



Final Decision

City Council

File number(s): SUB 2020-02, VAR 21-04, & ZC 21-01 Related to ANX 2020-02

Project name: Valentina Estates No. 2

Date of decision: January 10, 2022

Applicant: Vassa Bodunov, Northwest Willamette Homes LLC, 14768 Union School Rd NE, Woodburn, OR 97071-8626

Landowner: Same as applicant

Site location: 1251 Brown St; Tax Lot 051W18C000900

Summary: First, the Planning Commission held a public hearing on October 14, 2021 and unanimously recommended that the City Council approve the consolidated applications package (Type IV) with the conditions recommended by staff through the staff report published October 7.

Second, the City Council held a public hearing on December 13, 2021 and unanimously tentatively approved the consolidated applications package with the conditions recommended by staff through the Commission staff report.

The development applications depend upon annexation ANX 2020-02 through the annexation and zoning designation ordinances the Council is to have adopted January 10, 2022. (Ordinances take effect on the 30th day after adoption per the City Charter, Chapter VIII, Section 34, p. 10.)

The request was for annexation, zone change, preliminary subdivision, and variance to develop a demolished rural homestead of approximately 0.95 acres into 5 lots including 3 flag lots, Lots 2-4.

The variance request was for Lots 2 & 3 to measure lot depth north-south from the shared access easement instead of east-west from the front lot lines parallel to Brown Street as WDO 1.02 "Lot ... Flag lot" and Figure 1.02D would have required.

The subject property is in the Residential Single Family (RS) zoning district.

No parties testified besides the applicant.

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

Conditions of Approval:

General

G1. As part of building permit application, the applicant shall submit revised site plans meeting the conditions of approval and obtain Planning Division approval through sign-off on permit issuance.

G2. The applicant or successors and assigns shall develop the property in substantial conformance with the final plans submitted and approved with these applications, except as modified by these conditions of approval. Were the applicant to revise plans other than to meet conditions of approval or meet building code, even if Planning Division staff does not notice and signs off on building permit issuance, Division staff retains the right to obtain restoration of improvements as shown on an earlier land use review plan set in service of substantial conformance.

G3. References: Attachment 201 serves as a dictionary or glossary defining certain abbreviations, acronyms, phrases, terms, and words in the context of the conditions of approval. The 200 series of attachments are as binding as the conditions of approval in the main body of the final decision.

G4. Due dates / public improvements:

- a. PLA/PAR/SUB: Unless a condition specifies otherwise, conditions inc. those relating to any of final subdivision, final partition, property line adjustment or lot consolidation recordation are due by any of (1) before completion of recordation with the County, specifically no later than a City official signing a plat or re-plat Mylar per WDO 5.01.06C.1 and (2) building permit application, whichever is earlier. Also prior to both any recordation of any final subdivision, final partition, or property line adjustment and any of (1) and (2), whichever of (1) or (2) is earlier, the applicant shall submit and obtain Planning Division approval of an [Address Assignment Request](#). (For suggested addresses to request, refer either to the Pre-App PRE 2020-15 follow-up notes p. 6. or to the staff report / final decision “Notes to the Applicant” section that comes after the conditions, Note 18.)
- b. Dedications & Construction: Unless a condition specifies otherwise, ROW and easement dedications and recordation(s), construction of frontage/street improvements, and construction of off-site, park, and other public improvements are due by any of (1) before completion of recordation with the County, specifically no later than a City official signing a plat or re-plat Mylar per WDO 5.01.06C.1 and (2) building permit application, whichever is earlier. Where phasing is relevant, building permit issuance means issuance for the phase in which the conditioned improvement is located.

G5. Recordation due dates: The applicant shall apply to the County for recordations of items that the City requires no later than six (6) months prior to expiration of the land use approval as WDO 4.02.04B establishes, and shall complete recordations no later than three years past the land use “final decision” date. The due date to complete recordations shall not supersede when recordations are due per Condition G4.

G6. Improvements civil engineering plan (CEP) review: Per Attachment 203.

G7. Final plat application: The developer shall, prior to recordation with the County, apply to the City for Subdivision Final Plat Approval per WDO 5.01.06.

G8. Fees: The developer shall pay fees per Attachment 206.

G-PW. Public Works: The developer shall follow the appended PW comments (October 7, 2021; Attachment 102A).

Preliminary Subdivision 2020-03

SUB-1. Administration and documents: Per Attachment 202.

SUB-2. Brown Street: The developer shall:

- a. Streetside PUE: Dedicate 5 ft per WDO 3.02.01B and no wider per Condition V2a.
- b. Bicycle lane: Be required to construct per Condition V2b.
- c. Landscape strips: In addition to street trees per Condition V2d, landscape and irrigate per Condition V2c.
- d. ROW: Dedicate ROW to result in min 36 ft west of centerline to meet or exceed the min width necessary to conform to WDO Figure 3.01D.
- e. Improvements: Improve per both the half-street of Figure 3.01D plus 4 ft additional width of pavement east of centerline to conform to WDO 3.01.03C. Bury electric power lines per Condition V3.
- f. Subsurface/underground: Construct subsurface or underground improvements for potable water, sanitary sewer, and drainage or stormwater management as PW directs.

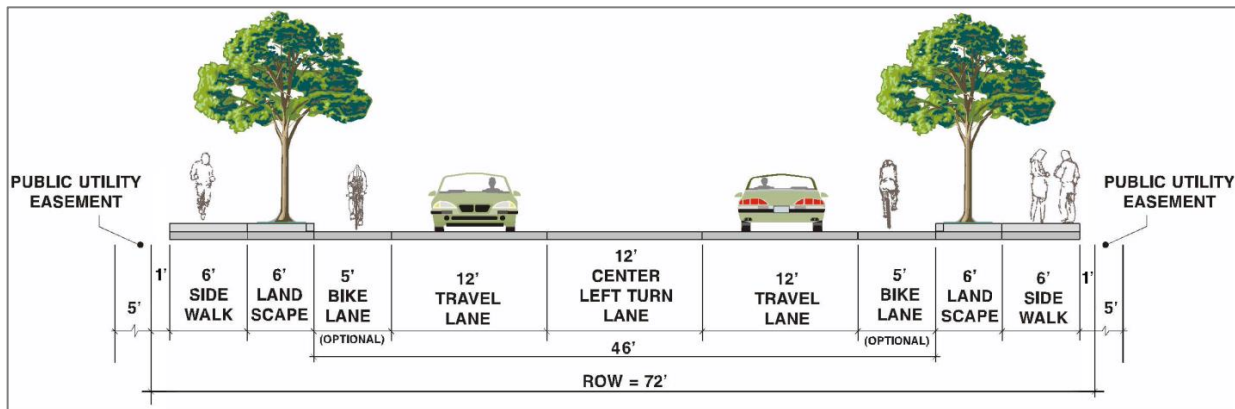


Exhibit SUB-2: Figure 3.01D – Service Collector

SUB-3. Access management and public shared access:

- a. Access management: The developer's choice of either Lot 1 or 5 is prohibited from its own direct driveway access to Brown Street and shall take vehicular access from the shared access driveway shared among Lots 2-4. The driveway on the remaining lot shall be max width per Condition V5.
- b. Shared access easement: To meet WDO 3.04.0A.2 & 3.04.03B.1, the developer shall establish a public shared access easement minimum 20 ft wide if the shared driveway is curbless, 21 ft if with curbs, or wider depending on how the developer conforms to walkway Condition V4, and revocable only with the concurrence of the Director. The easement centerline shall follow that of those of the shared driveway and extend between ROW and each driveway stub.

- c. Text: The easement shall grant public access (ingress/egress) to and from Brown Street to the benefit of Lots 2-4 as well as either Lot 1 or 5 and include the following text: "Pursuant to Woodburn Development Ordinance (WDO) 3.04.03B.3, the public shared access (ingress and egress) right of this easement is revocable only with the written concurrence of the Community Development Director."
- d. Driveway: The driveway shall be maximum 20 ft wide if curbless or 21 ft if with two 6-inch curbs. The developer may sharpen the appearance of the turn radius of the driveway "T" by installing "grasscrete". The developer shall pave the south jut of the fire apparatus turnaround to the south property line, without curbing, to be adjacent to Lot 2 or Lots 1 & 2 of a preliminary subdivision of the Brown Street Properties, including 1550 Brown Street, proposed through Pre App PRE 21-25 as Exhibit SUB-3 below illustrates.

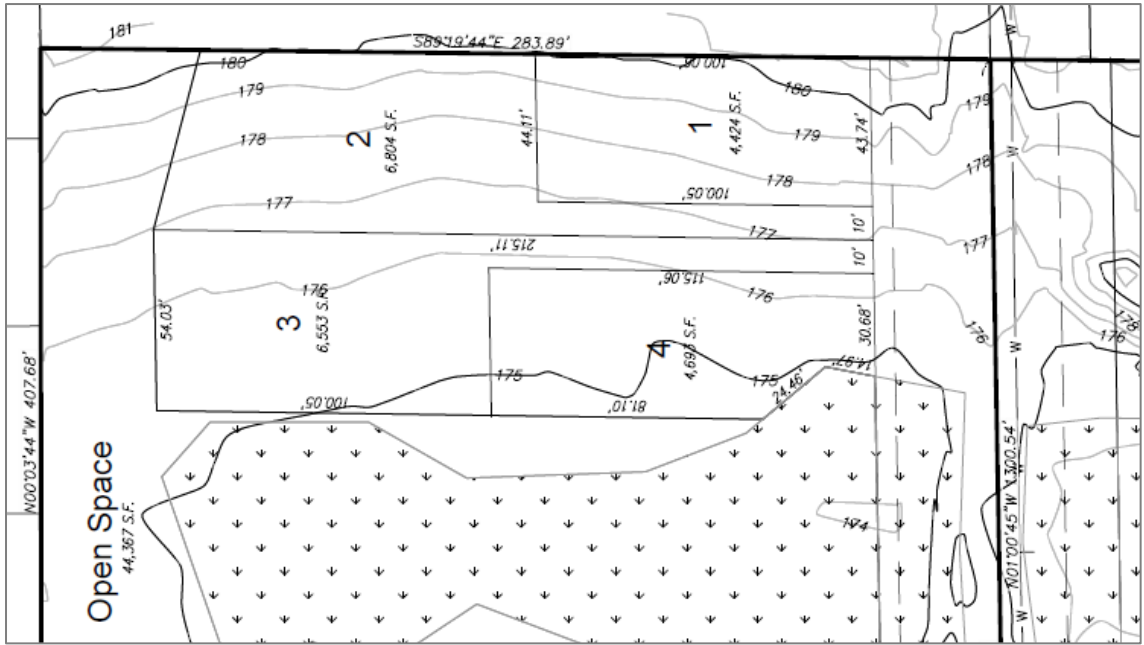


Exhibit SUB-3: PRE 21-25 draft subdivision plan

- e. Review: Regarding Condition G4, the developer shall submit a draft easement text and draft Exhibit A legal description and Exhibit B drawing prior to recordation and bundled with other materials for review regarding conditions that are due prior to final plat approval by the City.
- f. Utilities / off-street PUE: Atop the shared access driveway, the developer shall dedicate an off-street PUE minimum width 16 ft that both secures access to public utilities by each of min Lots 2-4 and to accomplish such as PW directs.
- g. Maintenance agreement: To meet WDO 3.04.03B.1 & 3, the developer shall establish a shared driveway private maintenance agreement addressing surface and subsurface/underground shared improvements. The developer need not submit a draft for Director review prior to recordation, but shall submit a copy of the recorded document by, as an exception to any conflicting general condition about due dates, building permit application.

Variance 21-04

V1. Lot depth: Varying from WDO 1.02 “Lot ... Flag lot” and Figure 1.02D, the developer may apply the lot depth standard for Lots 2 & 3 north-south instead of east-west.

V2. Brown Street: The developer shall:

- a. Streetside PUE: Not dedicate streetside PUE wider than 5 ft, with allowance for a jut or juts around fire hydrants to meet OFC as administered by the independent Woodburn Fire District or public works construction code.
- b. Bicycle lane: Construct the WDO Figure 3.01D west half-street bicycle lane, and stripe it both to be *MUTCD*-compliant and as PW directs.
- c. Landscape strips: Landscape the landscape strip or strips area remaining after street tree plantings with lawn grass or, if the City Engineer in writing allows, a species of groundcover. Cobblestones, gravel, pebbles, and rocks are prohibited. Bark dust, mulch, or wood chips are permissible only within the immediate vicinity of a street tree trunk. The developer shall install landscape strip irrigation, and shall provide temporary irrigation during construction, per the public works construction code.
- d. Street trees: Plant min 4 street trees inc. w/ root barriers as Attachment 201 defines. Fees in-lieu, if any, shall be per Attachment 206.

V3. Burial of electric power lines: The developer shall do either (a.) or (b.):

- a. Bury: At the site SE corner, remove from the electric power pole from the ROW, bury under the presently unpaved ROW the power line(s) that cross SW from the SE corner of Brown Street and the manufactured dwelling park driveway. (See Sheet C2.0 Existing Site Conditions as Attachment 103B for context). If the electric utility directs, it is permissible to install a new pole or poles within the easterly side of the Brown Street ROW beyond the gravel road to accomplish the lines going into and coming out of the ground east of the road. This shall be due the same as per Condition G4b; or
- b. Pay: Pay an electric power pole removal and line burial fee per Attachment 206.
- c. On-site: On site (outside ROW), the developer shall bury or underground all utility services per WDO 3.02.04C.

V4. Shared access walkway: The developer shall provide for shared walking access by constructing an ADA-compliant walkway min 3.5 ft wide, including curb width, along the required shared access driveway and that connects to each of Lots 2-4 as follows:

- a. Alignment/route: The walkway may follow the driveway within or outside it. The walkway may be part of mountable curb if the flat area above the slope is min width 3.5 ft.

- b. Pavement: The walkway may be asphalt, poured concrete, or concrete pavers.
 - (1) If asphalt: Whether within the driveway 20-ft width of asphalt or as additional width of asphalt, the walkway shall be hatch-striped, similar to an ADA parking stall accessible aisle, min width 3.5 ft to distinguish it from adjacent vehicular area.
 - (2) If concrete: (a) if outside the driveway 20-ft width, then raised min 4 inches or (b) if within, then raised through mountable curbing. Either way, a concrete walkway shall be constructed to the same PW structural support, thickness, and slope specifications as for sidewalk.
- c. Access easement: The shared access easement shall cover the walkway area. The walkway shall be constructed to the same PW structural support, thickness, and slope specifications as for sidewalk.
- d. Plan review: Drawings and documents necessary to administer the condition are due by building permit application, and walkway construction is due by final inspection.

V5. Driveway max: The shared driveway shall be 20 ft wide max measured between curbing, if any, unless the OFC as administered by the independent Woodburn Fire District causes driveway width to exceed the max, and the driveway approach / apron / curb cut for Lot 1 or 5 shall be 16 ft wide max and located no farther than 6 ft from the shared driveway curb cut.

V6. Bond / bonding / performance guarantee: If the City accepts a request to review bonding construction of public improvements, review and approval, if any, shall be per Attachments 204 & 206.

V7. Significant Tree removal: For any and every Significant Tree the developer would remove, the developer shall pay a fee per Attachment 206.

V8. Architecture: Where a WDO 3.07.03 provision regulates a dwelling front, for each dwelling on Lots 2 & 3 the provision shall apply to the south facade.

V9-T. Bus transit fee: To further transportation demand management (TDM) through bus transit, the developer shall pay a bus transit fee per Attachment 206.

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

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

Notes to the Applicant:

1. Records: Staff recommends that the applicant retain a copy of the subject approval.
2. Fences, fencing, & free-standing walls: The approval excludes any fences, fencing, & free-standing walls, which are subject to WDO 2.06 and the permit process of 5.01.03.
3. Signage: The approval excludes any private signage, which is subject to WDO 3.10 and the permit process of 5.01.10.
4. SUB Time Limit: WDO 4.02.04B. specifies that, "A final decision on any application shall expire within three years of the date of the final decision unless: 1. a building permit to exercise the right granted by the decision has been issued; 2. the activity approved in the decision has commenced; or 3. a time extension, Section 4.02.05, has been approved. Because unrecorded re-plats lingering indefinitely have burdened staff, a condition sets sooner time limits for subsection 2. to begin and finish recordation.
5. Mylar signature: The Community Development Director is the authority that signs plat Mylars and not any of the mayor, City Administrator, Public Works Director, or City Engineer. Only one City signature title block is necessary.
6. PLA Plat Tracker: Marion County maintains a plat tracking tool at <http://apps.co.marion.or.us/plattracker/>. Use it to check on the status of a recordation request to the County. City staff does not track County plat recordation.
7. Technical standards:
 - a. Context: A reader shall not construe a land use condition of approval that reiterates a City technical standard, such as a PW standard, to exclude remaining standards or to assert that conditions of approval should have reiterated every standard the City has in order for those standards to be met.
 - b. Utilities: A condition involving altered or additional sidewalk or other frontage/street improvement that would in the field result in displacement or relocation of any of utility boxes, cabinets, vaults, or vault covers does not exempt the developer from having to move or pay to move any of these as directed by the City Engineer and with guidance from franchise utilities.
8. Other Agencies: The applicant, not the City, is responsible for obtaining permits from any county, state and/or federal agencies, which may require approval or permit, and must obtain all applicable City and County permits for work prior to the start of work and that the work meets the satisfaction of the permit-issuing jurisdiction. The Oregon Department of Transportation (ODOT) might require highway access, storm drainage, and other right-of-way (ROW) permits. All work within the public ROW or easements within City jurisdiction must conform to plans approved by the Public Works Department and must comply with a Public Works Right-of-Way permit issued by said department. Marion County plumbing permits must be issued for all waterline, sanitary sewer, and storm sewer work installed beyond the Public Right-of-Way, on private property.

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

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

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

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

18. Street addresses: Suggested addresses for the developer to apply for are:

- Lot 1 = 1241 Brown Street
- Lot 2 = 1245 Brown Street
- Lot 3 = 1251 Brown Street (retain)
- Lot 4 = 1255 Brown Street
- Lot 5 = 1261 Brown Street.

Appeals: The decision is final unless appealed to the Oregon Land Use Board of Appeals (LUBA) pursuant to Oregon Revised Statutes (ORS) and Oregon Administrative Rules (OAR) 661-010. The appeal due date is “on or before the 21st day” after the decision date per OAR 661-010-0015(1)(a). A valid appeal must meet the rules. If appealing to LUBA, as a courtesy inform City staff in writing.

A copy of the decision is available for inspection at no cost, and the City would provide a copy at reasonable cost at the Community Development Department, City Hall, 270 Montgomery Street, Woodburn, OR 97071-4730. For questions or additional information, contact Cassandra Martinez, Administrative Specialist, at (503) 982-5246 or cassandra.martinez@ci.woodburn.or.us.

Testifiers:

<i>Name</i>	<i>Address</i>	<i>Planning Commission</i>		<i>City Council</i>	
		<i>Written</i>	<i>Verbal</i>	<i>Written</i>	<i>Verbal</i>
n/a: none					

Attachments:

- Planning Commission October 14, 2021 Staff Report Attachment 101. Marked Tax Map
- 102A. Public Works comments (Oct. 7, 2021; 2 pages)
- 103B. Site plan existing site conditions Sheet C2.0 (dated May 4, 2021; submitted May 5, 2021)
- 103C. Marion County Assessor's Office aerial view of tree canopies (Oct. 6, 2021)
- 103D. Site plan Sheet C1.0 (dated July 23, 2021; submitted July 26, 2021)
- 104. Transportation System Plan (TSP) Fig. 2 "Functional Roadway Classification"
- 201.* ANX 2020-02 Valentina Estates No. 2: Dictionary & Glossary
- 202. ANX 2020-02 Valentina Estates No. 2: Administration Provisions
- 203. ANX 2020-02 Valentina Estates No. 2: Civil Engineering Plan (CEP) Review Provisions
- 204. ANX 2020-02 Valentina Estates No. 2: Performance Guarantee / Bond / Bonding Provisions
- 205. [Number skipped.]
- 206. ANX 2020-02 Valentina Estates No. 2: Conditioned Fees

*The 200 series of attachments are details for the conditions of approval.

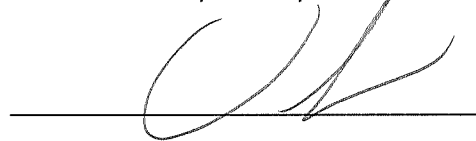
Sincerely,



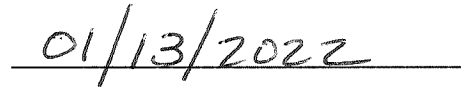
Colin Cortes, AICP, CNU-A

Senior Planner

As authorized by the City Council on January 10, 2022



Eric Swenson, Mayor



Date

ES/cmc

cc: Chris Kerr, Community Development Director

Dago Garcia, P.E., City Engineer

Melissa Gitt, Building Official

Jason Space, GIS Technician

Vassa Bodunov, Northwest Willamette Homes LLC, 14768 Union School Rd NE, Woodburn, OR 97071-8626 (applicant)

Gerald Horner, Engineer, Willamette Engineering, P.O. Box 9032, Salem, OR 97305-0032 (applicant's representative)

Testifiers: n/a

Oregon Dept. of Revenue (DOR)

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

Dani Morley, Oregon Secretary of State Archives Division

Marion County Assessor's Office

Marion County Geographic Information System (GIS)

Marion County Public Works Dept.

ANX 2020-03 Dove Landing PUD:
Attachment 201: Dictionary & Glossary

This document defines and explains abbreviations, acronyms, phrases, and words particularly in the context of conditions of approval.

- “ADA” refers to the federal Americans with Disabilities Act of 1990.
- “CEP” refers to civil engineering plan review, which is a review process independent of land use review led by the Community Development Department Planning Division and that is led by the Public Works Department Engineering Division through any application forms, fees, and review criteria as the Division might establish. A staff expectation is that CEP follows land use review and approval, that is, a final decision, and precedes building permit application.
- “County” refers to Marion County.
- “Director” refers to the Community Development Director.
- “exc.” means excluding.
- “ft” refers to feet.
- “max” means maximum.
- “min” means minimum.
- “Modal share” means the percentage of travelers using a particular type of transportation or number of trips using a type, as examples walking, cycling, riding transit, and driving.
- “Modal shift” means a change in modal share.
- “MUTCD” refers to *Manual on Uniform Traffic Control Devices* of the U.S. Department of Transportation (U.S. DOT) Federal Highway Administration (FHWA).
- “NE” means northeast.
- “NW” means northwest.
- “OAR” refers to Oregon Administrative Rules.
- “o.c.” refers to on-center spacing, such as of trees or shrubs.
- “ODOT” refers to the Oregon Department of Transportation.
- “ORS” refers to Oregon Revised Statutes.
- “PUE” refers to public utility easement, whether along and abutting public ROW (“roadside” or “streetside” PUE) or extending into or across the interior of private property (“off-street” PUE). In the context of property line adjustment, partition, or subdivision, the developer records through the plat with drawings and notes on the face of the plat. Absent this context, recordation is separate from land use review pursuant to a document template or templates established by PW. PW is the project manager for receiving, reviewing, accepting, obtaining City Council approval for, and recording public easement materials that a developer submits.

- “PW” refers to the Public Works Department.
- “Root barrier” refers to that illustrated by PW SS&Ds, [Drawing No. 1 “Street Tree Planting New Construction”](#).
- “ROW” refers to right-of-way.
- “RPZ” refers to root protection zone in the context of tree preservation.
- “SE” means southeast.
- “SDA” refers to site development area, the entire territory that is the subject of the land use application package.
- “sq ft” refers to square feet.
- “SS&Ds” refers to PW [standard specifications and drawings](#).
- “Street trees” refer to trees that conform to the WDO, including 3.06.03A and Tables 3.06B & C, and that have root barriers where applicable per PW [Drawing No. 1 “Street Tree Planting New Construction”](#).
- “Substantial construction” means that all grading necessary to accommodate full construction of both public improvements and common area improvements is complete, the developer constructed and dedicated all required public improvements, and the developer improved and dedicated all required common area tracts.
- “SW” means southwest.
- “Tot.” means total.
- “TDM” refers to transportation demand management, which means according to the TSP (p. 82), “a policy tool as well as a general term used to describe any action that removes single occupant vehicle trips from the roadway during peak travel demand periods”, and according to Wikipedia as of October 13, 2020, “the application of strategies and policies to reduce travel demand, or to redistribute this demand in space or in time.”
- “TSP” means the [Woodburn Transportation System Plan \(TSP\)](#).
- “Walkway” refers to what would otherwise be called sidewalk except the paved walking surface is on private property outside of any of ROW or an easement granting public access.
- “WDO” refers to the [Woodburn Development Ordinance](#).
- “WFD” refers to the Woodburn Fire District.
- “WTS” refers to the Woodburn Transit System.
- “w/i” means within.
- “w/o” means without.
- “VCA” refers to vision clearance area as WDO 1.02 and 3.03.06 establish or as a specific condition establishes.

ANX 2020-02 Valentina Estates No. 2:

Attachment 202: Administration Provisions

Refer to Condition G3 / Attachment 201 for a dictionary/glossary, including acronyms and shorthand text.

A. Documents:

1. **Plats:** Where any of Property Line Adjustment or Partition or Subdivision Final Plat are relevant, a developer may not apply for building permit until having completed recordation with the County and providing electronic copies of the recorded drawings and documents to the City, including as-builts.
2. **Easements:** Where any of extinguished, altered, or additional public easements are involved, a developer shall not apply for building permit until having completed recordation with the County and providing electronic copies of the recorded easement documents and drawings to the City, including as-builts.
3. **Geotech report:** After grading permit approval, if applicable, and by building permit application, the developer shall submit to the Director and PW a geotechnical report documenting that, whether or not the developer spreads any fill or spoil dirt across lots and tracts, soil is compacted and ready to accommodate the construction of buildings on lots and tracts proposed for development.
4. **Electronic copies:** Upon recordation, the developer shall submit to PW and cc the Director Adobe PDFs of the subdivision plat and any and all ancillary documents necessary to conform to conditions of approval and not addressed on the face of the plat, including easements and as-builts. Failure to do so shall result in the City declining to accept building permit application.
5. **Piecemealing:** The developer shall not piecemeal submittal of items due for review prior to completion of recordation, and should submit a comprehensive, holistic set of documents as part of or at the same time as CEP review application to PW.

B. **Expiration:** Based on ORS 92.040(3), development per the Council land use final decision may continue 3 years past the decision date, the 3-year approval period being established by WDO 4.02.04, as follows:

1. **Subdivision Final Plat:** WDO 4.02.04B.2 shall mean that application to the City for final plat per WDO 5.01.06 occurs prior to 3 years past the final decision date. The developer shall apply to the City for final plat prior to applying to the County for recordation.

2. Recordation with Marion County: Same as WDO 5.01.06C.1. (within 30 calendar days of the Director's signature on the plat Mylar).
3. Vesting: The decision is vested unless:
 - a. The developer fails to meet subdivision and, where applicable, PUD requirements, resulting in the City being unable to authorize staff to sign a final plat Mylar by the 3 years past the final decision date; or
 - b. There is no substantial construction (as defined through Condition G3) by July 1, 2026.

ANX 2020-02 Valentina Estates No. 2:

Attachment 203: Civil Engineering Plan (CEP) Review Provisions

Refer to Condition G3 / Attachment 201 for a dictionary/glossary, including acronyms and shorthand text.

- A. Purpose: For other departments and divisions, to facilitate review of plans that following a land use final decision a developer submits to the PW Engineering Division for civil engineering plan (CEP) review. To be a means of implementing land use final decision conditions of approval affecting street improvements, both surface and underground, and extending into PUEs. To specify public improvement standards where there is no detailed specification in the WDO or the public works construction code.
- B. Administration: The process by which to receive, review, and approve drawings and other documents related to public improvements required by land use conditions of approval may be through CEP that is paired with or incorporated into building permit review, if the City Engineer in writing allows the latter.
- C. Application: For CEP, per what PW requires, and original / 1st submittal shall be due no later than final plat application to the Director.
- D. Cover letter: Upon submitting CEP application to PW, a developer shall simultaneously alert the Director through a cover letter to the attention of the Community Development Department Planning Division referencing the intended or, if known, actual submittal date as well as the project name, tax lot number(s), street address(es), and the land use final decision conditions of approval that require the public improvements that are the subject of the civil engineering plans. Referencing conditions may be by quotation or citing the identification numbers. The developer shall identify the specific sheet (by number) or document page number that illustrates or notes how each part of a condition is met.
- E. Contact information: The developer shall state the applicant's name, company, phone number, e-mail address, and desired date for City staff to respond with review comments. The cover letter to the Director may include these. The developer may submit to the attention of the Director a copy of the stamped CEP application form submitted to PW if the form includes this required information.
- F. Fees: The developer shall pay review fees per Attachment 206 and submit to the attention of the Director a copy of proof of payment, which should be bundled with other materials for the Director.

G. Site plans and other drawings: For any of CEP review by the Director:

1. Sizes/copies: From among the minimum number of copies submitted to PW, submit to the attention of the Director at least 4 plan size copies of plan sets, 2 plotted at native scale (minimum 22 by 34 inches, maximum 24 by 36) and 2 at ledger (11 by 17). Within the cover sheet title block(s), include the date or anticipated date of submittal and the phrase "Civil Engineering Plans" or "Civil Plans for CEP".

2. Folding/electronic: Fold the plan size sets if thin enough to do so. Submit also Adobe PDF copies using a fileshare service.

H. Developer's role: The developer is the project manager. Because the Engineering Division may establish that CEP applicants have a single point of contact termed the "engineer of record", the developer manages the engineer of record who handles the CEP and also interacts with the Community Development Director regarding DDP review. For the Director, the developer is the point of contact, namely whoever on the developer's team the developer tasks with being the project manager. The developer shall be responsible for integrating Director directions into CEP review that the engineer of record leads with the Engineering Division. If, when, and where conflicts arise between Director directions and Engineering Division directions, the developer shall be responsible for communicating with formal cover or transmittal letters messages from the conflicting division to the other division, and shall communicate such.

I. [Letter "I" skipped].

J. Approved plan set: There shall result an official version of a civil engineering plan set marked approved and issued by PW that shows all common area improvements and public improvements, including off-street public improvements, resulting from CEP, and where applicable resulting from DDP, that conforms to land use final decision conditions of approval. It shall come to be prior to building permit application, and CEP approved plan set approval and issuance shall be prohibited until the developer pays any CEP review fees per Attachment 206. The developer shall submit to the Director print and electronic copies of the plan set marked approved and issued by PW.

CEP approval shall precede any of (1) completion of recordation with the County, specifically no later than a City official signing a plat or re-plat Mylar per WDO 5.01.06C.1 and (2) building permit application, whichever is earlier.

ANX 2020-02 Valentina Estates No. 2:

Attachment 204: Performance Guarantee / Bond / Bonding Provisions

The following provisions supersede WDO 4.02.08 and do not relate to the usual warranty bond or bonds that PW requires for constructed public improvements or to franchise utility construction:

- A. **Applicability:** Construction, installation, or improvement of public facilities, including streets including street trees, greenways, off-street bicycle pedestrian facilities, bus transit, and related improvements. For private, on-site improvements such as landscaping, Subsection L below instead applies.
- B. **Review:** When an applicant has an obligation to construct, install, or improve public facilities, the obligation shall be fulfilled prior to the issuance of a building permit unless the City Council has granted a written waiver of this requirement and the applicant has filed with the City Recorder and City Engineer a bond or other performance guarantee. Administration and review of performance guarantee requests related to public improvements as well as establishing administrative policy and review criteria for requests default to the Public Works Department Engineering Division. The Community Development Director may advise the Division. The City is not obligated to consider or accept for review any performance guarantee request, and the Engineering Division may refuse a request instead of accepting a request for review, reviewing it, and presenting it to the Council.
- C. **Fees:** Per Attachment 206.
- D. **Approval document:**
 - 1. Council approval of a performance guarantee shall be in writing, signed by the Mayor or Council President as well as the City Administrator.
 - 2. The approval document, such as a letter, shall include the Council meeting date, the approval date, the due date by which either the developer will construct the public improvements or the City will call the bond or other performance guarantee, and the contact information of the developer, the developer's civil engineer, the performance guarantee company, and the Public Works Department Engineering Division.

3. It shall also list and describe the bonded improvements, enclose or incorporate the cost estimate or estimates that were the basis of the amount or percentage of the performance guarantee, and list the obligations of the developer. Where any are relevant, the approval document shall also reference the land use approval case file number or numbers, land use approval expiration date per the final decision document, plat lot and tract designations, tax lot number(s), City address(es), and land development project name.
 4. The due date shall be no later than the City business day closest to one year past the meeting date on which the Council voted to approve the performance guarantee.
- E. Percent: The performance guarantee shall be an amount equal to a percent of the cost of fulfilling the obligation as estimated by the City Engineer for the date by which fulfillment of the obligation is anticipated. The minimum shall be 200 percent. A sufficient performance bond, cash deposit or a letter of credit are acceptable forms of security.
- F. Maintenance/Warranty: As an additional and separate part of the performance guarantee, the applicant shall agree to maintain the public facility or improvement for a period of one year following acceptance by the City Administrator, to include but not be limited to repair, replacement and all things necessary to ensure its operational integrity.
- G. The security shall be forfeited to the City if the applicant does not fulfill the requirements stated in the performance guarantee and the City may use the security to complete the obligation or any part of it. Until the obligation is completed, the security shall remain in the custody of the City or shall be placed in an escrow account subject to City control.
- H. Release: Upon receipt of written notice to the City Administrator and City Engineer that the public facility or required improvements have been completed and are ready for final inspection and acceptance, the City Administrator or City Engineer shall, within ten City business days, inspect. When upon inspection or re-inspection the City Engineer finds and documents the work as acceptable, the City Administrator shall in writing authorize the City Engineer to release the performance guarantee within 45 days of inspection or re-inspection. The City Administrator shall place on the agenda of the next regularly scheduled Council meeting, for which the agenda packet due date has not already passed, written briefing that release will happen, is happening, or happened.

I. Call: If the applicant fails to fulfill the obligation to complete the public facility or required improvement, the City Engineer shall issue written notice shall be given within 5 City business days past the due date and detailing the failure and stating that the City is using the security given to complete the obligation, that is, to call the bond or other performance guarantee, and the City shall do so. The notice shall be courtesy copied to the City Administrator, City Attorney, City Recorder, and Community Development Director. After the City completes the obligation and if the required security is not sufficient to compensate the City for costs incurred, the excess amount due to the City, plus a ten percent administrative charge, shall constitute a lien in favor of the City upon the real property subject to the obligation.

J. The lien attaches upon entry in the City lien docket and the giving of notice of the claim for the amount due for the completion of the obligation. The notice shall demand the amount due, allege the insufficiency of the bond or other security to compensate the City fully for the cost of the fulfillment of the obligation, and allege the applicant's failure to complete the required obligation.

K. Once docketed, the lien may be foreclosed in the manner prescribed by ORS Chapter 223 for foreclosing liens on real property.

L. Private, on-site: When an applicant has an obligation to construct, install, or improve private, on-site facilities, the obligation shall be fulfilled prior to the issuance of a building permit unless the City Administrator has granted a written waiver of this requirement and the applicant has filed with the City Administrator, City Recorder, and Community Development Director a bond or other performance guarantee. The City Administrator is not obligated to consider or accept for review any performance guarantee request, and may refuse a request instead of accepting a request for review, reviewing it, and approving it. Fees and percent shall be per subsections C and E above, and the approval document shall contain information similar to what subsections D.2-4 above require.

ANX 2020-02 Valentina Estates No. 2:

Attachment 206: Conditioned Fees

All of the following conditioned fees are due as applicable, whether or not mentioned directly by a condition of approval.

Refer to Condition G3 / Attachment 201 for a dictionary/glossary, including acronyms and shorthand text.

Part A. Fee Provisions

1. Any and all conditioned fees are in addition to, and not in place or as discounts of, any existing charge or fee however termed ordinarily assessed based on any existing ordinance, resolution, or administrative policy, inc. adopted fee schedules. If and when the City amends any ordinance, resolution, or administrative policy, inc. a fee schedule, to increase a charge or fee that is both (1) the same kind of charge or fee that is conditioned, (2) the amended charge or fee amount would exceed the amount conditioned, and (3) the increase takes effect before the conditioned fee is due, then the developer shall pay the greater amount.
2. Payments of conditioned fees shall reference a final decision case file number and the condition of approval letter/number designation, be it in a check memo field or through a cover or transmittal letter. For administrative and logistical details of such fee payments, the developer is to contact and administrative assistant or similar position in either PW or the Community Development Dept. as applicable.
3. For a development of multiple buildings for which the developer applies for a building permit for each, the due date shall apply to issuance of whatever permit is first issued, unless a condition of approval as found in a land use final decision document specifies later for a given building.

For all administrative and logistical questions about fee payment, the developer is to contact the permit/planning technician at (503) 982-5246 and refer to this attachment within the ANX 2020-02 Valentina Estates No. 2 final decision.

For payment method policy details, the developer is to contact the Finance Department at (503) 982-5222, option zero, for payment method policy details.

Part B. Fee Table

<i>Table 206B. Conditioned Fees</i>					
<i>Condition Reference</i>	<i>Fee Type</i>	<i>Amount</i>	<i>Context</i>	<i>Timing</i>	<i>Staff Tracking:</i>
G6 through this Attachment 206	Civil engineering plan (CEP) review: Review by Planning Division	\$250; \$341	CEP. Original/1 st submittal; each subsequent inc. deferral/piecemeal	Before final plat approval by the City	
	Inspections by Planning Division	none; \$341	Subdivision public and private improvements and building permit. Any 2 nd inspection or PW “walkthrough”; 3 rd & each subsequent	Upon inspection request or PW “walkthrough” invitation to Planning Division staff;	
V2d	Fee for street trees omitted through civil engineering plan (CEP) review, or inspection missing tree fee	\$950 per tree	Applies to omitted street trees or ones missing from required number	By building permit inspection (of first dwelling)	
V3	Electric power pole(s) removal and line(s) burial	\$568 per lineal ft of line assessed at minimum 56 ft, then discounted by 50%.	Based on subdivision existing conditions Sheet C2.0 (May 5, 2021). (Anticipated that adjacent Brown Street Properties subdivision following Pre-App PRE 21-25 would contribute remaining 50%.)	By building permit inspection (of first dwelling)	
V6 through Attachment 204	Bond / bonding / performance guarantee: construction of public improvements: consideration and review of request to bond	\$4,474; \$341	Original/1 st submittal; each subsequent inc. deferral/piecemeal	Were developer to request and if City willing to consider request	
V7	Tree removal: Significant Trees	\$185 per tree assessed at min 10 trees except per Note 1 at right.	Per the Planning Division Fee Schedule, Tree Credit. Applies to Significant Trees as WDO 1.02 defines. Note 1: Developer may lessen default fee by revising and re-submitting subdivision existing conditions Sheet C2.0 (May 5, 2021;	Before any site grading occurs (As of October 4, 2021, County Assessor aerial view (Attachment 103C) shows min 10 larger tree canopies on site, and	

<i>Table 206B. Conditioned Fees</i>					
<i>Condition Reference</i>	<i>Fee Type</i>	<i>Amount</i>	<i>Context</i>	<i>Timing</i>	<i>Staff Tracking:</i>
			Attachment 103B) no later than per Timing column to confirm number and locations of existing Significant Trees.	Sheet C2.0 has min 38 tree circles.)	
V9-T	Transit: Bus	\$290 per dwelling	For City bus transit	Building permit issuance per each dwelling	