SSN			

SUBJECT	SUBJECT TYPE <b>Victim</b>	NAME (LAST FIRST MIDDLE SUFFIX) <b>ZEPEDA, NORMA</b>						
	DOE <b>[REDACTED]</b>	AGE or AGE RANGE <b>34</b>	ADDRESS (STREET, CITY, STATE, ZIP) <b>2692 DUKE STREET WOODBURN, OR 97071</b>					
	RACE <b>Hispanic or Latino</b>	SEX <b>Female</b>	HEIGHT or RANGE <b>507</b>	WEIGHT or RANGE <b>170</b>	HAIR <b>Blac</b>	EYE <b>Brown</b>		
	DL NUMBER/STATE <b>[REDACTED]</b>	PRIMARY PHONE / PHONE TYPE <b>(971)216-2979 HOME</b>	OTHER PHONE / PHONE TYPE		SSN			

SUBJECT	SUBJECT TYPE	NAME (LAST FIRST MIDDLE SUFFIX)						
	DOE	AGE or AGE RANGE	ADDRESS (STREET, CITY, STATE, ZIP)					
	RACE	SEX	HEIGHT or RANGE	WEIGHT or RANGE	HAIR	EYE		
	DL NUMBER/STATE	PRIMARY PHONE / PHONE TYPE	OTHER PHONE / PHONE TYPE		SSN			

REPORTING OFFICER <b>Chester, Darlyn, 58914</b>	DATE <b>07/15/2023</b>	REVIEWED BY <b>Wingo, Chris R 08/04/2023</b>
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# WOODBURN POLICE DEPARTMENT

## CASE REPORT

1060 MT HOOD AVE  
WOODBURN OR  
97071

CASE# 2023-00008905

### GENERAL PROPERTY

GENERAL	PROPERTY CODE <b>09-Axon</b>		QUANTITY/UNIT OF MEASURE		COLOR
	<b>Axon PhotoE</b>		<b>1 Set</b>		
	SERIAL NUMBER	VALUE	OAN		RECEIVED DATE
	<b>07/15/2023</b>				
DESCRIPTION					
<b>PHOTOS OF NORMA'S TRUCK</b>					
GENERAL	PROPERTY CODE <b>09-Axon</b>		QUANTITY/UNIT OF MEASURE		COLOR
	<b>Axon VideoE</b>		<b>1 Unit</b>		
	SERIAL NUMBER	VALUE	OAN		RECEIVED DATE
	<b>07/15/2023</b>				
DESCRIPTION					
<b>VIDEO OF SUSPECT THROWING BOTTLE</b>					
GENERAL	PROPERTY CODE		QUANTITY/UNIT OF MEASURE		COLOR
	SERIAL NUMBER	VALUE	OAN		RECEIVED DATE
DESCRIPTION					

### FIREARMS PROPERTY

FIREARM	FIREARM PROPERTY CODE				VALUE
	MAKE/MODEL		GUN TYPE	GUN ACTION	
	RECEIVED DATE	SERIAL	FINISH	CALIBER	
	ADDITIONAL DESCRIPTIVE INFORMATION				
FIREARM	FIREARM PROPERTY CODE				VALUE
	MAKE/MODEL		GUN TYPE	GUN ACTION	
	RECEIVED DATE	SERIAL	FINISH	CALIBER	
	ADDITIONAL DESCRIPTIVE INFORMATION				

REPORTING OFFICER	DATE	REVIEWED BY
<b>Chester, Darlyn, 58914</b>	<b>07/15/2023</b>	<b>Wingo, Chris R 08/04/2023</b>

# WOODBURN POLICE DEPARTMENT

## CASE REPORT

CASE# 2023-00008905

1060 MT HOOD AVE  
WOODBURN OR  
97071

### VEHICLES as PROPERTY

PROPERTY VEHICLE	PROPERTY CODE		PROPERTY TYPE		VALUE
	00-Involved Vehicle		Vehicle - Automobile - 321		
	VEH YR	TYPE/MAKE/MODEL			STYLE
	2003	Auto FORD F100			
	PLATE / STATE		VIN	TOP COLOR	BOTTOM COLOR
497NAA / OR		2FTRF07383CA54245	Blue	Blue	
ADDITIONAL DESCRIPTIVE INFORMATION					

PROPERTY VEHICLE	PROPERTY CODE		PROPERTY TYPE		VALUE
	00-Involved Vehicle		Vehicle - Automobile - 321		
	VEH YR	TYPE/MAKE/MODEL			STYLE
	2003	Auto HYUNDAI ELANTRA			
	PLATE / STATE		VIN	TOP COLOR	BOTTOM COLOR
CDZ1727 / WA			Gold	Gold	
ADDITIONAL DESCRIPTIVE INFORMATION					

PROPERTY VEHICLE	PROPERTY CODE		PROPERTY TYPE		VALUE
	VEH YR	TYPE/MAKE/MODEL			STYLE
	PLATE / STATE		VIN	TOP COLOR	BOTTOM COLOR
ADDITIONAL DESCRIPTIVE INFORMATION					

PROPERTY VEHICLE	PROPERTY CODE		PROPERTY TYPE		VALUE
	VEH YR	TYPE/MAKE/MODEL			STYLE
	PLATE / STATE		VIN	TOP COLOR	BOTTOM COLOR
ADDITIONAL DESCRIPTIVE INFORMATION					

PROPERTY VEHICLE	PROPERTY CODE		PROPERTY TYPE		VALUE
	VEH YR	TYPE/MAKE/MODEL			STYLE
	PLATE / STATE		VIN	TOP COLOR	BOTTOM COLOR
ADDITIONAL DESCRIPTIVE INFORMATION					

REPORTING OFFICER	DATE	REVIEWED BY
Chester, Darlyn, 58914	07/15/2023	Wingo, Chris R 08/04/2023

**WOODBURN POLICE DEPARTMENT****CASE REPORT**CASE# **2023-00008905**1060 MT HOOD AVE  
WOODBURN OR  
97071**NARRATIVE****Distribution:** OLCC**Narrative:** Corporal Darlyn Chester

On 07/15/23 at about 1943 hours, Norma Zepeda, called from Casa Marquez Mexican Grill, 553 N Front St, Woodburn, OR 97071 to report a disturbance. Norma reported there was a confrontation with another individual between her sister and another female customer that was on the bar side of the restaurant. Norma reported there was nothing physical and the other female had already left.

When I got to the location Norma told me the other female was yelling at her sister about their vehicles and being in the alley. Norma told me when her sister left the area with her Ford Truck – OR 497NNA the suspect, identified as Izabel Zirangua followed them and threw a green glass bottle from the passenger side of the car she was riding in. Norma showed me her truck and pointed out a few scuffs and marks but was not entirely sure which of the marks was caused by the bottle.

I reviewed the video that they provided me and the suspect car, Hyundai Elantra – WA CDZ1727 was see passing the Ford in oncoming traffic, and a green bottle being thrown from the passenger side. In another video, Izabel is seen in the passenger side of the car as it drives away. In the video that the bottle was thrown, I am not able to see who threw it from the car.

I attempted to contact Norma about which of her sisters was driving her truck and determine if they saw Izabel throw the bottle but she has not returned my call as of 08/02/23.

Case inactive at this time.

REPORTING OFFICER

**Chester, Darlyn, 58914**

DATE

**07/15/2023**

REVIEWED BY

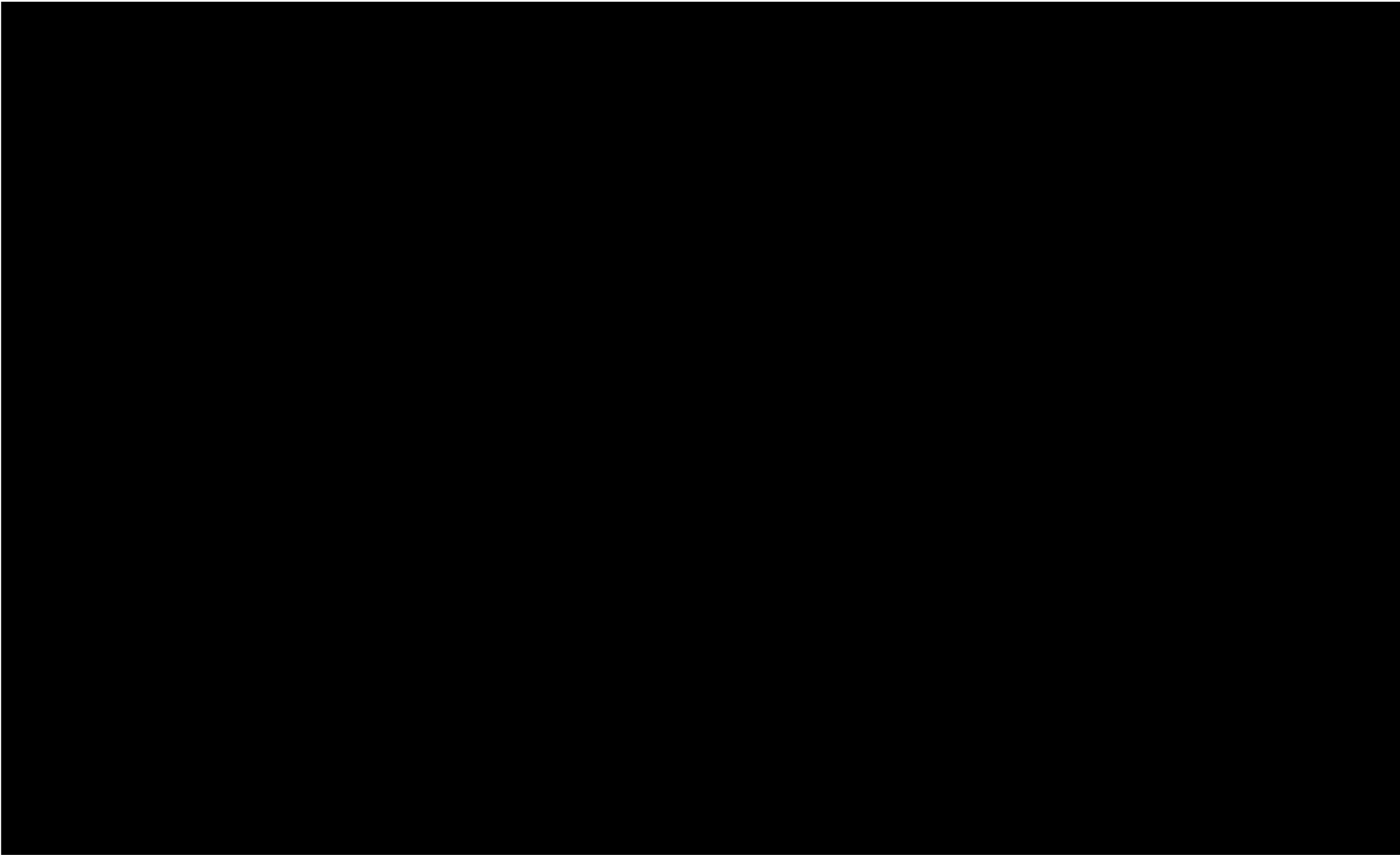
**Wingo, Chris R 08/04/2023**

4 OF 4

WOODBURN POLICE DEPARTMENT		CASE# 2023-00011369
CASE REPORT		<input checked="" type="checkbox"/> AXON VIDEO
1060 MT HOOD AVE		<input checked="" type="checkbox"/> AXON PHOTOS
WOODBURN OR		
97071		

EVENT	REPORTED DATE/TIME	09/02/2023 23:36	OCCURRED INCIDENT TYPE	Assault	
	OCCURRED FROM DATE/TIME	09/02/2023 23:36	OCCURRED THRU DATE/TIME	09/03/2023 02:00	LOCATION OF OCCURRENCE
					553 FRONT STREET GRANT ST / E LINCOLN ST, W LINCOLN ST WOODBURN

OFFENSES	STATE DESCRIPTION	CC INITS	ATTEMPT/COMMIT
	163.160 ASSAULT IV	1	Committed
	164.365 CRIMINAL MISCHIEF I (CRIME DAMAGE)	1	Committed



REPORTING OFFICER	DATE	REVIEWED BY
Leis, Jesse, 62660	09/02/2023	Titus, Christopher 09/03/2023

WOODBURN POLICE DEPARTMENT		CASE# 2023-00013131
CASE REPORT		<input type="checkbox"/> AXON VIDEO
1060 MT HOOD AVE		<input type="checkbox"/> AXON PHOTOS
WOODBURN OR		
97071		

EVENT	REPORTED DATE/TIME	10/07/2023 21:01	OCCURRED INCIDENT TYPE	Criminal Mischief
	OCCURRED FROM DATE/TIME	10/07/2023 21:01	OCCURRED THRU DATE/TIME	10/07/2023 21:01
	LOCATION OF OCCURRENCE			
	553 FRONT STREET			
	GRANT ST / E LINCOLN ST, W LINCOLN ST			
	WOODBURN			

OFFENSES	STATE DESCRIPTION	CC INITS	ATTEMPT/COMMIT
	164.354 CRIMINAL MISCHIEF II (VANDALISM)	1	Committed

REPORTING OFFICER	DATE	REVIEWED BY
Williams, Zach, 44521	10/07/2023	Titus, Christopher 10/09/2023

WOODBURN POLICE DEPARTMENT		CASE# 2024-00002638
CASE REPORT		<input checked="" type="checkbox"/> AXON VIDEO
1060 MT HOOD AVE		<input type="checkbox"/> AXON PHOTOS
WOODBURN OR		
97071		

EVENT	REPORTED DATE/TIME	OCCURRED INCIDENT TYPE	
	03/03/2024 00:01	Weapons Violations	
	OCCURRED FROM DATE/TIME	OCCURRED THRU DATE/TIME	LOCATION OF OCCURRENCE
	03/02/2024 23:00	03/02/2024 23:30	553 N FRONT STREET GRANT ST / E LINCOLN ST, W LINCOLN ST WOODBURN

OFFENSES	STATUTE DESCRIPTION	CC INITS	ATTEMPT/COMMIT
	163.190 MENACING	1	Committed
	166.220 UNLAWFUL USE OF WEAPON (Possess illegally)	1	Committed

REPORTING OFFICER	DATE	REVIEWED BY
Sain, Kathryn, 61329	03/03/2024	Carpenter, Geoffrey 03/12/2024

July 22, 2024

TO: Honorable Mayor and City Council through City Administrator

FROM: Chris Kerr, Community Development Director  
Colin Cortes, AICP, CNU-A, Senior Planner

SUBJECT: **Annexation of Approximately 1.43 Acres of Territory Known as the Brown Street Property at 1025 Brown St (ANX 24-01) and Approval of Designation of the Residential Single Family (RS) Zoning District**

## **RECOMMENDATION:**

Conduct a public hearing and make a motion to tentatively approve the land use application, directing staff to prepare and submit annexation and zoning designation ordinances for consideration at the next City Council meeting.

## **BACKGROUND:**

The item before the Council is action on annexation application ANX 24-01 by Stafford Homes & Land, LLC for property totaling approximately 1.43 gross acres at 1025 Brown Street south of Bridlewood Lane / Comstock Ave and north of Tulip Avenue.

The territory is eligible for annexation because it's within the City urban growth boundary (UGB), as well as being like an "island" because city limits surround it.

Upon annexation, the City would need to designate the property with City zoning. The Comprehensive Plan land use map designates the territory Low Density Residential. Per Comprehensive Plan Policy Table 1, the default compatible base zoning district is Residential Single Family (RS). The applicant accepts the base zoning district.

### *Development Applications*

There are none because the applicant proposes no development, only annexation and zoning designation through Zone Change 24-01.

### *Project Summary*

Because the applicant proposes no development, there is no project. Below is an aerial view of the territory to be annexed.



*Aerial map (2016) with annexation territory outlined in purple*



### *Annexation Agreement*

Because of City concern that the legislature in 2025 or later appears more likely to pre-empt local governments from requiring the usual public improvements for developments of either housing generally or "middle housing" as both Oregon Revised Statutes (ORS) 197.758(1)(b) and Oregon Administrative Rules (OAR) 660-046-0020(12) define, staff recommended an annexation condition. The applicant took the initiative to submit a draft agreement, which the applicant and staff revised leading up to the Planning Commission staff report.

The condition that the Commission recommends requires the applicant to enter into an annexation agreement for the annexation to become effective.

In short, an annexation agreement lists and describes the dedications, grants, and public improvements necessary to conform with the Woodburn Development Ordinance (WDO) and establishes provisions for the effect on the agreement when changes in statute or administrative rules render compliance with agreement provisions impossible or unlawful, with the provisoes that (a) a prime objective of the agreement shall be and remain to secure public improvements despite such changes by the state, and (b) changes by the state reasonably interpreted to relieve developers generally of some or all burden of public improvements in and of themselves do not necessarily void the agreement in part or wholly.

### *Commission Recommendation*

The Planning Commission on June 13, 2024, heard and unanimously recommended approval of the annexation and zoning designation with the condition of approval recommended in the Commission staff report (Council Attachment 1).

### *Testimony*

Besides the applicant, there was none.

### **DISCUSSION:**

Annexation is a policy decision by the Council.

Decision-making criteria for annexation are in Woodburn Development Ordinance (WDO) 5.04.01C. The attached Planning Commission staff report of June 13, 2024, particularly its Attachment 102 Analyses & Findings, addresses the criteria for annexation and finds them met.

The Council reviews and decides upon the annexation and zoning designation because per WDO 4.01.07, the City reviews a package at the highest land use review type among the application types. (In this context, it's the annexation application type, which is Type IV – a Council decision.)

### **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 had a rural dwelling, now demolished. The table below simplifies and grossly estimates tax revenue, not accounting for increase resulting from development:

<i>Address</i>	<i>Tax Lot</i>	<i>Marion County Assessed Value (AV)</i>	<i>Gross Estimate of City Property Tax (6.0534 mils)</i>
1025 Brown St	051W18C001200	\$174,830	\$1,058.32
Total:		\$174,830	\$1,058.32

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, site development would increase both the number of residences and assessed valuation (AV) while also increasing City utility and other service costs.

Attachments:

1. Planning Commission June 13, 2024, Staff Report and select attachments:
  101. Marked Tax Map
  102. Analyses & Findings (16 pages)
  - 102A. Public Works comments (December 6, 2023 & June 4, 2024)
  103. Annexation Exhibits A2 & B2 maps of property and right-of-way legal descriptions (May 1, 2024)
  - 103A. Annexation Service Provider Letters (SPLs; 4 pages)
  105. TSP Fig. 2 "Functional Roadway Classification"
2. Annexation Agreement Draft as reference (July 17, 2024; 7 pages)



## Staff Report

**To:** Planning Commission

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

**From:** Colin Cortes, AICP, CNU-A, Senior Planner

**Meeting Date:** June 13, 2024 (Prepared June 6, 2024)

**Item:** “Brown Street Annexation” (ANX 24-01)

**Tax Lot(s):** 051W18C001200 (1025 Brown St)

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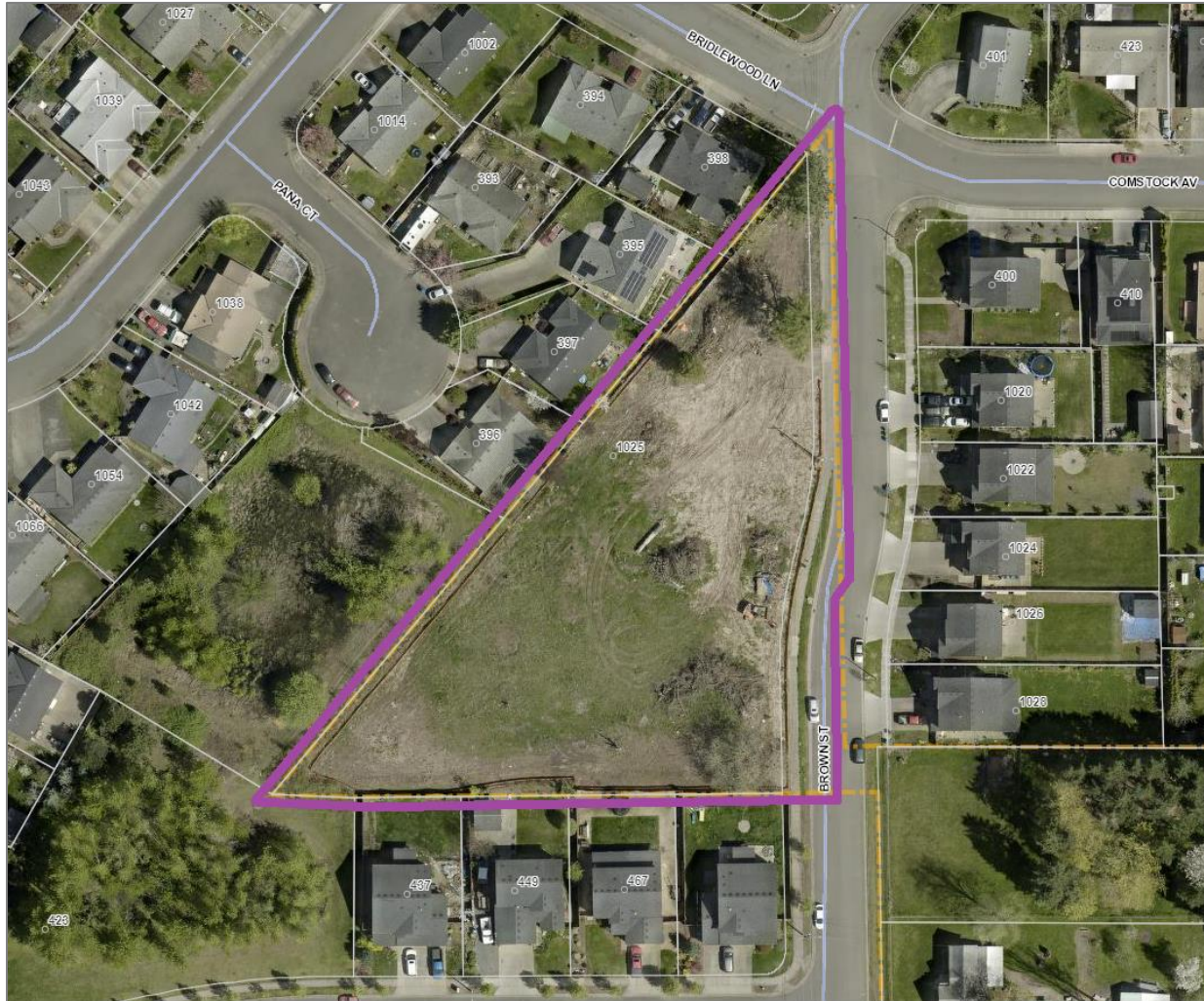
### Issue before the Planning Commission

Annexation ANX 24-01 (Type IV) of territory at 1025 Brown Street: Commission is to hold a public hearing and make a recommendation to the City Council.

## Executive Summary

### *Location*

The proposal is annexation of territory into city limits of approximately 1.43 gross acres composed of Tax Lot 051W18C001200 and adjacent right-of-way (ROW) of Brown Street.



*Vicinity of subject property; subject property outlined in purple*

### *Annexation & Zoning Designation*

Because the Comprehensive Plan land use map designates the territory Low Density Residential per Comprehensive Plan Policy Table 1, the default corresponding zoning district is Residential Single Family (RS). Along with an annexation ordinance, in response to the application for zone change (also termed rezoning or re-zoning), the Council would by separate ordinance designate the annexed territory as the RS base zoning district.

The Public Works Department, Woodburn Fire District, and Woodburn School District gave the applicant annexation service provider letters (SPLs; Attachment 103A).

Because of City concern that the legislature in 2025 or later appears more likely to pre-empt local governments from requiring the usual public improvements for developments of either housing generally or “middle housing” as both ORS 197.758(1)(b) and OAR 660-046-0020(12) define, staff applies an annexation condition. The applicant took initiative to submit a draft agreement, which the applicant and staff revised leading up to this Commission staff report.

A proposed condition requires the applicant to enter into an annexation agreement for the annexation to become effective.

In short, an annexation agreement would list and describe the dedications, grants, and public improvements necessary to conform with the Woodburn Development Ordinance (WDO) and establish provisions for the effect on the agreement when changes in statute or administrative rules render compliance with agreement provisions impossible or unlawful, with the provisoes that (a) a prime objective of the agreement shall be and remain to secure public improvements despite such changes by the state, and (b) changes by the state reasonably interpreted to relieve developers generally of some or all burden of public improvements in and of themselves do not necessarily void the agreement in part or wholly.

In short, through an annexation agreement, despite any future changes in state law that exempt housing developments, especially “middle housing”, from public improvements, when this property develops, whatever the development, any developer of it will still construct or pay fees in-lieu for public improvements (surface half-street improvements) per City ordinances.

This is in keeping with the WDO 1.02 definition of “development”, for which WDO 3.01.01D requires street improvements, and a section of the purpose statement that opens WDO 3.01:

“An objective is to have developers construct or fund street improvements, and other proportional share of improvements for the public, to lessen the cost of land development to the City in order to lessen taxpayer burden for landowners in the context of Oregon Ballot Measures 5 (1990) and 50 (1997).”

Staff finds that the proposal meets applicable Woodburn Development Ordinance (WDO) provisions per the analyses and findings (Attachment 102) and with the recommended condition(s) of approval.

### **Recommendation**

Approval with condition(s): Staff recommends that the Planning Commission consider the staff report and attachments and recommend approval to the City Council application with the recommended condition(s) included with this report.

### **Condition(s) of Approval**

The conditions are copied from towards the end of the analyses and findings (Attachment 102):



#### *Annexation 24-01*

ANX-1. The applicant shall enter into an annexation agreement (the Agreement), made concurrent with and a part of any written decision by the Woodburn City Council that approves the annexation of the subject territory. The Agreement shall be subject to Council acceptance and have provisions addressing the following:

- a. The Agreement shall be contractually binding on the applicant, heirs, successors, and assigns and:
  - (1) Cite applicable details, provisions, requirements, rules, specifications, and standards from the Woodburn Development Ordinance (WDO) and other applicable ordinances relating to public improvements that following annexation would be applicable to the subject property at 1025 Brown Street upon development;
  - (2) List and describe the dedications, grants, and public improvements necessary to conform, addressing at least:
    - (a) Right-of-way (ROW) dedication,
    - (b) Streetside public utility easement (PUE) grant,
    - (c) Half-street improvements including surface improvements: roadway, curbing, landscape strip, street trees, and sidewalk,
    - (d) Removal of electric power pole(s) and burial of overhead lines, and

- (e) Any fair share or proportionate share costs for identified right-of-way improvements to increase traffic safety adequately at the intersection of Brown Street & Bridlewood Lane / Comstock Avenue;
- (3) Specify that development shall come with such public improvements that a developer constructs or pays fees in lieu of as ordinances allow, with option to add administrative provisions for fees in-lieu not found in ordinances such as explicit due dates;
- (4) Specify that the Agreement provisions are severable;
- (5) Establish provisions for the effect on the Agreement when changes in statute or administrative rules render compliance with Agreement provisions impossible or unlawful, with the proviso that (a) a prime objective of the Agreement shall be and remain to secure public improvements despite such changes by the state, and (b) changes by the state reasonably interpreted to relieve developers generally of some or all burden of public improvements in and of themselves do not necessarily void the Agreement in part or wholly; and
- (6) Establish provisions for modification, which may also include setting Agreement expiration or sunset.
- b. Recordation: It is the intention of the City that the terms and obligations of the Agreement are necessary for the annexation and future development of the subject property and as such will run with the land and be construed to be both a benefit and burden upon the property. The applicant shall record a duly executed copy of the Agreement in the real property records of Marion County and give the City copies.
- c. Effective date:
  - (1) Option 1: The City Council adopts the annexation ordinance for ANX 23-03 and accepts the Agreement with the effective date the same as the annexation ordinance effective date.
  - (2) Option 2: The City Council adopts the annexation ordinance for ANX 23-03 with the effective date conditioned to be the date that the City Administrator signs the Agreement that the applicant had signed. Until this happens, the City holds in abeyance agency notices of ordinance adoption.

Note A: The applicant may request that City staff draft and format an agreement.



## **Actions**

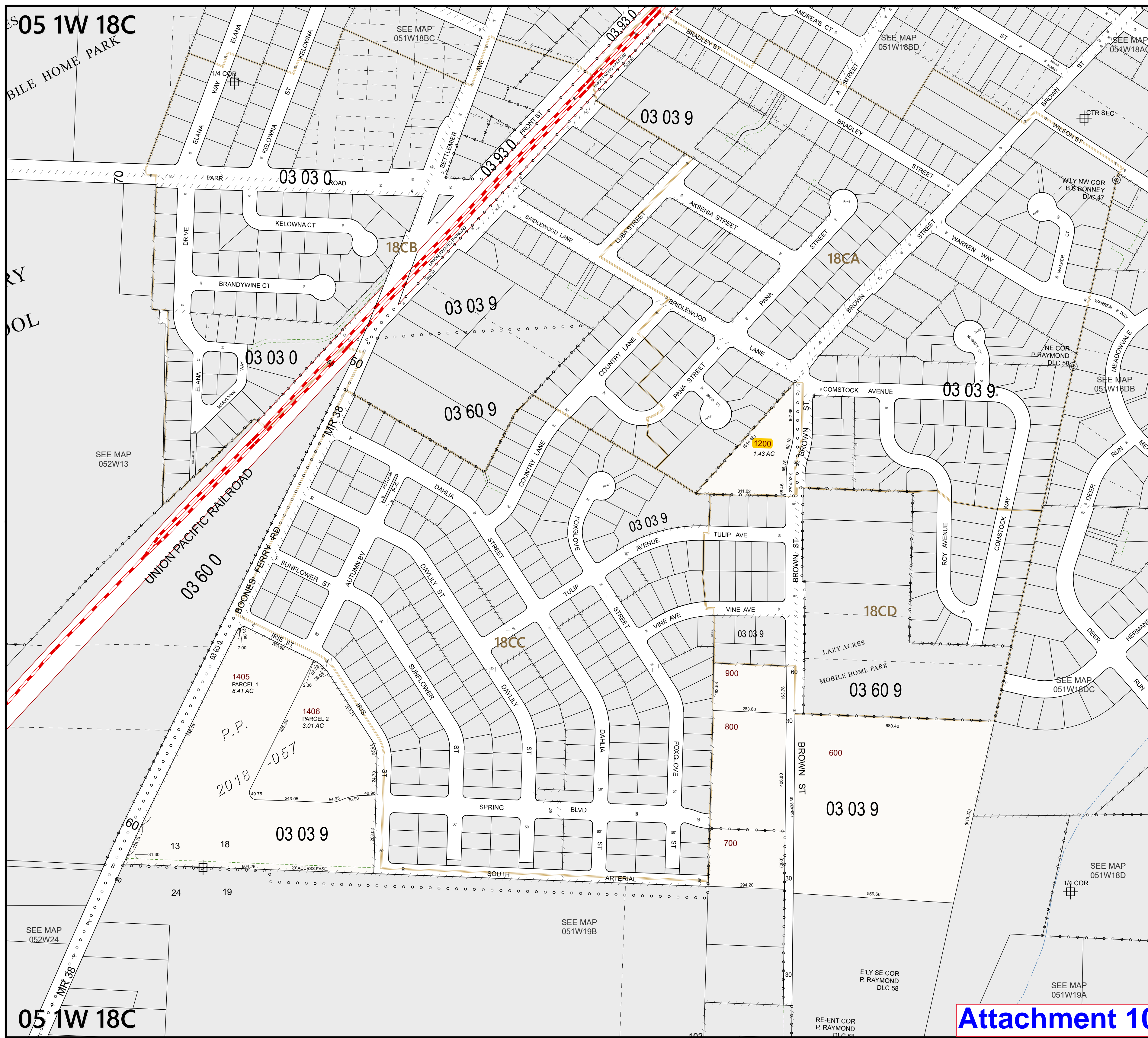
The Planning Commission may instead act on the land use application to recommend to:

1. Approve with modified condition(s), or
2. Deny, based on WDO criteria or other City provisions.

If the Planning Commission were to act upon the recommendation, staff would proceed to a City Council hearing with the Commission recommendation. (Were the Council to approve the consolidated application package, it would do so by adopting two ordinances, one for annexation and one for zoning, and authorizing a final decision document for the applications besides the annexation. The Council would also accept an annexation agreement that the applicant and staff prepared.)

## Attachment List

- 101. Marked Tax Map
- 102. Analyses & Findings
- 102A. Public Works comment (December 6, 2023 & June 4, 2024)
- 103. Annexation Exhibits A2 & B2 maps of property and right-of-way legal descriptions (May 1, 2024)
- 103A. Annexation Service Provider Letters (SPLs; 4 pages)
- 104. Annexation Agreement Draft as reference (May 31, 2024; 7 pages)
- 105. TSP Fig. 2 “Functional Roadway Classification”



# 05 1W 18C WOODBURN



**MARION COUNTY, OREGON**  
SW1/4 SEC18 T5S R1W W.M.  
SCALE 1" = 200'

## LEGEND

- LINE TYPES**
- |                          |                       |
|--------------------------|-----------------------|
| Taxlot Boundary          | Historical Boundary   |
| Road Right-of-Way        | Easement              |
| Railroad Right-of-Way    | Railroad Centerline   |
| Private Road ROW         | Taxcode Line          |
| Subdivision/Plat Bndry   | Map Boundary          |
| Waterline - Taxlot Bndry | Waterline - Non Bndry |

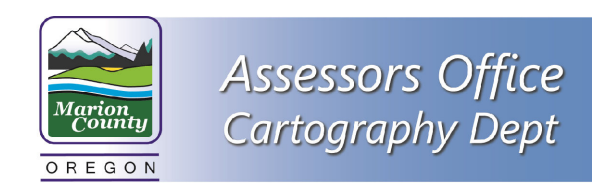
- CORNER TYPES**
- |                       |                                  |
|-----------------------|----------------------------------|
| + 1/16TH Section Cor. | 1/4 Section Cor.                 |
| ⊙ DLC Corner          | 16 15<br>Section Corner<br>21 22 |

**NUMBERS**  
Tax Code Number  
**00 00 0**  
Acreage **0.25 AC** All acres listed are Net Acres, excluding any portions of the taxlot within public ROWs

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

CANCELLED NUMBERS			
100			
200			
201			
300			
400			
500			
1000			
1300			
1301			
1400			
1401			
1402			
1403			
1404			
1500			

DISCLAIMER: THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSES ONLY



FOR ADDITIONAL MAPS VISIT OUR WEBSITE AT [www.co.marion.or.us](http://www.co.marion.or.us)

PLOT DATE: 4/29/2022

**WOODBURN**  
**05 1W 18C**

**Attachment 101**



## ANX 24-01: 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
▲	<ul style="list-style-type: none"> <li>Requirement (or guideline) met, but might become unmet because of condition applied to meet separate and related requirement that is not met</li> <li>Plan sheets and/or narrative inconsistent</li> <li>Other special circumstance benefitting from attention</li> </ul>	Revision needed for clear and consistent records
■	Deviation: Planned Unit Development, Zoning Adjustment, and/or Variance	Request to modify, adjust, or vary from a requirement

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

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## Project Name & Case File Numbers

The project name is Brown Street Annexation. The land use application master/parent case file number is Annexation ANX 24-01, and the children/corollary case file number is Zone Change 24-01.

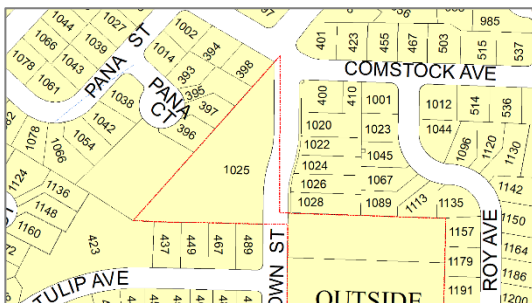
## Location

<i>Address(es)</i>	1025 Brown St
<i>Tax Lot(s)</i>	051W18C001200; 1.43 acres
<i>Nearest intersection</i>	Brown St & Bridlewood Ln / Comstock Ave

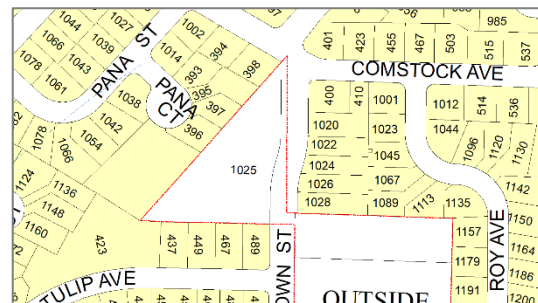
## Land Use & Zoning

<i>Comprehensive Plan Land Use Designation</i>	Low Density Residential
<i>Zoning District</i>	Residential Single Family (RS) upon annexation
<i>Overlay District(s)</i>	n/a
<i>Existing Use(s)</i>	None following demolition of rural homestead

For context, the comprehensive plan land use map designations and zoning are illustrated below with excerpts from the City geographic information system (GIS) and the zoning is tabulated further below:



Comprehensive Plan land use map excerpt



Zoning map excerpt

<i>Cardinal Direction</i>	<i>Adjacent Zoning</i>
North	RS; east of Brown St: Meadowood in Woodburn subdivision, west of Brown St: Steklov Addition Phase 1 subdivision
East	RS; Brown Street Estates

South	RS; Boones Crossing Phase 2 subdivision
West	RS; Bridlewood Estates subdivision and its Tract A stormwater detention pond

## Statutory Dates

<i>Application Completeness</i>	May 1, 2024
<i>120-Day Final Decision Deadline</i>	August 29, 2024 per Oregon Revised Statutes (ORS) <a href="#">227.178</a> . (The nearest and prior regularly scheduled City Council date would be August 26, 2024.)*

\*However, the Assistant City Attorney had counseled staff on January 16, 2018 that an annexation request is not subject to the 120-day deadline for final action per 227.178(8).

## Annexation Provisions

Because the proposal is for annexation, per 5.04 it requires a Type IV review with City Council decision. The applicant submitted application materials on April 17, 2024 and revised and additional materials through May 1, 2024 (excerpted within Attachment 103).

### 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.
- B. Mandatory Pre-Application Conference:** Prior to requesting annexation to the City, a Pre-Application Conference (Section 4.01.04) is required. ...
- C. Criteria:**
  - 1. Compliance with applicable Woodburn Comprehensive Plan goals and policies regarding annexation.
  - 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.
  - 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.
  - 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.
- 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.
- 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.
- 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.

Regarding subsection B., staff hosted the pre-application conference (Pre-App PRE 22-29) on July 13, 2022.



The applicant requests that the City designate the annexed territory with the Residential Single Family (RS) base zoning district.

Regarding the criteria of subsection C.:

1. The City Comprehensive Plan, Section G. Growth Management and Annexation contains annexation policies on pp. 30-31. The annexation criteria in the WDO already reflect the goals, including efficient City services.

First, the territory to be annexed is within the Woodburn Urban Growth Boundary (UGB). The premise of a UGB is to define an area feasible for the City to provide services to greenfield development over approximately 20 years as described in the Comprehensive Plan. So, in this way the annexation of territory within the UGB is consistent with the comp plan.

Second, the territory also is adjacent to infrastructure that development can make use of or extend into the territory to develop it:

- Roads and street: Brown Street borders to the property to the east as a west half-street non-conforming with WDO Figure 3.01D “Service Collector” and provides a means of access. The annexation legal description and map series include the right-of-way (ROW) adjacent to the site.
  - Transit: Along Brown Street, the City and other agencies could run transit vehicles.
  - Potable water, sanitary sewer, and stormwater sewer: These are adjacent or nearby, and as the Public Works Department Directs at the civil engineer plan (CEP) review and public works permit stage, the developer will upgrade and extend them as necessary to provide or upgrade laterals to the site development and for these upgraded and extended utilities to accommodate the demands of the development.
  - Other: Other franchise utility providers attend to such utilities as electric power, cable television and internet, natural gas, and cellular wireless telephony, often using existing or extended ROWs.
2. The territory is contiguous to the City. Per the comp plan and with implementation through the WDO, upon development of the territory the City would require improvements that guarantee that public facilities have adequate capacity to serve such development.

The Public Works Department comments (December 6, 2023 & June 4, 2024; Attachment 102A) were simply that public works conditions are going to be addressed with the conditioned annexation agreement. (See four paragraphs ahead.)

Second, the Public Works Department, Woodburn Fire District (WFD), and Woodburn School District (WSD) submitted service provider letters (SPLs) as annexation applications require. They are in Attachment 103A. The Public Works one dated November 10, 2022 states:

“This letter is to certify that the City of Woodburn has no capacity issue with the public wastewater treatment facility or public water treatment facility. However, the subject property is not adjacent to an existing storm sewer collection system. The requirements for this collection facility would still need to be determined. The capacity analysis, design and installation of water, sewer, and storm would be the responsibility of the applicant/property owner.”

Along with the Public Works comments that are Attachment 102A, it appears to Planning Division staff that the Public Works Department has no objection to annexation and that public works can serve the development through typical public improvements by a developer of the territory to be annexed – and that the department will involve itself with the drafting the conditioned annexation agreement. (See two paragraphs ahead.)

Additionally, the applicant’s narrative (submitted April 17, 2024, pp. 4-12) addresses the annexation provisions. There’s no written objection by the Public Works Department to the applicant’s narrative.

Lastly and most importantly, because of City concern that the legislature in 2025 or later appears more likely to pre-empt local governments from requiring the usual public improvements for developments of either housing generally or “middle housing” as both ORS 197.758(1)(b) and OAR 660-046-0020(12) define, staff applies an annexation condition. The applicant took initiative to submit a draft agreement, which the applicant and staff revised leading up to the Planning Commission staff report for June 13, 2024.

It requires the applicant to enter into an annexation agreement for the annexation to become effective, and the applicant tentatively agreed to such conditioning during a November 20, 2023 with the Community Development Director and Senior Planner.

In short, an annexation agreement would list and describe the dedications, grants, and public improvements necessary to conform with the Woodburn Development Ordinance (WDO) and establish provisions for the effect on the agreement when changes in statute or administrative rules render compliance with agreement provisions impossible or unlawful, with the proviso that (a) a prime objective of the agreement shall be and remain to secure public improvements despite such changes by the state, and (b) changes by the state reasonably interpreted to relieve developers generally of some or all burden of public improvements in and of themselves do not necessarily void the agreement in part or wholly.

In short, through an annexation agreement, despite any future changes in state law that exempt housing developments, especially “middle housing”, from public improvements, when this property develops, whatever the development, any developer of it will still construct or pay fees in-lieu for public improvements (surface half-street improvements) per City ordinances.

This is in keeping with the WDO 1.02 definition of “development”, for which WDO 3.01.01D requires street improvements, and a section of the purpose statement that opens WDO 3.01:

“An objective is to have developers construct or fund street improvements, and other proportional share of improvements for the public, to lessen the cost of land development to the City in order to lessen taxpayer burden for landowners in the context of Oregon Ballot Measures 5 (1990) and 50 (1997).”

▲ In order to conform with WDO 5.04.01C.2a by guaranteeing that public facilities serve future development of the property, staff applies a condition for the applicant to enter into an annexation agreement.

3. a. Examining the considerations under subsection a. because the Comprehensive Plan land use map designates the territory Low Density Residential, and the territory is to be designated with Residential Single Family (RS) base zoning district consistent with both the applicant’s request and Comprehensive Plan Policy Table 1:
  - 1) The territory to be annexed meets the guideline that it “should be contiguous to the City on two or more sides”.
  - 2) The applicant’s narrative (pp. 7 & 8) states:

“The Comprehensive Plan Land Use Map designates the Property as Low Density Residential. The City’s Housing Needs Analysis dated December 9, 2019, included the Property in the city’s Buildable Lands Inventory and the Property has historically been designated Low-Density Residential. This application does not propose to change density or zoning designations the Property is presently subject to.

This petition for annexation represents only a small portion of the land the City has designated for residential use within the city’s urban growth boundary. The City’s 2019 Housing Needs Analysis projects a future need for 1,563 new residential dwellings, which include single-family detached dwellings, manufactured homes, and mobile homes. Upon annexation, the Property will be zoned RS – Residential Single Family. The RS zoning designation will allow the Property to be subdivided to create a maximum of seven new single-family residential lots, which represents approximately 0.038 percent of the City’s estimated need for single-family detached dwellings. There is no known oversupply of land zoned for low density residential use in the City’s existing boundary; therefore, approval of the requested annexation will not result in more than a 5-year supply land zoned for low density residential use in the City. Furthermore, the requested annexation will allow the City to meet the goals stated in the Housing Needs Analysis and Buildable Lands Inventory to make land available for needed housing.”

Staff mostly agrees, except that the number of dwellings might be more than 7 because the RS zoning district allows more than single-family houses. It also allows “middle housing”: duplexes, triplexes, quadplexes, townhouses, and cottage clusters. WDO Table 2.02B specifies for the RS zoning district a minimum net density of 5.2 dwellings per net acre. Though it lists no maximum, Comprehensive Plan Policy Table 1 indicates both the minimum of 5.2 and a maximum of 7.26 dwellings per net acre. If there were ROW dedication of 6 ft width along approximately 390 feet length of frontage, the reduction of 1,884 square feet from 1.43 gross acres would yield 1.38 net acres. This multiplied by 7.26 dwellings would yield 10 dwellings, with staff stressing that for some middle housing, like cottage clusters, state law appears to pre-empt application of a local maximum density requirement.

In short, development of the property could have far more dwellings if having, for example, 10 townhouses or (based on the Pre-App PRE 22-29 site plan) approximately 20 cottages, instead of 7 conventional detached single-family houses.

3) The applicant’s narrative (p. 8) states:

“The Property is presently served by existing public transportation (including bicycle and pedestrian improvements), water, sanitary sewer, and stormwater conveyance facilities, each with existing service capacities. The Property will not require any new capital improvements to allow for future development activities that are consistent with the Property’s planned residential use and density.”

Though there’s no written objection by the Public Works Department to the applicant’s narrative. Planning Division staff note that “capital improvements” refers to public improvements constructed by the City instead of a developer.

4) Regarding (a) & (b), the applicant’s narrative (p. 8) states:

“The Property’s frontage that abuts Brown Street measures approximately 391 feet. The existing public right-of-way measures 36 feet from the centerline on the east side of Brown Street and 30 feet on the west side of Brown Street. The west side of the Brown Street right-of-way is presently improved with a 17-foot pavement section measured from centerline to the face of curb (which allows for a 12-foot travel lane and a 5-foot bike lane), and a 6-foot planter strip, a 6-foot sidewalk, and a 1-foot section between the back of the sidewalk and the existing property line (which provides more than adequate safety for pedestrian movements). No additional right-of-way dedication or improvements are necessary or required to safely develop the Property consistent with its planned residential use and density following annexation.”

Staff disagrees. First, (b) is not applicable because no connection of existing street stubs is relevant. Returning to (a), completion or extension of the arterial/collector street pattern, the existing west half-street is non-conforming with WDO Figure 3.01D “Service Collector”, which is the applicable functional class per Transportation System Plan (TSP) Figure 2. Upon development of the territory the City would require right-of-way (ROW) dedication and street improvements that conform to the standard cross-section for the west half-street. A conditioned annexation agreement remains relevant as described farther above for criterion C.2.

▲ In order to conform with WDO 5.04.01C.3a4)b) by completing Brown Street, which is collector street as depicted in Transportation System Plan (TSP) Figure 2 and corresponding WDO Figure 3.01D “Service Collector”, staff applies a condition for the applicant to enter into an annexation agreement.

5) n/a at least for the Planning Commission hearing because no City Council hearing has yet occurred.

Annexation of the subject territory demonstrates some conformance with the criteria, but not with 5.04.01C.2a & C.3a4b), both of which relate to west half-street improvements.

Regarding D., the applicant addressed the requisite written consent and such that no election is needed.

Regarding E., the applicant confirms the proposal includes no request to amend the Comprehensive Plan land use designation or upon annexation to designate the territory with City base zoning district other than RS. (Pursuant to Comprehensive Plan Policy Table 1, RS and Retirement Community Single Family Residential [R1S] are the only zoning districts that implement the Low Density Residential designation, and the clear WDO and zoning map intent is that R1S came into being only to accommodate the existing Woodburn Senior Estates subdivision, the 1960s retirement development now named Woodburn Golf & Estates located in the north central and west central areas of the city.)

Regarding F., looking at subsections 1-3:

- “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.”

The application neither proposes to dedicate required ROW (6 ft) nor dedicate at least the streetside PUE (minimum 5 ft; maximum 8 ft), failing to meet 1. & 2. For the reasons described for criterion C.2a, 3. would not be met without a conditioned annexation agreement.

- ▲ The criteria can be met with a condition of approval requiring an annexation agreement that guarantees public facilities serve future development of the property.

## Zoning Map Change Provisions

### Zoning Map Change Provisions

#### 5.04.04

**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.**

Staff interprets this section such that it applies only to rezoning – a change from one City zoning district to another. Because the zone change proposed through ZC 22-02 comes with annexation in order to assign City zoning, and the proposed zoning districts comply with the Comprehensive Plan land use map designations, the criteria are not applicable.

➡ Not applicable.



## **Remaining Provisions**

These are applicable provisions not already addressed in the application type provisions sections above.

### **4.01.07 Consolidated Applications**

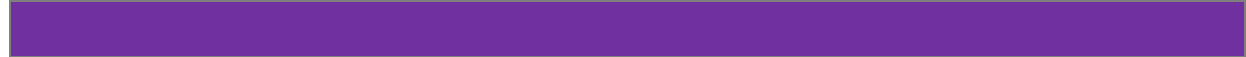
**An applicant may request, in writing, to consolidate applications needed for a single development project. Under a consolidated review, all applications shall be processed following the procedures applicable for the highest type decision requested. It is the express policy of the City that development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

The proposal consolidates the annexation and zone change.



## 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:



### *Annexation 24-01*

ANX-1. The applicant shall enter into an annexation agreement (the Agreement), made concurrent with and a part of any written decision by the Woodburn City Council that approves the annexation of the subject territory. The Agreement shall be subject to Council acceptance and have provisions addressing the following:

- a. The Agreement shall be contractually binding on the applicant, heirs, successors, and assigns and:
  - (1) Cite applicable details, provisions, requirements, rules, specifications, and standards from the Woodburn Development Ordinance (WDO) and other applicable ordinances relating to public improvements that following annexation would be applicable to the subject property at 1025 Brown Street upon development;
  - (2) List and describe the dedications, grants, and public improvements necessary to conform, addressing at least:
    - (a) Right-of-way (ROW) dedication,
    - (b) Streetside public utility easement (PUE) grant,
    - (c) Half-street improvements including surface improvements: roadway, curbing, landscape strip, street trees, and sidewalk,
    - (d) Removal of electric power pole(s) and burial of overhead lines, and
    - (e) Any fair share or proportionate share costs for identified right-of-way improvements to increase traffic safety adequately at the intersection of Brown Street & Bridlewood Lane / Comstock Avenue;
  - (3) Specify that development shall come with such public improvements that a developer constructs or pays fees in lieu of as ordinances allow, with option to add administrative provisions for fees in-lieu not found in ordinances such as explicit due dates;
  - (4) Specify that the Agreement provisions are severable;

- (5) Establish provisions for the effect on the Agreement when changes in statute or administrative rules render compliance with Agreement provisions impossible or unlawful, with the proviso that (a) a prime objective of the Agreement shall be and remain to secure public improvements despite such changes by the state, and (b) changes by the state reasonably interpreted to relieve developers generally of some or all burden of public improvements in and of themselves do not necessarily void the Agreement in part or wholly; and
  - (6) Establish provisions for modification, which may also include setting Agreement expiration or sunset.
- b. Recordation: It is the intention of the City that the terms and obligations of the Agreement are necessary for the annexation and future development of the subject property and as such will run with the land and be construed to be both a benefit and burden upon the property. The applicant shall record a duly executed copy of the Agreement in the real property records of Marion County and give the City copies.
- c. Effective date:
  - (1) Option 1: The City Council adopts the annexation ordinance for ANX 23-03 and accepts the Agreement with the effective date the same as the annexation ordinance effective date.
  - (2) Option 2: The City Council adopts the annexation ordinance for ANX 23-03 with the effective date conditioned to be the date that the City Administrator signs the Agreement that the applicant had signed. Until this happens, the City holds in abeyance agency notices of ordinance adoption.

Note A: The applicant may request that City staff draft and format an agreement.

## Applicant Identity

<i>Applicant</i>	Stafford Homes & Land, LLC
<i>Applicant's Representative</i>	Bryan Cavaness, General Counsel, Stafford Homes & Land, LLC
<i>Landowner(s)</i>	Stafford Homes & Land, LLC

## 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.

## Colin Cortes

---

**From:** Colin Cortes  
**Sent:** Tuesday, June 4, 2024 9:23 AM  
**To:** Dago Garcia  
**Cc:** Curtis Stultz  
**Subject:** RE: ANX 23-03 staff report due Thu Dec 7

Dago:

Please send a fresh e-mail for ANX 24-01, assuming your comment is the same, thanks, by Thursday morning.

### Colin Cortes, AICP, CNU-A

Senior Planner  
Ph. (503) 980-2485

---

**From:** Dago Garcia <Dago.Garcia@ci.woodburn.or.us>  
**Sent:** Wednesday, December 6, 2023 4:47 PM  
**To:** Colin Cortes <Colin.Cortes@ci.woodburn.or.us>  
**Cc:** Curtis Stultz <Curtis.Stultz@ci.woodburn.or.us>  
**Subject:** RE: ANX 23-03 staff report due Thu Dec 7

Hi Colin,

There is not need for public works conditions since public works conditions are going to be address with the agreement.

Thank You

---

**From:** Colin Cortes <[Colin.Cortes@ci.woodburn.or.us](mailto:Colin.Cortes@ci.woodburn.or.us)>  
**Sent:** Tuesday, December 5, 2023 10:35 AM  
**To:** Dago Garcia <[Dago.Garcia@ci.woodburn.or.us](mailto:Dago.Garcia@ci.woodburn.or.us)>  
**Cc:** Curtis Stultz <[Curtis.Stultz@ci.woodburn.or.us](mailto:Curtis.Stultz@ci.woodburn.or.us)>  
**Subject:** ANX 23-03 staff report due Thu Dec 7

Dago:

If there's need for Public Works conditions of approval for ANX 23-03 Brown Street Annexation (1025 Brown St), please pass them along, thanks. Planning staff will publish the staff report sometime Thursday, December 7, a week prior to the December 14 Planning Commission hearing date.

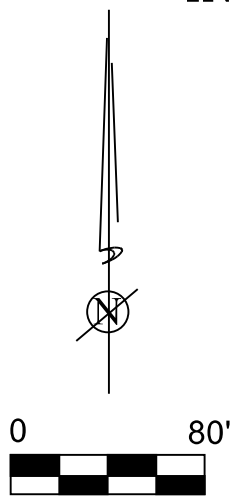
[View the shared drive copy of app materials.](#)

### Colin Cortes, AICP, CNU-A

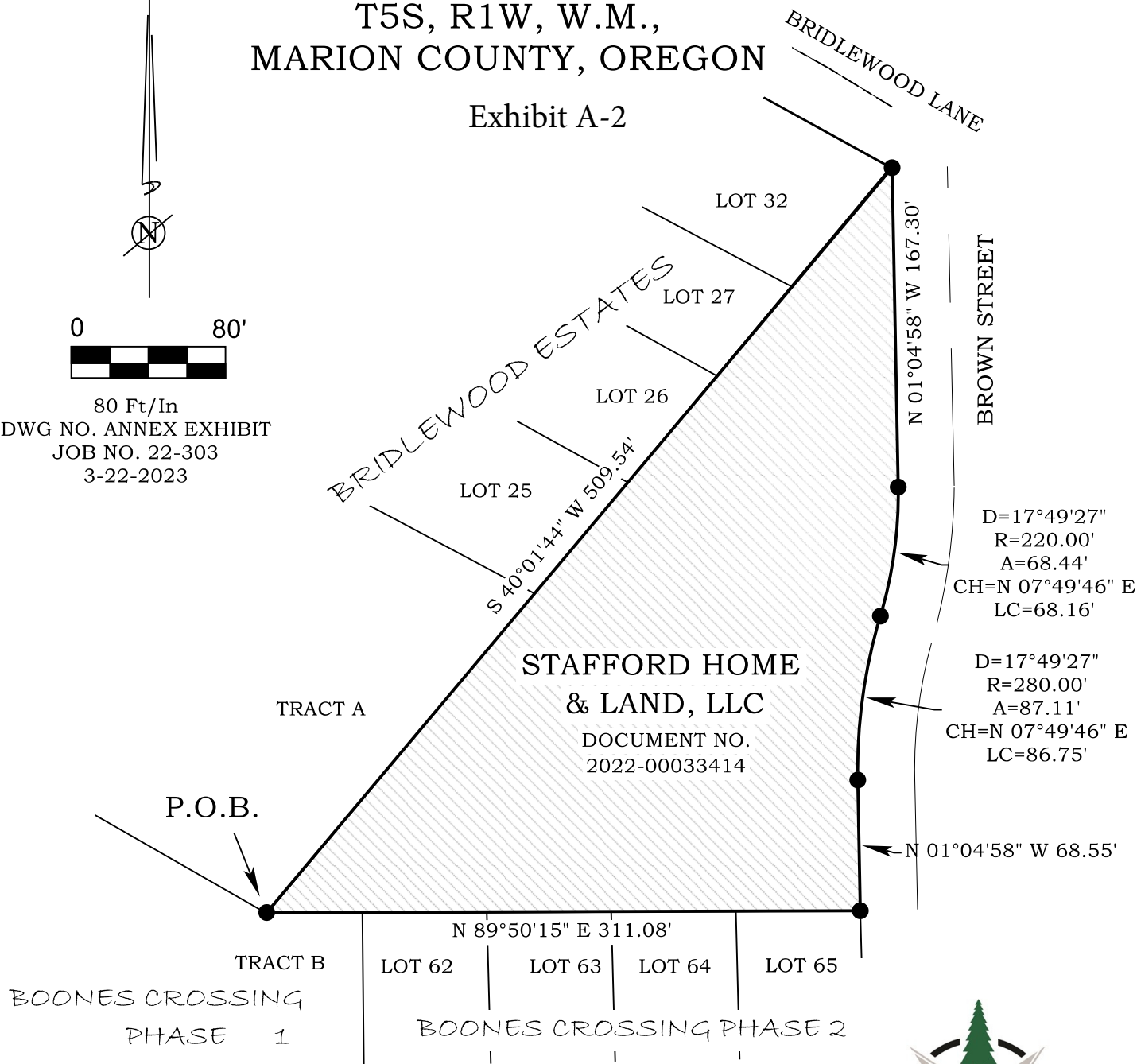
Senior Planner  
Ph. (503) 980-2485

# ANNEXATION FOR STAFFORD HOMES AND LAND IN THE SW 1/4 OF SECTION 18, T5S, R1W, W.M., MARION COUNTY, OREGON

Exhibit A-2



80 Ft/In  
DWG NO. ANNEX EXHIBIT  
JOB NO. 22-303  
3-22-2023



REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

*Donald D Wallace*

OREGON  
JANUARY 19, 1993  
DONALD D WALLACE, JR  
2601

RENEWES 6/30/24

Attachment 103  
Page 1 of 2

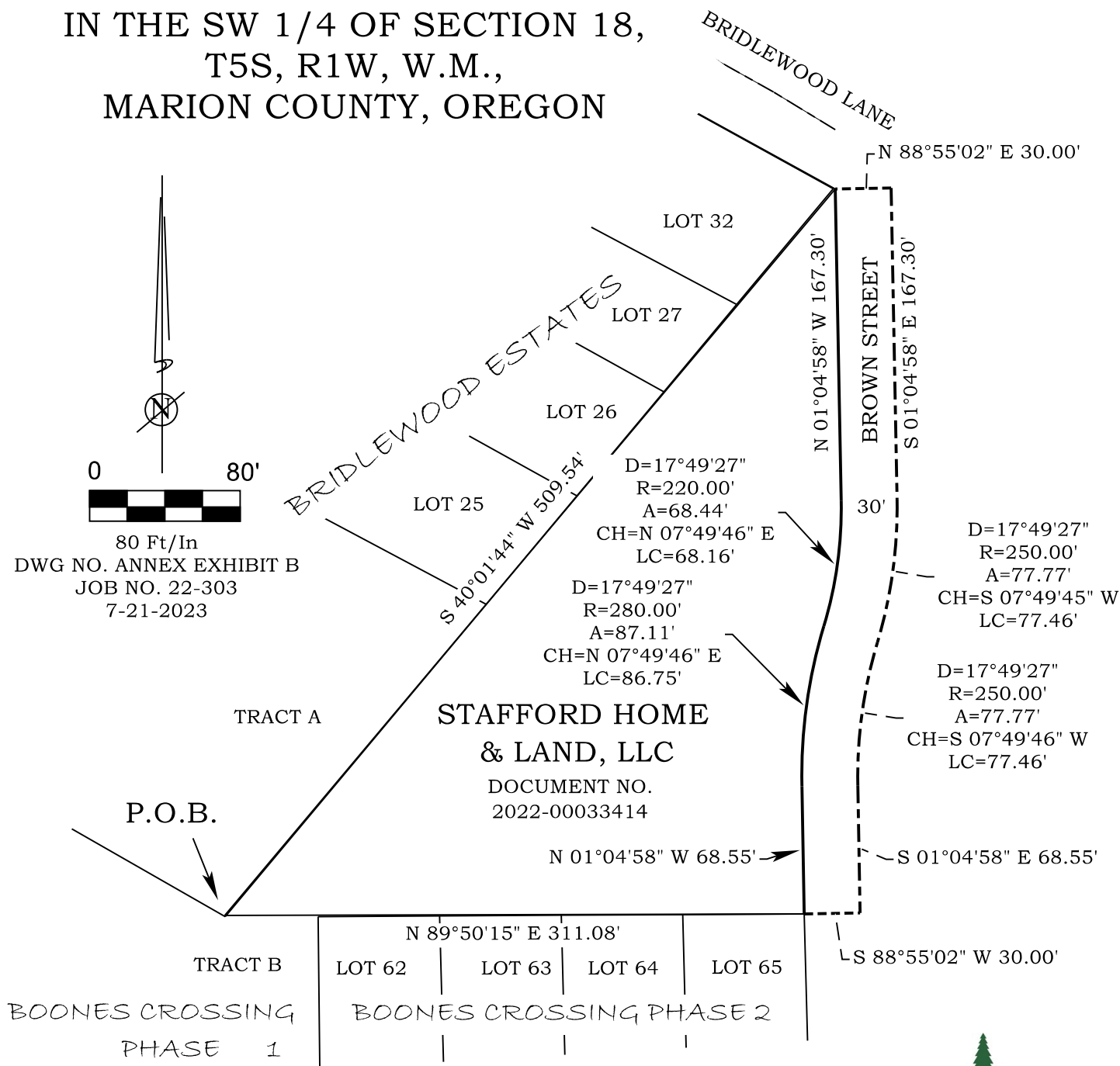


**K.L.S. SURVEYING INC.**  
1224 ALDER STREET  
VERNONIA, OREGON 97064  
(503) 429-6115

**EXHIBIT B - 2**  
**ANNEXATION FOR**  
**STAFFORD HOMES AND LAND**  
**IN THE SW 1/4 OF SECTION 18,**  
**T5S, R1W, W.M.,**  
**MARION COUNTY, OREGON**

0 80'

80 Ft/In  
 DWG NO. ANNEX EXHIBIT B  
 JOB NO. 22-303  
 7-21-2023



REGISTERED  
 PROFESSIONAL  
 LAND SURVEYOR

*Donald D Wallace*

OREGON  
 JANUARY 19, 1993  
 DONALD D WALLACE, JR  
 2601

RENEWS 6/30/24



**Attachment 103**  
**Page 2 of 2**

**K.L.S. SURVEYING INC.**  
 1224 ALDER STREET  
 VERNONIA, OREGON 97064  
 (503) 429-6115



**PUBLIC WORKS DEPARTMENT  
190 GARFIELD STREET  
WOODBURN, OR 97071**

November 10, 2022

Max Root, Development Asst.  
Stafford Homes & Land  
8840 SW Holly Lane  
Wilsonville, OR 97070

Re: Annexation Certification  
Subject Property: 1025 Brown Street, Woodburn, OR 97071  
Marion County Tax Map: 051W18C001200

This letter is to certify that the City of Woodburn has no capacity issue with the public wastewater treatment facility or public water treatment facility. However, the subject property is not adjacent to an existing storm sewer collection system. The requirements for this collection facility would still need to be determined. The capacity analysis, design and installation of water, sewer and storm would be the responsibility of the applicant/property owner.

If you have any questions, please contact me at 503.982.5248.

Sincerely,

*Dago Garcia*

Dago Garcia, P.E.  
City Engineer  
City of Woodburn

**Attachment 103A  
Page 1 of 4**

**From:** [James Gibbs](#)  
**To:** [Maxwell Root](#)  
**Subject:** RE: 1025 Brown St Annexation Service Provider Letter  
**Date:** Tuesday, November 8, 2022 6:36:15 AM

---

Max,

Typically I have sent in an email response to reflect we can absorb the capacity for Woodburn Fire District response. This email is an official response that Woodburn Fire District covers 75 square miles, this property was already a part of our response and the added houses, as long as water supply and fire access meet our requirements, we can support the added capacity for fire and medical responses.

James Gibbs  
Fire Marshal  
Woodburn Fire District  
1776 Newberg Hwy  
Woodburn, OR 97071  
(503) 982-2360  
[gibbsj@woodburnfire.com](mailto:gibbsj@woodburnfire.com)



---

**From:** Maxwell Root [mailto:[max@staffordlandcompany.com](mailto:max@staffordlandcompany.com)]  
**Sent:** Thursday, November 03, 2022 9:46 AM  
**To:** James Gibbs  
**Subject:** RE: 1025 Brown St Annexation Service Provider Letter

\*\*\*\* This email is from an EXTERNAL sender. Exercise caution when opening attachments or click links from unknown senders or unexpected email. \*\*\*\*

Good Morning,

IS there anything else I can provide to help expedite the service provider letter?

Thanks,  
Max

---

**From:** Maxwell Root  
**Sent:** Wednesday, October 12, 2022 10:44 AM  
**To:** [gibbsj@woodburnfire.com](mailto:gibbsj@woodburnfire.com)



**Subject:** 1025 Brown St Annexation Service Provider Letter

Good morning,

Thanks for taking my call, as discussed, we need a service provider letter from the Woodburn Fire District to annex in a property.

The property is 1.43 acres, zoned for 5-6 single family residential houses. Due to the lots configuration, 6 is a stretch.

Please let me know if you need any further information.



**Max Root** | Development Asst.  
8840 SW Holly Lane, Wilsonville, OR 97070  
[Max@staffordlandcompany.com](mailto:Max@staffordlandcompany.com)  
**Mobile:** 503-739-2649  
[staffordhomesandland.com](http://staffordhomesandland.com) | [staffordlandcompany.com](http://staffordlandcompany.com)



## Woodburn School District

1390 Meridian Drive, Woodburn, OR 97071

Phone: 503-981-9555

Fax: 971-983-3611

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November 9, 2022

Max Root

Stafford Homes & Land; Development Asst.

8840 SW Holly Lane

Wilsonville, Or 97070

Re: Annexation for tax lot 01200 located at 1025 Brown Street.

Mr. Root

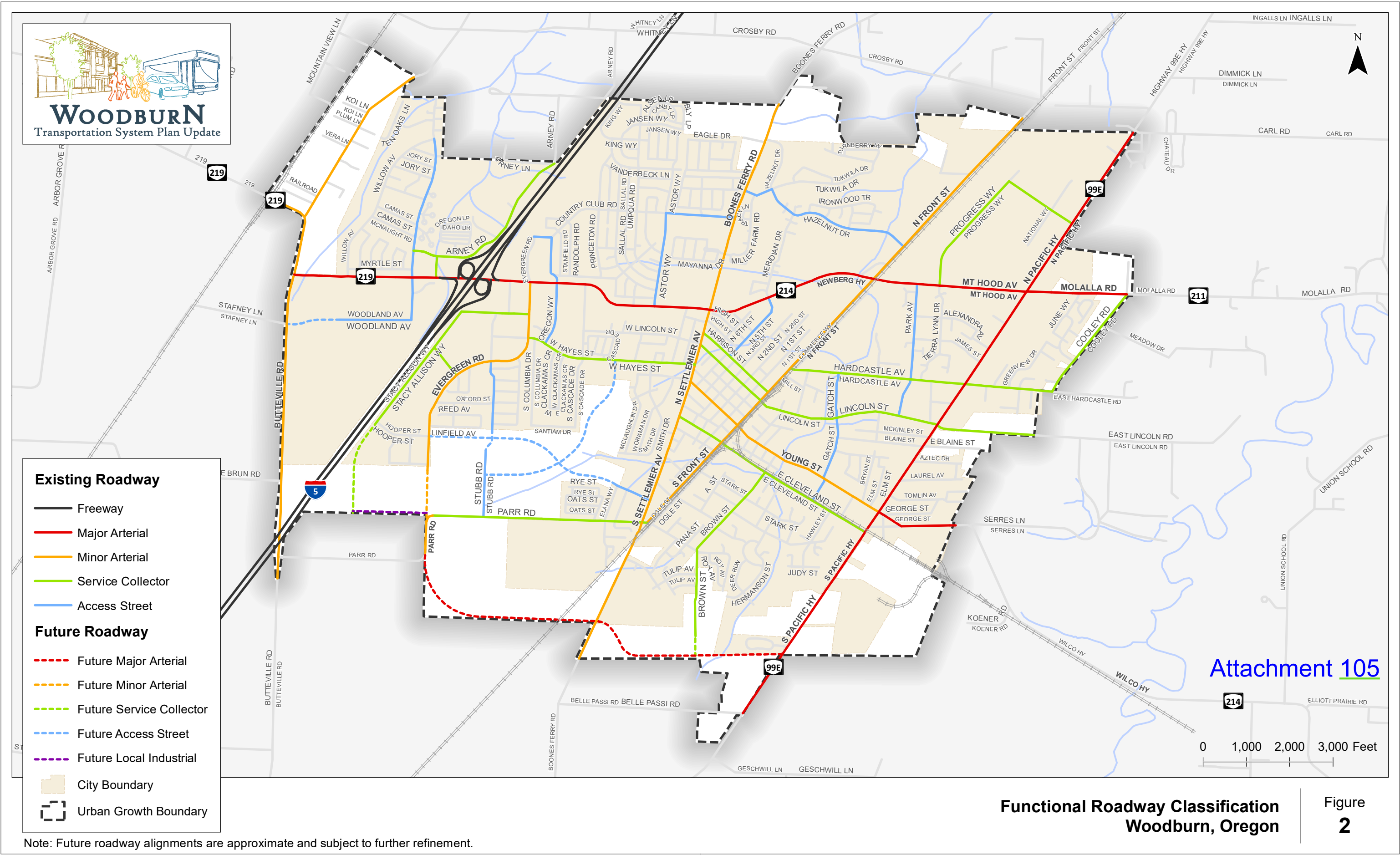
In response to your request, Woodburn School District has determined that your planned annexation located at 1025 Brown Street will affect our schools. However, if the City of Woodburn's traffic analysis determines that there will be no impact on the ability to provide safe and accessible routes to school and there will be no impact on the safety of our students, we will support their decision

Thank you,

Casey Woolley  
Director of Safety and Operations  
Woodburn School District

**Attachment 103A**  
**Page 4 of 4**

Page 1 | 1



After Recording Return To:

City of Woodburn  
Attn: City Clerk  
270 Montgomery Street  
Woodburn, OR 97071

## **ANNEXATION AGREEMENT**

This Annexation Agreement is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2024 (“Effective Date”), by and between Stafford Homes & Land, LLC, an Oregon limited liability company (“Stafford”), and the City of Woodburn, a municipal corporation (“City”), together the “Parties.”

### **Recitals**

- A. Stafford owns real property in Marion County, Oregon that is commonly described as 1025 Brown Street (Tax Lot 051W18C001200) (the “Property”). A legal description of the Property is attached as Exhibit A-1 and a map as Exhibit A-2.
- B. The Property previously contained a single, detached, residential dwelling and an accessory 2-car garage structure. Both structures were recently removed from the Property and the Property is presently vacant and unimproved.
- C. Stafford has requested the Woodburn City Council to annex the Property into the City of Woodburn corporate limits. The City Council will consider the request by Stafford request to annex the Property at a public hearing as File No. ANX 24-01.
- D. The Parties acknowledge and anticipate that following annexation, the Property will be developed for residential uses that may be subject to discretionary or non-discretionary land use review processes.
- E. The Parties desire to enter into an agreement, made concurrent with and a part of a written decision by the Woodburn City Council annexing the Property, that defines the scope and timing of all right-of-way dedications, public utility easement dedications, public infrastructure improvements, utility undergrounding, and installation of new street lighting the City may require Stafford, its successors, or assigns to provide or perform as a condition of or concurrent with any future development of the Property, including payment of a fee-in-lieu of constructing improvements that are the subject of this Annexation Agreement.
- F. The Parties acknowledge and agree that the terms and conditions of this Agreement shall only be applicable if the Property is developed with either “middle housing” as defined by ORS 197A.420, OAR 660-046-0020, and Woodburn Development Ordinance

(WDO) 1.02, or as an infill subdivision of four or fewer single-family, detached residential dwellings.

## **Agreement**

Based on the recitals set forth above, which are incorporated into and made a part of this Annexation Agreement, in consideration of the covenants made by the Parties herein, and for other good and valuable consideration, the delivery, receipt, and sufficiency of which the Parties herein acknowledge, the Parties state and agree as follows:

**1. Annexation Decision.** This Annexation Agreement is incorporated into and made a part of the written decision of the Woodburn City Council for File No. ANX 24-01 annexing the Property into the corporate boundary of the City of Woodburn.

**2. Covenants and Agreements by Stafford.** In consideration of City agreement to annex the Property into the City of Woodburn corporate boundary, Stafford covenants and agrees:

**2.1 Right-of-way dedication.** Concurrent with City annexation of the Property, Stafford will dedicate, grant, and convey to the City a portion of the Property measuring 6 feet wide along the entire length of the Property's street frontage that abuts Browns Street as additional public right-of-way (ROW).

**2.2 Public Utility Easement Dedication.** Concurrent with City annexation of the Property, Stafford will dedicate a 5-foot streetside public utility easement (PUE) along the entire length of the Property street frontage that abuts Brown Street.

**2.3 Sidewalk Construction and Landscape Strip Installation.** Following City annexation of the Property, for any structures that are hereafter constructed on the Property, Stafford, its successors, and assigns, at their sole cost and expense, will replace the existing 5-foot-wide sidewalk within the public right-of-way frontage that is adjacent to the Property to a width of 6 feet along the entire length of the Property street frontage that abuts Brown Street and will construct or widen the existing landscape strip along the Property Brown Street frontage to conform to WDO Figure 3.01D. Stafford, its successors, and assigns will further construct a 6-foot-wide landscape strip along the portion of the Property Brown Street Frontage that does not currently have a landscape strip per WDO Figure 3.01A, 3.01.04B, Figure 3.01D "Service Collector" and WDO 3.01.03C. If development is such that several single-family homes or structures meeting the definition of middle housing front Brown Street, then City will defer the completion of the sidewalk and landscape strip improvements from subdivision inspection to each building permit final inspection. Otherwise, completion of these improvements will be due per WDO 3.01.02E. For purposes of this Annexation Agreement, the term "development" shall mean and include the construction of more than one detached single-family residential structure or any structure meeting the definition of "middle housing" on the Property. If Stafford, its successors, or assigns submit construction improvement plans for the Property that propose to construct two or more residential dwellings on individual, platted lots of record, the sidewalk will be constructed concurrent with the dwelling on each lot.

**2.4 Utility fee-in-lieu.** Following City annexation of the Property, and concurrent with the issuance of building permits to construct one or more structures on the Property, Stafford, its successors, and assigns will pay the City a fee in-lieu of undergrounding existing aerial utilities located in the widened right-of-way and public utility easement area adjacent to the Property Brown Street frontage equal to Two Hundred Seventy-Two Dollars and 11/100 (\$272.11) per lineal foot of the Property frontage that abuts Brown Street. The parties acknowledge and agree that the Property frontage that abuts Browns Street measures 390.76 linear feet. Accordingly, the utility undergrounding fee-in-lieu due and payable to the City when the Property is developed will be One Hundred Six Thousand, Three Hundred Twenty-Five Dollars and 80/100 (\$106,325.80) ( $\$272.11 * 390.76 = \$106,325.80$ .)

**2.5 Future Intersection Improvements.** Following City annexation of the Property, Stafford, on behalf of itself and its successors, and assigns, acknowledges, and agrees that it will contribute and pay a share of costs to construct traffic safety improvements the City determines to be reasonable and necessary at the intersections of Brown Street/Bridlewood Lane/Comstock Avenue that is roughly proportional to the percentage of vehicle trips that development of the Property will generate based on approved development uses and densities.

**3. Covenants and Agreements by City.** In consideration of the covenants made by Stafford in Section 2 of this Annexation Agreement, the City covenants and agrees:

**3.1 Right-of-way dedication.** Following annexation of the Property, the City will not require Stafford, its successors, or assigns to dedicate right-of-way in addition to the 6-foot dedication described in Section 2.1 of this Annexation Agreement as a condition of or concurrent with any future partition, subdivision, or development of the Property.

**3.2 Public utility easement dedication.** Following annexation of the Property, the City will not require Stafford, its successors, or assigns to dedicate a streetside public utility easement wider than the dedication described in Section 2.2 of this Annexation Agreement as a condition of or concurrent with any future partition, subdivision, or development of the Property.

**3.3 Public improvements.** Except for public sidewalk improvements described in Section 2.3 and intersection improvements described in Section 2.5 of this Annexation Agreement, following annexation of the Property, the City will not require Stafford, its successors, or assigns to widen and construct public street improvements adjacent to the Property Brown Street frontage, nor will the City require Stafford, its successors or assigns to construct other “off-site” public street improvements as a condition of or concurrent with any future partition, subdivision, or development of the Property.

**3.4 Utility fee-in-lieu.** Except for the utility fee-in-lieu payment described in Section 2.3 of this Annexation Agreement, following annexation of the Property, the City will not require Stafford, its successor, or assigns to underground any utilities, install any new street lighting, contribute to the cost of undergrounding any utilities or installing any new street lighting, or pay a fee-in-lieu of undergrounding any utilities or installing any new street lighting as a condition of or concurrent with future partition, subdivision, or development of the Property.

**4. Waiver of Right to Remonstrate.** Stafford, on behalf of itself, its successors, and assigns, hereby waives all rights to remonstrate against the formation of a Local Improvement District (LID) by the City for the purpose of making sanitary sewer, storm sewer, water, or street improvements that benefit the Property or any part thereof and assessing the cost to benefited properties, including the Property, pursuant to City capital improvement regulations in effect at the time of such improvement.

**5. No Development Rights Conferred.** The Parties understand, acknowledge, and agree that this Annexation Agreement shall not constitute approval of any future development activities on the Property. Nothing contained in this Agreement shall authorize, permit, or otherwise allow the construction and/or development of or on the Property unless separately approved by the City pursuant to applicable city ordinances, development codes, and engineering design standards. All land use authorizations, development and construction rights, and authorizations, shall be obtained upon proper application and in compliance with all standards and requirements of the Oregon Revised Statutes, applicable rules and regulations adopted by the Oregon Department of Land Conservation and Development, the Woodburn Comprehensive Plan, and the Woodburn Development Ordinance (WDO).

**6. Covenants and Agreements Run with the Land.** The Parties intend that the covenants and agreements contained in this Annexation Agreement create an equitable servitude that shall run with the land and shall be binding on all parties having, or that may hereafter acquire, any right, title, or interest in the properties described herein, or any portion thereof, and they shall pass to and for the benefit of each subsequent owner of the Property. The City may record a duly executed copy of this Annexation Agreement, and any amendments thereto, in the real property records of Marion County.

**7. Amendments.** This Agreement may be amended only by the written consent of both Parties.

**8. Governing Law and Venue.** This Agreement shall be governed by, construed, interpreted, and enforced in accordance with Oregon law. The venue for any action or litigation to interpret or enforce the terms and covenants described in this Annexation Agreement shall be conducted in the Circuit Court of Marion County, Oregon.

**9. Attorney Fees and Costs.** The prevailing Party in any action, or other proceeding arising out of or in any way related to this Annexation Agreement, or to interpret or enforce any rights or obligations thereunder, shall be entitled to recover their attorney, paralegal, accountant, expert, and all other fees, costs, and expenses actually incurred and reasonably necessary in connection therewith, as determined by the court, arbitrator, or other tribunal, in addition to all other amounts provided by law, including all costs and fees associated with collection.

**10. Severability.** The invalidity of any portion of this Annexation Agreement, as determined by a court of competent jurisdiction or duly appointed arbitrator, shall not affect the validity of any other portion of this Agreement.

**11. Entire Agreement.** All Exhibits to this Annexation Agreement are a part of this Agreement. This Annexation Agreement, together with the accompanying Exhibits, represent the final intentions of the Parties and supersedes all prior memoranda, correspondence, conversations, and negotiations regarding or concerning the subject matter of this Agreement.



Acknowledgement.

By signing below, the Parties acknowledge they have read, understood, and agree to all the terms of this Agreement, that this Agreement is supported by adequate consideration, and that the provisions contained in this Agreement are contractual in nature and not mere recitations of fact.

IN WITNESS WHEREOF, Stafford Homes & Land, LLC and the City of Woodburn have executed this Annexation Agreement on the Effective Date stated above.

[Signatures of the Parties appear on the following pages.]

Stafford Homes & Land, LLC  
An Oregon limited liability company

---

Richard Waible, Manager

State of Oregon            )  
  ) ss.  
County of Clackamas    )

I certify that I know or have satisfactory evidence that Richard Waible is the person who appeared before me, that said person acknowledged he signed this instrument, on oath stated that he was authorized to execute the instrument, and acknowledged it as the Manager and authorized representative of Stafford Homes & Land, LLC to be the free and voluntary act of such party for the uses and purposes mentioned in this instrument.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2024.

---

Notary Public for Oregon

My Commission expires: \_\_\_\_\_

Approved as to form: \_\_\_\_\_  
City Attorney Date

Approved City of Woodburn, Oregon

\_\_\_\_\_  
Frank Lonergan, 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



# KLS Surveying Inc.

1224 Alder Street  
Vernonia, OR 97064

Phone: (503) 429-6115

Fax: (866) 297-1402

Email: [don@klssurveying.com](mailto:don@klssurveying.com)

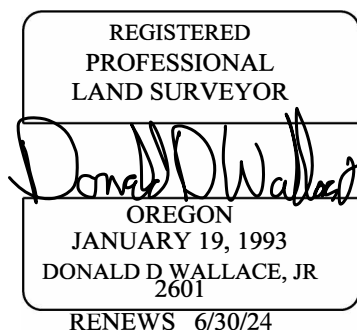
## Exhibit A-1

A portion of that tract of land conveyed to Stafford Homes & Land, LLC by deed recorded as Instrument No. 2022-00033414, Marion County Deed Records lying in the Southwest quarter of Section 18, Township 5 South, Range 1 West of the Willamette Meridian, Marion County, Oregon being more particularly described as follows:

- Beginning at the Southeast corner of Tract A, Bridlewood Estates, Marion County Survey Records;
- thence North  $89^{\circ}50'12''$  East along the North line of Boones Crossing Phase 1 & 2, 311.08 feet to the Easterly right of way line of Brown Street;
- thence the following four courses along said right line, North  $1^{\circ}04'58''$  West 68.55 feet;
- thence 87.11 feet along the arc of a curve to the right having a radius of 280.00 feet and a central angle of  $17^{\circ}49'27''$  and a chord of which bears North  $7^{\circ}49'45''$  East and a long chord of 86.75 feet;
- thence 68.44 feet along the arc of a curve to the left having a radius of 220.00 feet and a central angle of  $17^{\circ}49'27''$  and a chord of which bears North  $7^{\circ}49'45''$  East and a long chord of 68.16 feet;
- thence North  $1^{\circ}04'58''$  West 167.30 feet to the Northeasterly corner of Lot 32, Bridlewood Estates, Marion County Survey Records;
- thence leaving said right of way line South  $40^{\circ}01'44''$  West along the East line of said Bridlewood Estates 509.54 feet to the point of beginning.

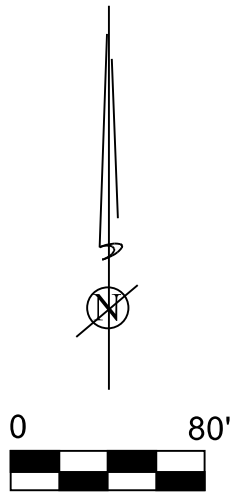
Containing 1.42 acres more or less.

The basis of bearings for this description is from County Survey No. 39398.

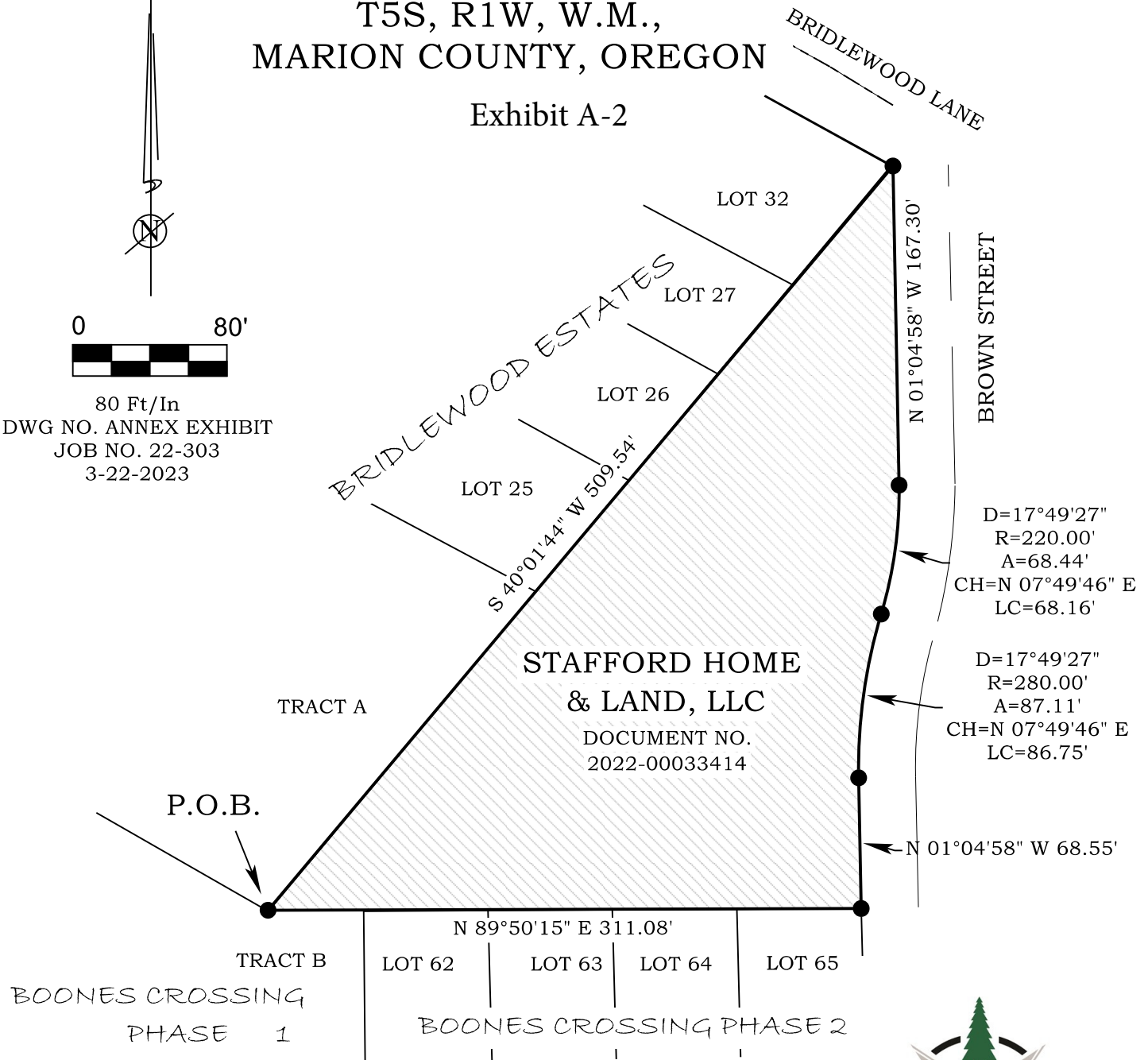


# ANNEXATION FOR STAFFORD HOMES AND LAND IN THE SW 1/4 OF SECTION 18, T5S, R1W, W.M., MARION COUNTY, OREGON

Exhibit A-2



80 Ft/In  
DWG NO. ANNEX EXHIBIT  
JOB NO. 22-303  
3-22-2023



REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

*Donald D Wallace*

OREGON  
JANUARY 19, 1993  
DONALD D WALLACE, JR  
2601

RENEWES 6/30/24



K.L.S. SURVEYING INC.  
1224 ALDER STREET  
VERNONIA, OREGON 97064  
(503) 429-6115

July 22, 2024

To: Honorable Mayor and City Council through City Administrator

From: Chris Kerr, Community Development Director *CK*,  
Dan Handel, Planner

Subject: **Ordinance 2629 Implementing Legislative Amendment 24-02 to the Woodburn Development Ordinance Regarding Food Cart Regulations (LA 24-02)**

## **RECOMMENDATION:**

Consider the revised Woodburn Development Ordinance amendment package and adopt the attached ordinance to implement Legislative Amendment LA 24-02.

## **BACKGROUND:**

On August 28, 2023, the City Council passed Resolution No. 2218 initiating a broad scope of legislative amendments to the WDO. Included in the scope of amendments are regulations for food carts.

The Planning Commission held work sessions on March 14<sup>th</sup>, April 11<sup>th</sup>, and April 25<sup>th</sup> to discuss food carts and how to regulate them. At their May 23<sup>rd</sup> meeting, the Planning Commission held a public hearing and unanimously recommended approval of a WDO amendment package.

The City Council held a work session on June 10<sup>th</sup> to discuss the recommended amendments and held a public hearing on June 24<sup>th</sup>. At the work session and public hearing, Councilors shared concerns about implications of the recommended amendments on existing food cart operators throughout the community. As part of a tentative motion to approve LA 24-02, the Council requested a revised set of regulations that included an option for single food carts to operate outside of a food cart pod.

---

Agenda Item Review: City Administrator \_\_\_x\_\_\_ City Attorney \_\_\_x\_\_\_

## **DISCUSSION:**

Based on the feedback received from Council, staff has prepared the attached revised regulations for consideration. The latest revisions allow for a single food cart to operate outside of a food cart “pod” and the proposed regulations for single food carts require lessor/minimal site development elements compared to a pod.

Revised amendments are included in a ~~strikethrough-and-underline~~ format. In an effort to keep the costs down for individual food cart operators, the proposed regulations provide only for basic health and safety requirements such setbacks, covered seating areas, and approvals from Oregon Health Authority (OHA), Marion County, and the Woodburn Fire Department. As compared to a food cart ‘pod’, individual carts will not require:

- Site paving, curbing, and striping;
- Utility connections (e.g. water, sewer, natural gas);
- Street improvements (e.g. right-of-way, sidewalks, ADA walkways, street trees);
- Buffering or landscaping;
- On-site lighting;
- Perimeter screening; or
- Stormwater detention.

Similar to food cart pods, single carts will be permitted in all commercial and industrial districts; however, Staff recommends only allowing individual carts as accessory uses. This means that they would never be the only use on a property. This is intended to guide them to pods or locations that are already improved. This will serve two important functions – it means that most of the site development requirements listed above that are being ‘waived’ will typically already exist on a site, and it will prevent single carts from permanently operating on vacant lots that never get improved.

The effect of these changes would be that individual carts would be permitted on sites such as Coastal Farms, Mega Foods, or the Sunrise Food Mart properties; but they would be prohibited from being placed on vacant unimproved gravel lots.

The proposed food cart “pod” requirements are mostly unchanged from what was presented at the June 24<sup>th</sup> meeting. The definition for food cart pod has been changed to now cover two or more carts and the minimum parking requirement was increased to 3 spaces per cart.

Staff supports this revised set of amendments. They prioritize food cart facilities that are safe, clean, attractive, and accessible, while also expanding opportunities for existing food carts to find permanent locations.

**FINANCIAL IMPACT:**

There is no financial impact identified with the recommended action.

**ATTACHMENTS:**

1. Abridged amendments to the WDO (with staff comments)
2. Ordinance 2629 with its exhibits:
  - A. WDO Amendments
  - B. City Council Staff Report
  - C. Analyses & Findings

# Woodburn Development Ordinance

## WDO

Adopted by Ordinance 2313 on April 9, 2002

Acknowledged December 22, 2006

Amended by Ordinance 2423 on July 28, 2007

Amended by Ordinance 2446 on September 8, 2008

Amended by Ordinance 2465 on March 24, 2010

Amended by Ordinance 2473 on December 13, 2010

Amended by Ordinance 2480 on September 26, 2011

Amended by Ordinance 2492 on September 10, 2012

Amended by Ordinance 2509 on August 12, 2013

Amended by Ordinance 2510 on September 23, 2013

Amended by Ordinance 2520 on July 28, 2014

Amended by Ordinance 2526 on February 9, 2015

Amended by Ordinance 2538 on September 26, 2016

Amended by Ordinance 2541 on November 14, 2016

Amended by Ordinance 2544 on January 9, 2017

Amended by Ordinance 2561 on July 9, 2018

Amended by Ordinance 2562 on September 10, 2018

Amended by Ordinance 2573 on June 24, 2019

Amended by Ordinance 2579 on April 13, 2020

Amended by Ordinance 2602 on May 9, 2022 (LA 21-01)

Amended by Ordinance 2603 effective June 30, 2022 (LA 21-02)

**Amended by Ordinance 2621 on February 26, 2024 (LA 21-03)**



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## 1.02 Definitions

Note: Terms not defined in this Section have the meaning set forth in the New Oxford American Dictionary, 2010 edition (see Section 4.02.06.B.6.)

**Abutting:** Touching on the edge or on the line, including at a corner. It shall include the terms adjacent, adjoining and contiguous.

**Access:** The place, means or way by which pedestrians or vehicles have ingress and egress to and/or from a lot or use.

**Accessory Building, Structure or Use:** A detached building, structure or use which is incidental and subordinate to, and supports the primary use on, the same premises.

**Accommodations:**

- **Bed and Breakfast Inn:** A single-family dwelling with at least one room offered to the general public for lodging on an overnight or weekly basis, with a meal provided.
- **Hotel:** A building in which rooms are offered to the general public for lodging on an overnight or weekly basis, where the primary entrance is through a lobby or foyer with internal circulation to the rooms.
- **Living Unit:** A room or suite of rooms, providing living and sleeping facilities for one or more persons where either cooking or eating and/or sanitation facilities are shared. In a rooming and boarding house, each bed rented for compensation is a "Living Unit." Note: Living unit is not synonymous with "dwelling unit."
- **Motel:** a group of attached or detached buildings, in which more than five rooms are offered to the general public for lodging on an overnight or weekly basis, where the rooms have direct access to the outside without the necessity of passing through the main lobby of a building.
- **Rooming and Boarding House:** A residential building or portion thereof with guest rooms, providing lodging or lodging and meals, for three or more persons for compensation.

**ADA:** The acronym refers to the federal Americans with Disabilities Act (1992) and in the context of WDO standards means compliance with contemporary federal provisions with which developers are bound to comply as standards and compliance with any contemporary supplemental state of Oregon provisions with which developers are bound to comply as standards.

**Adjacent:** Near, close or bordering but not necessarily contiguous with; adjoining but separated by a right-of-way.

**Administrative Body:** The City Council, Planning Commission, Design Review Board, or staff member having the jurisdiction to hear and decide proceedings on land use actions.

**Alley:** A public right-of-way not more than 20 feet wide and not less than 10 feet in width that provides vehicular access to property instead of or in addition to a public street, that intersects with a public street, and that can serve as a utility corridor. Distinct from "Shared Rear Lane".

- Single-Family Dwelling: A detached building constructed on a single lot, containing one dwelling unit designed exclusively for occupancy by one family.
- Triplex: Three (3) attached dwelling units on a lot.
- Accessory Dwelling Unit (ADU) – An interior, attached, or detached residential structure that is used in connection with, or that is accessory to, a single-family dwelling.

Note: Where it appears in the WDO, reference to dwelling or dwellings "other than multiple-family" excludes ADU unless a specific provision specifies otherwise.

Employees: All persons, including proprietors, performing work on a premises. For calculating required off-street parking, it shall be the number present during the largest shift or peak season.

Family: An individual or two or more persons related by blood, marriage, legal adoption or guardianship, or a group of not more than five persons (excluding servants) who need not be related by blood or marriage, living together in a dwelling unit. "Family" shall include two or more handicapped persons as defined in the Fair Housing Amendments Act of 1988 living as a single housekeeping unit.

Final Action and Final Decision: The City's final decision on a permit application for which there is either no appeal to another decision-maker within the City, or, if there is the possibility of a local appeal, an appeal was not timely perfected in accordance with the Woodburn Development Ordinance.

Food Cart: A vehicle, trailer, wagon, or similar facility that is self-propelled or can be pushed or pulled down a sidewalk or street, and is primarily used for the sale of food and/or beverages directly to the consumer.

Food Cart Pod: A site containing permanent spaces for two or more food carts and associated amenities (seating areas, restrooms, etc.) under common management on private property.

**Commented [DH1]:** Changed from 3 down to 2 based on feedback received from Council on 6/24

Frontage: That portion of a lot which abuts a public street.

Garage: A building, or portion of a building, which is completely enclosed and designed for the storage or parking of a vehicle.

Grade: Adjacent ground elevation is the lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the building and property line or, when the property line is more than 5 feet from the building, between the building and a line 5 feet from the building.

Greenway: For purpose of applying greenway standards, the Mill Creek Greenway as the Mill Creek Greenway Plan (2006-2007 and as amended) identifies.

Greenway trail: The mainline bicycle/pedestrian facility within a greenway, as distinct from spurs and supplemental paths and trails.

Gross Floor Area (GFA): The sum of the gross horizontal areas of the several floors of a building, measured from the exterior faces of the exterior wall or from the centerline of walls separating two buildings, but not including:

1. Attic and basement space providing headroom of less than seven feet;
2. Uncovered steps or fire escapes;
3. Private garages, carports, or porches;

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 resembling Figure 1.02D example Lot 3, the lot line which is most nearly parallel to the street that provides access to the interior lot, or resembling example Lot 4 by not having a pole, then the lot line most nearly parallel to the access easement and that is closest to the easement.
- **Rear Lot Line:**
    1. 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.

**Lot Width:** The horizontal distance between the side lot lines, measured at right angles to the lot depth at a point midway between the front and rear lot lines.

**Manufactured Dwelling Park:** Any place where four or more manufactured dwellings are located within 500 feet of one another on a lot, tract or parcel of land under the same ownership, the primary purpose of which is to rent or lease or use facilities or to offer space free in connection with securing the trade or patronage of such person. The term does not include a lot or lots located within a subdivision being rented or leased for occupancy by no more than one manufactured dwelling per lot, if the subdivision was approved pursuant to ORS Chapter 92.

- **Park Space:** Any area or portion of a manufactured dwelling park, which is designated or used for the placement of one manufactured dwelling and appurtenant facilities.

**Middle Housing:** Duplexes, triplexes, quadplexes, cottage clusters, and townhouses as defined in ORS 197.758(1)(a) & (b) and OAR 660-046-0020. The WDO remains applicable if and where it adds definition, description, provisions, requirements, or standards that do not conflict with statute or administrative rule.

**Mini-Storage Warehouse:** An area within an enclosed building or structure used for the storage of personal property for compensation.

**Mobile Food Services:** ~~A traveling food cart that operates at various destinations along a route. A vehicle, trailer, or wagon used for the preparation and/or sale of food and/or beverages.~~

**MUTCD:** The acronym refers to the *Manual on Uniform Traffic Control Devices* published by the United States Department of Transportation (U.S. DOT) Federal Highway Administration (FHWA) and in the context of WDO standards means compliance with contemporary federal provisions with which developers are bound to comply as standards and compliance with any contemporary supplemental state of Oregon provisions with which developers are bound to comply as standards.

**NACTO:** The acronym refers to the National Association of City Transportation Officials, which publishes the *Urban Street Design Guide*.

## 2.03 Commercial Zones

- A. The City of Woodburn is divided into the following commercial zones:
1. The Downtown Development and Conservation (DDC) zone is the community's retail core, providing for unique retail and convenient shopping
  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.
  3. The Commercial Office (CO) zone is intended primarily for office type development, with limited retail activity.
  4. The Mixed Use Village (MUV) is intended to promote efficient use of land that promotes employment and housing through pedestrian-oriented development.
  5. The Neighborhood Nodal Commercial (NNC) zone is intended to meet the shopping needs of nearby residents in a compact commercial setting
- B. Approval Types (Table 2.03A)
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.
  4. Special Permitted Uses (S) are allowed outright, subject to the general development standards and the special development standards of Section 2.07.
  5. Specific Conditional Uses (SCU) may be allowed, subject to the general development standards of this Ordinance, the specific standards of Section 2.08, and conditions of Conditional Use approval.

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)			DDC	CG	CO	MUV	NNC
A	Civic Uses						
1	Public administration, aquatic facilities, fire protection, government and public utility buildings and storage yards		P	P	P	P	P

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)			DDC	CG	CO	MUV	NNC
2	Public and private schools, house of worship, civic and social organizations		P	P	P	P	P
3	Rights-of-way, easements and improvements for streets, water, sanitary sewer, gas, oil, electric and communication lines, stormwater facilities and pump stations.		P	P	P	P	P
B	Commercial Retail and Services						
1	Ambulance service		CU <sup>3</sup>	CU <sup>3</sup>	CU	CU <sup>3</sup>	
2	Automotive maintenance and gasoline stations, including repair services		CU	CU <sup>3</sup>		P <sup>6</sup>	
3	Bakeries, delicatessens, grocery and convenience stores		P <sup>7</sup>	P		P	P
4	Bowling, skating, movie and performing arts theaters		P	P		P	
5	Building material and garden equipment		P <sup>5</sup>	P <sup>5</sup>		P <sup>5</sup>	P <sup>5</sup>
6	Business services		P	P	P	P	
7	Computer, commercial, electric motor, precision equipment, industrial and home goods repair.		P <sup>4</sup>	P <sup>1</sup>	P <sup>4</sup>	P <sup>4</sup>	
8	Contractors: a. Flooring and roofing b. Equipment and machinery c. Glass and glazing d. Masonry, drywall, insulation and tile contractors e. Other types of contractors			P <sup>4</sup>	P <sup>4</sup>	P <sup>6</sup>	
9	Craft industries: a. Apparel manufacturing b. Leather manufacturing, furniture and related product manufacturing, including cabinets c. Sporting goods manufacturing d. Doll, toy and game manufacturing		S	S	S	S	S
10	Delivery services		S	S	S	S	S
11	Dry cleaning, laundry and self-service laundry service		P <sup>7</sup>	P		S	P
12	Fitness and recreational sports		P	P	P	P	P
<u>13</u>	<u>Food carts and food cart pods</u>		<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>
<u>14</u>	<u>Funeral home</u>		P	P	P	P	P
<u>15</u>	<u>Hospitals and ancillary uses</u>			CU <sup>3</sup>			
<u>16</u>	<u>Hotels, motels and bed and breakfast inns</u>		P	P	P	P	P
<u>17</u>	<u>Mobile food services</u>		<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>

<u>18</u>	Office and office services and supplies	P	P	P	P	P
<u>19</u>	Other amusements, including ballrooms		P <sup>1</sup>			
<u>20</u>	Pawn, check cashing, payday loan and cash transfer	CU <sup>7</sup>	P		P	
<u>21</u> <u>49</u>	Printing, publishing, copying, bonding, finance, insurance, medical, data processing, social assistance, legal services, management, and corporate offices	P <sup>7</sup>	P	P	P	P
<u>22</u>	Professional services	P	P		P	
<u>23</u>	Restaurants and drinking places	P <sup>7</sup>	P	P	P	P
<u>24</u> <u>2</u>	Retail trade offering goods and services directly to customers	P <sup>7</sup>	P		P	P
<u>25</u>	Spectator sports		P <sup>1</sup>			
<u>26</u>	Taxidermist		CU <sup>3</sup>			
<u>27</u>	Veterinary service		CU <sup>3</sup>			
<u>28</u>	Wine and liquor	CU <sup>7</sup>	P		P	
<b>C</b>	<b>Industrial</b>					
1	Charter bus, special needs transportation, transit system, school transportation, limousine service and taxi service		CU <sup>3</sup>			
2	Heavy equipment and motor vehicle sales: a. Manufactured (mobile) home dealers b. Motor vehicle and parts dealers, including new car, used car, recreational vehicle, motorcycle, boat, parts and tire dealers c. Truck dealers, including new truck, used truck, parts and tire dealers d. Tractor, farm machinery and equipment dealers e. Farm, garden and landscaping supplies		CU <sup>3</sup>			
3	Manufacturing of metal products, furniture and cabinets		P <sup>4</sup>	P <sup>6</sup>		
4	Motor freight transportation and warehousing, including local or long-distance trucking or transfer services, storage of farm products, furniture, other household goods, or commercial goods, and mini-storage		CU <sup>1</sup>			

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)		DDC	CG	CO	MUV	NNC
5	Motor vehicle towing		CU <sup>3</sup>			
6	Parking lots and garages	P	P	P		P
7	Recreational vehicle park		CU <sup>1</sup>			
D	Miscellaneous					
1	Facilities during construction	S	S	S	S	S
2	Fence or free-standing wall	A	A	A	A	A
3	<del>Temporary outdoor marketing and special events;</del> <del>a. Arts and crafts</del> <del>b. Food and beverages, including mobile food services</del> <del>c. Seasonal sales of fireworks, Christmas trees, produce or plant materials</del> <del>d. Amusement rides and games</del> <del>e. Entertainment</del> <del>f. Any other merchandise or service which is neither accessory to a primary, permanent use of the property nor marketed by employees of that permanent use</del>	S	S	S	S	S
E	Residential					
1	One dwelling unit, in conjunction with a commercial use	P	P	P	P	P
2	Triplexes	P	CU <sup>9</sup>		P	P
3	Quadplexes	P	CU <sup>9</sup>		P	P
4	Townhouses	P	CU <sup>9</sup>		P	P
5	Child care facility, group home, and nursing home	P <sup>8</sup>	P <sup>8</sup>	P <sup>8</sup>	P <sup>8</sup>	P <sup>8</sup>
6	Multiple-family dwellings	P	CU <sup>9</sup>	CU	P	P

**Commented [DH2]:** The allowed uses for special events are outlined under the Special Permitted Use provisions, not necessary to list them here.



1. Not allowed in the Gateway Overlay District
2. Only allowed in the Gateway Overlay District
3. Allowed outright if not within 200 feet of residentially zoned properties
4. Within a building, no outdoor storage or repair
5. All outdoor storage and display shall be enclosed by a seven foot masonry wall.
6. Existing uses are allowed as a permitted use, new uses are not allowed in the MUV
7. Drive-throughs are not allowed
8. Child care facility for 13 or more children, group home for six or more persons
9. Except allowed as a permitted use in the Gateway Overlay District and prohibited in the Interchange Management Area Overlay District (Amended by Ordinance 2573, passed June 24, 2019)

## 2.04 Industrial and Public Zones

- A. The City of Woodburn is divided into the following industrial and public zones:
1. The Light Industrial (IL) zone, which is intended for industrial activities that include land-intensive activities;
  2. The Industrial Park (IP) zone, which is intended for light industrial activities in a park-like setting;
  3. The Public and Semi-Public (P/SP) zone, which is intended for public uses, parks, schools and cemeteries.
  4. The Southwest Industrial Reserve (SWIR), which is intended for employment and industries identified in the 2016 Target Industry Analysis;
- B. Approval Types (Table 2.04A)
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.
  4. Special Permitted Uses (S) are allowed outright, subject to the general development standards and the special development standards of Section 2.07.
  5. Specific Conditional Uses (SCU) may be allowed, subject to the general development standards of this Ordinance, the specific standards of Section 2.08, and conditions of Conditional Use approval.

Uses Allowed in Industrial Zones Table 2.04A						
Use			Zone			
Accessory Uses (A)    Conditional Uses (CU)    Permitted Uses (P) Special Permitted Uses (S)    Specific Conditional Uses (SCU)			IL	IP	P/SP	SWIR
A	Civic Uses					
1	Golf driving range		P	P	CU	
2	Parks, play grounds and associated activities, golf courses without a driving range				P	
3	Public administration, aquatic facilities, fire protection, government and public utility buildings and storage yards		P	P	CU	P

Uses Allowed in Industrial Zones Table 2.04A							
Use				Zone			
Accessory Uses (A) Conditional Uses (CU) Permitted Uses (P) Special Permitted Uses (S) Specific Conditional Uses (SCU)				IL	IP	P/SP	SWIR
4	Rights-of-way, easements and improvements for streets, water, sanitary sewer, gas, oil, electric and communication lines, stormwater facilities and pump stations.			P	P	P	P
5	Trade schools			P	P	CU	CU
<b>B</b>	<b>Commercial Retail and Services</b>						
1	Ambulance service			P	P		
2	Automotive maintenance and gasoline stations, including repair services			P	P		
3	Business services				P		P
4	Contractors: f. Flooring and roofing g. Equipment and machinery h. Glass and glazing i. Masonry, drywall, insulation and tile contractors j. Other types of contractors			P	P		P
5	Delivery services			S	S	S	S
6	Fitness and recreational sports			P	P		P
<del>7</del>	<del>Food carts and food cart pods</del>			<del>S</del>	<del>S</del>	<del>S</del>	<del>S</del>
<del>8</del>	<del>Hospitals and ancillary uses</del>				P	CU	P
<del>9</del>	<del>Mobile Food Services</del>			S	S	<del>S</del>	S
<del>10</del>	<del>Restaurants and drinking places</del>			P	P		P
<del>11</del>	<del>Marijuana dispensaries</del>			S	S		
<b>C</b>	<b>Industrial</b>						
1	Auction houses, except livestock and poultry sales			CU			
2	Automotive wrecking yards			CU			
3	Charter buses, special needs transportation, transit system, school transportation, limousine service and taxi service			P	P		
4	Chemical manufacturing			CU	CU		CU
5	Distribution and E-commerce including; wholesale trade, farm supplies and merchant wholesalers, packaging and labeling services.			P	P		P
6	Recycling center			CU	CU		CU
7	Asphalt or Portland cement concrete batch plant			CU	CU		
8	Commercial and industrial equipment repair, transit and ground transportation			P	CU		CU

**Commented [DH3]:** City issues 3-4 park vendor permits each year for folks who want to sell at city parks

Uses Allowed in Industrial Zones Table 2.04A						
Use			Zone			
Accessory Uses (A)	Conditional Uses (CU)	Permitted Uses (P)	IL	IP	P/SP	SWIR
Special Permitted Uses (S)	Specific Conditional Uses (SCU)					
9	Electronic and other electrical equipment and components, including manufacturing machinery, apparatus, and supplies for the generation, storage, transmission, transformation, and utilization of electrical energy; electricity distribution equipment; electrical industrial apparatus; household appliances; electrical lighting and wiring equipment; radio and television receiving equipment; communications equipment; electronic components and accessories; and other electrical equipment and supplies	P	P			P
10	Fabricated metal products, including fabricating ferrous and non-ferrous metal products such as metal cans, tin ware, hand tools, cutlery, general hardware, non-electric heating apparatus, fabricated structural metal products, metal forgings, metal stampings, and metal and wire products	CU	CU			P
11	Industrial and commercial machinery and computer equipment, including engines and turbines; farm and garden machinery; construction, mining, and oil field machinery; elevators and conveying equipment; hoists, cranes, monorails, trucks and tractors; metalworking machinery; special industry machinery; general industrial machinery; computer and peripheral equipment, computer, semiconductor, laboratory instrument, and office machinery, manufacturing; refrigeration and service industry machinery manufacturing	P	P			P
12	Heavy equipment and motor vehicle sales: e. Manufactured home dealers f. Motor vehicle and parts dealers, including new cars, used cars, recreational vehicles, motorcycles, boats, parts and tire dealers g. Truck dealers, including new trucks, used trucks, parts and tire dealers h. Tractor and farm machinery and equipment dealers i. Farm, garden and landscaping supplies	S	S			

Uses Allowed in Industrial Zones Table 2.04A							
Use				Zone			
Accessory Uses (A) Conditional Uses (CU) Permitted Uses (P) Special Permitted Uses (S) Specific Conditional Uses (SCU)				IL	IP	P/SP	SWIR
13	Manufacturing: a. Apparel manufacturing b. Beverage, food and tobacco c. Furniture and related products d. Leather and allied products e. Paper, limited to assembly f. Metal product manufacturing g. Miscellaneous manufacturing h. Plastics and rubber i. Textile products			P	P		P
14	Motor freight transportation and warehousing, including local or long-distance trucking or transfer services, storage of farm products, furniture and other household goods, commercial goods, and mini-storage			P	P		P
15	Non-depository credit institutions engaged in extending credit in the form of loans, but not engaged in deposit banking				P		P
16	Paper manufacturing			CU			
17	Parking lots and garages			P	P		
18	Petroleum and coal products manufacturing with all storage underground			CU			
19	Printing, publishing, and allied industries			P	P		P
20	Professional services including software publishers				P		P
21	Stone, clay, glass, and concrete products including manufacturing flat glass, other glass products, cement, structural clay products, pottery, concrete and gypsum products, cut stone, abrasive and asbestos products, and other products from materials taken principally from the earth in the form of stone, clay, and sand			P			
22	Telecommunication facilities subject to Section 2.08.03			SCU	SCU		SCU
23	Wholesale trade in durable and non-durable goods			P	P		P
24	Wood product manufacturing			P	P		P
D	Miscellaneous						
1	Facilities during construction			S	S	S	S
2	Fence or free-standing wall			A	A	A	A

Uses Allowed in Industrial Zones							
Table 2.04A							
Use				Zone			
Accessory Uses (A)		Conditional Uses (CU)	Permitted Uses (P)	IL	IP	P/SP	SWIR
Special Permitted Uses (S)		Specific Conditional Uses (SCU)					
3	<del>Temporary outdoor marketing and special events:</del> <del>a. Arts and crafts</del> <del>b. Food and beverages, including mobile food services</del> <del>c. Seasonal sales of fireworks, Christmas trees, produce or plant materials</del> <del>d. Amusement rides and games</del> <del>e. Entertainment</del> <del>f. Any other merchandise or service which is neither accessory to a primary, permanent use of the property, nor marketed by employees of that permanent use</del>			S	S	S	S
E	Residential						
1	One dwelling unit in conjunction with an industrial use			P	P	P	P

**Commented [DH4]:** The allowed uses for special events are outlined under the Special Permitted Use provisions, not necessary to list them here.

C. Development Standards (Tables 2.04B-E)

Light Industrial (IL) - Site Development Standards		
Table 2.04B		
Lot Area, Minimum (square feet)		No minimum
Lot Width, Minimum (feet)		No minimum
Lot Depth, Minimum (feet)		No minimum
Street Frontage, Minimum (feet)		No minimum
Front Setback and Setback Abutting a Street, Minimum (feet)		10 <sup>1</sup>
Side or Rear Setback, Minimum (feet)	Abutting P/SP zone or a residential zone or use	30
	Abutting a commercial or industrial zone	0 or 5 <sup>2</sup>
Setback to a private access easement, Minimum (feet)		5
Lot Coverage, Maximum		Not specified <sup>3</sup>
Building Height, Maximum (feet)	Primary or accessory structure	70
	Features not used for habitation	100
1. Measured from the Street Widening Setback (Section 3.03.02), if any. 2. A building may be constructed at the property line, or shall be set back at least five feet. 3. Lot coverage is limited by setbacks, off-street parking, and landscaping requirements.		

## 2.07 Special Uses

Special Permitted Uses are allowed outright, but are subject to additional requirements designed to ensure their compatibility with, or mitigate their impact on, surrounding (usually residential) development.

<u>2.07.01</u>	General Provisions
<u>2.07.02</u>	Boat, Recreational and Vehicle Storage Pad
<u>2.07.03</u>	Common Boat, Recreational and Vehicle Storage Area
<u>2.07.04</u>	Community Club Buildings and Facilities
<u>2.07.05</u>	Craft Industries
<u>2.07.06</u>	Delivery Services
<u>2.07.07</u>	[Struck]
<u>2.07.08</u>	Facilities During Construction
<u>2.07.09</u>	Golf Courses
<u>2.07.10</u>	Home Occupations
<u>2.07.11</u>	House of Worship
<u>2.07.12</u>	Industrial Sales
<u>2.07.13</u>	Manufactured Dwelling Park (MDP)
<u>2.07.14</u>	Manufactured Dwelling on a Lot
<u>2.07.15</u>	Mobile Food Services
<u>2.07.16</u>	Residential Sales Office
<u>2.07.17</u>	<del>Temporary Outdoor Marketing and</del> Special Events
<u>2.07.18</u>	Temporary Residential Sales
<u>2.07.19</u>	Marijuana Dispensaries
<u>2.07.20</u>	Accessory Dwelling Units
<u>2.07.21</u>	Cottage Cluster
<u>2.07.21+2.07.22</u>	Food Carts & Food Cart Pods

### **2.07.01**      **General Provisions**

#### A. Application

1. Special uses are subject to specific development standards. These standards are non-discretionary, so special review of a proposed development is not required. The standards contained in this Section apply to Special Uses.
2. The standards contained in this Section may be modified through the Conditional Use process.

#### B. Development Requirements

Unless specifically modified by the provisions of this Section, special uses are also subject to the development requirements of the underlying zone. Where the special use standard imposes a more restrictive standard, the special use standard shall apply.

2. No off-street parking or loading area shall be permitted within 10 feet of the side and rear lot lines.
3. Outdoor lighting shall be directed away from residential property and public streets.

#### **2.07.05**      **Craft Industries**

- A. Primary uses shall be limited to the following:
  1. Apparel manufacturing
  2. Other leather manufacturing
  3. Furniture and related-product manufacturing
  4. Sporting goods manufacturing
  5. Doll, toy and game manufacturing
- B. The use shall have a retail storefront.
- C. Outdoor storage, manufacturing, assembly or staging for shipping is prohibited.
- D. Manufacturing and/or assembly shall be limited to either 10,000 square feet, or five or fewer full-time equivalent employees, whichever is smaller.
- E. The craft industry shall be continuously conducted in such a manner as not to create any off-premise nuisance, including, but not limited to, noise, odors, vibration, fumes, smoke, fire hazards, or electronic, electrical, or electromagnetic interference.

#### **2.07.06**      **Delivery Services**

- A. The use shall be limited to the delivery of packages and the sale or delivery of food and beverages.
- B. The service shall be transacted from a self-contained, mobile unit.
- C. In conducting the sales and service, the mobile unit and delivery personnel shall be required to move to a new location at intervals of 15 minutes or less.

**Commented [DH5]:** These are the provisions applied to delivery services.

#### **2.07.07**      **[Struck]**

[This section "Duplex" struck by Ordinance No. 2603 (Legislative Amendment LA 21-02) effective June 30, 2022.]

#### **2.07.08**      **Facilities During Construction**

- A. The use shall be limited to mobile offices, temporary power equipment, temporary housing for night security personnel, portable toilets, and equipment storage during construction.
- B. All temporary facilities necessary for construction shall be removed prior to final occupancy.



required of single-family dwellings constructed under the State Building Code, as defined in ORS Chapter 455.

#### **2.07.15 Mobile Food Services**

- A. The ~~mobile food service operator shall comply with all applicable City, Woodburn Fire District, Marion County, and State agency permitting and licensing requirements. Permits shall be properly maintained and renewed. use shall be limited to the preparation and/or sale of food and beverages from a vehicle or trailer.~~
- B. Business Operations:
- ~~1. Shall not remain at one stop along its route for more than four hours. All goods, temporary facilities, and signs shall be removed prior to departing each stop.~~
  - ~~2. Shall not be conducted within public rights-of-way.~~
  - ~~3. Shall be conducted on private property with the written consent of the property owner and shall not block driveways, entrances, or parking aisles.~~
- ~~C. The use shall not block driveways, entrances or parking aisles.~~
- ~~D. The base of operations for mobile food service units shall be inside the industrial zones. Use of sites in residential zones for the preparation, maintenance, or storage area for mobile food service units is prohibited.~~

**Commented [DH6]:** Pretty minimal standards proposed for the traveling food cart.

**Commented [DH7R6]:** Part of the OHA/County permit would be to specify a base of operations. Home kitchens are not allowed.

**Commented [DH8]:** Per PC feedback on 4/11.

#### **2.07.16 Residential Sales Office**

- A. The office shall be located on a lot within a subdivision or planned development, or on a space within a manufactured dwelling park.
- B. The principal use of the office shall be the sale of lots, renting of spaces, or the sale of dwellings or manufactured dwellings on lots or spaces within the development.
- C. The office shall have a finished exterior and the site must be landscaped.
- D. Business shall be conducted between 8:00 a.m. to 8:00 p.m.

#### **2.07.17 Temporary Outdoor Marketing and Special Events**

##### **A. Types of Special Events**

1. Single Event: An event with a maximum duration of three consecutive days.
2. Recurring Event: An event with a maximum duration of one day per week, which may recur for up to 36 consecutive weeks.
3. Seasonal Event: An event with a maximum duration of 30 consecutive days. Seasonal events are limited to two per calendar year per site.

##### **A.B. Permitted Uses**

1. Seasonal sales ~~of (examples include fireworks, Christmas trees, produce or plant materials, etc.). except marijuana~~
2. Amusement rides, ~~and~~ games, ~~and~~ other forms of entertainment.
3. ~~Entertainment~~Offering of merchandise or services.
4. ~~Any other merchandise or service except marijuana dispensaries~~Food carts are permitted

as a single event or recurring event, not as a seasonal event.

4.5. Marijuana dispensaries are not permitted as any type of special event.

**B. Duration**

- ~~1. Single events shall be limited to a maximum duration of three consecutive days, with all goods, temporary facilities and signs removed within 24 hours of closing on the last day of each event.~~
- ~~2. Recurring events shall be limited to a maximum duration of one day, with all goods, temporary facilities and signs removed within 24 hours of each event. Events may reoccur once per week for a maximum of 36 weeks.~~
- ~~3. Seasonal sales shall be limited to two events, with each event not exceeding more than 30 consecutive days.~~

**C. Operational Requirements**

~~4.1. Events shall only be conducted between the hours of 8:00 a.m. and midnight.~~

~~5.2. The eventuse shall not block driveways, entrances, or parking aisles.~~

~~6.3. The required parking for all other uses of the property shall not be diminished below that required by this ordinance (Section 3.05).~~

~~7.4. The eventuse shall conform to all setback standards for the applicable zone.~~

~~8.5. ResponsibilitiesThe event operator shall:~~

- ~~a. The event operatorPossess a valid Special Event Permit for each event;÷~~
- ~~b. Shall possess a valid special event permit for each event;~~
- ~~b. Shall bBe responsible for compliance with use standards, crowd and traffic control, and for sanitation, including rest rooms, waste disposal, and cleanup; and-~~
- ~~c. Remove all goods, temporary facilities, and signs within 24 hours of closing on the last day of the event. For recurring events, this requirement applies to each recurrence.~~

~~9.6. The operator of a special eventuse shall possess valid certification of compliance for all applicable health, sanitation, and safety standards of the City and other applicable jurisdictions.~~

~~10.7. The temporary outdoor marketing and sSpecial events shall not be located within a public right-of-way unless authorized by the appropriate jurisdiction (City of Woodburn, Marion County, or the Oregon Department of Transportation).~~

**D. City-sponsored Special Events on City-owned property are not required to obtain a Special Event permit.**

~~E. Existing businesses with outdoor product display areas are not required to obtain a Temporary Outdoor Marketing and Special Events permit, but are limited to the following:~~

- ~~1. Products sold within the primary building;~~
- ~~2. Covering no more than ten percent of the gross square footage of the buildings on the property;~~

3. Retaining a minimum of four feet for pedestrian clearance along any adjacent walkway.

**2.07.18 Temporary Residential Sales**

- A. Permitted Uses
  1. Produce and plant materials grown on the subject property
  2. Estate, garage and yard sales
  3. Crafts and other hobby items
- B. Number of Sales per Year
  1. Estate, garage, yard, craft and hobby sales
    - a. The number of sales, in any combination, conducted at the same site, shall not exceed three in any calendar year.
    - b. The duration of each sale period shall not exceed three consecutive days.
  2. A sale of produce and plant materials grown on-site shall be limited to one event, no longer than 60 days in duration.
- C. Sales shall be conducted between the hours of 8:00 a.m. and 8:00 p.m.
- D. All signs shall be taken down the day the sale ends.

- (1) Off-street parking spaces and vehicle maneuvering areas shall not be located:
  - (a) Within 20 feet of any street property line;
  - (b) Between a street property line and the front facade of cottages located closest to the street property line.
- (2) Off-street parking spaces shall not be located within 5 feet of any other property line, excepting property lines along alleys or shared rear lanes. Driveways and drive aisles shall not be located within 5 feet of other property lines except (A) along alleys or shared rear lanes or (B) Section 3.04 requires to adjoin such property lines to meet cross access or shared access standards.
- c. Screening. Landscaping, fencing, or walls minimum 3 feet high, shall separate pooled parking or shared parking areas and parking structures from common courtyards and public streets.
- d. Garages and carports.
  - (1) Garages and carports (whether shared or individual) shall not abut common courtyards.
  - (2) Individual attached garages up to 200 square feet shall be exempt from the calculation of maximum building footprint for cottages.
  - (3) Individual detached garages shall be maximum 400 square feet GFA.
  - (4) Garage doors for attached and detached individual garages shall be maximum 20 feet in width.
- 7. Accessory Structures. Accessory structures shall be maximum 400 square feet GFA.
- 8. Existing Structures. On a lot or parcel to be used for a cottage cluster project, an existing detached single family dwelling on the same lot at the time of proposed development of the cottage cluster may remain within the cottage cluster project area if the development meets the following provisions:
  - a. The existing dwelling may be nonconforming with the WDO as Section 1.04 allows.
  - b. The existing dwelling may be expanded up to the maximum height or the maximum building footprint per this Section 2.07.21; however, existing dwellings that exceed the maximum height and/or footprint per Chapters 1.04 and 2.02 shall not expand.
  - c. The GFA of the existing dwelling shall not count towards the maximum average GFA of a cottage cluster.
  - d. The existing dwelling shall be excluded from the calculation of orientation toward the common courtyard.

## **2.07.22 Food Carts & Food Cart Pods**

-This section is intended to establish development standards for food carts and food cart pods to ensure they are safe, sanitary, and attractive, and to lessen street frontage improvements and other costly site improvements that could deter development.

### **A. Food Carts: The following standards apply to single food carts not within a food cart pod.**

#### **1. Location: Single food carts not within a food cart pod are allowed in all commercial and**

**Commented [DH9]:** This section added per CC feedback on 6/24.

industrial zones as an accessory use. A single food cart is not allowed as a primary use. There is a maximum of one single food cart per contiguous properties under the same ownership.

**Commented [DH10]:** This is intended to exclude vacant/undeveloped properties and guide single food carts to locations that are already developed.

2. Permitting and review: A single food cart not within a food cart pod shall follow the Type I Design Review procedure for obtaining a site plan approval.

3. Food carts shall comply with all applicable City, Woodburn Fire District, Marion County, and State agency permitting and registration requirements. Permits and registrations shall be properly maintained and renewed.

**Commented [DH11]:** Single food carts would still be required to obtain OHA/County permits

4. Site development standards:

a. Food carts and accessory structures shall maintain a minimum setback of 5 feet from all property lines.

b. Food carts and accessory structures shall not block driveways, entrances, or parking aisles, and they shall not be located within the Riparian Area & Wetlands Overlay District (per Section 2.05.05B), a public utility easement (per Section 3.02.01), or a vision clearance area (per Section 3.03.06).

c. The food cart shall provide at least 50 square feet of covered seating area.

d. Restrooms shall be provided to satisfy applicable State and County permitting requirements. Portable restrooms are prohibited.

**Commented [DH12]:** OHA rules allow food carts to utilize restrooms of another business within 500 feet if permission is granted.

e. The food cart shall provide adequate refuse containers to satisfy applicable State and County permitting requirements.

f. Drive-throughs are prohibited.

**B. Food Cart Pods: The following standards apply to food cart pods.**

1. Location: Food cart pods are allowed in all commercial and industrial zones as primary or accessory uses.

2. Permitting and review:

a. A new food cart pod shall follow the Type II Design Review procedure for obtaining a site plan approval. If a proposed structure exceeds the applicable threshold for a Type III Design Review in 5.03.02, then the review shall follow the Type III Design Review procedure instead.

b. The expansion of an existing food cart pod to add non-structural elements (such as parking stalls or food cart spaces) shall follow the Type I Design Review procedure. For new or expanded structures, the review shall instead follow the applicable Design Review procedure in Volume 5.

c. Food cart pods shall comply with all applicable City, Woodburn Fire District, Marion County, and State agency permitting requirements. Permits shall be properly maintained and renewed.

d. Food cart pod managers/owners, as well as each food cart within the pod, shall register their businesses with the City of Woodburn. Registrations shall be properly maintained and renewed.

3. Site development standards: Standards are those of the applicable zoning district, unless otherwise specified below:

- a. Food carts and accessory structures shall maintain a minimum setback of 5 feet from all property lines.
- b. Food carts and accessory structures shall not be located within the Riparian Area & Wetlands Overlay District (per Section 2.05.05B), a public utility easement (per Section 3.02.01), or a vision clearance area (per Section 3.03.06).
- c. Food carts shall be separated from each other by at least 4 feet.
- d. Food cart spaces shall not exceed the following dimensions:
  - (1) Maximum length is 26 feet.
  - (2) Maximum width is 10 feet.
  - (3) Maximum height is 15 feet.
- e. Food carts shall be sited entirely on a paved surface and oriented in a manner such that the operation does not block or inhibit use of a public sidewalk or street.
- f. Common seating area shall be provided to serve the pod and total a minimum area of 50 square feet per food cart. Seating areas shall be ADA-compliant and at least 50% of the seating area shall be covered or sheltered from rain.
- g. The pod shall provide for internal pedestrian circulation to all food carts and customer amenities through a paved walkway that is ADA-compliant and at least 5 feet wide.
- h. Restrooms shall be provided to satisfy applicable State and County permitting requirements. Portable restrooms are prohibited.
- i. Refuse containers shall be provided to satisfy applicable State and County permitting requirements.

4. Street improvements: Food cart pod developments shall provide the following street frontage improvements for each frontage abutting the site.

- a. Dedicate right-of-way per 3.01;
- b. Grant a streetside public utility easement per 3.02.01B & F;
- c. Construct an ADA-compliant sidewalk at least 6 feet wide, or pay a fee-in-lieu per 4.02.12; and
- d. Plant street trees per 3.06.03A, or pay a fee-in-lieu per 4.02.12.

5. Utilities: All utilities serving a food cart pod shall be underground per Section 3.02.04C. Any public utility line crossing through private property shall be covered by a public utility easement in conformance with Section 3.02.01C.

- a. Municipal water and sanitary sewer connections are required for each food cart within a food cart pod. Utility services shall terminate in temporary connection assemblies, similar to those used in recreational vehicle (RV) parks.
- b. A power connection is required for each food cart. On-site generators are prohibited.

**Commented [DH13]:** Same as the setback requirements for CG zone.

**Commented [DH14]:** Comes from research into industry norms.

**Commented [DH15]:** Per PC feedback on 4/11.

**Commented [DH16]:** Typical picnic table is 8' x 6' (48sf).

**Commented [DH17]:** OHA rules allow for food cart pods to utilize restrooms of another business within 500 feet if permission is granted.

**Commented [DH18]:** Requirements would be very similar to what we require for new single-family homes

- c. Natural gas connections are allowed. All natural gas connections shall maintain compliance with applicable safety regulations at all times. Liquified petroleum gas tanks (such as propane tanks) are prohibited.
- d. On-site stormwater detention shall be provided.
6. Access: Food cart pods shall provide:
- a. Vehicular access in conformance with Table 3.04A and Section 3.04.04. Access should be limited to a single driveway. For lots with multiple street frontages, access should occur via the lower classification of street.
- b. A paved walkway connection at least 6 feet wide shall connect the internal pedestrian circulation walkway and the public sidewalk along each frontage. Corner lots may instead provide a single paved walkway connection at least 8 feet wide at the corner. Walkways may be gated.
- c. Drive-throughs are prohibited.
7. Transportation impacts: The provisions within Section 3.04.05 are applicable to food cart pods.
8. Parking: The provisions of Chapter 3.05 are applicable to food cart pods, except:
- a. Screening of a parking area abutting a street may conform with Section 3.05.02D4 through landscaping planters, food cart placement, and/or outdoor seating areas.
- b. Walkway crossings of drive aisles may utilize painted crosswalk striping to conform with Sections 3.04.06D and 3.05.02N.
- c. Carpool/vanpool parking standards (Table 3.05C and Section 3.05.03H) are not applicable.
- d. A minimum of 1 bicycle parking stall is required per food cart. The coverage/sheltering standard (Section 3.05.06C6) is not required.
9. Landscaping: The general landscaping requirements in Section 3.06.02 are applicable. Food cart pods shall provide a minimum of 10 Plant Units per food cart on-site. Required landscaping may be permanently planted in the ground or planted within decorative planters. Planters shall each be at least 25 gallons. Plant unit values are outlined within Table 3.06B, except that a 25-gallon planter provides 1 Plant Unit, a 50-gallon planter provides 2 Plant Units, and so on.
10. Screening:
- a. A wall or sight-obscuring fence meeting the standards outlined within 2.06.02 is required along any lot line abutting a residentially-zoned property.
- b. Common refuse collection facilities shall be enclosed behind a sight-obscuring fence or wall and be gated. The fence or wall shall be between 6 and 7 feet tall.
11. Signage: Food cart pod signage shall meet the standards within 3.10 and obtain permits as required by Section 5.01.10. Individual signs attached to a food cart are not required to obtain a permit however they shall not be legible from a public street and they shall not extend more than 3 feet above the roof of the cart.
12. Exterior lighting: The exterior lighting provisions of Chapter 3.11 are applicable to food cart pods.

**Commented [DH19]:** "Should" language allows for staff discretion for unique circumstances.

**Commented [DH20]:** Same as any new development.

**Commented [DH21]:** EV requirements would apply per PC feedback on 4/11.

**Commented [DH22]:** This is roughly similar to the standard requirement for yard area along the street (1 PU/15sf). Typical trailers and trucks are 8' x 16' (128sf).

**Commented [DH23]:** Provide a buffer for adjacent residential properties.

**Commented [DH24]:** Same as any other commercial development, except more flexible to allow a fence instead of a wall.

**Commented [DH25]:** Same as any other commercial development.

### 3.05 Off-Street Parking and Loading

The purpose of this Section is to identify the requirements for off-street parking and loading facilities. Well-designed parking facilities improve vehicular and pedestrian safety, promote economic activity, enhance the driving public's experience, promote cycling, carpooling, vanpooling, and per electric vehicles, allow persons walking, cycling, and rolling along to pass along or through parking areas in comfort and dignity, and to implement Woodburn Comprehensive Plan policies. With appropriate landscaping and storm water design, parking areas can also mitigate the environmental impacts of development and reduce the urban heat island effect.

3.05.01	Applicability
3.05.02	General Provisions
3.05.03	Off-Street Parking
3.05.04	Off-Street Loading & Unloading
3.05.05	Shared Parking
3.05.06	Bicycle Parking Standards

#### 3.05.01 Applicability

The provisions of this Section shall apply to the following types of development:

- A. All requirements and standards of Section 3.05 shall apply to any new building or structure constructed after the effective date of the Woodburn Development Ordinance (WDO).
- B. Any additional parking or loading required to accommodate a change in use, or expansion of an existing use, shall conform to all parking, loading and landscaping standards of the WDO.

#### 3.05.02 General Provisions

- A. All required parking and loading spaces shall be retained and maintained in accordance with the standards of the WDO.
- B. The land for off-street parking and loading areas shall either be:
  - 1. Owned in fee title by the owner of the structure or site being served by the parking area, or
  - 2. Subject to legal documentation to the satisfaction of the Director, establishing permanent use of off-street parking that is under separate ownership. The parking, subject to such a parking agreement, shall be in compliance with all requirements and development standards of the WDO. The agreement shall be recorded with the County Recorder and filed with the Director.
- C. When calculations for determining the number of required off-street parking spaces results in a fractional space, any fraction of a space less than one-half shall be disregarded, and a fraction of one-half or greater shall be counted as one full space.



Off-Street Parking Ratio Standards Table 3.05A	
Use <sup>1,2</sup>	Parking Ratio - spaces per activity unit or square feet of gross floor area
<b>RESIDENTIAL</b>	
1a. Single-family dwellings (houses), including manufactured homes, and multiple-family dwellings	2/ dwelling unit
1b. Duplexes, triplexes, quadplexes, townhouses, and cottage clusters	1/ dwelling unit <sup>4</sup>
2. Rooming/boarding house, hotel, motel, and other traveler accommodations	2 parking spaces + 1/ guest room
3. Group Home or Group Care Facility	0.75/ living unit
<b>COMMERCIAL / PUBLIC</b>	
4. General indoor recreation	1/ 200 square feet
5. Food and drinking places	1/ 200 square feet
6. Motor vehicle service	1/ 200 retail area + 3/ service bay + 1/ pump island
7. General retail sales (such as food and beverages, clothing, sporting goods, health and personal care items, and motor vehicle parts)	1/ 250 square feet
8. Photo finishing	
9. Ambulatory health services (such as doctors, dentists, optometrists, and chiropractors)	
10. Postal service	
11. Limited-service eating place	1/ 350 square feet
12. Offices (such as professional, scientific and technical services, finance and insurance, real estate, administrative and support services, social assistance, and public administration – but not including ambulatory health services)	
13. Personal services	Greater of: 1/ 350 square feet; or 2/ service chair or room
14. Libraries	1/ 400 square feet
15. Outdoor sales and service of bulky merchandise (such as motor vehicles, farm equipment, and manufactured dwellings)	1/ 400 square feet of structure + 1/ 20,000 square feet of outdoor display area
16. General repair and service (such as electronic and precision equipment, leather goods, laundry and dry cleaning equipment)	1/ 500 square feet

17. Printing and related support activities	Greater of 1/ 700 square feet or 1/ employee
18. Mail order house	
19. Fabricated metal products manufacturing	Greater of 1/ 800 square feet or 1/ employee
20. Commercial and industrial equipment repair	
21. Craft industries	
22. Commercial bakery	
23. Indoor sales and service of bulky merchandise (such as furniture, appliances, and building materials)	1/ 900 square feet
24. Temporary outdoor marketing and special events	1/ 1,000 square feet of outside event space plus, no reduction from primary zoning for other uses.
25. Delivery services	One space per delivery vehicle plus one space per employee per shift.
26. <del>Food cart pods</del> Mobile Food Service	<del>3</del> per cart + 1/ 200 square feet of building area
27. Home occupation	No reduction from dwelling requirement is allowed.
28. Residential sales office	
29. Temporary residential sales	
30. Contractors	2 parking spaces + 1/ employee
31. Parks and playgrounds	Minimum of other uses requiring parking
32. Urban transit system, interurban and rural transit, taxi service, limousine service, school transportation, charter bus service, special needs transportation, motor vehicle towing	1/ vehicle plus 1/ employee
33. Hospital	1.5/ bed
34. Meeting facilities (such as house of worship, auditorium, motion picture theater, arena, funeral home, and lodge hall)	One space per 4 occupants, as established by the building code
35. Museum and historic sites	
36. Community center	
37. Community club building and facilities	
38. Bowling center	2/ lane
39. Golf course	4/ tee
40. Court games (tennis, handball, racquetball)	3/ court + 1/ 4 feet of bench
41. Day care	2/ caregiver
42. Elementary or middle school	2/ classroom
43. High school	1/ unit of capacity for 6 students
44. Community college, college, business school, trade school, technical school, other instruction (including dance, driving and language)	1/ unit of capacity for 4 students

**Commented [DH26]:** Increased from 2 to 3 per CC feedback on 6/24.

**Commented [DH27]:** Canby requires a range of 0-1.5 stalls per cart, based on the zoning district. Beaverton, Gresham, West Linn, Oregon City do not require parking. Tualatin, Wilsonville requires parking based on total square footage (10/1000sf).

**Commented [DH28R27]:** Lake Oswego: 8 stalls per 1000sf GFA (GFA calculated based on the total square footage of covered or enclosed seating areas, plus the square footage of all food carts)

**Commented [DH29R27]:** Salem: maximum allowance of 2/cart; additional building area (bar, restroom, etc) allowed up to 1 space /175sf

**Commented [DH30]:** This matches what we require for a standard bar or restaurant

45. Play or ball field	Greater of: 15/ field or 1/ 8 feet of bench
46. Government and public utility buildings and structures	Greater of: 2 or one per employee at location
47. Cemetery	10 plus one per acre
<b>INDUSTRIAL</b>	
48. Wholesale trade	1/ 700 retail square feet + 1/ 1,000
49. Motor vehicle wrecking yard	wholesale square feet
50. Manufacturing	Greater of:
51. Stone, clay, glass and concrete products	a. 1/ 800 square feet (0 to 49,999 square feet)
52. Fabricated metal products, except machinery	b. 63 plus 1/ 1,000 square feet over 50,000 (50,000 to 99,999 square feet)
53. Electronic and other electrical equipment and components, except computer equipment	c. 113 plus 1/ 2,000 square feet over 100,000 (100,000 square feet or more)
54. Transportation equipment	or 1/ employee
55. Warehousing	Greater of:
56. Motor freight transportation and warehousing	a. 1/ 5000 square feet (0 to 49,999 square feet)
57. Truck transportation	b. 10 plus 1/ 10,000 square feet over 50,000 (50,000 to 99,999 square feet)
58. Support activities for rail transportation	c. 15 plus 1/ 15,000 square feet over 100,000 (100,000 square feet or more)
59. Wholesale trade – durable goods	or 1/ employee
60. Wholesale trade – Non-durable goods	
61. Recycling centers	
62. Asphalt or cement batch plants	
63. Agricultural practices	Exempt from the parking requirements
64. Telecommunication facilities	
65. Transit ground transportation	1 transit vehicle space per transit vehicle plus 1/ employee
66. Freight transportation arrangement	1/ employee
67. Self storage	1/ 6 storage units, maximum of 6 spaces
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. 2. There is no required parking ratio in the DDC zone per Section 3.07.07B.12. 3. See Tables 3.05C & E for minimum carpool/vanpool and electric vehicle parking and Table 3.05D for minimum bicycle parking. 4. In compliance with OAR 660-046-0220(2)(e).	

### 3.07 Architectural Design

The purpose of this Section is to set forth the standards and guidelines relating to the architectural design of buildings in Woodburn. Design standards can promote aesthetically pleasing architecture, increase property values, visually integrate neighborhoods, and enhance the quiet enjoyment of private property.

- 3.07.01 Applicability of Architectural Design Standards and Guidelines
- 3.07.02 Single Family, Manufactured Dwellings, & Dwellings Other Than Multiple-Family ("Middle Housing") on Individual Lots

#### 3.07.03

[Struck]

- 3.07.04 Dwellings in the Neighborhood Conservation Overlay District (NCOD)
- 3.07.05 Standards for Medium Density Residential Buildings
- 3.07.06 Standards for Non-Residential Structures in Residential, Commercial and Public/Semi Public Zones
- 3.07.07 Downtown Development and Conservation Zone
- 3.07.08 Mixed Use Village Zone
- 3.07.09 Nodal Neighborhood Commercial Zone
- 3.07.10 Industrial Zones

#### **3.07.01 Applicability of Architectural Design Standards and Guidelines**

- A. For a Type I review, the criteria of this Section shall be read as "shall" and shall be applied as standards. For a Type II or III review, the criteria of this Section shall be read as "should" and shall be applied as guidelines.
- B. The following are exempt from the provisions of this Section:
  - 1. Any single-family, duplex, or manufactured dwelling that existed prior to October, 2005, except such dwellings located within the Neighborhood Conservation Overlay District (NCOD).
  - 2. New dwellings in Manufactured Dwelling Parks containing more than three acres.

#### **3.07.02 Single-Family Dwellings, Manufactured Dwellings, & Dwellings Other Than Multiple-Family ("Middle Housing") on Individual Lots**

##### A. Applicability

This Section shall apply to all new single-family dwellings, dwellings other than multiple-family, and manufactured dwellings on individual lots. It shall apply also to subdivisions and Planned Unit Developments approved on or before August 12, 2013.

Manufactured dwellings have different standards for roofing; otherwise, all standards in this Section apply to manufactured dwellings.

##### B. Minimum Requirements

### **3.07.07 Downtown Development and Conservation (DDC) Zone**

#### **A. Applicability**

The purpose of these development standards is to guide the design of buildings constructed in the Downtown Development and Conservation (DDC) zoning district to ensure that, through appropriate use of facades, windows, building orientation, and architectural details, new structures and alterations of existing structures are physically and visually compatible with other buildings within the downtown business district. The majority of the existing buildings in downtown Woodburn reflect architectural styles that were popular during the late nineteenth and early twentieth century.

1. The provisions of this ordinance shall apply to the following activities within the DDC:
  - a. All new building construction;
  - b. New construction, restorations, and remodels. Restorations shall be defined as all exterior repairs, replacement of materials, alterations or changes, including reroofing, painting, window, and sign replacement, as well as any exterior building or site modification that requires a building permit;
  - c. All new signage.
2. This ordinance shall not apply to the following activities or uses:
  - a. Maintenance of the exterior of an existing structure, such as reroofing, residing, or repainting where similar materials and colors are used that comply with this ordinance;
  - b. Interior remodeling;
  - c. Single-family detached dwellings;
  - d. Single-family dwellings that are used for businesses or home occupations.
3. This ordinance shall apply only to those portions of a building or sign that are proposed for construction or modification, and shall not extend to other elements of the building or sign that may be out of compliance with the requirements of this ordinance (i.e., a permit to replace a single window shall not require that all other windows on the building that may be out of compliance with this ordinance to be replaced, unless such action is initiated by the property owner). However, if a building should be destroyed due to fire, accident, or an act of God, the new or replacement structure shall be rebuilt to conform to the requirements of this ordinance.
4. At the time of application, the applicant shall choose whether the Design Review shall be conducted as a Type I, II, or III review (Section 5.01, 5.02, 5.03). For a Type I review, the criteria of this Section shall be read as “shall” and shall be applied as standards. For a Type II or III review, the criteria of this Section shall be read as “should” and shall be applied as guidelines.

#### **B. Design Guidelines or Standards**

Standards for new construction shall require builders to conform to the architectural form of Woodburn’s historic period (1880’s through 1940’s). As such, new construction shall conform to the following standards listed below. The following list of buildings is provided as a reference guide to those buildings which display characteristics intended by the standards.

C. External Storage of Merchandise

The external storage of merchandise or materials, directly or indirectly related to a business, is prohibited.

D. Outdoor Displays of Merchandise

Outdoor displays of merchandise are permitted during business hours only, are limited to products sold within the building, and shall not exceed ten percent of the total indoor retail sales area. Displays of merchandise on public sidewalks along the storefront may not reduce usable walking area widths to less than four feet.

E. Outdoor Eating Areas

Outdoor cooking facilities and dining areas ~~are encouraged, and~~ are permitted on public sidewalks along the storefront of the associated business only if that business also sells those food products indoors. ~~Outdoor food vending carts are permitted. Eating areas or vending carts may not~~ Such areas may not reduce usable walking area widths on public sidewalks to less than four feet. ~~Mobile food kitchens are prohibited in the DDC district.~~ Nothing within this provision is intended to prohibit the use of private property for such areas.

**Commented [DH31]:** This language has created confusion and frustration for downtown businesses.

**Commented [DH32R31]:** The intent here is to ensure brick-and-mortar businesses are able to use the sidewalk in front of their building for outdoor food prep and dining. This is not intended to allow outside vendors to set up in front of someone's storefront.

## 5.01 Type I (Administrative) Decisions

### **5.01 General Requirements**

- A. The purpose of this Section is to identify what types of actions are considered Type I decisions and their respective review criteria. Type I decisions do not require interpretation or the exercise of policy or legal judgment in evaluating approval criteria. The decision-making process requires no notice to any party other than the applicant.
- B. To initiate consideration of a Type I decision, a complete City application, accompanying information and a filing fee must be submitted to the Director. The Director will evaluate the application as outlined in this Section.

- 5.01.01 Access Permit to a City Street, excluding a Major or Minor Arterial Street
- 5.01.02 Design Review, Type I
- 5.01.03 Fence and Free Standing Wall
- 5.01.04 Grading Permit
- 5.01.05 Manufactured Dwelling Park, Final Plan Approval
- 5.01.06 Partition and Subdivision Final Plat Approval
- 5.01.07 Planned Unit Development (PUD), Final Plan & Design Plan Approval
- 5.01.08 Property Line Adjustment; Consolidation of Lots
- 5.01.09 Riparian Corridor and Wetlands Overlay District (RCWOD) Permit
- 5.01.10 Sign Permit
- 5.01.11 Significant Tree Removal Permit
- 5.01.12 ~~Temporary Outdoor Marketing and~~ Special Event Permit

### **5.01.01 Access Permit to a City Street, Excluding a Major or Minor Arterial Street**

- A. Purpose: The purpose of this review is to ensure conformance to City street access standards and this Ordinance (Section 3.04) in circumstances where the access is not subject to any other type of land use approval.
- B. Criteria: The proposed access shall conform to the applicable standards of access to public streets (Section 3.04).
- C. Procedure: The Director shall review the access permit and determine conformance to City standards.

**5.01.09 Riparian Corridor and Wetlands Overlay District (RCWOD) Permit**

- A. Purpose: The purpose of this review procedure is to ensure that all grading, excavation, fill, and vegetation removal (other than perimeter mowing and other cutting necessary for hazard prevention) within a delineated, significant wetland, complies with applicable City and State standards and procedures, including those of ORS Chapter 196 and Chapter 227 and OAR 660-023.
- B. Criteria:
  - 1. The applicable standards of this Ordinance and the findings and action proposed by the Division of State Lands; or
  - 2. A finding, verified by the Division of State Lands, of error in delineation of the RCWOD boundary.
- C. Procedure: The Director shall review the permit and approve it upon a determination that it meets the criteria of this ordinance.

**5.01.10 Sign Permit**

- A. Purpose: The purpose of this review is to ensure that signs comply with standards found within the Sign Standards (Section 3.10).
- B. Criteria: Applications shall be reviewed for compliance with the sign standards of this Ordinance.
- C. Procedure: The Director shall review proposal signs for compliance to City regulations.

**5.01.11 Significant Tree Removal Permit**

- A. Purpose: To ensure that the removal of Significant Trees conforms with Section 3.06.07 as well as the purposes of Section 3.06.07A.
- B. Applicability: Per Sections 3.06.07B & C.
- C. Criteria and procedure: Per Section 3.06.07.

**5.01.12 ~~Temporary Outdoor Marketing and~~ Special Event Permit**

- A. Purpose: The purpose of this review is to ensure that ~~temporary outdoor marketing or~~ special events conform to the standards of this Ordinance (Section 2.07.17).
- B. Criteria: ~~Temporary Outdoor Marketing and~~ Special Events shall conform to all standards of this Ordinance.
- C. Procedure: The Director shall review the application and shall approve a permit based on compliance with this Ordinance.



**COUNCIL BILL NO. 3256**

**ORDINANCE NO. 2629**

**AN ORDINANCE ADOPTING AMENDMENTS TO THE WOODBURN DEVELOPMENT ORDINANCE RELATED TO FOOD CARTS AND FOOD CART PODS (LA 24-02)**

**WHEREAS**, the Woodburn Development Ordinance (WDO) establishes the standards that development is required to meet and that clarity of those standards is critical as the community continues to grow and prosper; and

**WHEREAS**, periodic revisions and updates to the Woodburn Development Ordinance are necessary and expected to comply with statutes and administrative rules, administer new and revised long-range plans, and address current issues; and

**WHEREAS**, Section 4.10.09 of the WDO requires the City Council to initiate the consideration of any potential legislative amendments to the WDO by resolution; and

**WHEREAS**, on August 28, 2023, the Council, in conformance with WDO 4.01.09A, initiated Legislative Amendment 24-02 via Resolution No. 2218, directing staff to review and revise the WDO regulations for food carts; and

**WHEREAS**, the Woodburn Planning Commission held three work sessions for LA 24-02 between March 14, 2024 and April 25, 2024; and

**WHEREAS**, the Woodburn Planning Commission held a public hearing on May 23, 2024 and unanimously recommended approval of the amendment to the City Council; and

**WHEREAS**, the Woodburn City Council held a work session for LA 24-02 on June 10, 2024; and

**WHEREAS**, the Woodburn City Council held a public hearing on June 24, 2024, and tentatively approved the legislative amendment; **NOW, THEREFORE**,

**THE CITY OF WOODBURN ORDAINS AS FOLLOWS:**

**Section 1.** For purposes of this ordinance amendment, all new text is shown as underlined (i.e. new text) and all deleted text is shown as stricken (i.e. ~~deleted text~~). After this ordinance amendment is adopted, the Community Development Director shall correct the WDO to incorporate all revisions contained herein.

**Section 2.** The WDO is amended as specified in Exhibit A which is attached hereto.

**Section 3.** The legislative action taken by the Ordinance is explained and justified by the Staff Report and Analyses & Findings documents attached hereto and incorporated herein as Exhibits B and C, respectively.

Approved as to form: \_\_\_\_\_  
City Attorney Date

Approved: \_\_\_\_\_  
Frank Lonergan, 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

# Woodburn Development Ordinance

## WDO

Adopted by Ordinance 2313 on April 9, 2002

Acknowledged December 22, 2006

Amended by Ordinance 2423 on July 28, 2007

Amended by Ordinance 2446 on September 8, 2008

Amended by Ordinance 2465 on March 24, 2010

Amended by Ordinance 2473 on December 13, 2010

Amended by Ordinance 2480 on September 26, 2011

Amended by Ordinance 2492 on September 10, 2012

Amended by Ordinance 2509 on August 12, 2013

Amended by Ordinance 2510 on September 23, 2013

Amended by Ordinance 2520 on July 28, 2014

Amended by Ordinance 2526 on February 9, 2015

Amended by Ordinance 2538 on September 26, 2016

Amended by Ordinance 2541 on November 14, 2016

Amended by Ordinance 2544 on January 9, 2017

Amended by Ordinance 2561 on July 9, 2018

Amended by Ordinance 2562 on September 10, 2018

Amended by Ordinance 2573 on June 24, 2019

Amended by Ordinance 2579 on April 13, 2020

Amended by Ordinance 2602 on May 9, 2022 (LA 21-01)

Amended by Ordinance 2603 effective June 30, 2022 (LA 21-02)

**Amended by Ordinance 2621 on February 26, 2024 (LA 21-03)**

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## 1.02 Definitions

Note: Terms not defined in this Section have the meaning set forth in the New Oxford American Dictionary, 2010 edition (see Section 4.02.06.B.6.)

**Abutting:** Touching on the edge or on the line, including at a corner. It shall include the terms adjacent, adjoining and contiguous.

**Access:** The place, means or way by which pedestrians or vehicles have ingress and egress to and/or from a lot or use.

**Accessory Building, Structure or Use:** A detached building, structure or use which is incidental and subordinate to, and supports the primary use on, the same premises.

**Accommodations:**

- **Bed and Breakfast Inn:** A single-family dwelling with at least one room offered to the general public for lodging on an overnight or weekly basis, with a meal provided.
- **Hotel:** A building in which rooms are offered to the general public for lodging on an overnight or weekly basis, where the primary entrance is through a lobby or foyer with internal circulation to the rooms.
- **Living Unit:** A room or suite of rooms, providing living and sleeping facilities for one or more persons where either cooking or eating and/or sanitation facilities are shared. In a rooming and boarding house, each bed rented for compensation is a “Living Unit.” Note: Living unit is not synonymous with “dwelling unit.”
- **Motel:** a group of attached or detached buildings, in which more than five rooms are offered to the general public for lodging on an overnight or weekly basis, where the rooms have direct access to the outside without the necessity of passing through the main lobby of a building.
- **Rooming and Boarding House:** A residential building or portion thereof with guest rooms, providing lodging or lodging and meals, for three or more persons for compensation.

**ADA:** The acronym refers to the federal Americans with Disabilities Act (1992) and in the context of WDO standards means compliance with contemporary federal provisions with which developers are bound to comply as standards and compliance with any contemporary supplemental state of Oregon provisions with which developers are bound to comply as standards.

**Adjacent:** Near, close or bordering but not necessarily contiguous with; adjoining but separated by a right-of-way.

**Administrative Body:** The City Council, Planning Commission, Design Review Board, or staff member having the jurisdiction to hear and decide proceedings on land use actions.

**Alley:** A public right-of-way not more than 20 feet wide and not less than 10 feet in width that provides vehicular access to property instead of or in addition to a public street, that intersects with a public street, and that can serve as a utility corridor. Distinct from “Shared Rear Lane”.

- Single-Family Dwelling: A detached building constructed on a single lot, containing one dwelling unit designed exclusively for occupancy by one family.
- Triplex: Three (3) attached dwelling units on a lot.
- Accessory Dwelling Unit (ADU) – An interior, attached, or detached residential structure that is used in connection with, or that is accessory to, a single-family dwelling.

Note: Where it appears in the WDO, reference to dwelling or dwellings “other than multiple-family” excludes ADU unless a specific provision specifies otherwise.

Employees: All persons, including proprietors, performing work on a premises. For calculating required off-street parking, it shall be the number present during the largest shift or peak season.

Family: An individual or two or more persons related by blood, marriage, legal adoption or guardianship, or a group of not more than five persons (excluding servants) who need not be related by blood or marriage, living together in a dwelling unit. “Family” shall include two or more handicapped persons as defined in the Fair Housing Amendments Act of 1988 living as a single housekeeping unit.

Final Action and Final Decision: The City’s final decision on a permit application for which there is either no appeal to another decision-maker within the City, or, if there is the possibility of a local appeal, an appeal was not timely perfected in accordance with the Woodburn Development Ordinance.

Food Cart: A vehicle, trailer, wagon, or similar facility that is self-propelled or can be pushed or pulled down a sidewalk or street, and is primarily used for the sale of food and/or beverages directly to the consumer.

Food Cart Pod: A site containing permanent spaces for two or more food carts and associated amenities (seating areas, restrooms, etc.) under common management on private property.

Frontage: That portion of a lot which abuts a public street.

Garage: A building, or portion of a building, which is completely enclosed and designed for the storage or parking of a vehicle.

Grade: Adjacent ground elevation is the lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the building and property line or, when the property line is more than 5 feet from the building, between the building and a line 5 feet from the building.

Greenway: For purpose of applying greenway standards, the Mill Creek Greenway as the Mill Creek Greenway Plan (2006-2007 and as amended) identifies.

Greenway trail: The mainline bicycle/pedestrian facility within a greenway, as distinct from spurs and supplemental paths and trails.

Gross Floor Area (GFA): The sum of the gross horizontal areas of the several floors of a building, measured from the exterior faces of the exterior wall or from the centerline of walls separating two buildings, but not including:

1. Attic and basement space providing headroom of less than seven feet;
2. Uncovered steps or fire escapes;
3. Private garages, carports, or porches;

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 resembling Figure 1.02D example Lot 3, the lot line which is most nearly parallel to the street that provides access to the interior lot, or resembling example Lot 4 by not having a pole, then the lot line most nearly parallel to the access easement and that is closest to the easement.
- **Rear Lot Line:**
    1. 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.

**Lot Width:** The horizontal distance between the side lot lines, measured at right angles to the lot depth at a point midway between the front and rear lot lines.

**Manufactured Dwelling Park:** Any place where four or more manufactured dwellings are located within 500 feet of one another on a lot, tract or parcel of land under the same ownership, the primary purpose of which is to rent or lease or use facilities or to offer space free in connection with securing the trade or patronage of such person. The term does not include a lot or lots located within a subdivision being rented or leased for occupancy by no more than one manufactured dwelling per lot, if the subdivision was approved pursuant to ORS Chapter 92.

- **Park Space:** Any area or portion of a manufactured dwelling park, which is designated or used for the placement of one manufactured dwelling and appurtenant facilities.

**Middle Housing:** Duplexes, triplexes, quadplexes, cottage clusters, and townhouses as defined in ORS 197.758(1)(a) & (b) and OAR 660-046-0020. The WDO remains applicable if and where it adds definition, description, provisions, requirements, or standards that do not conflict with statute or administrative rule.

**Mini-Storage Warehouse:** An area within an enclosed building or structure used for the storage of personal property for compensation.

**Mobile Food Services:** A traveling food cart that operates at various destinations along a route. ~~A vehicle, trailer, or wagon used for the preparation and/or sale of food and/or beverages.~~

**MUTCD:** The acronym refers to the *Manual on Uniform Traffic Control Devices* published by the United States Department of Transportation (U.S. DOT) Federal Highway Administration (FHWA) and in the context of WDO standards means compliance with contemporary federal provisions with which developers are bound to comply as standards and compliance with any contemporary supplemental state of Oregon provisions with which developers are bound to comply as standards.

**NACTO:** The acronym refers to the National Association of City Transportation Officials, which publishes the *Urban Street Design Guide*.

## 2.03 Commercial Zones

A. The City of Woodburn is divided into the following commercial zones:

1. The Downtown Development and Conservation (DDC) zone is the community's retail core, providing for unique retail and convenient shopping
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.
3. The Commercial Office (CO) zone is intended primarily for office type development, with limited retail activity.
4. The Mixed Use Village (MUV) is intended to promote efficient use of land that promotes employment and housing through pedestrian-oriented development.
5. The Neighborhood Nodal Commercial (NNC) zone is intended to meet the shopping needs of nearby residents in a compact commercial setting

B. Approval Types (Table 2.03A)

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.
4. Special Permitted Uses (S) are allowed outright, subject to the general development standards and the special development standards of Section 2.07.
5. Specific Conditional Uses (SCU) may be allowed, subject to the general development standards of this Ordinance, the specific standards of Section 2.08, and conditions of Conditional Use approval.

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)			DDC	CG	CO	MUV	NNC
A	Civic Uses						
1	Public administration, aquatic facilities, fire protection, government and public utility buildings and storage yards		P	P	P	P	P



**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)		DDC	CG	CO	MUV	NNC
2	Public and private schools, house of worship, civic and social organizations	P	P	P	P	P
3	Rights-of-way, easements and improvements for streets, water, sanitary sewer, gas, oil, electric and communication lines, stormwater facilities and pump stations.	P	P	P	P	P
<b>B</b>	<b>Commercial Retail and Services</b>					
1	Ambulance service	CU <sup>3</sup>	CU <sup>3</sup>	CU	CU <sup>3</sup>	
2	Automotive maintenance and gasoline stations, including repair services	CU	CU <sup>3</sup>		P <sup>6</sup>	
3	Bakeries, delicatessens, grocery and convenience stores	P <sup>7</sup>	P		P	P
4	Bowling, skating, movie and performing arts theaters	P	P		P	
5	Building material and garden equipment	P <sup>5</sup>	P <sup>5</sup>		P <sup>5</sup>	P <sup>5</sup>
6	Business services	P	P	P	P	
7	Computer, commercial, electric motor, precision equipment, industrial and home goods repair.	P <sup>4</sup>	P <sup>1</sup>	P <sup>4</sup>	P <sup>4</sup>	
8	Contractors: a. Flooring and roofing b. Equipment and machinery c. Glass and glazing d. Masonry, drywall, insulation and tile contractors e. Other types of contractors		P <sup>4</sup>	P <sup>4</sup>	P <sup>6</sup>	
9	Craft industries: a. Apparel manufacturing b. Leather manufacturing, furniture and related product manufacturing, including cabinets c. Sporting goods manufacturing d. Doll, toy and game manufacturing	S	S	S	S	S
10	Delivery services	S	S	S	S	S
11	Dry cleaning, laundry and self-service laundry service	P <sup>7</sup>	P		S	P
12	Fitness and recreational sports	P	P	P	P	P
<u>13</u>	<u>Food carts and food cart pods</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>
<u>14</u>	<u>Funeral home</u>	P	P	P	P	P
<u>15</u>	<u>Hospitals and ancillary uses</u>		CU <sup>3</sup>			
<u>16</u>	<u>Hotels, motels and bed and breakfast inns</u>	P	P	P	P	P
<u>17</u>	<u>Mobile food services</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>

<u>18</u>	Office and office services and supplies	P	P	P	P	P
<u>19</u>	Other amusements, including ballrooms		P <sup>1</sup>			
<u>20</u>	Pawn, check cashing, payday loan and cash transfer	CU <sup>7</sup>	P		P	
<u>21</u> <u>19</u>	Printing, publishing, copying, bonding, finance, insurance, medical, data processing, social assistance, legal services, management, and corporate offices	P <sup>7</sup>	P	P	P	P
<u>22</u>	Professional services	P	P		P	
<u>23</u>	Restaurants and drinking places	P <sup>7</sup>	P	P	P	P
<u>24</u> <u>2</u>	Retail trade offering goods and services directly to customers	P <sup>7</sup>	P		P	P
<u>25</u>	Spectator sports		P <sup>1</sup>			
<u>26</u>	Taxidermist		CU <sup>3</sup>			
<u>27</u>	Veterinary service		CU <sup>3</sup>			
<u>28</u>	Wine and liquor	CU <sup>7</sup>	P		P	
<b>C</b>	<b>Industrial</b>					
1	Charter bus, special needs transportation, transit system, school transportation, limousine service and taxi service		CU <sup>3</sup>			
2	Heavy equipment and motor vehicle sales: a. Manufactured (mobile) home dealers b. Motor vehicle and parts dealers, including new car, used car, recreational vehicle, motorcycle, boat, parts and tire dealers c. Truck dealers, including new truck, used truck, parts and tire dealers d. Tractor, farm machinery and equipment dealers e. Farm, garden and landscaping supplies		CU <sup>3</sup>			
3	Manufacturing of metal products, furniture and cabinets		P <sup>4</sup>	P <sup>6</sup>		
4	Motor freight transportation and warehousing, including local or long-distance trucking or transfer services, storage of farm products, furniture, other household goods, or commercial goods, and mini-storage		CU <sup>1</sup>			

**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)		DDC	CG	CO	MUV	NNC
5	Motor vehicle towing		CU <sup>3</sup>			
6	Parking lots and garages	P	P	P		P
7	Recreational vehicle park		CU <sup>1</sup>			
D	Miscellaneous					
1	Facilities during construction	S	S	S	S	S
2	Fence or free-standing wall	A	A	A	A	A
3	<del>Temporary outdoor marketing and sales</del> Special events: a. <del>Arts and crafts</del> b. <del>Food and beverages, including mobile food services</del> c. <del>Seasonal sales of fireworks, Christmas trees, produce or plant materials</del> d. <del>Amusement rides and games</del> e. <del>Entertainment</del> f.a. <del>Any other merchandise or service which is neither accessory to a primary, permanent use of the property nor marketed by employees of that permanent use</del>	S	S	S	S	S
E	Residential					
1	One dwelling unit, in conjunction with a commercial use	P	P	P	P	P
2	Triplexes	P	CU <sup>9</sup>		P	P
3	Quadplexes	P	CU <sup>9</sup>		P	P
4	Townhouses	P	CU <sup>9</sup>		P	P
5	Child care facility, group home, and nursing home	P <sup>8</sup>	P <sup>8</sup>	P <sup>8</sup>	P <sup>8</sup>	P <sup>8</sup>
6	Multiple-family dwellings	P	CU <sup>9</sup>	CU	P	P

1. Not allowed in the Gateway Overlay District
2. Only allowed in the Gateway Overlay District
3. Allowed outright if not within 200 feet of residentially zoned properties
4. Within a building, no outdoor storage or repair
5. All outdoor storage and display shall be enclosed by a seven foot masonry wall.
6. Existing uses are allowed as a permitted use, new uses are not allowed in the MUV
7. Drive-throughs are not allowed
8. Child care facility for 13 or more children, group home for six or more persons
9. Except allowed as a permitted use in the Gateway Overlay District and prohibited in the Interchange Management Area Overlay District (Amended by Ordinance 2573, passed June 24, 2019)

## 2.04 Industrial and Public Zones

- A. The City of Woodburn is divided into the following industrial and public zones:
1. The Light Industrial (IL) zone, which is intended for industrial activities that include land-intensive activities;
  2. The Industrial Park (IP) zone, which is intended for light industrial activities in a park-like setting;
  3. The Public and Semi-Public (P/SP) zone, which is intended for public uses, parks, schools and cemeteries.
  4. The Southwest Industrial Reserve (SWIR), which is intended for employment and industries identified in the 2016 Target Industry Analysis;
- B. Approval Types (Table 2.04A)
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.
  4. Special Permitted Uses (S) are allowed outright, subject to the general development standards and the special development standards of Section 2.07.
  5. Specific Conditional Uses (SCU) may be allowed, subject to the general development standards of this Ordinance, the specific standards of Section 2.08, and conditions of Conditional Use approval.

Uses Allowed in Industrial Zones Table 2.04A					
Use		Zone			
Accessory Uses (A)   Conditional Uses (CU)   Permitted Uses (P) Special Permitted Uses (S)   Specific Conditional Uses (SCU)		IL	IP	P/SP	SWIR
A	Civic Uses				
1	Golf driving range	P	P	CU	
2	Parks, play grounds and associated activities, golf courses without a driving range			P	
3	Public administration, aquatic facilities, fire protection, government and public utility buildings and storage yards	P	P	CU	P

**Uses Allowed in Industrial Zones**  
**Table 2.04A**

Use		Zone			
Accessory Uses (A) Conditional Uses (CU) Permitted Uses (P) Special Permitted Uses (S) Specific Conditional Uses (SCU)		IL	IP	P/SP	SWIR
4	Rights-of-way, easements and improvements for streets, water, sanitary sewer, gas, oil, electric and communication lines, stormwater facilities and pump stations.	P	P	P	P
5	Trade schools	P	P	CU	CU
<b>B</b>	<b>Commercial Retail and Services</b>				
1	Ambulance service	P	P		
2	Automotive maintenance and gasoline stations, including repair services	P	P		
3	Business services		P		P
4	Contractors: f. Flooring and roofing g. Equipment and machinery h. Glass and glazing i. Masonry, drywall, insulation and tile contractors j. Other types of contractors	P	P		P
5	Delivery services	S	S	S	S
6	Fitness and recreational sports	P	P		P
<u>7</u>	<u>Food carts and food cart pods</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>
<u>8</u> 7	Hospitals and ancillary uses		P	CU	P
<u>9</u> 8	Mobile <del>F</del> food <del>S</del> services	S	S	<u>S</u>	S
<u>10</u> 9	Restaurants and drinking places	P	P		P
<u>11</u>	Marijuana dispensaries	S	S		
<b>C</b>	<b>Industrial</b>				
1	Auction houses, except livestock and poultry sales	CU			
2	Automotive wrecking yards	CU			
3	Charter buses, special needs transportation, transit system, school transportation, limousine service and taxi service	P	P		
4	Chemical manufacturing	CU	CU		CU
5	Distribution and E-commerce including; wholesale trade, farm supplies and merchant wholesalers, packaging and labeling services.	P	P		P
6	Recycling center	CU	CU		CU
7	Asphalt or Portland cement concrete batch plant	CU	CU		
8	Commercial and industrial equipment repair, transit and ground transportation	P	CU		CU

Uses Allowed in Industrial Zones Table 2.04A					
Use		Zone			
Accessory Uses (A) Conditional Uses (CU) Permitted Uses (P) Special Permitted Uses (S) Specific Conditional Uses (SCU)		IL	IP	P/SP	SWIR
9	Electronic and other electrical equipment and components, including manufacturing machinery, apparatus, and supplies for the generation, storage, transmission, transformation, and utilization of electrical energy; electricity distribution equipment; electrical industrial apparatus; household appliances; electrical lighting and wiring equipment; radio and television receiving equipment; communications equipment; electronic components and accessories; and other electrical equipment and supplies	P	P		P
10	Fabricated metal products, including fabricating ferrous and non-ferrous metal products such as metal cans, tin ware, hand tools, cutlery, general hardware, non-electric heating apparatus, fabricated structural metal products, metal forgings, metal stampings, and metal and wire products	CU	CU		P
11	Industrial and commercial machinery and computer equipment, including engines and turbines; farm and garden machinery; construction, mining, and oil field machinery; elevators and conveying equipment; hoists, cranes, monorails, trucks and tractors; metalworking machinery; special industry machinery; general industrial machinery; computer and peripheral equipment, computer, semiconductor, laboratory instrument, and office machinery, manufacturing; refrigeration and service industry machinery manufacturing	P	P		P
12	Heavy equipment and motor vehicle sales: e. Manufactured home dealers f. Motor vehicle and parts dealers, including new cars, used cars, recreational vehicles, motorcycles, boats, parts and tire dealers g. Truck dealers, including new trucks, used trucks, parts and tire dealers h. Tractor and farm machinery and equipment dealers i. Farm, garden and landscaping supplies	S	S		

**Uses Allowed in Industrial Zones**  
**Table 2.04A**

Use		Zone			
Accessory Uses (A) Conditional Uses (CU) Permitted Uses (P) Special Permitted Uses (S) Specific Conditional Uses (SCU)		IL	IP	P/SP	SWIR
13	Manufacturing: a. Apparel manufacturing b. Beverage, food and tobacco c. Furniture and related products d. Leather and allied products e. Paper, limited to assembly f. Metal product manufacturing g. Miscellaneous manufacturing h. Plastics and rubber i. Textile products	P	P		P
14	Motor freight transportation and warehousing, including local or long-distance trucking or transfer services, storage of farm products, furniture and other household goods, commercial goods, and mini-storage	P	P		P
15	Non-depository credit institutions engaged in extending credit in the form of loans, but not engaged in deposit banking		P		P
16	Paper manufacturing	CU			
17	Parking lots and garages	P	P		
18	Petroleum and coal products manufacturing with all storage underground	CU			
19	Printing, publishing, and allied industries	P	P		P
20	Professional services including software publishers		P		P
21	Stone, clay, glass, and concrete products including manufacturing flat glass, other glass products, cement, structural clay products, pottery, concrete and gypsum products, cut stone, abrasive and asbestos products, and other products from materials taken principally from the earth in the form of stone, clay, and sand	P			
22	Telecommunication facilities subject to Section 2.08.03	SCU	SCU		SCU
23	Wholesale trade in durable and non-durable goods	P	P		P
24	Wood product manufacturing	P	P		P
D	Miscellaneous				
1	Facilities during construction	S	S	S	S
2	Fence or free-standing wall	A	A	A	A



Uses Allowed in Industrial Zones Table 2.04A					
Use		Zone			
Accessory Uses (A) Conditional Uses (CU) Permitted Uses (P) Special Permitted Uses (S) Specific Conditional Uses (SCU)		IL	IP	P/SP	SWIR
3	<del>Temporary outdoor marketing and sales</del> Special events: <del>a. Arts and crafts</del> <del>b. Food and beverages, including mobile food services</del> <del>c. Seasonal sales of fireworks, Christmas trees, produce or plant materials</del> <del>d. Amusement rides and games</del> <del>e. Entertainment</del> <del>f.a. Any other merchandise or service which is neither accessory to a primary, permanent use of the property, nor marketed by employees of that permanent use</del>	S	S	S	S
E	Residential				
1	One dwelling unit in conjunction with an industrial use	P	P	P	P

C. Development Standards (Tables 2.04B-E)

Light Industrial (IL) - Site Development Standards Table 2.04B		
Lot Area, Minimum (square feet)		No minimum
Lot Width, Minimum (feet)		No minimum
Lot Depth, Minimum (feet)		No minimum
Street Frontage, Minimum (feet)		No minimum
Front Setback and Setback Abutting a Street, Minimum (feet)		10 <sup>1</sup>
Side or Rear Setback, Minimum (feet)	Abutting P/SP zone or a residential zone or use	30
	Abutting a commercial or industrial zone	0 or 5 <sup>2</sup>
Setback to a private access easement, Minimum (feet)		5
Lot Coverage, Maximum		Not specified <sup>3</sup>
Building Height, Maximum (feet)	Primary or accessory structure	70
	Features not used for habitation	100
1. Measured from the Street Widening Setback (Section 3.03.02), if any. 2. A building may be constructed at the property line, or shall be set back at least five feet. 3. Lot coverage is limited by setbacks, off-street parking, and landscaping requirements.		

## 2.07 Special Uses

Special Permitted Uses are allowed outright, but are subject to additional requirements designed to ensure their compatibility with, or mitigate their impact on, surrounding (usually residential) development.

<u>2.07.01</u>	General Provisions
<u>2.07.02</u>	Boat, Recreational and Vehicle Storage Pad
<u>2.07.03</u>	Common Boat, Recreational and Vehicle Storage Area
<u>2.07.04</u>	Community Club Buildings and Facilities
<u>2.07.05</u>	Craft Industries
<u>2.07.06</u>	Delivery Services
<u>2.07.07</u>	[Struck]
<u>2.07.08</u>	Facilities During Construction
<u>2.07.09</u>	Golf Courses
<u>2.07.10</u>	Home Occupations
<u>2.07.11</u>	House of Worship
<u>2.07.12</u>	Industrial Sales
<u>2.07.13</u>	Manufactured Dwelling Park (MDP)
<u>2.07.14</u>	Manufactured Dwelling on a Lot
<u>2.07.15</u>	Mobile Food Services
<u>2.07.16</u>	Residential Sales Office
<u>2.07.17</u>	<del>Temporary Outdoor Marketing and</del> Special Events
<u>2.07.18</u>	Temporary Residential Sales
<u>2.07.19</u>	Marijuana Dispensaries
<u>2.07.20</u>	Accessory Dwelling Units
<u>2.07.21</u>	Cottage Cluster
<u>2.07.21</u> <u>2.07.22</u>	<del>Food Carts &amp; Food Cart Pods</del>

### **2.07.01**      **General Provisions**

#### A. Application

1. Special uses are subject to specific development standards. These standards are non-discretionary, so special review of a proposed development is not required. The standards contained in this Section apply to Special Uses.
2. The standards contained in this Section may be modified through the Conditional Use process.

#### B. Development Requirements

Unless specifically modified by the provisions of this Section, special uses are also subject to the development requirements of the underlying zone. Where the special use standard imposes a more restrictive standard, the special use standard shall apply.

required of single-family dwellings constructed under the State Building Code, as defined in ORS Chapter 455.

### **2.07.15 Mobile Food Services**

- A. The mobile food service operator shall comply with all applicable City, Woodburn Fire District, Marion County, and State agency permitting and licensing requirements. Permits shall be properly maintained and renewed. use shall be limited to the preparation and/or sale of food and beverages from a vehicle or trailer.
- B. Business Operations:
  - 1. Shall not remain at one stop along its route for more than four hours. All goods, temporary facilities, and signs shall be removed prior to departing each stop.
  - ~~1.2.~~ Shall not be conducted within public rights-of-way.
  - ~~2.3.~~ Shall be conducted on private property with the written consent of the property owner and shall not block driveways, entrances, or parking aisles.
- ~~C. The use shall not block driveways, entrances or parking aisles.~~
- ~~D. The base of operations for mobile food service units shall be inside the industrial zones. Use of sites in residential zones for the preparation, maintenance, or storage area for mobile food service units is prohibited.~~

### **2.07.16 Residential Sales Office**

- A. The office shall be located on a lot within a subdivision or planned development, or on a space within a manufactured dwelling park.
- B. The principal use of the office shall be the sale of lots, renting of spaces, or the sale of dwellings or manufactured dwellings on lots or spaces within the development.
- C. The office shall have a finished exterior and the site must be landscaped.
- D. Business shall be conducted between 8:00 a.m. to 8:00 p.m.

### **2.07.17 Temporary Outdoor Marketing and Special Events**

#### **A. Types of Special Events**

- 1. Single Event: An event with a maximum duration of three consecutive days.
- 2. Recurring Event: An event with a maximum duration of one day per week, which may recur for up to 36 consecutive weeks.
- 3. Seasonal Event: An event with a maximum duration of 30 consecutive days. Seasonal events are limited to two per calendar year per site.

#### **A.B. Permitted Uses**

- 1. Seasonal sales ~~of (examples include~~ fireworks, Christmas trees, produce or plant materials, etc.). except marijuana
- 2. Amusement rides, ~~and~~ games, and other forms of entertainment.
- 3. ~~Entertainment~~ Offering of merchandise or services.
- 4. ~~Any other merchandise or service except marijuana dispensaries~~ Food carts are permitted

as a single event or recurring event, not as a seasonal event.

4.5. Marijuana dispensaries are not permitted as any type of special event.

**B. Duration**

- ~~1. Single events shall be limited to a maximum duration of three consecutive days, with all goods, temporary facilities and signs removed within 24 hours of closing on the last day of each event.~~
- ~~2. Recurring events shall be limited to a maximum duration of one day, with all goods, temporary facilities and signs removed within 24 hours of each event. Events may reoccur once per week for a maximum of 36 weeks.~~
- ~~3. Seasonal sales shall be limited to two events, with each event not exceeding more than 30 consecutive days.~~

**C. Operational Requirements**

- 4.1. Events shall only be conducted between the hours of 8:00 a.m. and midnight.
- 5.2. The eventuse shall not block driveways, entrances, or parking aisles.
- 6.3. The required parking for all other uses of the property shall not be diminished below that required by this ordinance (Section 3.05).
- 7.4. The eventuse shall conform to all setback standards for the applicable zone.
- 8.5. ResponsibilitiesThe event operator shall:
  - ~~a. The event operator~~Possess a valid Special Event Permit for each event;:
  - ~~b. Shall possess a valid special event permit for each event;~~
  - b. Be responsible for compliance with use standards, crowd and traffic control, and for sanitation, including rest rooms, waste disposal, and cleanup; and-
  - c. Remove all goods, temporary facilities, and signs within 24 hours of closing on the last day of the event. For recurring events, this requirement applies to each recurrence.
- 9.6. The operator of a special eventuse shall possess valid certification of compliance for all applicable health, sanitation, and safety standards of the City and other applicable jurisdictions.
- ~~10.7. The temporary outdoor marketing and s~~Special events shall not be located within a public right-of-way unless authorized by the appropriate jurisdiction (City of Woodburn, Marion County, or the Oregon Department of Transportation).

**D. City-sponsored Special Events on City-owned property are not required to obtain a Special Event permit.**

**E. Existing businesses with outdoor product display areas are not required to obtain a Temporary Outdoor Marketing and Special Events permit, but are limited to the following:**

1. Products sold within the primary building;
2. Covering no more than ten percent of the gross square footage of the buildings on the property;

3. Retaining a minimum of four feet for pedestrian clearance along any adjacent walkway.

#### **2.07.18 Temporary Residential Sales**

##### **A. Permitted Uses**

1. Produce and plant materials grown on the subject property
2. Estate, garage and yard sales
3. Crafts and other hobby items

##### **B. Number of Sales per Year**

1. Estate, garage, yard, craft and hobby sales
  - a. The number of sales, in any combination, conducted at the same site, shall not exceed three in any calendar year.
  - b. The duration of each sale period shall not exceed three consecutive days.
2. A sale of produce and plant materials grown on-site shall be limited to one event, no longer than 60 days in duration.

##### **C. Sales shall be conducted between the hours of 8:00 a.m. and 8:00 p.m.**

##### **D. All signs shall be taken down the day the sale ends.**

- (1) Off-street parking spaces and vehicle maneuvering areas shall not be located:
  - (a) Within 20 feet of any street property line;
  - (b) Between a street property line and the front facade of cottages located closest to the street property line.
- (2) Off-street parking spaces shall not be located within 5 feet of any other property line, excepting property lines along alleys or shared rear lanes. Driveways and drive aisles shall not be located within 5 feet of other property lines except (A) along alleys or shared rear lanes or (B) Section 3.04 requires to adjoin such property lines to meet cross access or shared access standards.
- c. Screening. Landscaping, fencing, or walls minimum 3 feet high, shall separate pooled parking or shared parking areas and parking structures from common courtyards and public streets.
- d. Garages and carports.
  - (1) Garages and carports (whether shared or individual) shall not abut common courtyards.
  - (2) Individual attached garages up to 200 square feet shall be exempt from the calculation of maximum building footprint for cottages.
  - (3) Individual detached garages shall be maximum 400 square feet GFA.
  - (4) Garage doors for attached and detached individual garages shall be maximum 20 feet in width.
7. Accessory Structures. Accessory structures shall be maximum 400 square feet GFA.
8. Existing Structures. On a lot or parcel to be used for a cottage cluster project, an existing detached single family dwelling on the same lot at the time of proposed development of the cottage cluster may remain within the cottage cluster project area if the development meets the following provisions:
  - a. The existing dwelling may be nonconforming with the WDO as Section 1.04 allows.
  - b. The existing dwelling may be expanded up to the maximum height or the maximum building footprint per this Section 2.07.21; however, existing dwellings that exceed the maximum height and/or footprint per Chapters 1.04 and 2.02 shall not expand.
  - c. The GFA of the existing dwelling shall not count towards the maximum average GFA of a cottage cluster.
  - d. The existing dwelling shall be excluded from the calculation of orientation toward the common courtyard.

#### **2.07.22 Food Carts & Food Cart Pods**

-This section is intended to establish development standards for food carts and food cart pods to ensure they are safe, sanitary, and attractive, and to lessen street frontage improvements and other costly site improvements that could deter development.

A. Food Carts: The following standards apply to single food carts not within a food cart pod.

1. Location: Single food carts not within a food cart pod are allowed in all commercial and

industrial zones as an accessory use. A single food cart is not allowed as a primary use. There is a maximum of one single food cart per contiguous properties under the same ownership.

2. Permitting and review: A single food cart not within a food cart pod shall follow the Type I Design Review procedure for obtaining a site plan approval.
3. Food carts shall comply with all applicable City, Woodburn Fire District, Marion County, and State agency permitting and registration requirements. Permits and registrations shall be properly maintained and renewed.
4. Site development standards:
  - a. Food carts and accessory structures shall maintain a minimum setback of 5 feet from all property lines.
  - b. Food carts and accessory structures shall not block driveways, entrances, or parking aisles, and they shall not be located within the Riparian Area & Wetlands Overlay District (per Section 2.05.05B), a public utility easement (per Section 3.02.01), or a vision clearance area (per Section 3.03.06).
  - c. The food cart shall provide at least 50 square feet of covered seating area.
  - d. Restrooms shall be provided to satisfy applicable State and County permitting requirements. Portable restrooms are prohibited.-
  - e. The food cart shall provide adequate refuse containers to satisfy applicable State and County permitting requirements.
  - f. Drive-throughs are prohibited.

B. Food Cart Pods: The following standards apply to food cart pods.

1. Location: Food cart pods are allowed in all commercial and industrial zones as primary or accessory uses.
2. Permitting and review:
  - a. A new food cart pod shall follow the Type II Design Review procedure for obtaining a site plan approval. If a proposed structure exceeds the applicable threshold for a Type III Design Review in 5.03.02, then the review shall follow the Type III Design Review procedure instead.
  - b. The expansion of an existing food cart pod to add non-structural elements (such as parking stalls or food cart spaces) shall follow the Type I Design Review procedure. For new or expanded structures, the review shall instead follow the applicable Design Review procedure in Volume 5.
  - c. Food cart pods shall comply with all applicable City, Woodburn Fire District, Marion County, and State agency permitting requirements. Permits shall be properly maintained and renewed.
  - d. Food cart pod managers/owners, as well as each food cart within the pod, shall register their businesses with the City of Woodburn. Registrations shall be properly maintained and renewed.

3. Site development standards: Standards are those of the applicable zoning district, unless otherwise specified below:
  - a. Food carts and accessory structures shall maintain a minimum setback of 5 feet from all property lines.
  - b. Food carts and accessory structures shall not be located within the Riparian Area & Wetlands Overlay District (per Section 2.05.05B), a public utility easement (per Section 3.02.01), or a vision clearance area (per Section 3.03.06).
  - c. Food carts shall be separated from each other by at least 4 feet.
  - d. Food cart spaces shall not exceed the following dimensions:
    - (1) Maximum length is 26 feet.
    - (2) Maximum width is 10 feet.
    - (3) Maximum height is 15 feet.
  - e. Food carts shall be sited entirely on a paved surface and oriented in a manner such that the operation does not block or inhibit use of a public sidewalk or street.
  - f. Common seating area shall be provided to serve the pod and total a minimum area of 50 square feet per food cart. Seating areas shall be ADA-compliant and at least 50% of the seating area shall be covered or sheltered from rain.
  - g. The pod shall provide for internal pedestrian circulation to all food carts and customer amenities through a paved walkway that is ADA-compliant and at least 5 feet wide.
  - h. Restrooms shall be provided to satisfy applicable State and County permitting requirements. Portable restrooms are prohibited.
  - i. Refuse containers shall be provided to satisfy applicable State and County permitting requirements.
4. Street improvements: Food cart pod developments shall provide the following street frontage improvements for each frontage abutting the site.
  - a. Dedicate right-of-way per 3.01;
  - b. Grant a streetside public utility easement per 3.02.01B & F;
  - c. Construct an ADA-compliant sidewalk at least 6 feet wide, or pay a fee-in-lieu per 4.02.12; and
  - d. Plant street trees per 3.06.03A, or pay a fee-in-lieu per 4.02.12.
5. Utilities: All utilities serving a food cart pod shall be underground per Section 3.02.04C. Any public utility line crossing through private property shall be covered by a public utility easement in conformance with Section 3.02.01C.
  - a. Municipal water and sanitary sewer connections are required for each food cart within a food cart pod. Utility services shall terminate in temporary connection assemblies, similar to those used in recreational vehicle (RV) parks.
  - b. A power connection is required for each food cart. On-site generators are prohibited.



- c. Natural gas connections are allowed. All natural gas connections shall maintain compliance with applicable safety regulations at all times. Liquified petroleum gas tanks (such as propane tanks) are prohibited.
  - d. On-site stormwater detention shall be provided.
- 6. Access: Food cart pods shall provide:
  - a. Vehicular access in conformance with Table 3.04A and Section 3.04.04. Access should be limited to a single driveway. For lots with multiple street frontages, access should occur via the lower classification of street.
  - b. A paved walkway connection at least 6 feet wide shall connect the internal pedestrian circulation walkway and the public sidewalk along each frontage. Corner lots may instead provide a single paved walkway connection at least 8 feet wide at the corner. Walkways may be gated.
  - c. Drive-throughs are prohibited.
- 7. Transportation impacts: The provisions within Section 3.04.05 are applicable to food cart pods.
- 8. Parking: The provisions of Chapter 3.05 are applicable to food cart pods, except:
  - a. Screening of a parking area abutting a street may conform with Section 3.05.02D4 through landscaping planters, food cart placement, and/or outdoor seating areas.
  - b. Walkway crossings of drive aisles may utilize painted crosswalk striping to conform with Sections 3.04.06D and 3.05.02N.
  - c. Carpool/vanpool parking standards (Table 3.05C and Section 3.05.03H) are not applicable.
  - d. A minimum of 1 bicycle parking stall is required per food cart. The coverage/sheltering standard (Section 3.05.06C6) is not required.
- 9. Landscaping: The general landscaping requirements in Section 3.06.02 are applicable. Food cart pods shall provide a minimum of 10 Plant Units per food cart on-site. Required landscaping may be permanently planted in the ground or planted within decorative planters. Planters shall each be at least 25 gallons. Plant unit values are outlined within Table 3.06B, except that a 25-gallon planter provides 1 Plant Unit, a 50-gallon planter provides 2 Plant Units, and so on.
- 10. Screening:
  - a. A wall or sight-obscuring fence meeting the standards outlined within 2.06.02 is required along any lot line abutting a residentially-zoned property.
  - b. Common refuse collection facilities shall be enclosed behind a sight-obscuring fence or wall and be gated. The fence or wall shall be between 6 and 7 feet tall.
- 11. Signage: Food cart pod signage shall meet the standards within 3.10 and obtain permits as required by Section 5.01.10. Individual signs attached to a food cart are not required to obtain a permit however they shall not be legible from a public street and they shall not extend more than 3 feet above the roof of the cart.
- 4.12. Exterior lighting: The exterior lighting provisions of Chapter 3.11 are applicable to food cart pods.

## 3.05 Off-Street Parking and Loading

The purpose of this Section is to identify the requirements for off-street parking and loading facilities. Well-designed parking facilities improve vehicular and pedestrian safety, promote economic activity, enhance the driving public's experience, promote cycling, carpooling, vanpooling, and per electric vehicles, allow persons walking, cycling, and rolling along to pass along or through parking areas in comfort and dignity, and to implement Woodburn Comprehensive Plan policies. With appropriate landscaping and storm water design, parking areas can also mitigate the environmental impacts of development and reduce the urban heat island effect.

3.05.01	Applicability
3.05.02	General Provisions
3.05.03	Off-Street Parking
3.05.04	Off-Street Loading & Unloading
3.05.05	Shared Parking
3.05.06	Bicycle Parking Standards

### 3.05.01 Applicability

The provisions of this Section shall apply to the following types of development:

- A. All requirements and standards of Section 3.05 shall apply to any new building or structure constructed after the effective date of the Woodburn Development Ordinance (WDO).
- B. Any additional parking or loading required to accommodate a change in use, or expansion of an existing use, shall conform to all parking, loading and landscaping standards of the WDO.

### 3.05.02 General Provisions

- A. All required parking and loading spaces shall be retained and maintained in accordance with the standards of the WDO.
- B. The land for off-street parking and loading areas shall either be:
  - 1. Owned in fee title by the owner of the structure or site being served by the parking area, or
  - 2. Subject to legal documentation to the satisfaction of the Director, establishing permanent use of off-street parking that is under separate ownership. The parking, subject to such a parking agreement, shall be in compliance with all requirements and development standards of the WDO. The agreement shall be recorded with the County Recorder and filed with the Director.
- C. When calculations for determining the number of required off-street parking spaces results in a fractional space, any fraction of a space less than one-half shall be disregarded, and a fraction of one-half or greater shall be counted as one full space.

<b>Off-Street Parking Ratio Standards</b> <b>Table 3.05A</b>	
Use <sup>1, 2</sup>	Parking Ratio - spaces per activity unit or square feet of gross floor area
<b>RESIDENTIAL</b>	
1a. Single-family dwellings (houses), including manufactured homes, and multiple-family dwellings	2/ dwelling unit
1b. Duplexes, triplexes, quadplexes, townhouses, and cottage clusters	1/ dwelling unit <sup>4</sup>
2. Rooming/boarding house, hotel, motel, and other traveler accommodations	2 parking spaces + 1/ guest room
3. Group Home or Group Care Facility	0.75/ living unit
<b>COMMERCIAL / PUBLIC</b>	
4. General indoor recreation	1/ 200 square feet
5. Food and drinking places	1/ 200 square feet
6. Motor vehicle service	1/ 200 retail area + 3/ service bay + 1/ pump island
7. General retail sales (such as food and beverages, clothing, sporting goods, health and personal care items, and motor vehicle parts)	1/ 250 square feet
8. Photo finishing	
9. Ambulatory health services (such as doctors, dentists, optometrists, and chiropractors)	
10. Postal service	
11. Limited-service eating place	1/ 350 square feet
12. Offices (such as professional, scientific and technical services, finance and insurance, real estate, administrative and support services, social assistance, and public administration – but not including ambulatory health services)	
13. Personal services	Greater of: 1/ 350 square feet; or 2/ service chair or room
14. Libraries	1/ 400 square feet
15. Outdoor sales and service of bulky merchandise (such as motor vehicles, farm equipment, and manufactured dwellings)	1/ 400 square feet of structure + 1/ 20,000 square feet of outdoor display area
16. General repair and service (such as electronic and precision equipment, leather goods, laundry and dry cleaning equipment)	1/ 500 square feet

17. Printing and related support activities 18. Mail order house	Greater of 1/ 700 square feet or 1/ employee
19. Fabricated metal products manufacturing 20. Commercial and industrial equipment repair 21. Craft industries 22. Commercial bakery	Greater of 1/ 800 square feet or 1/ employee
23. Indoor sales and service of bulky merchandise (such as furniture, appliances, and building materials)	1/ 900 square feet
24. Temporary outdoor marketing and special events	1/ 1,000 square feet of outside event space plus, no reduction from primary zoning for other uses.
25. Delivery services	One space per delivery vehicle plus one space per employee per shift.
26. <del>Food cart pods</del> <u>Mobile Food Service</u>	<u>3 per cart + 1/ 200 square feet of building area</u>
27. Home occupation 28. Residential sales office 29. Temporary residential sales	No reduction from dwelling requirement is allowed.
30. Contractors	2 parking spaces + 1/ employee
31. Parks and playgrounds	Minimum of other uses requiring parking
32. Urban transit system, interurban and rural transit, taxi service, limousine service, school transportation, charter bus service, special needs transportation, motor vehicle towing	1/ vehicle plus 1/ employee
33. Hospital	1.5/ bed
34. Meeting facilities (such as house of worship, auditorium, motion picture theater, arena, funeral home, and lodge hall) 35. Museum and historic sites 36. Community center 37. Community club building and facilities	One space per 4 occupants, as established by the building code
38. Bowling center	2/ lane
39. Golf course	4/ tee
40. Court games (tennis, handball, racquetball)	3/ court + 1/ 4 feet of bench
41. Day care	2/ caregiver
42. Elementary or middle school	2/ classroom
43. High school	1/ unit of capacity for 6 students
44. Community college, college, business school, trade school, technical school, other instruction (including dance, driving and language)	1/ unit of capacity for 4 students

45. Play or ball field	Greater of: 15/ field or 1/ 8 feet of bench
46. Government and public utility buildings and structures	Greater of: 2 or one per employee at location
47. Cemetery	10 plus one per acre
<b>INDUSTRIAL</b>	
48. Wholesale trade	1/ 700 retail square feet + 1/ 1,000 wholesale square feet
49. Motor vehicle wrecking yard	
50. Manufacturing	Greater of: a. 1/ 800 square feet (0 to 49,999 square feet) b. 63 plus 1/ 1,000 square feet over 50,000 (50,000 to 99,999 square feet) c. 113 plus 1/ 2,000 square feet over 100,000 (100,000 square feet or more) or 1/ employee
51. Stone, clay, glass and concrete products	
52. Fabricated metal products, except machinery	
53. Electronic and other electrical equipment and components, except computer equipment	
54. Transportation equipment	
55. Warehousing	Greater of: a. 1/ 5000 square feet (0 to 49,999 square feet) b. 10 plus 1/ 10,000 square feet over 50,000 (50,000 to 99,999 square feet) c. 15 plus 1/ 15,000 square feet over 100,000 (100,000 square feet or more) or 1/ employee
56. Motor freight transportation and warehousing	
57. Truck transportation	
58. Support activities for rail transportation	
59. Wholesale trade – durable goods	
60. Wholesale trade – Non-durable goods	
61. Recycling centers	
62. Asphalt or cement batch plants	
63. Agricultural practices	Exempt from the parking requirements
64. Telecommunication facilities	
65. Transit ground transportation	1 transit vehicle space per transit vehicle plus 1/ employee
66. Freight transportation arrangement	1/ employee
67. Self storage	1/ 6 storage units, maximum of 6 spaces
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. 2. There is no required parking ratio in the DDC zone per Section 3.07.07B.12. 3. See Tables 3.05C & E for minimum carpool/vanpool and electric vehicle parking and Table 3.05D for minimum bicycle parking. 4. In compliance with OAR 660-046-0220(2)(e).	

## 3.07 Architectural Design

The purpose of this Section is to set forth the standards and guidelines relating to the architectural design of buildings in Woodburn. Design standards can promote aesthetically pleasing architecture, increase property values, visually integrate neighborhoods, and enhance the quiet enjoyment of private property.

3.07.01 Applicability of Architectural Design Standards and Guidelines

3.07.02 Single Family, Manufactured Dwellings, & Dwellings Other Than  
Multiple-Family ("Middle Housing") on Individual Lots

3.07.03

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3.07.04 Dwellings in the Neighborhood Conservation Overlay District (NCOD)

3.07.05 Standards for Medium Density Residential Buildings

3.07.06 Standards for Non-Residential Structures in Residential, Commercial and  
Public/Semi Public Zones

3.07.07 Downtown Development and Conservation Zone

3.07.08 Mixed Use Village Zone

3.07.09 Nodal Neighborhood Commercial Zone

3.07.10 Industrial Zones

### **3.07.01 Applicability of Architectural Design Standards and Guidelines**

- A. For a Type I review, the criteria of this Section shall be read as "shall" and shall be applied as standards. For a Type II or III review, the criteria of this Section shall be read as "should" and shall be applied as guidelines.
- B. The following are exempt from the provisions of this Section:
  - 1. Any single-family, duplex, or manufactured dwelling that existed prior to October, 2005, except such dwellings located within the Neighborhood Conservation Overlay District (NCOD).
  - 2. New dwellings in Manufactured Dwelling Parks containing more than three acres.

### **3.07.02 Single-Family Dwellings, Manufactured Dwellings, & Dwellings Other Than Multiple-Family ("Middle Housing") on Individual Lots**

#### **A. Applicability**

This Section shall apply to all new single-family dwellings, dwellings other than multiple-family, and manufactured dwellings on individual lots. It shall apply also to subdivisions and Planned Unit Developments approved on or before August 12, 2013.

Manufactured dwellings have different standards for roofing; otherwise, all standards in this Section apply to manufactured dwellings.

#### **B. Minimum Requirements**

### **3.07.07 Downtown Development and Conservation (DDC) Zone**

#### **A. Applicability**

The purpose of these development standards is to guide the design of buildings constructed in the Downtown Development and Conservation (DDC) zoning district to ensure that, through appropriate use of facades, windows, building orientation, and architectural details, new structures and alterations of existing structures are physically and visually compatible with other buildings within the downtown business district. The majority of the existing buildings in downtown Woodburn reflect architectural styles that were popular during the late nineteenth and early twentieth century.

1. The provisions of this ordinance shall apply to the following activities within the DDC:
  - a. All new building construction;
  - b. New construction, restorations, and remodels. Restorations shall be defined as all exterior repairs, replacement of materials, alterations or changes, including reroofing, painting, window, and sign replacement, as well as any exterior building or site modification that requires a building permit;
  - c. All new signage.
2. This ordinance shall not apply to the following activities or uses:
  - a. Maintenance of the exterior of an existing structure, such as reroofing, residing, or repainting where similar materials and colors are used that comply with this ordinance;
  - b. Interior remodeling;
  - c. Single-family detached dwellings;
  - d. Single-family dwellings that are used for businesses or home occupations.
3. This ordinance shall apply only to those portions of a building or sign that are proposed for construction or modification, and shall not extend to other elements of the building or sign that may be out of compliance with the requirements of this ordinance (i.e., a permit to replace a single window shall not require that all other windows on the building that may be out of compliance with this ordinance to be replaced, unless such action is initiated by the property owner). However, if a building should be destroyed due to fire, accident, or an act of God, the new or replacement structure shall be rebuilt to conform to the requirements of this ordinance.
4. At the time of application, the applicant shall choose whether the Design Review shall be conducted as a Type I, II, or III review (Section 5.01, 5.02, 5.03). For a Type I review, the criteria of this Section shall be read as “shall” and shall be applied as standards. For a Type II or III review, the criteria of this Section shall be read as “should” and shall be applied as guidelines.

#### **B. Design Guidelines or Standards**

Standards for new construction shall require builders to conform to the architectural form of Woodburn’s historic period (1880’s through 1940’s). As such, new construction shall conform to the following standards listed below. The following list of buildings is provided as a reference guide to those buildings which display characteristics intended by the standards.

C. External Storage of Merchandise

The external storage of merchandise or materials, directly or indirectly related to a business, is prohibited.

D. Outdoor Displays of Merchandise

Outdoor displays of merchandise are permitted during business hours only, are limited to products sold within the building, and shall not exceed ten percent of the total indoor retail sales area. Displays of merchandise on public sidewalks along the storefront may not reduce usable walking area widths to less than four feet.

E. Outdoor Eating Areas

Outdoor cooking facilities and dining areas ~~are encouraged, and~~ are permitted on public sidewalks along the storefront of the associated business only if that business also sells those food products indoors. ~~Outdoor food vending carts are permitted. Eating areas or vending carts may not~~ Such areas may not reduce usable walking area widths on public sidewalks to less than four feet. ~~Mobile food kitchens are prohibited in the DDC district. Nothing within this provision is intended to prohibit the use of private property for such areas.~~



## 5.01 Type I (Administrative) Decisions

### **5.01 General Requirements**

- A. The purpose of this Section is to identify what types of actions are considered Type I decisions and their respective review criteria. Type I decisions do not require interpretation or the exercise of policy or legal judgment in evaluating approval criteria. The decision-making process requires no notice to any party other than the applicant.
- B. To initiate consideration of a Type I decision, a complete City application, accompanying information and a filing fee must be submitted to the Director. The Director will evaluate the application as outlined in this Section.

- 5.01.01 Access Permit to a City Street, excluding a Major or Minor Arterial Street
- 5.01.02 Design Review, Type I
- 5.01.03 Fence and Free Standing Wall
- 5.01.04 Grading Permit
- 5.01.05 Manufactured Dwelling Park, Final Plan Approval
- 5.01.06 Partition and Subdivision Final Plat Approval
- 5.01.07 Planned Unit Development (PUD), Final Plan & Design Plan Approval
- 5.01.08 Property Line Adjustment; Consolidation of Lots
- 5.01.09 Riparian Corridor and Wetlands Overlay District (RCWOD) Permit
- 5.01.10 Sign Permit
- 5.01.11 Significant Tree Removal Permit
- 5.01.12 ~~Temporary Outdoor Marketing and~~ Special Event Permit

### **5.01.01 Access Permit to a City Street, Excluding a Major or Minor Arterial Street**

- A. Purpose: The purpose of this review is to ensure conformance to City street access standards and this Ordinance (Section 3.04) in circumstances where the access is not subject to any other type of land use approval.
- B. Criteria: The proposed access shall conform to the applicable standards of access to public streets (Section 3.04).
- C. Procedure: The Director shall review the access permit and determine conformance to City standards.

**5.01.09 Riparian Corridor and Wetlands Overlay District (RCWOD) Permit**

- A. Purpose: The purpose of this review procedure is to ensure that all grading, excavation, fill, and vegetation removal (other than perimeter mowing and other cutting necessary for hazard prevention) within a delineated, significant wetland, complies with applicable City and State standards and procedures, including those of ORS Chapter 196 and Chapter 227 and OAR 660-023.
- B. Criteria:
  - 1. The applicable standards of this Ordinance and the findings and action proposed by the Division of State Lands; or
  - 2. A finding, verified by the Division of State Lands, of error in delineation of the RCWOD boundary.
- C. Procedure: The Director shall review the permit and approve it upon a determination that it meets the criteria of this ordinance.

**5.01.10 Sign Permit**

- A. Purpose: The purpose of this review is to ensure that signs comply with standards found within the Sign Standards (Section 3.10).
- B. Criteria: Applications shall be reviewed for compliance with the sign standards of this Ordinance.
- C. Procedure: The Director shall review proposal signs for compliance to City regulations.

**5.01.11 Significant Tree Removal Permit**

- A. Purpose: To ensure that the removal of Significant Trees conforms with Section 3.06.07 as well as the purposes of Section 3.06.07A.
- B. Applicability: Per Sections 3.06.07B & C.
- C. Criteria and procedure: Per Section 3.06.07.

**5.01.12 ~~Temporary Outdoor Marketing and~~ Special Event Permit**

- A. Purpose: The purpose of this review is to ensure that ~~temporary outdoor marketing or~~ special events conform to the standards of this Ordinance (Section 2.07.17).
- B. Criteria: ~~Temporary Outdoor Marketing and~~ Special Events shall conform to all standards of this Ordinance.
- C. Procedure: The Director shall review the application and shall approve a permit based on compliance with this Ordinance.



## Staff Report

<b>Project Name:</b>	Legislative Amendment (LA) 24-02: Food Carts & Food Cart Pods
<b>File Number:</b>	LA 24-02
<b>Initial Hearing Date:</b>	May 23, 2024
<b>Second Hearing Date:</b>	June 24, 2024
<b>Date of Report:</b>	July 16, 2024
<b>Staff Reviewers:</b>	Chris Kerr, Community Development Director Dan Handel, Planner
<b>Staff Recommendation:</b>	<u>Approval</u>

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### Issue before the City Council

Legislative Amendment (LA) 24-02 for adoption of an amendment to the Woodburn Development Ordinance (WDO). Proposed amendments focus on regulations for food carts and food cart pods.

### Executive Summary

Proposed amendments prioritize food cart facilities that are safe, clean, attractive, and accessible, while also not being too costly for property owners to pursue. The proposed amendments can be summarized as:

- Allowing food carts and food cart pods in all commercial and industrial zoning districts;
- Outlining development review criteria (parking, landscaping, seating areas, etc.);
- Requiring all food carts within a pod be connected to municipal water and sewer;

- Requiring street improvements for food cart pods similar to what would be required for a single-family dwelling;
- Specifying a review process for food carts and food cart pods; and
- Clarifying when food carts are eligible to apply for a Special Event Permit.

Proposed amendments apply only to a fraction of the hundreds of pages of the WDO and are attached in a ~~striketrough~~-and-underline format.

### *Background*

On August 28, 2023, the City Council passed Resolution No. 2218 initiating a broad scope of legislative amendments to the WDO. Included in the scope of amendments are regulations for food carts.

The Planning Commission held work sessions on March 14<sup>th</sup>, April 11<sup>th</sup>, and April 25<sup>th</sup> to discuss food carts and how to regulate them. At their May 23<sup>rd</sup> meeting, the Planning Commission held a public hearing and unanimously recommended approval of a WDO amendment package.

The City Council held a work session on June 10<sup>th</sup> to discuss the recommended amendments and held a public hearing on June 24<sup>th</sup>. At the work session and public hearing, Councilors shared concerns about implications of the recommended amendments on existing food cart operators throughout the community. As part of a tentative motion to approve LA 24-02, the Council requested a revised set of regulations that included an option for single food carts to operate outside of a food cart pod.

### *Purpose*

The proposed WDO amendments serve to address trends seen at the local, state, and national levels related to food carts, and will update the zoning code to allow food cart pods in Woodburn.

The City's current regulations for food carts don't align with market trends that we see nationwide. Food carts used to be a small niche in the overall restaurant market; they would be mobile, traveling to large employers during meal breaks or vending at special events (festivals, farmers markets, etc.), or they would locate more permanently in the densely populated downtown cores of large cities like Portland. More recently, food carts have become a popular alternative to brick-and-mortar restaurants for both chefs and patrons. It is now much more common to find a group of carts (a "pod") congregate throughout commercial areas in cities of all sizes. The proposed WDO amendments are intended to better align Woodburn with these trends by allowing food carts and food cart pods in all commercial and industrial zones.

Currently, the existing City rules allow food carts only in industrial zones and with minimal design/development standards. Cart operators consistently inquire about setting up in commercial zones where there is more visibility and higher traffic, and as a result they end up utilizing temporary special event permits to locate in these locations for up to 60 days. These special event permits create enforcement challenges for staff, and ultimately the operators are not able to stay permanently and grow their business. The proposed WDO amendments are intended to expand opportunities for cart operators to find permanent locations by allowing food carts and food cart pods in all commercial and industrial zones.

At the state level, the Oregon Health Authority (OHA) is the rulemaking body for food carts. In February of 2020, OHA adopted new rules for food carts so that counties could strengthen their enforcement of public health regulations. Specifically, these rules require water and wastewater tanks be integral to (contained within) the cart, otherwise the cart must hook up to municipal water and sewer lines. Implementation of these rules began in 2023 after a 3-year grace period however OHA and local public health agencies have been willing to work with food cart operators on compliance schedules if they've indicated they need more time. The proposed WDO amendments are intended to guide local food carts into compliance with these OHA rules.

### *Testimony*

Throughout the rulemaking process, staff and the Planning Commission heard from food cart operators, pod managers, and members of the public, all of whom provided valuable feedback and guidance. Specific individuals are listed below:

- Roy Long (1233 Riverbend Rd NW, Salem, OR 97304): Owner and developer of Checkpoint 221, a recently opened food cart pod in West Salem.
- John Stromquist (1590 Willamette Falls Dr, West Linn, OR 97068): Owner and developer of Willamette Garage, a food cart pod on the site of an old gas station in West Linn.
- Dalia Lopez (415 Oak St, Woodburn, OR 97071): A Woodburn resident who contacted staff to share support for the proposal.
- Lilia Bahena (264 SE 33<sup>rd</sup> Ave, Hillsboro, OR 97123): An individual interested in opening a food cart pod in Woodburn.
- Reynaldo Regino (17891 SW Tualatin Valley Hwy, Aloha, OR 97005): Owner/Operator of the Los Tacos Juan food truck that operates in the Sunshine Market parking lot along Settlemier Ave. Mr. Regino attended the Planning Commission public hearing but did not speak.
- Oscar Regino (695 N Settlemier Ave, Woodburn, OR 97071): Owner/Operator of the Los Tacos Juan food truck that operates in the Sunshine Market parking lot along Settlemier Ave. Mr. Regino testified at the Planning Commission public hearing to share support for the proposal.

- Margaret Coffey (845 Fairwood Crescent Dr, Woodburn, OR 97071): A Woodburn resident who testified at the Planning Commission public hearing to share support for the proposal.
- Theresa Smith (2603 Hazelnut Dr, Woodburn, OR 97071): A Woodburn resident who contacted staff to share support for the proposal.
- Scott Sharp (P.O. Box 337, Donald, OR 97020): Operator of the Oregon Smoke Shack food cart, who testified at the City Council public hearing in support of a single cart option.
- Matthew Ring (P.O. Box 337, Donald, OR 97020): Operator of the Oregon Smoke Shack food cart, who testified at the City Council public hearing in support of a single cart option.

### **Recommendation**

Approval: Staff recommends the Council consider the revised Woodburn Development Ordinance amendment package and adopt the ordinance to implement Legislative Amendment LA 24-02.

# Analyses & Findings

## Conformance with the Woodburn Development Ordinance

### 4.01 Decision-Making Procedures

#### 4.01.02 Assignment of Decision-Makers:

The following City entity or official shall decide the following types of decisions:

**E. Type V Decisions (Legislative):** Type V decisions involve legislative actions where the City Council enacts or amends the City's land use regulations, comprehensive plan, Official Zoning Map or some component of these documents. Type V decisions may only be initiated by the City Council. The Planning Commission holds an initial public hearing on the proposal before making a recommendation to the City Council. The City Council then holds a final public hearing and renders a decision. Public notice is provided for all public hearings (Section 4.01.14). The City Council's decision is the City's final decision and is appealable to LUBA within 21 days after it becomes final.

#### 4.01.09 Initiation of a Legislative Proposal

- A.** The City Council may initiate the consideration of a legislative decision by resolution.
- B.** Actions initiated by the Council shall be referred to the Planning Commission for a public hearing and recommendation to the Council.
- C.** The City Council shall hold the final public hearing on a proposed legislative decision.

The Planning Commission hearing was held on May 23, 2024, and the Commission unanimously recommended a package of amendments for City Council consideration. The City Council hearing is scheduled for June 24, 2024.

On April 5, 2024, staff sent a Post-Acknowledgement Plan Amendment (PAPA) notice to the Department of Land Conversation and Development (DLCD) in compliance with OAR 660-018-0020.

The City notified affected government agencies in conformance with WDO 4.01.14.D. on May 3, 2024, and published notice of both the Planning Commission and City Council hearings in the *Woodburn Independent* newspaper on May 15, 2024. Later for the City Council hearing, the City notified affected government agencies and interested parties in conformance with WDO 4.01.14.D. on June 4, 2024, and published notice of the City Council hearing in the *Woodburn Independent* newspaper on June 12 & 19, 2024.

✓ The provisions are met.

## Conformance with ORS 227.186

**Notice to property owners of hearing on certain zone change; form of notice; ...**

**(2) All legislative acts relating to comprehensive plans, land use planning or zoning adopted by a city shall be by ordinance.**

**EXHIBIT C**

Pending a decision from the City Council following its public hearing, the Council would be able to direct staff to return with an ordinance for adoption at a subsequent Council meeting.

**(3) ... at least 20 days but not more than 40 days before the date of the first hearing on an ordinance that proposes to amend an existing comprehensive plan or any element thereof, or to adopt a new comprehensive plan, a city shall cause a written individual notice of a land use change to be mailed to each owner whose property would have to be rezoned in order to comply with the amended or new comprehensive plan if the ordinance becomes effective.**

**(4) At least 20 days but not more than 40 days before the date of the first hearing on an ordinance that proposes to rezone property, a city shall cause a written individual notice of a land use change to be mailed to the owner of each lot or parcel of property that the ordinance proposes to rezone. ...**

**(5) An additional individual notice of land use change required by subsection (3) or (4) of this section shall be approved by the city and shall describe in detail how the proposed ordinance would affect the use of the property. The notice shall: . . .**

**(6) At least 30 days prior to the adoption or amendment of a comprehensive plan or land use regulation by a city pursuant to a requirement of periodic review of the comprehensive plan under ORS 197.628, 197.633 and 197.636, the city shall cause a written individual notice of the land use change to be mailed to the owner of each lot or parcel that will be rezoned as a result of the adoption or enactment. ...**

**(7) Notice provided under this section may be included with the tax statement required under ORS 311.250.**

**(8) Notwithstanding subsection (7) of this section, a city may provide notice of a hearing at any time provided notice is mailed by first class mail or bulk mail to all persons for whom notice is required under subsections (3) and (4) of this section.**

**(9) For purposes of this section, property is rezoned when the city...**

This legislative amendment does not propose any changes to the Woodburn Comprehensive Plan nor any rezoning of property.

Because the City is not changing the base zoning classification of property, in other words neither rezoning nor making a zone change, Sections (3), (4) and (5) above are not applicable. Because the proposed amendment is not pursuant to a requirement of periodic review, Sections (6) & (7) & (8) are not applicable.

**(10) The provisions of this section do not apply to legislative acts of the governing body of the city resulting from action of the Legislative Assembly or the Land Conservation and Development Commission for which notice is provided under ORS 197.047 or resulting from an order of a court of competent jurisdiction.**

The proposed legislative amendment does not result from actions of the Legislative Assembly or the Land Conservation and Development Commission (LCDC). ORS 197.047 is not applicable. As a result, the City of Woodburn is not required for LA 24-02 to do a "Measure 56" notice, the



phrase referring to Ballot Measure 56 (1998) that the legislature codified in ORS 227.186, which the legislature later revised via Senate Bill 516 (2003).

✓ The provisions are met.

July 22, 2024

TO: Honorable Mayor and City Council

FROM: Jim Row, Assistant City Administrator

SUBJECT: **Community Center Bond Measure Referral**

**RECOMMENDATION:**

Adopt a resolution referring a measure election for \$40 million in general obligation bonds for the construction of the community center project.

**BACKGROUND:**

In early 2017, the City Council initiated work to update the 2008 Community Center feasibility study after local stakeholders and interested residents expressed a desire to move the project forward since the economic climate had improved. The City Council affirmed its commitment to the community center project by adopting it as a 2019-2021 goal.

During the 2017 Regular Session, the Oregon Legislature authorized the award of a \$1,000,000 Lottery Bond Grant to the City for completing design drawings for the community center project.

Design work for the project began in June 2019 and was guided by the 22-person Citizens Advisory Committee (CAC). The CAC was tasked with reviewing the community center design work and providing feedback to the design team, City Administrator and City Council. A significant amount of additional public involvement, including numerous open houses, meetings with the Recreation & Parks Board and the City Council, online surveys, and a telephone survey of registered voters was critical to guiding the design of the project.

The preliminary design work was completed and presented to the City Council in late 2020. The full build-out cost was estimated at \$46.3 million at that time. However, construction costs have escalated significantly since, and are now estimated to be approximately \$60 million.

During the 2021 Regular Session, the Oregon Legislature awarded the City a \$15 million Lottery Bond Grant for the Community Center project. This funding was

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Agenda Item Review: City Administrator \_\_\_x\_\_\_ City Attorney \_\_\_x\_\_\_ Finance \_\_\_x\_\_\_

allocated by the Legislature in support of the City's efforts to complete the community center's architectural design and to fund a significant portion of its construction.

However, in November 2022, the Oregon Department of Administrative Services (DAS) informed staff that it would not issue the grant to the City, because they did not believe the City had secured enough of the remaining funds to ensure the project's viability. The City strongly disagreed with DAS's determination and filed a Petition for Judicial review in Marion County Circuit Court.

After extensive negotiations between the City and the Oregon Department of Justice (DOJ), a settlement was reached in early March 2023 that restored the funding, provided the City raise at least 85% of the project costs. If voters approve the bond measure in November, the \$15 million grant will become available for the City to spend on the project.

#### **DISCUSSION:**

Following the restoration of the \$15 million state grant, staff resumed work to prepare the project for a November 2024 bond measure election, including the creation and appointment of a 24-person Citizens Advisory Committee (CAC), and the hiring of a capital campaign consultant and an elections consultant.

The City has also committed an additional \$5 million in City funding toward the project, that would likely come from a combination of General Fund, ARPA, Parks System Development Charges, and Urban Renewal dollars. In fact, the adopted 2024-2025 budget created a Community Center Fund that was allocated transfers of \$1,385,000 from the General Fund and the ARPA fund. The passage of a \$40 million bond measure would raise the remainder of the funds required to fully fund the project. Staff is also working with the capital campaign consultant to secure additional funds for the project that would finance enhanced Settlemier Park amenities, such as a universally inclusive playground.

In preparation for the bond measure election, staff has been working closely with the City's elections consultant, Praxis Political, our financial consultant, Piper Sandler, and bond counsel, Hawkins, Delafield & Wood, LLP to ensure that the strategic, financial and legal approaches to the project are advanced in a sound manner.

### **PROJECT TIMELINE – NOVEMBER 2024 BOND MEASURE ELECTION**

A summary of the proposed project timeline is as follows:

<b>Project Item</b>	<b>Dates</b>
Ballot Language Submitted to Marion County Elections Official	August 2024
Bond Measure Election	November 2024
Complete Architectural & Engineering Design Work	December 2024 - Fall 2025
Community Center Construction	Fall 2025 – Fall 2027
Community Center Opens to the Public	Fall 2027

### **PROJECT TIMELINE – MAY 2025 BOND MEASURE ELECTION**

If the bond measure fails to pass during the November 2024 election, the City will evaluate the results of the election and determine whether or not to make another attempt at its passage during the May 2025 election. The May 2025 election would be the last time the City could pass a bond measure prior to the expiration of the \$15 million state grant.

The timeline and approach for resuming work on the architectural design for the community center will need to change in the event the bond measure fails in November 2024 and is placed on the May 2025 ballot. Since the \$15 million Lottery Bond grant will expire in April 2026, it will be necessary to complete the “Design Development” phase of the architectural design process immediately following an unsuccessful November 2024 election. This will ensure that the project continues moving along at the pace that will be necessary to expend the grant fund prior to its expiration. The remaining Design Development work is anticipated to take 3 months to complete at a cost of approximately \$1 million. This work could be funded by the Special Public Works Fund (SPWF) loan that was awarded to the City as a part of its settlement agreement with the state.

The following is the proposed timeline assuming a May 2025 bond measure election:

<b>Project Item</b>	<b>Dates</b>
Bond Measure Fails to Pass	November 2024
Evaluate Election Results and Determine Whether or Not to Place Project on May 2025 Ballot	November – December 2024
Complete “Design Development” Phase of Architectural & Engineering Design Work	January 2025 – March 2025
Ballot Language Submitted to Marion County Elections Official	February 2025
Bond Measure Election	May 2025
Complete “Construction Documents” Phase of Architectural & Engineering Design Work	June – December 2025
Community Center Construction	Winter 2026 – Winter 2028
Community Center Opens to the Public	Winter 2028

### **FINANCIAL IMPACT:**

The cost of constructing the community center was estimated at \$46.3 million in late 2020. Construction costs have escalated significantly since then and are now estimated to be approximately \$60 million.

The \$40 million in bonds are expected to be issued over a term of 20.25 years. With an estimated interest rate of 5.46%, the measure is expected to carry an estimated annual levy rate of \$.99 per \$1,000 of assessed value. The average assessed value for residential property in Woodburn is \$178,000 for the 2023-2024 tax year. This results in an estimated cost of almost \$15 per month or \$180 per year for the average homeowner. With \$20 million already available to begin work on the project, it is likely that the bonds would not be sold until March 2026.

**COUNCIL BILL NO. 3257**

**RESOLUTION NO. 2235**

**A RESOLUTION OF THE CITY OF WOODBURN CALLING A MEASURE ELECTION FOR GENERAL OBLIGATION BONDS; DECLARING INTENT TO REIMBURSE EXPENDITURES; AND RELATED MATTERS**

**WHEREAS**, the City of Woodburn, Oregon (the "City"), determines that it will benefit the City to obtain the authority to issue up to \$40,000,000.00 of general obligation bonds to finance a new community center, as more fully described in the form of ballot title attached as Exhibit A (the "Project"); and

**WHEREAS**, the Oregon Constitution, City Charter and ORS Chapter 287A allow the voters of the City to authorize the City to issue general obligation bonds for the Project; and

**WHEREAS**, ORS 287A.050 limits the amount of general obligation bonds in certain cases to three percent of the real market value of taxable property in the City, and issuing the bonds described in this resolution (the "Bonds") will not cause the City to exceed this limit; and

**WHEREAS**, the City anticipates incurring expenditures (the "Expenditures") to finance the costs of the Project and wishes to declare its official intent to reimburse itself for any Expenditures it may make on the Project from the proceeds of general obligation bonds which may be issued as tax-exempt obligations in multiple series, **NOW, THEREFORE**,

**THE CITY OF WOODBURN RESOLVES AS FOLLOWS:**

**Section 1.** A measure election is hereby called for the purpose of submitting to the electors of the City the question of issuing up to \$40,000,000.00 in principal amount of general obligation bonds to finance capital costs related to the Project.

**Section 2.** The City authorizes the City Administrator, Finance Director, or the designee of either of those officials (each a "City Official"), to act on behalf of the City and to take such other action as is necessary or appropriate to carry out the purposes and intent of this Resolution in compliance with the applicable provisions of law.

**Section 3.** Pursuant to ORS 250.285, the City Council approves the ballot title in substantially the form attached as Exhibit A with such changes as the City Official may approve.

**Section 4.** The City Council approves the explanatory statement in substantially the form attached as Exhibit B with such changes as the City Official may approve.

**Section 5.** Pursuant to ORS 250.275(5) and 250.285, the City Elections Officer shall publish in the next available edition of the Woodburn Independent, or in another newspaper of general distribution within the City, a notice of receipt of the ballot title including notice that an elector may file a petition for review of the ballot title pursuant to ORS 250.296.

The notice shall be in substantially the form attached to this resolution as Exhibit C with such changes as the City Official may approve.

**Section 6.** The City directs the City Elections Officer to submit to the County Clerk for Marion County a copy of this Resolution, ballot title, explanatory statement and all other necessary information so that the general obligation bond measure may appear on the ballot for the November 5, 2024 election.

**Section 7.** The City hereby declares its official intent pursuant to Treasury Regulation Section 1.150-2 to reimburse itself with the proceeds of the Bonds, which may be issued in one or more series, for any of the Expenditures incurred by it prior to the issuance of the Bonds.

**Section 8.** This resolution is effective immediately upon its adoption.

Approved as to form: \_\_\_\_\_  
City Attorney Date

Approved: \_\_\_\_\_  
Frank Lonergan, 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



## **EXHIBIT A**

### **NOTICE OF CITY MEASURE ELECTION**

#### **CITY OF WOODBURN MARION COUNTY, OREGON**

**NOTICE IS HEREBY GIVEN** that on November 5, 2024, an election will be held within the boundaries of the City of Woodburn, Marion County, Oregon. The election shall be conducted by mail. The following question will be submitted to the qualified voters thereof:

#### **CAPTION**

Bonds constructing community center for recreation, fitness, aquatics, and events

#### **QUESTION**

Shall Woodburn issue bonds for community center; pool and recreation upgrades; required audits, citizen oversight; won't exceed \$40 million dollars?

If the bonds are approved, they will be payable from taxes on property or property ownership that are not subject to the limits of sections 11 and 11b, Article XI of the Oregon Constitution.

#### **SUMMARY**

The City of Woodburn is working to transform the current Aquatic Center into a full-service community center to create a safe place for people of all ages and abilities to access recreation, wellness, and gathering opportunities. If the measure passes, bond proceeds would finance capital costs to provide a community center and related improvements expected to include:

- Indoor walking and jogging track
- Weights, cardio, exercise facilities
- Warm-water pool for recreation, therapy, exercise
- ADA accessibility upgrades to the Center and Settlemier Park
- Space for events, afterschool programs
- Upgrades to the existing lap pool
- Multi-court gymnasium
- New playground, outdoor sports courts, pathways

Annual audits and a citizen oversight committee to provide accountability.

Approval of this measure authorizes issuance of a principal amount of \$40 million of general obligation bonds. Bonds may be issued in multiple series, each maturing within 21 years.

The estimated annual tax rate is \$0.99 per \$1,000 of assessed value. Actual tax rate may differ due to interest rates and changes in assessed value.

## **EXHIBIT B**

### **FORM OF EXPLANATORY STATEMENT**

#### **Background**

First constructed in 1948, Woodburn's original outdoor pool was rebuilt into the current Woodburn Aquatic Center in 1995. The Aquatic Center offers swimming and exercise facilities which have been well used by residents. As Woodburn's population and needs expand, it has become clear that the aging facility, along with neighboring Settlemier Park, falls short of meeting the community's growing needs – including for accessibility requirements.

Woodburn has been exploring the idea of building a new Community Center since 2008. In response to the recommendation of the Citizens Advisory Committee and community feedback, the City Council is moving forward with the project now. \$15 million in matching funds were successfully secured from the state, however, they will only be available if the project is fully funded by Spring 2025.

#### **Use of Funds**

The Community Center project was developed with the goal of expanding access to recreational, health, and wellness programming for people of all ages and abilities, and providing a large gathering space that is currently lacking in Woodburn's diverse community. The expansion is expected to include:

- An event space and a community multi-purpose room with a commercial kitchen to host large events
- A drop-in childcare center for people using the facility and space for after school and summer programming
- ADA accessibility upgrades to the Center and Settlemier Park
- A two-court gymnasium for youth and adult sports leagues including basketball, pickleball, volleyball and other court sports
- The addition of a warm-water pool that would be more accessible for seniors and people with disabilities and available for family recreation, swim lessons, therapy and exercise classes
- Repairs and improvements to the existing lap pool
- Weights, cardio and exercise facilities that will provide expanded health and wellness opportunities including fitness, cardio and weight equipment, and class space
- An indoor walking and jogging track that can be used year-round for youth and adult fitness programs and exercise
- A new universally inclusive playground in Settlemier Park, tennis courts, outdoor sports courts, a picnic shelter, and pathways

The bond would increase accessibility to ensure people with disabilities and seniors can better access Settlemier Park and the Center. It would also allow for expanded programming opportunities, from swim lessons for kids to learn water safety skills, to after school and summer programs for youth and teens to continue learning, and activities to keep seniors engaged. A drop-in childcare center is also expected to be available for people using the facility.

**Cost**

If passed, the estimated annual tax rate is approximately \$0.99 per \$1,000 of assessed property value, or \$15 per month for the average homeowner in Woodburn. In most cases, assessed value is lower than market value. If the measure does not pass, the community center would not be constructed and taxes would not increase.

**Accountability**

The bond would require annual audits and an oversight committee that will ensure proceeds are used for intended purposes.

**Exhibit C**

**NOTICE OF RECEIPT OF BALLOT TITLE**

Notice is hereby given that a ballot title for a measure referred by the City of Woodburn has been filed with the City Elections Officer on July 22, 2024. The ballot title caption is "Bonds constructing community center for recreation, fitness, aquatics, and events". A copy of the ballot title is available from the City's Elections Officer. An elector may file a petition for review of this ballot title in the Marion County Circuit Court no later than 5:00 pm July 31, 2024, under ORS 250.296.

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Signature of City Elections Officer

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Date signed

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Printed name of City Elections Officer

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Title

This legal notice is to be published by the City Elections Officer in the Woodburn Independent, or in another newspaper of general distribution within the City.

July 22, 2024

TO: Honorable Mayor and City Council through City Administrator

FROM: Renata Wakeley, Special Projects Director  
Jesse Cuomo, Community Services Director

SUBJECT: **Community Center Fundraising Support and Coordination Agreement with Woodburn Proud, Inc.**

## **RECOMMENDATION:**

Authorize the City Administrator to execute the attached Fundraising Support and Coordination Agreement with Woodburn Proud, Inc., to support the Woodburn Community Center project, and upon good cause shown adjust the Fund Administrative Fee pursuant to the parameters outlined in the Agreement.

## **BACKGROUND:**

As part of the City's capital campaign and fundraising efforts to support the Community Center project, the City wishes to engage with a community-based nonprofit organization to work in coordination and partnership with City staff and our capital campaign and fundraising consultant.

In September 2023, the City Council authorized a contract with Rose City Philanthropy for capital campaign and fundraising consulting services. Under the guidance of Rose City, the City Council and Community Center Advisory Committee requested support from Woodburn Proud, Inc. to serve as the locally recognized non-profit organization with a similar mission and interests to accept contributions and donations in accordance with the provisions of 170(c)(2) of the Internal Revenue Code, as amended, that the City of Woodburn may not be eligible to receive.

## **DISCUSSION:**

The additional revenue approach serves to ensure the City is reaching out to a greater number of small and large donor prospects, including tax deductible donations for individual donors that wish to support the project, and larger grantors and foundations that do not include municipalities as eligible applicants. The attached contract was developed from a template provided by another Oregon municipality working on similar recreation campaigning and fundraising.

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

As Woodburn Proud engages in fundraising activities on behalf of the Community Center Project, all financial contributions, donations, gifts, grant funds, and other monetary payments received by the Foundation shall be deposited into the Fund and held in trust for the purpose of supporting the Community Center Project. The Foundation agrees that as part of accepting financial contributions into an established Fund, it shall provide a charitable donation receipt to applicable donors that complies with the IRS rules for written acknowledgements.

Woodburn Proud shall also assume responsibility for its own bookkeeping, investment management, tax reporting, auditing, and evaluation of Fund distributions, and furnishing to the City reports of all Fund income and expenses on at least a quarterly basis, and also upon written request of the City.

Woodburn Proud has confirmed they have the ability to establish a separate interest-accruing fund account specifically for this project to comply with the reporting and accounting conditions included in the attached agreement. The Woodburn Proud Board reviewed and approved the draft contract at their July 15<sup>th</sup> Board meeting.

An administrative fee of one percent (1%) but not to exceed three percent (3%) is included in the agreement. This is in keeping with other non-profit partnerships and agreements with municipalities to support community projects. While the administrative fee amount will be set at 1% at the start of the agreement, Staff is requesting that the City Council authorize the City Administrator to adjust the administrative fee amount in the future up to 3%, per the parameters of the Agreement and upon good cause shown.

Any other changes to the contract, beyond permitted adjustments to the Administrative Fee, would require review and approval by the City Council.

**FINANCIAL IMPACT:**

An administrative fee of one percent (1%) but not to exceed three percent (3%) is included in the agreement. This fee will be paid and collected out of Fund financial contributions/donations.

In addition, staff support to Woodburn Proud, Inc., in the form of applicable grant writing, grant administration, staff time and support to the Woodburn Proud Board and website assistance may be applicable, along with information and solicitation meetings with applicable foundations and funders.

## WOODBURN COMMUNITY CENTER FUNDRAISING SUPPORT & COORDINATION AGREEMENT

THIS Fundraising Support & Coordination Agreement (“Agreement”), effective upon the last date of signatures below, is made and entered into by the City of Woodburn, an Oregon municipal corporation (“City”) and Woodburn Proud, Inc., an Oregon domestic nonprofit corporation (“Foundation”) (collectively the “Parties”).

### BACKGROUND

- A. A mission of the City’s Community Services Department is to improve the quality of life for all Woodburn residents by providing public spaces and facilities for community utilization, recreation, and gatherings;
- B. The City currently owns and operates the Woodburn Aquatic Center as part of its Community Services Department programming and desires to expand the aquatic and other recreational opportunities as well as provide other community utilization, gathering, and social service spaces at the property generally located at 190 Oak Street (“Community Center Project”);
- C. The capital construction costs of the Community Center Project are estimated to exceed \$60 million;
- D. The City has secured \$15 million for the Project via State lottery bond funding and the City Council is likely to ask City voters to pass a general obligation bond measure for funding assistance as well;
- E. The City, through its Community Center Citizen Advisory Committee, has also initiated a capital campaign effort seeking additional private and public funding support to reduce the bond amount to the community and help bring the project to fruition;
- F. As part of the capital campaign effort, the City engaged Rose City Philanthropy (“Rose City”) for certain professional capital campaign and fundraising consulting services;
- G. As part of the capital campaign effort, the City now desires to also engage with a community-based nonprofit organization to work in coordination and partnership with City staff and Rose City as part of the fundraising effort for the Community Center Project;
- H. Woodburn Proud (the “Foundation”) is a tax-exempt, nonprofit corporation, with a mission of enhancing the quality of life within the City of Woodburn, Oregon, by providing funding for recreational, cultural, and community-building programs and facilities. This may include funding support for other non-profits within the Woodburn area offering recreational, cultural, or community-building programs, or partnerships



with local government agencies, such as the City of Woodburn or the Woodburn School District;

- I. The Foundation has recognition as an organization exempt from federal income tax as described in Section 501(c)(3) of the Internal Revenue Code as amended and is able to accept contributions in accordance with the provisions of 170(c)(2) of the Internal Revenue Code as amended for the purposes stated in its organizational documents;
- J. The City has requested that the Foundation create a Wholly Expendable Community Center Project Fund (the "Fund") for purposes of financially supporting the Community Center Project; and
- K. The Parties desire to enter into this Fundraising Coordination Agreement for the purpose of defining obligations related to the Fund and the relationship between the City and the Foundation in regard to their respective purposes, responsibilities, and accountability in executing a coordinated effort to fundraise for the Community Center Project.

NOW THEREFORE, the Parties agree as follows:

#### AGREEMENT

#### 1. Project.

1.1. Community Center Project. The Parties acknowledge that the scope of the Community Center Project includes the design and construction of a multi-generational, multi-cultural, multi-use community center facility in Woodburn, including expansion of and improvements to the existing aquatics and recreation center and Settlemier Park property (generally located at 190 Oak Street), for expanded indoor and outdoor recreation and event capacity.

1.2. Ownership. The City shall retain full ownership of, and liability for the property located at 190 Oak Street and all associated real and personal property included within the scope of the Community Center Project.

1.3. Design & Construction Responsibility. The City shall control and be responsible for the final design and physical renovation and construction of the Community Center Project; this includes the timeline for completing the project, formally soliciting bids or proposals for the project in accordance with state and local contracting rules, ensuring proper and appropriate selection of a bid or proposal for the project, entering into a contract for project-identified services, overseeing the performance of contracted services, and ensuring payment is made for any and all services and construction.

2. Fund. The Foundation shall create, run, and maintain the Fund, which shall be known as The Woodburn Community Center Project Fund and shall be identified as such by the Foundation and its Board in the course of administration and distribution thereof.

2.1. Fund Purpose. The Fund's purpose is to sponsor and cover costs related to the design, construction, and programming of the Community Center Project.

2.2. Contributions & Gifts to the Fund. As the Foundation engages in fundraising activities on behalf of the Community Center Project, all financial contributions, donations, gifts, grant funds, and other monetary payments received by the Foundation shall be deposited into the Fund and held in trust for the purposes identified through this Agreement. The Foundation agrees that as part of accepting financial contributions into the Fund, it shall provide a charitable donation receipt to applicable donors that complies with the IRS rules for written acknowledgements.

2.3. Fund Disbursements. The Parties agree that following establishment of the Fund, they will mutually agree to a future schedule for the distribution and disbursement of Fund income. It is anticipated that fund disbursements will be based on a quarterly schedule, however the Foundation agrees to abide by all immediate demands for disbursement/payment made by the City within ten (10) business days. All disbursement requests from the City will be made by formal invoice with payment instructions included. The Foundation agrees that all contributions, grants, gifts, and other monies deposited and held in the Fund may only be disbursed pursuant to the Fund Purpose and with direction from the City.

2.4. Fund Responsibility. In carrying out its responsibilities, the Foundation shall hold, manage, invest, and reinvest the Fund, and shall collect the income and shall pay and disburse moneys from the Fund, both principal and interest, for uses and purposes related to the Community Center Project and in accordance with the direction of the City, as long as such recommendations are in accord with the policies of the Foundation and meet the charitable purposes for which the Foundation was formed and supportive of the Purpose set forth in this agreement.

The Foundation shall assume responsibility for check writing, bookkeeping, investment management, tax reporting, auditing, and evaluation of Fund distributions, and furnishing to the City reports of all Fund income and expenses on at least a quarterly basis, and also upon written request of the City.

2.5. Administrative Fees. It is understood that the Foundation shall charge a fee to establish and manage the Fund, set as an annual "Administrative Fee." The annual fee will be assessed monthly, based on the Fund balance as valued at the beginning and end of each month. The rate of any Administrative Fees shall be mutually agreed upon by the Parties and may change during the life of the Fund, provided that the Administrative

Fees shall not exceed three percent (3%). The current Administrative Fees will start at one percent (1%).

2.6. Fund Accounting & Financial Management. The Foundation must obtain and maintain supporting documentation for all monies received and deposited into the Fund and for all disbursements and distributions out of the Fund. All fiscal records, accounting books, invoices, receipts, cancelled checks and any other accounting documents related to the Fund shall be kept by Foundation in accordance with generally accepted accounting principles for nonprofit entities under Oregon State and Federal rules.

The City shall have the right to inspect and audit all accounting reports, books, or records which concern Foundation's performance of services or activities under this Agreement. Inspection shall take place during normal business hours at Foundation's place of business, with all requested books, records, documents, and other evidence available within ten (10) business days of the City's request. The cost of any such audit shall be borne by the City.

2.7. Limitations. The Foundation shall not use Fund income for any costs incurred prior to the Effective Date of or after the expiration of this Agreement, or towards any ineligible or unallowable costs. Authorized or allowable costs exclude expenditures for any of the following: (i) religious instruction or recruitment; (ii) indirect costs and overhead not readily assignable to the Fund; and (iii) any activity prohibited by state, federal, or local law or rule.

2.8. Fraud & Abuse.

2.8.1. Definitions. (i) Fraud means an intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to himself or some other person and includes any act that constitutes fraud under applicable federal or state law; (ii) Abuse means provider actions that are inconsistent with sound fiscal or business practices and result in unnecessary costs, or in reimbursement for services that are not necessary or that fail to meet professionally recognized standards.

2.8.2. Fraud & Abuse Prevention Program. Foundation shall have a fraud and abuse prevention program in place that provides for the following: (i) written policies, procedures, and standards of conduct requiring that the Foundation and the Foundation's officers, employees, agents and subcontractors are committed to complying with all applicable federal and state standards; (ii) enforcement of standards through well-publicized disciplinary guidelines; (iii) internal monitoring and auditing; (iv) provisions for prompt responses to detected offenses and development of corrective action initiatives; and (v) provision for full cooperation with any federal, state, or local agency investigation including promptly supplying all data and information requested for their investigation.

2.9. Fund Dissolution & Close-Out. Foundation shall not dissolve the Fund without the express written authorization of the City. The Foundation's obligations to the City shall not end until all close-out requirements are completed and all Fund income has been otherwise directed and disbursed for the Community Center Project. Activities during a future close-out period shall include, but are not limited to: making final payments, providing final reporting data to the City necessary for the close-out, and determining the custodianship of records. Notwithstanding the foregoing, the terms of this Agreement shall remain in effect during any period that the Foundation has control over Fund income.

If Fund is dissolved prior to Project completion, Foundation will work with City to return any and all allocations to Fund for intended purposes to original grantor or negotiate re-use of funds with original granting party/grantor.

3. Fundraising Coordination. This Agreement also governs the Parties' understanding of the cooperation and coordination to occur in securing certain grant funding and private donations to support the Community Center Project. The Parties acknowledge that each organization has a unique role and interest in pursuing and accepting grant and private fund dollars/gifts to support the Project. By entering into this Agreement, the parties further acknowledge that it is in their mutual interest to coordinate their fundraising efforts for the benefit of the Woodburn community.

The Parties agree to engage in ongoing coordinated fundraising efforts and activities from the Effective Date of this Agreement through completion of the Community Center Project. The Parties agree that they will meet no less than monthly to discuss a generalized fundraising plan, fundraising goals, ongoing fundraising activities, correspondence plans and fundraising materials, grant opportunities and application procedures, and the preparation and arrangements for future fundraising events and activities.

4. City's Right & Responsibilities.

4.1. Point of Contact. The City shall designate and identify a point person(s) to work with Foundation under the terms of this Agreement. This individual(s) may work with the Foundation and its members on any number of plans and efforts to support Fundraising for the Community Center Project, including but not limited to, providing prepared fundraising correspondence, scripts, and other materials, supporting/staffing fundraising events, grant writing and administration, and supporting Foundation Board members in various staffing or administrative requirements that may be increased as a result of this Agreement.

The City's Community Services Director shall serve as the City's point of contact until or unless another individual is designated.

4.2. City Consultant Services. Through its fundraising efforts, the City has engaged Rose City for certain professional capital campaign and fundraising consulting services. It is the City's responsibility to manage and oversee the delivery of services under the identified contract, even where services may be provided to the Foundation directly.

4.3. Fundraising Program Evaluation. Through the duration of this Agreement, the City shall regularly evaluate the fundraising efforts of the Foundation with the intention and goal of providing certain oversight of activities in meeting identified objectives, encouraging positive growth and outcomes, and providing further supportive services as identified and within the capabilities of the Parties.

5. Foundation's Right & Responsibilities.

5.1. Point of Contact. The Foundation shall designate and identify a point of contact person to work with City and City-designated staff and consultants through the life of the Agreement. It is the expectation of the City that the point of contact would be present and available at all monthly meetings or would assign and send a designee in their place.

5.2. Fundraising. In coordination with the City and following the general fundraising plan(s) devised by the Parties during the scheduled monthly meetings, Foundation shall undertake and endeavor to carry out a variety of fundraising activities on behalf of the Community Center Project, including but not limited to, direct solicitations, email marketing, crowdfunding, fundraising events, mailers, grant writing/submissions, and sponsorships.

5.3. Online & Social Media Presence. Through the Term of this Agreement, Foundation agrees that it shall maintain an active and up-to-day online and social media presence for purposes of meeting the fundraising objectives outlined above. Upon execution of this Agreement, Foundation shall immediately undertake an effort with the City and Rose City to update and modernize its organizational webpage and establish or update other social media account platforms necessary to support the fundraising efforts outlined above.

6. Foundation Representations & Warranties. Foundation represents and warrants to the City that:

- (a) Foundation is a nonprofit and tax-exempt entity duly organized and validly existing in the State of Oregon;
- (b) Foundation has all necessary rights, powers, and authority under any organizational documents and under Oregon law to (i) execute this Agreement; (ii) incur and perform its obligations under this Agreement; and

(iii) receive deposits and gifts into the established Fund for the Community Center Project; and

- (c) There is no proceeding pending or threatened against Foundation before any court or governmental authority that if adversely determined would materially affect the ability of Foundation to carry out obligations under this Agreement.

The representations and warranties set forth in this Section are in addition to, and not in lieu of, any other representations or warranties provided by Foundation.

7. Default & Termination.

7.1. Default.

7.1.1. Foundation. Foundation will be in default under this Agreement upon the occurrence of any of the following events:

- (a) Foundation fails to use the Fund for the intended purpose described in the Agreement or otherwise fails to perform, observe, or discharge any of its covenants, agreements, or obligations under this Agreement;
- (b) Foundation fails or is unable to commence the Fundraising Activities within two (2) months following the Effective Date of this Agreement, or suspends Fundraising Activities for any period greater than one (1) month during the Agreement Term;
- (c) Any representation, warranty, or statement made by Foundation in this Agreement or in any documents relied upon by the City in undertaking Fundraising Activities is untrue in any material respect when made; or
- (d) A petition, proceeding or case is filed by or against Foundation under any federal or state bankruptcy, insolvency, receivership or other law relating to reorganization, liquidation, dissolution, winding up or adjustment of debts; in the case of a petition filed against Foundation, Foundation acquiesces to such petition or such petition is not dismissed within 20 calendar days after such filing, or such dismissal is not final or is subject to appeal; or Foundation becomes insolvent or admits its inability to pay its debts as they become due, or Foundation makes an assignment for the benefit of its creditors.
- (e) Foundation defaults on its established status described in 501(c)(3) of the Internal Revenue Code and any reporting requirements to maintain said federal or state status/timeline submission.

7.1.2. City. The City will be in default under this Agreement if, after 30 days written notice specifying the nature of the default, the City fails to perform, observe, or discharge any of its covenants, agreements, or obligations under this Agreement.

7.2. Remedies.

7.2.1. City Remedies. In the event Foundation is in default under Section 7.1.1, the City may, at its option, pursue any or all of the remedies available to it under this Agreement and at law or in equity, including, but not limited to: (i) termination of this Agreement under Section 7.3; (ii) requiring Foundation to complete, at Foundation's expense, additional activities necessary to satisfy its obligations or meet performance standards under this Agreement; (iii) initiation of an action or proceeding for damages, specific performance, or declaratory or injunctive relief; or (iv) exercise of its right of recovery of Fund income.

These remedies are cumulative to the extent the remedies are not inconsistent, and the City may pursue any remedy or remedies singly, collectively, successively or in any order whatsoever.

7.2.2. Foundation Remedies. In the event the City is in default under Section 7.1.2 and regardless of whether or not Foundation elects to terminate this Agreement, Foundation's sole monetary remedy will be, within any limits set forth in this Agreement, the amount of Fund Administrative Fees eligible for distribution to Foundation through the date of termination, less any claims the City has against Foundation. In no event will the City be liable to Foundation for any expenses, direct, indirect, consequential or otherwise related to termination of this Agreement or beyond the sum of the Administrative Fees available under this Agreement.

7.3. Termination.

7.3.1. Mutual. This Agreement may be terminated at any time by the mutual written consent of the Parties.

7.3.2. By the City. The City may terminate this Agreement as follows:

- (a) At the City's discretion, upon 30 days advanced written notice to Foundation;
- (b) Immediately upon written notice to Foundation should the City fail to receive funding or appropriations or other expenditure authority at levels

sufficient in the City's reasonable administrative discretion to perform its obligations under this Agreement;

- (c) Immediately upon written notice to Foundation, if federal or state laws, rules, regulations, or other guidelines are modified or interpreted in such a way that the City's performance under this Agreement is prohibited; or
- (d) Upon ten (10)-days written notice to Foundation, if Foundation is in default under this Agreement and such default remains uncured for ten (10) days after written notice is provided to Foundation.

7.3.3. By Foundation. Foundation may terminate this Agreement as follows:

- (a) Upon ten (10)-days written notice to the City, if the City is in default under this Agreement and such default remains uncured for 30 days after written notice is provided to the City.

8. Limitation of Liability. Foundation shall take all necessary precautions and shall be responsible for the safety of its employees, volunteers, agents, and subcontractors in the performance of all services and activities provided under this Agreement. The City shall not be liable for injury, damage, or loss suffered by Foundation, its employees, volunteers, agents, and subcontractors, not otherwise caused by the intentional acts of the City, its agents, employees, or contractors.

9. Indemnification. Foundation shall defend, indemnify, and hold the City, its officers, officials, employees, agents, and volunteers harmless from any and all claims, injuries, damages, losses or suits, including all legal costs and attorney fees, arising out of or in connection with Foundation's performance and activities under this Agreement, except for that portion of injuries and damages caused by the sole negligence of the City.

10. Records. Foundation shall grant the City and its duly authorized representatives, access to all books, accounts, records, reports, files, and other papers, or property pertaining to the administration, receipt and use of funds, to perform examinations and audits and make excerpts, transcripts and copies. Foundation shall retain and keep accessible all such books, accounts, records, reports, files, and other papers, or property for a minimum of six (6) years from closeout of the Fund hereunder, or such longer period as may be required by applicable law, or until the conclusion of any audit, controversy or litigation arising out of or related to this contract, whichever date is later.

Foundation shall also protect the confidentiality of all information concerning donors, contributors, grantors, supporters, sponsors, and grantees. Foundation shall not release or disclose any such information except as necessary for the administration of activities under this Agreement, as authorized in writing by the subject individual or entity, or as required by law. All records and files shall be appropriately secured to prevent access by unauthorized persons.



Foundation shall ensure that all its officers, employees and agents are aware of and comply with this confidentiality requirement.

11. Compliance with Applicable Law. Foundation shall comply with all federal, state and local laws, regulations, and ordinances applicable to this Agreement or to Foundation's obligations under this Agreement, as those laws, regulations and ordinances may be adopted or amended from time to time.

12. Non-Discrimination. Foundation shall provide all services and activities under this Agreement on a basis that does not discriminate against any person on the basis of the person's race, color, sex, sexual orientation, religion, ethnicity, national origin, age, disability, familial status, marital status, gender identity, source of income, veteran status, or membership in any other protected class under state or federal law.

13. Conflicts of Interest. No employee, agent, consultant, officer, elected official or appointed official of Foundation receiving funds and/or who exercise or have exercised any functions or responsibilities with respect to fundraising activities who are in a position to participate in a decision making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from the activity or have an interest or benefit from the activity or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds there under, either for themselves or those with whom that have family or business ties, during their tenure or for one year thereafter.

Foundation shall also establish safeguards to prohibit employees or volunteers from using their position for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business or other ties.

14. Relationship of the Parties. Nothing in this Agreement is intended, or is to be deemed to create a partnership or joint venture between the Parties. Foundation shall at no time hold itself out as a subsidiary or affiliate of the City. Further, nothing contained herein shall be deemed or construed by the Parties, nor by any third parties, as creating a relationship between the City and any officers, employees, volunteers, suppliers, contractors, or subcontractors used by Foundation to carry out any activities under this Agreement.

15. Notices. Any Notice provided for or concerning this Agreement shall be in writing and be deemed sufficiently given when personally delivered or mailed by Certified mail, to the respective address of each party as follows:

a) **Woodburn Proud, Inc.,** Attn: Kathy Figley, President, \_\_\_\_\_  
\_\_\_\_\_

b) **City of Woodburn,** Attn: Community Services Director, 270 Montgomery Street, Woodburn, Oregon 97071.

16. Assignments; Successors and Assigns. Foundation shall not assign or transfer any of its interest in this Agreement without the written consent of the City, such consent not to be unreasonably withheld. The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective successors and permitted assigns, if any.

17. No Third-Party Beneficiaries. No provision of this Agreement is intended or will be construed to confer upon or give to any person or entity other than the signatories to this Agreement any rights, remedies or other benefits under or by reason of this Agreement.

18. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding between the City and Foundation that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon. Foundation hereby agrees to the in personam jurisdiction of such court and waives any claims of an inconvenience forum.

19. Severability. The parties agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.

20. Merger Clause; Waiver. This Agreement constitute the entire agreement between the parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of the City to enforce any provision of this Agreement shall not constitute a waiver by the City of that of any other provision.

The parties have executed this Agreement effective as of the last date of signature specified below.

CITY OF WOODBURN,  
an Oregon municipal corporation

WOODBURN PROUD, INC.  
an Oregon domestic nonprofit corporation

\_\_\_\_\_  
Scott Derickson, City Administrator

\_\_\_\_\_  
Kathy Figley, President

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

July 22, 2024

TO: Honorable Mayor and City Council (acting in its capacity as the Local Contract Review Board) through City Administrator

FROM: Curtis Stultz, Public Works Director

SUBJECT: **Award of Construction Contract for the Woodcrest Court Paving Project**

**RECOMMENDATION:**

Award the construction contract for the Woodcrest Court Paving Project to the lowest responsible and responsive bidder, Brix Paving Northwest, Inc., in the amount of \$141,678.20. Staff is requesting approval of an additional \$40,000 for this project as a contingency for potential change orders that may arise during construction.

**BACKGROUND:**

During the summer of 2023 the Water Department upsized the existing waterline which serves Woodcrest Court, thus increasing the fire flow available for firefighting activities. The Woodcrest Court Paving Project was let out to bid to restore the pavement surface.

The project consists of a partial reconstruction of Woodcrest Court. The top 12" of existing pavement and subgrade will be removed, and 8" of base rock and 4" of asphalt will be replaced. The existing curb and sidewalk will remain, except for a small area of sidewalk restoration.

At the request of the Street Department, three off-site Asphalt Concrete Pavement Repairs were also included in the Project. Asphalt Concrete Pavement Repairs involve the removal of the existing road surface to a depth of 8" and replacing it with 4" of aggregate base and 4" of asphalt. Each off-site location is approximately 600 square feet in area.

Bids for the Project were publicly opened June 25, 2024. Six (6) bids were received, and the results are as follows:

Brix Paving Northwest, Inc.

\$141,678.20

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Agenda Item Review: City Administrator \_\_\_x\_\_\_ City Attorney \_\_\_x\_\_\_ Finance \_\_\_x\_\_\_

Jesse Rodriguez Construction	\$149,382.50
Knife River Construction Northwest	\$158,827.80
Settje Sons Paving	\$177,336.50
North Santiam Paving	\$179,952.00
Kerr Contractors	\$190,739.00

The Engineer's Estimate for the project was: \$134,895.00

The recommended award is approximately 5% higher than the Engineer's Estimate.

**DISCUSSION:**

The contract award is in conformance with public contracting laws of the State of Oregon as outlined in ORS Chapter 279C, and the laws and regulations of the City of Woodburn.

**FINANCIAL IMPACT:**

The subject project is identified in the adopted fiscal year 2024/25 Budget and funded by the Street & Storm Capacity Construction Fund (Fund 363) under the Capital improvements, Capital Construction Projects, Current Year Projects.