

COUNCIL BILL NO. 3169

ORDINANCE NO. 2596

AN ORDINANCE ANNEXING APPROXIMATELY 0.95 ACRES OF ANNEXED TERRITORY KNOWN AS THE VALENTINA ESTATES NO. 2 PROPERTY AT 1251 BROWN STREET LOCATED ALONG THE WEST SIDE OF BROWN STREET SOUTH OF VINE AVENUE, MARION COUNTY, OREGON

WHEREAS, the subject property is owned by Northwest Willamette Homes, LLC, of which the manager is Vassa Bodunov, and is legally described in Exhibit "A" and mapped in Exhibit "B", which are affixed hereto and by this reference incorporated herein; and

WHEREAS, the subject property is composed of Marion County Tax Lot 051W18C000900; and

WHEREAS, consistent with Oregon Revised Statutes (ORS) 222.111(2) the owner of real property in the territory to be annexed initiated by petition a proposal for annexation, a copy of the petition being on file with the City Recorder (ANX 2020-02); and

WHEREAS, the applicant, Vassa Bodunov, Northwest Willamette Homes, LLC, and the applicant's representative, Gerald ("Jerry") Horner, Engineer, Willamette Engineering, obtained written consent from the owners of the territory and has requested annexation of the subject property; and

WHEREAS, the property to be annexed is within the City Urban Growth Boundary (UGB); and

WHEREAS, the property to be annexed is contiguous to the City and can be served with City services; and

WHEREAS, the applicant intends to develop the territory into the Valentina Estates No. 2 subdivision; and

WHEREAS, on October 14, 2021 the Woodburn Planning Commission considered the annexation application and, after a duly advertised public hearing, recommended approval of the annexation; and

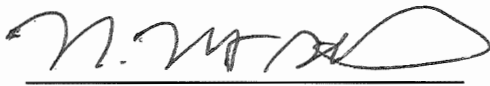
WHEREAS, on December 13, 2021, the Woodburn City Council held a public hearing, reviewed the record, heard all public testimony presented on said application, and, upon deliberation, concluded that the proposed

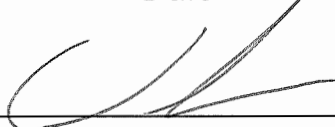
annexation meets the applicable approval criteria under City of Woodburn Development Ordinance (WDO) 5.04.01C; **NOW, THEREFORE,**

THE CITY OF WOODBURN ORDAINS AS FOLLOWS:

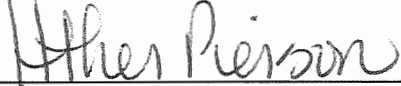
Section 1. That the subject property, legally described in Exhibit "A" and mapped in Exhibit "B", is annexed to the City of Woodburn.

Section 2. That the City Council adopts the Analysis & Findings, affixed hereto as Exhibit "C" and by this reference incorporated herein.

Approved as to form:  1/13/2022
City Attorney Date

Approved: 
Eric Swenson, Mayor

Passed by the Council January 10, 2022
Submitted to the Mayor January 11, 2022
Approved by the Mayor January 13, 2022
Filed in the Office of the Recorder January 13, 2022

ATTEST: 
Heather Pierson, City Recorder
City of Woodburn, Oregon

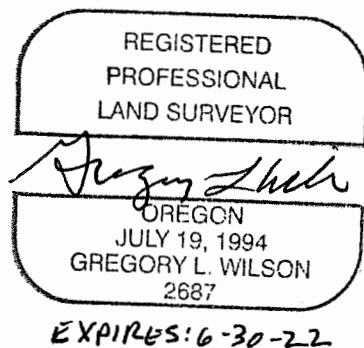
Legal Description for:
City of Woodburn
Property to be annexed

A tract of land situated in the southwest one-quarter of Section 18, Township 5 South, Range 1 West of the Willamette Meridian, Marion County, Oregon, more particularly described as follows:

Beginning at the Southwest corner of that tract of land recorded in Volume 269, Page 220, Marion County Deed Records, said corner shown as being South 11°00' West 1258.98 feet and North 88°57'30" West 688.75 feet from the Northeast corner of the Peter Raymond Donation Land Claim No. 58 per Marion County Survey Record 18989; and running thence:

North 89°20'47" West 283.20 feet to the southwest corner of that property described in that instrument recorded in Reel 4330, Page 131, Marion County Deed Records;
thence North 01°00'54" West 163.57 feet along the west line of said property to the northwest corner thereof;
thence South 89°23'19" East 283.09 feet along the north line of said property and the Easterly extension thereof to a point in the centerline of Brown Street;
thence South 01°03'10" East 163.78 feet along said centerline to the Point of Beginning, containing 46,324 square feet of land, more or less.

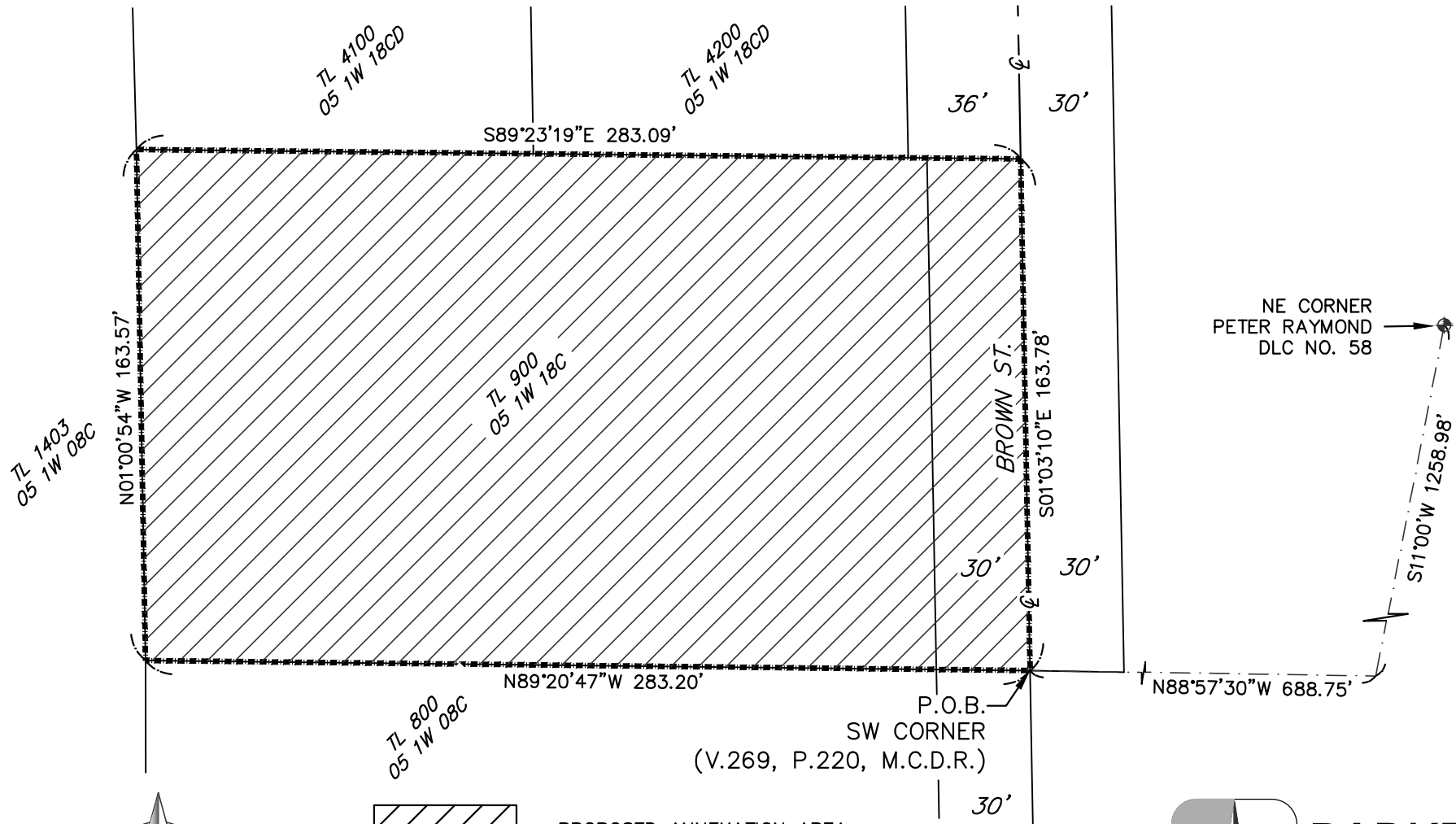
Bearings are based on the plat of VALENTINA ESTATES, as platted and recorded in Volume H48, Page 30, Book of Town Plats for Marion County, Oregon.



Ordinance
Exhibit A

EXHIBIT B

AREA TO BE ANNEXED INTO THE CITY OF WOODBURN
 IN THE SW 1/4 OF SEC. 18, T. 5 S., R. 1 W., WM
 JULY 15, 2021



GRAPHIC SCALE
 1" = 50'



— PROPOSED ANNEXATION AREA
 46,324 SQUARE FEET

- P.O.B. — POINT OF BEGINNING
- M.C.D.R. — MARION COUNTY DEED RECORDS
- V. — VOLUME
- B. — BOOK
- P. — PAGE
- DLC — DONATION LAND CLAIM
- — CURRENT CITY LIMITS



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ANX 2020-02: 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"> Requirement (or guideline) met, but might become unmet because of condition applied to meet separate and related requirement that is not met Plan sheets and/or narrative inconsistent Other special circumstance benefitting from attention 	Revision needed for clear and consistent records
■	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 applicant submitted the project name Schultz Farm, but through re-submittal renamed it to Dove Landing. The land use application master/parent case file number is Annexation ANX 2020-03, and the children/corollary case file numbers are Planned Unit Development PUD 2020-02, Preliminary Subdivision SUB 2020-03, & Zone Change 2020-02.

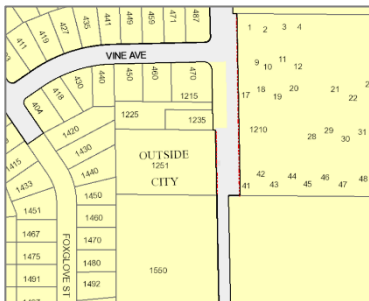
Location

Address(es)	1251 Brown St
Tax Lot(s)	051W18C000900, 0.95 acres
Nearest intersection	Brown St & Vine Ave

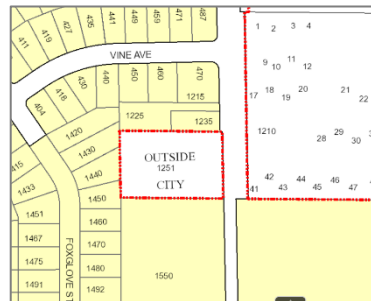
Land Use & Zoning

Comprehensive Plan Land Use Designation	Low Density Residential
Zoning District	To be zoned Residential Single Family (RS) upon annexation
Overlay District(s)	none
Existing Use(s)	Demolished 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), the subject property labeled “outside city”, and the zoning is tabulated further below:



Comprehensive Plan land use map excerpt



Zoning map excerpt

Cardinal Direction | Adjacent Zoning

North	Residential Single Family (RS)
East	No City zoning because not annexed; Lazy Acres Mobile Home Park.
South	RS; "Brown Street Properties"
West	RS; Boones Crossing Phase 4 PUD subdivision

Statutory Dates

<i>Application Completeness</i>	August 11, 2021
<i>120-Day Final Decision Deadline</i>	December 9, 2021 per Oregon Revised Statutes (ORS) 227.178 . (The nearest and prior regularly scheduled City Council date would November 22.)*

*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 October 22, 2020 and revised and additional materials through August 3, 2021 (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 [*sic*] 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 pre-application conference Pre-App PRE 2020-15 on July 14, 2020.

The applicant requests that the City designate the annexed territory with the Residential Single Family (RS) 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, providing a means of access. (The annexation legal description and map series excludes the right-of-way (ROW) adjacent to the site. ANX 2018-01 Brown Street properties annexed the ROW through Ordinance No. 2563 [2018], Exhibit B.)
 - Transit: Along Brown Street, the City and other agencies could run transit vehicles. To mitigate the effect of additional dwellings on the City bus transit system, staff applies a condition to development itself to assess a small fee.
 - Potable water, sanitary sewer, and stormwater sewer: These are adjacent or nearby, and as the Public Works Department Engineering Division directs at the civil engineer plan (CEP) review and public works permit stage, the developer will upgrade and extend them as necessary to provide 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. However, because required street improvements through 3.01 affect 3.02.04 relating to electric power lines and other utilities, staff applies a condition or conditions to development itself to clarify how staff applies 3.02.04 and ensure either that adjacent power lines go from a rural overhead state to an urban underground state or that a developer pays a reasonable contribution towards such.
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 identified no impediments to serve the development that would not be resolved at the permitting stage, evidenced by the Public Works comments that are Attachment 102A.

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 August 31, 2020 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 collection system for water, wastewater or a public storm sewer collection system. The requirements for these collection facilities would still need to be determined. The capacity analysis, design and installation 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 Engineering Division 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.

Additionally, the applicant’s narrative (October 21, 2020, p. 1) states:

“The existing sanitary sewer will extended to the south to serve the annexed property. This sanitary sewer has adequate capacity for the annexed property. The water system is existing in front of the proposed annexation property. This water system has adequate capacity. The storm system for the annexed property will be to connect to the system to the south. This south system has adequate capacity and elevation for the proposed annexation.”

There’s no written objection by the Public Works Department Engineering Division to the applicant’s narrative.

The staff bullet 2 and 4 comments on criterion 1, regarding transit and electric power lines, are relevant also to this criterion 2 about public facility (infrastructure) adequate capacity.

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

Valentina Estates No. 2 ANX 2020-02, ZC 21-01, SUB 2020-02, & VAR 21-04 Staff Report

Attachment 102

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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 at its north, south, and west boundaries meets the guideline that it "should be contiguous to the City on two or more sides".

2) The applicant's narrative (p. 2) states:

"Woodburn Buildable Lots are in low supply. These new proposed 5 lots will be far below the Woodburn 5-year supply."

Staff concurs.

3) The applicant's narrative (p. 2) states:

"The proposed annexation utilizes available Street, Water, Sanitary sewer and Storm water systems."

There's no written objection by the Public Works Department Engineering Division to the applicant's narrative.

4) Regarding (a), the applicant's narrative (p. 2) states:

"Brown Road is a developed Street within Woodburn and the Marion County Portion to the south is a gravel road. This gravel road does match the alignment in Woodburn. The improved Brown Road fronting 1251 Brown Road will meet Woodburn Transportation Plan."

Staff concurs and adds that regarding (b), the narrative adds that this is not applicable, and staff concurs.

5) The applicant asserts no unmet community need. Because these analyses and findings come before the first public hearing by the Planning Commission, it is yet unknown if annexation fulfills a substantial unmet community need because the City Council has not yet identified such a need.

Annexation of the subject territory demonstrates substantial conformance with the criteria.

Regarding D., the applicant obtained 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 a City base zoning district other than RS. (Pursuant to Comprehensive Plan Policy Table 1, RS is the only applicable zoning district that implements the Low Density Residential designation.)

Regarding F., the applicant need not address subsection 1. because the territory to be annexed is adjacent to annexed ROW and because the public improvements including ROW and public utility easement (PUE) dedications that F. describes are addressed through development review, i.e. land use review of site plans and, after land use review, civil engineering plan (CEP) review by the Public Works Department Engineering Division, instead of annexation itself

✓ The annexation meets the criteria, including with conditions on the development itself.

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 21-01 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.

Subdivision Preliminary Approval Provisions

Subdivision Preliminary Approval Provisions

5.03.10 Subdivision Preliminary Approval

A. Purpose: The purpose of a Type III Subdivision decision is to ensure that the division of properties into 4 or more lots complies with the standards of this Ordinance (Sections 2 and 3). Subdivisions are allowed in all zones, provided the proposal meets applicable standards.

B. Criteria: Preliminary approval of a Subdivision shall require compliance with the following:

1. That approval does not impede the future best use of the remainder of the property under the same ownership or adversely affect the safe and efficient development of the remainder of any adjoining land or access thereto.
2. That the proposed development shall be served with city streets, water, sewer and storm drainage facilities with adequate capacity.
3. That the plan for the development takes into account topography, vegetation and other natural features of the site.
4. That adequate measures have been planned to alleviate identified hazards and limitations to development:
 - a. For wetlands these shall be the measures required by the Division of State Lands for regulatory wetlands.
 - b. For unstable areas, demonstration that streets and building sites are on geologically stable soil considering the stress and loads.
5. The preliminary plat complies with all applicable provisions of this Ordinance (Sections 2 and 3), except where waived by variance.

Regarding the subdivision criteria:

1. Adjacent development of residential subdivisions exists to the north (Valentina Estates plat) and west (Boones Crossing Phase 4 PUD plat). To the south is annexed property yet to be redeveloped from rural to urban and for which there will have been a pre-application meeting for subdivision, Pre-App PRE 21-26.
2. The Public Works Department Engineering Division will see to this no later than during civil engineering plan (CEP) review following land use / planning / zoning approval.
3. The site appears mostly flat, and the site plan appears to take this into account. Regarding tree preservation, see staff examination farther below for 3.06.07. The same analysis and findings there apply also to this subdivision criterion.
4. Staff knows of no natural hazards, and none of the applicant's narratives or site plan sheets identify any. Staff knows of no wetlands on site. If any exist, the developer remains responsible for obtaining necessary permits from relevant outside agencies. Staff knows of no steep slope. If any exist, the developer remains responsible for obtaining a grading permit, if required, and per a condition documenting grading

through a geotechnical report and sufficiently compacting and retaining dirt prior to construction of dwellings. Second, conflicting vehicular turning movements can be a hazard, and because Brown Street is a Service Collector class street (of higher functional class than a local street), and 3.04.03 allows for access management, staff applies a condition or conditions to limit the number of driveways to 2 instead of 3 and to limit the widths of the driveways to lessen speeding, swooping turns into and out of the driveways.

5. Regarding this criterion, yes if with the conditions of approval and except for VAR 21-04 regarding lot depth for Lots 2 & 3. Each lot meets minimum lot area and lot width and access conforms to the allowance for flag lots and for such lots to share access per 1.02 "Lot ... Flag lot", Figure 1.02D (figure example Lots 3 & 4), and the lot dimensional standards in Table 2.02B.

Staff applies conditions to specify administrative matters about how the developer carries out tasks such as how to record the subdivision, construct the half-street improvements, bury or pay towards burial of electric power lines, provide for a shared driveway and walkway as well as a public shared access easement covering them, and obtain City approval of new street addresses.

■ VAR: Staff further addresses the variance to apply the lot depth standard differently below under the Variance Provisions section.

▲ Staff applies a condition or conditions addressing the subdivision criterion of 5.03.10B.3 regarding tree preservation as well as 3.06.07 regarding Significant Trees and also applies a condition or conditions regarding access management to lessen vehicular turning movement hazard.

Variance Provisions

The variance application is for one request 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 and Figure 1.02D would require. (1.02 “Lot ... Flag lot”, Figure 1.02D)

The applicant submitted narrative text addressing the criteria.

Variance Criteria

5.03.12 Variance

A. Purpose: The purpose of this Type III Variance is to allow use of a property in a way that would otherwise be prohibited by this Ordinance. Uses not allowed in a particular zone are not subject to the variance process. Standards set by statute relating to siting of manufactured homes on individual lots; siding and roof of manufactured homes; and manufactured home and dwelling park improvements are non-variable.

B. Criteria: A variance may be granted to allow a deviation from development standard of this ordinance where the following criteria are met:

1. Strict adherence to the standards of this ordinance is not possible or imposes an excessive burden on the property owner, and
2. Variance to the standards will not unreasonably impact existing or potential uses or development on the subject property or adjacent properties.

C. Factors to Consider: A determination of whether the criteria are satisfied involves balancing competing and conflicting interests. The factors that are listed below are not criteria and are not intended to be an exclusive list and are used as a guide in determining whether the criteria are met.

1. The variance is necessary to prevent unnecessary hardship relating to the land or structure, which would cause the property to be unbuildable by application of this Ordinance. Factors to consider in determining whether hardship exists, include:
 - a. Physical circumstances over which the applicant has no control related to the piece of property involved that distinguish it from other land in the zone, including but not limited to, lot size, shape, and topography.
 - b. Whether reasonable use similar to other properties can be made of the property without the variance.
 - c. Whether the hardship was created by the person requesting the variance.
2. Development consistent with the request will not be materially injurious to adjacent properties. Factors to be considered in determining whether development consistent with the variance [is] materially injurious include, but are not limited to:

- a. Physical impacts such development will have because of the variance, such as visual, noise, traffic and drainage, erosion and landslide hazards.
 - b. Incremental impacts occurring as a result of the proposed variance.
3. Existing physical and natural systems, such as but not limited to traffic, drainage, dramatic land forms or parks will not be adversely affected because of the variance.
 4. Whether the variance is the minimum deviation necessary to make reasonable economic use of the property;
 5. Whether the variance conflicts with the Woodburn Comprehensive Plan.

Variance Request: How the City Applies the Lot Depth Definition

1.02 “Lot ... Flag lot” & Figure 1.02D

The applicant’s sole variance request is to request 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 require. The applicant’s variance narrative (submitted August 3, 2021; p. 3) states:

“Woodburn Development Code Figure 1.02D indicate that Lots 2 and 3 of the proposed Valentina Estates 2 would be defined as flag lots.

The development code further stipulates in Section 1.02 that the front line ‘in the case of a flag lot, the lot line which is most nearly parallel to the street that provides access to the interior lot.’ The front lines of Lots 2 and 3 which are most nearly parallel to the street are the east lines. With the east lines being the front line, without variance, the lot depth would be defined to be as 79.04’ and the minimum depth by Woodburn Development Code is 90’.

Therefore, a variance is being pursued to designate the south lines of lots 2 and 3 to be the south line of each of the lots. This south line is the property line that is the frontage property line along the access lane.”

Staff concurs with the applicant’s description of the request. Regarding the criteria, B.1 & 2, the narrative states (pp. 3-4):

“Strict adherence to the Woodburn Development Standards would limit the development to 4 residential lots. The Valentina Estates Phase 2 as presented provides 5 buildable lots meeting Woodburn Development Lot Sizes and dimensions. Allowing the frontage of Lots 2 and 3 to be the south lines parallel to the private access lane would provide 5 buildable lots.

Limiting the development to 4 lots imposes an excessive burden on the property owner.

The proposed Valentina Estates 2 has frontage along Brown Street and access from the private lane for Lots 2, 3, 4, and 5. There are no through streets in the proposed development. The proposed development is an island of infill in the Woodburn residential areas.

The proposed development will not impact existing or potential uses of the development on the subject property or adjacent properties.”

Staff concurs and recommends conditions of approval.

▲ The variance criteria are met with conditions.



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 is consolidated.

2.07 Special Uses

There is no “community club building” (clubhouse).

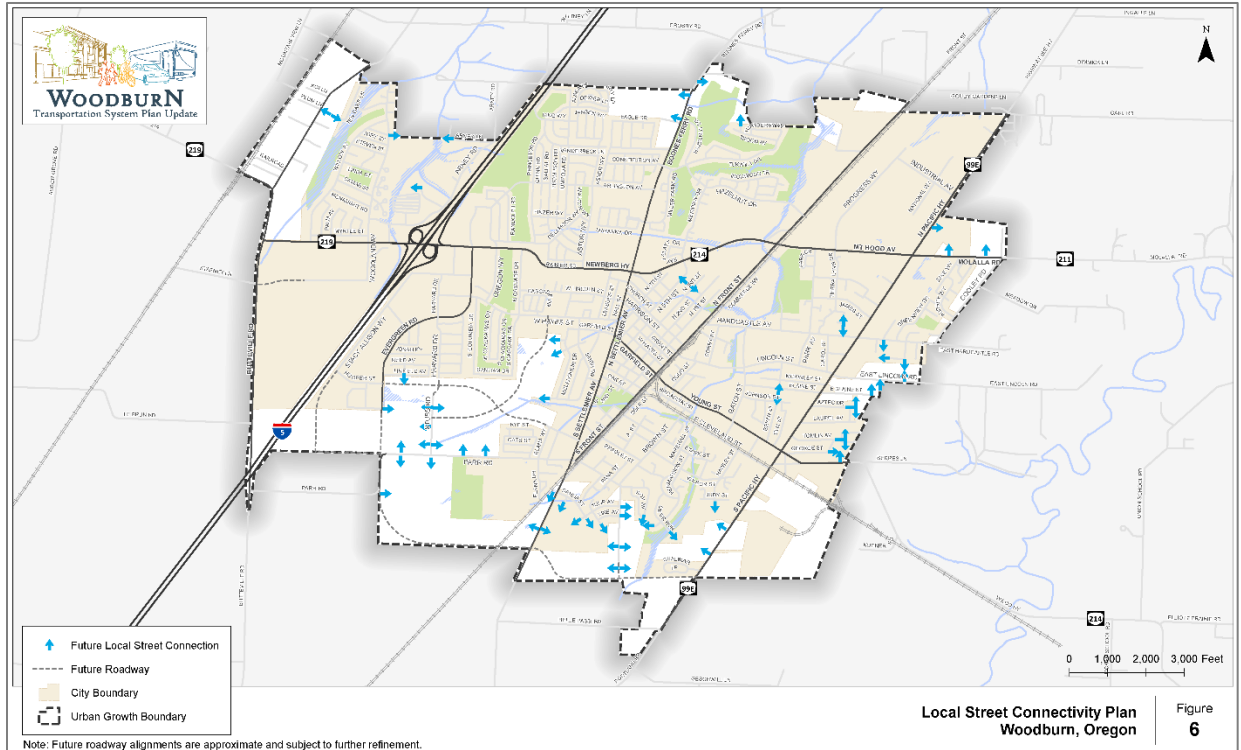
None apply.

3.01 Streets

3.01, and 3.02.04 relating to electric power lines and other utilities, regulate street improvements.

Long-range Planning

TSP Figure 6 “Local Street Connectivity Plan” shows no street connections into the south area of the urban growth boundary (UGB) affecting the subject property, particularly compared with the constructed street network. A street is neither expected nor required by Fig. 6 to enter or cross the subject property, and every lot can have direct or indirect access to a public street without a new public street per 3.04.01A.



TSP Figure 6

- ▲ Staff applies a *Condition SUB -2* to leave no doubt about what half-street improvements are required and *variance Conditions V2a, b, & c* and *V3* to spell out how staff applies 3.01 and make it less difficult for PW to direct specifications and drawings during civil engineering plan (CEP) review that PW leads.

3.04 Vehicular Access

3.04.03 Driveway Guidelines and Standards

B. Joint Access

3. Every joint driveway or access between separate lots shall be established by an access easement and maintenance agreement to the satisfaction of the Director and revocable only with the concurrence of the Director.

3.04.01A regulates lot access to a public street and driveway widths. Subsection A.1 allows for indirect access by easement, and 3.02.01 & 3.04.03B regulate easements. The subdivision proposal includes indirect access to and from Brown Street for the west 3 of the 5 lots (Lots 2-4).

The WDO lacks specific steps for the developer about how to meet the shared access easement option. Staff seeks to limit driveway number and width along Brown Street, which is a Service Collector class street (of higher functional class than a local street), and to minimize both interruption of planter strip and developer effort to plant the required street trees.

▲ Staff applies *Condition SUB-3* and *V2, V4, & V5* to spell out for the developer how to meet the shared access easement standards, meet the lot access requirement, and to limit driveway number and width along Brown Street, which is a Service Collector class street (of higher functional class than a local street), because of functional class, and to minimize both interruption of planter strip and developer effort to plant the required street trees.

3.04.05 Traffic Impact Analysis

A. A Traffic Impact Analysis (TIA) may be required by the Director prior to the approval of a City access permit when the Director estimates a development proposal may generate either 100 or more additional, peak hour trips, or 1,000 or more additional daily trips, within ten years of a development application.

The applicant submitted neither a TIA nor a traffic letter or memo, and the Director does not estimate that the development proposal would generate either 100 or more additional, peak hour trips, or 1,000 or more additional daily trips, within ten years of a development application. However, staff experience with the conventional Institute of Transportation Engineers (ITE) *Trip Generation Manual*, reflected in the trip generation table in Resolution No. 1893, Exhibit A, indicates that a house (ITE code 210) on average generates 1.01 peak hour trips, so 5 houses would generate 5.05 peak hour trips.

New dwellings affect the need for transit that adopted long-range plans, the Transportation System Plan (TSP; 2019) and the Transit Plan Update Approved Final Report (2010), envision, and a modest contribution is needed towards implementing transit planning goals, generally described as transportation demand management (TDM) to lessen vehicular traffic by attracting City bus riders.

▲ Staff applies *Condition V9-T* to charge a small fee towards the City bus transit system.

3.06 Landscaping

3.06.02 General Requirements

Staff expects the development to meet this section as applicable.

✓ The requirement is met.

3.06.03 Landscaping Standards

A. Street Trees

The site plans fail to illustrate street trees.

✗ To secure a minimum amount of street trees and to the necessary specifications, staff applies conditions.

3.06.07 Significant Trees on Private Property

A. The purpose of this Section is to establish processes and standards which will minimize cutting or destruction of significant trees within the City. Significant trees enhance neighborhoods by creating a sense of character and permanence. In general, significant trees on private property shall be retained, unless determined to be hazardous to life or property.

B. The provisions of this Section apply to the removal of any significant tree and the replacement requirements for significant tree removal.

D. The issuance of a significant tree removal permit requires the property owner to replace each tree removed with one replacement tree. Each replacement tree shall be at least two inches in caliper. Each replacement tree shall be of a species not prohibited by this Section. The replacement tree shall be of the same size range at maturity as the significant tree replaced. ...

F. The property owner shall pay a mitigation fee for each required replacement tree that is not planted pursuant to this Section. The applicant shall pay the mitigation fee into the City's tree fund. The amount of the mitigation fee shall be established by the City Council in the Master Fee Schedule, based on the average value of a two inch caliper tree available from local nurseries, plus planting costs.

3.06.07 applies in addition to subdivision criterion 5.03.10B.3 staff examined earlier above. Site plan Sheet C2.0 of existing conditions (May 5, 2021; Attachment 103B) has min 38 tree circles, and as of October 4, 2021, County Assessor aerial view (Attachment 103C) shows min 10 larger tree canopies on site.

There might or might not be Significant Trees among the 38 trees that site plan existing conditions Sheet C2.0 illustrates.

Also, because of the nature of the proposal – a small subdivision of 5 lots and no common area tract(s), there is no reasonable expectation the developer would fit new trees on the lots and that homeowners would retain the trees. Therefore, staff conditions the subsection F fee, found in the Planning Division Fee Schedule as the Tree Credit.

- ✘ Staff applies *Condition V7* through Attachment 206 requiring fees to remove Significant Trees as 1.02 defines, if any.

Staff expects the development to meet the remainder of 3.06 as applicable.

[Other]

ORS 92.040(3) sets a 10-year expiration on development approvals in order to help with the issue of entitlement “vesting”. It also local governments to set shorter periods, and staff opts to do so in case the project begins to manifest during the 3-year land use approval window but slows down or stops afterwards. Condition SUB-1 sets an ultimate deadline. As an example, were another recession like the Great Recession to occur and lead to a “zombie” project, it would be clear when an apparently dormant project was dead.

- ▲ Staff applies *Condition SUB-1* through Attachment 202 to clarify the issue of “vesting”.

A geotechnical or “geotech” report is necessary for subdivision improvements. It became necessary for Smith Creek Development building permits, and the master developer happened to have prepared one in keeping with private agreements with homebuilders and so was able to submit it on short notice. Thankfully, the report document no field conditions that needed correction. The Building Official thought Public Works handled Geotech reports, and this item isn’t a WDO requirement or a Planning Division policy item. So, staff established a condition that gets the developer to submit a copy prior to the City in a timely way.

- ▲ Staff applies a *Condition SUB-1* through Attachment 202 regarding a geotech report.

3.07.03 regulates architecture.

- ▲ Staff applies *Condition V8* to forestall confusion and questions about how to apply architectural provisions related to a dwelling “front” in the context of flag lots.

Recommended Conditions of Approval

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

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.

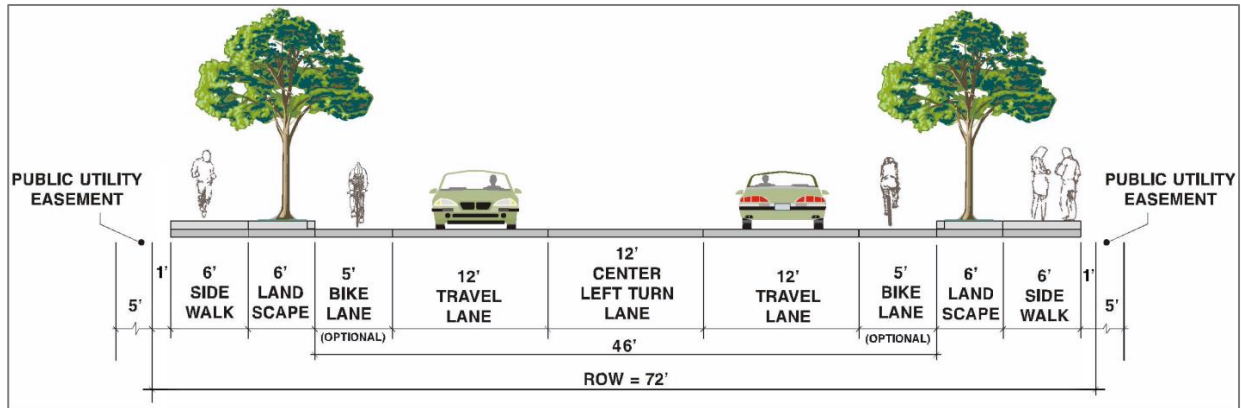


Exhibit SUB-2: Figure 3.01D – Service Collector

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 curbsless, 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 or 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 curbsless 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.

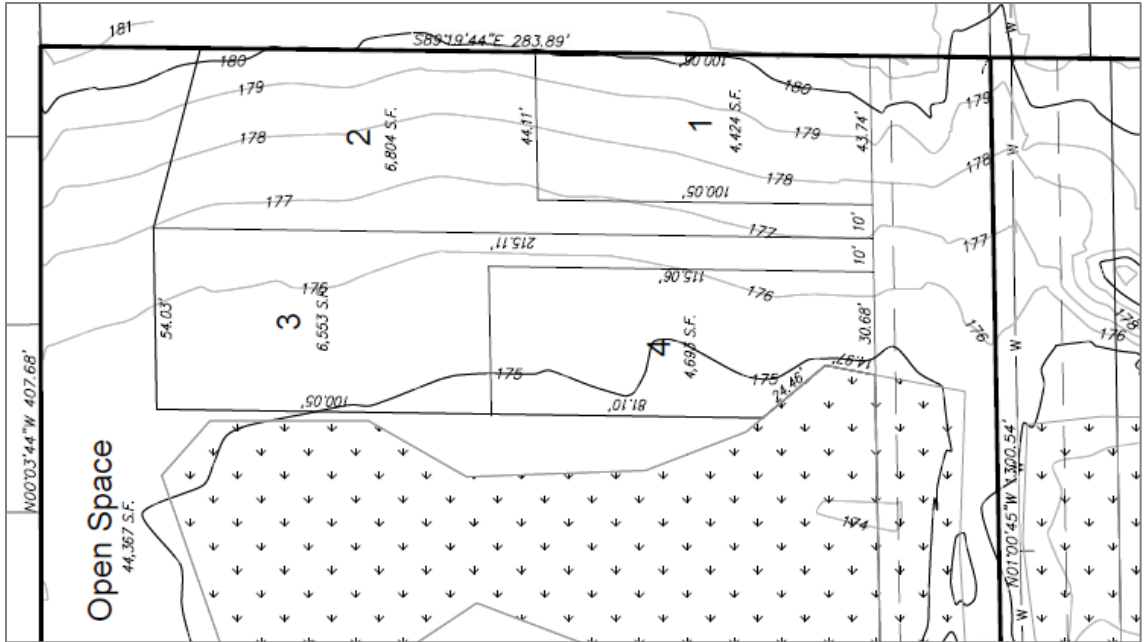


Exhibit SUB-3: PRE 21-25 draft subdivision plan

- 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 it 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.

Applicant Identity

<i>Applicant</i>	Vassa Boudunov, Northwest Willamette Homes LLC
<i>Applicant's Representative</i>	Gerald ("Jerry") Horner, Engineer, Willamette Engineering
<i>Landowner(s)</i>	Northwest Willamette Homes 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.
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

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Attachment 102

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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.