



Final Decision Type II Staff Report

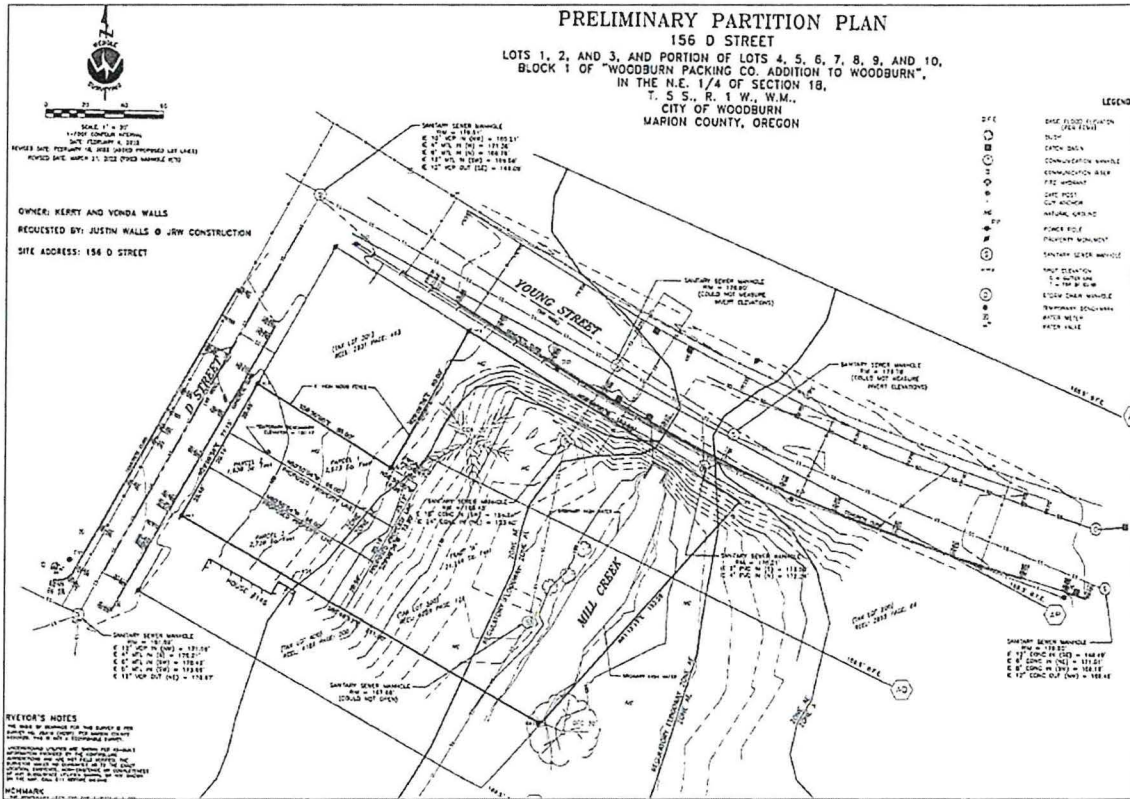
File number(s): PAR 22-02 & EXCP 22-05
Project name: 156 D Street Partition
Date of decision: November 2, 2022
Date of mailing: November 2, 2022
Applicant: Justin Walls, JRW Construction
Landowner: Kerry Walls
Site location: 156 D Street
Tax Lot(s): 051W18AC00300

Summary:

The subject property is approximately 0.65 acres and within the Medium Density Residential (RM) zone. The Riparian Corridor and Wetlands Overlay District (RCWOD) covers a significant portion of the property as well. The applicant applied for Preliminary Partition PAR 22-02 in order to partition the lot into three parcels for development of three townhouse dwellings and one tract covering much of the 100-year floodplain. A Street Exception application was also included to request to modify street improvement requirements for the D Street and Young Street frontages.

The application submittal date is April 18, 2022, the completeness date is July 22, 2022, and the 120th day deadline for final action per Oregon Revised Statutes (ORS) 92.105 and 227.178 would have been November 19, 2022.

Section references throughout this staff report are to the [Woodburn Development Ordinance \(WDO\)](#). Staff finds that the application meets WDO provisions or can meet them with conditions and approves it with conditions. Because it is a Type II administrative approval requiring no public hearing, this staff report serves as both a preliminary partition approval and public notice of final decision to owners of property within 250 feet of the subject property.



Conditions of Approval

1. Substantial conformance: The applicant or successor 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.
2. Recordation: After obtaining Partition Final Plat approval from the City, the applicant shall record the partition with Marion County in a manner acceptable to the County Surveyor.
3. Addressing: Prior to receiving Partition Final Plat approval from the City, the applicant shall submit an [Address Assignment Request Form](#), with accompanying fee payment and materials, to the Community Development Department to begin the process of getting addresses assigned for the new parcels.
4. Grading permit: Prior to beginning any grading work on-site, the applicant shall apply for and obtain a Grading Permit per WDO 5.01.04.
5. D Street improvements: The applicant shall complete the following items along the D Street frontage. Items a. and b. will be accomplished through recordation of the partition plat, and items c. and d. are due prior to the respective building permit final inspections for each parcel.
 - a. Dedicate 5 feet of right-of-way;
 - b. Grant a 5-foot (minimum) public utility easement along the widened right-of-way;
 - c. Construct a 5-foot wide sidewalk with a 1-foot buffer to the front property line;
 - d. The remaining area between curb and sidewalk shall be a landscape strip planted with grass and two street trees. The trees shall be small trees as defined in Table 3.06B and a species not listed in Table 3.06C.
6. Young Street improvements: The applicant shall complete the following items along the Young Street frontage. Item a. will be accomplished through recordation of the partition plat, while item b. is due prior to obtaining Partition Final Plat approval.
 - a. Dedicate 7 feet of right-of-way; and
 - b. Construct a 6-foot wide curbtight sidewalk along the frontage, which may shrink down to 4 feet wide as it nears and crosses the creek. Sidewalk design shall be acceptable to the Public Works Director.
7. Tract A: The applicant shall deed ownership of Tract A to the City of Woodburn. This will be accomplished concurrently with recordation of the partition plat. Provide to the City the appropriate documentation from Marion County stating this transfer of ownership has been completed prior to submitting a building permit application.

8. RCWOD easement: Pursuant to WDO 3.02.02A, the applicant shall grant a public improvement and maintenance easement over the area of Parcels 1, 2, and 3 within the 100-year floodplain. This will be accomplished concurrently with recordation of the partition plat. No private buildings or structures are allowed within this easement, including fences and walls.

9. Street lighting: Pursuant to WDO 3.02.03A, adjacent street lighting shall comply with City of Woodburn and Portland General Electric (PGE) standards and specifications. The applicant shall either provide documentation to the attention of the Public Works Department indicating that existing street lighting complies with the standards – refer to Illuminating Engineering Society (IES) of North America Recommended Practice 8, Roadway Lighting (RP-8) – or install lighting to meet the standards. This is due prior to obtaining Partition Final Plat approval.

10. Underground utilities: Pursuant to WDO 3.02.04, all utility service to and within the development shall be underground.

11. Driveways: Maximum driveway width for each townhouse shall be 10 feet.

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. Permits: Permits are applied for using the [Oregon ePermitting](#) online permit system. The City Building Division administers building and mechanical permits; Marion County Public Works administers plumbing and electrical permits.
3. Fences, fencing, & free-standing walls: The approval excludes any new fences, fencing, & free-standing walls, which are subject to WDO 2.06 and the permit process of 5.01.03.
4. Signage: The approval excludes any signage, which is subject to WDO 3.10 and the permit process of 5.01.10.
5. Demolition Permits: Demolition of any existing structures may require [Demolition Permit](#) approval through the Building Division.
6. 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.
7. 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.
8. 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.

9. Public Works Review: 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.
10. Franchises: The applicant provides for the installation of all franchised utilities and any required easements.
11. 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.
12. Grease Interceptor/Trap: If applicable, a grease trap would need to be installed on the sanitary service, either as a central unit or in the communal kitchen/food preparation area. Contact Marion County Plumbing Department for permit and installation requirements, (503) 588-5147.
13. Fire: Fire protection requirements must comply with the Woodburn Fire District standards and requirements. 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.
14. SDCs: The developer pays System Development Charges at the time of building permit issuance.

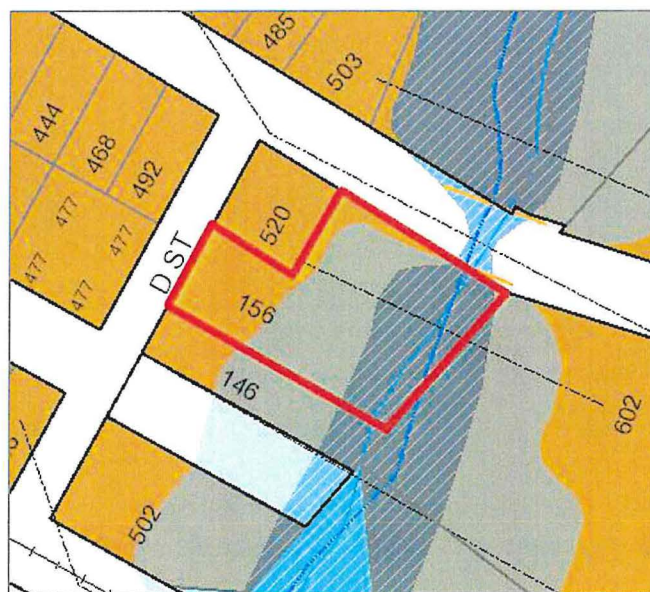
Analyses & Findings:

This final decision 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 with condition of approval Other special circumstance benefitting from attention 	Modification or Condition of approval required
■	Street Exception	Request to vary from requirement

Land Use & Zoning

<i>Comprehensive Plan Land Use Designation</i>	Medium Density Residential
<i>Zoning District</i>	Medium Density Residential (RM)
<i>Overlay District(s)</i>	Riparian Corridor & Wetlands Overlay District (RCWOD)
<i>Existing Use(s)</i>	N/A; undeveloped



An excerpt from the City zoning map.

Marion County Assessor Records provides the following legal description for the property: "WOODBURN PACKING CO'S ADDITION TO WOODBURN BLOCK 1 LOT 1-3, FR 4-10". Staff surmises it is a legal lot of record. The applicable provisions appear in bold below and on the following pages.

Applicable Provisions

2.02 Residential Zones

A. The City of Woodburn is divided into the following residential zones:

4. The Medium Density Residential (RM) zone provides for multi-family dwellings and care facilities at up to 16 dwelling units per net acre.

B. Approval Types (Table 2.02A)

4. Permitted Uses (P) are allowed outright, subject to the general development standards of this Ordinance.

Uses Allowed in Residential Zones Table 2.02A						
Use			Zone			
Accessory Uses (A)	Conditional Uses (CU)	Permitted Uses (P)	RS	RSN	R1S	RM
Special Permitted Uses (S)	Specific Conditional Uses (SCU)					RMN
5	a. Townhouses: In a group or groups each of maximum 4		P	P	P	P
	b. Townhouses: Any number within a group					P

C. Development Standards (Tables 2.02B-F)

Medium Density Residential (RM) – Site Development Standards Table 2.02E				KEY (See Figure 2.02E)
Lot Area, Minimum (square feet) ¹	Townhouse lot		1,500	
	Interior, flag or cul-de-sac lot	Single-family dwelling, duplex, or triplex	6,000	
		Quadplex or cottage cluster	7,000	
		Any other use	Not specified	
	Corner lot	Single-family dwelling, duplex, triplex, quadplex, cottage cluster, child care facility, or group home ²	8,000	
Any other use ³		Not specified		
Lot Width, Minimum (feet)	Townhouse lot		15	A
	Interior, flag or cul-de-sac lot		30	B

Medium Density Residential (RM) – Site Development Standards Table 2.02E			KEY (See Figure 2.02E)
	Corner lot	40	C
Lot Depth, Average (feet)	All lots	90	D
Street Frontage Minimum (feet)	Townhouse lot	15	E
	Interior lot	30	
	Corner lot	40	
	Cul-de-sac lot	24	
	Flag lot ⁴	24-30	
Residential Density (units per net acre)	Minimum	Single-family dwelling or duplex	5.2
		Any other use	12.8
	Maximum	Multiple-family dwelling	16
		Child care facility, group care facility or nursing home ³	32
		Manufactured dwelling park	12
		Any other use	Not specified ⁷
Front Setback and Setback Abutting a Street, Minimum (feet)		Per Table 2.02G	F G
Side Setback, Minimum (feet)	Townhouse lot	Common wall	Zero
		End unit exterior wall	5
	Primary structure ⁵	Single-family dwelling, duplex, triplex, quadplex, cottage cluster, multiple-family dwelling, child care facility or group home ²	5
		Any other use ⁷	Same as rear
	Accessory structure	5	
Rear Setback, Minimum (feet)	Primary structure ⁵	Cottage cluster	10
		Dwelling, child care facility, or group home	Same as Table 2.02B (RS) ¹¹
			J K L

Medium Density Residential (RM) – Site Development Standards Table 2.02E				KEY (See Figure 2.02E)
	Any other use, except nonresidential use, abutting DDC, MUV, NNC, CG, CO, IP, SWIR, or IL Zone		Same as Table 2.02B (RS)	J, K, L
	Nonresidential use abutting DDC, MUV, NNC, CG, or CO zone ⁷		10	
	Nonresidential use abutting IP, SWIR, or IL zone ⁷		15	
	Accessory structure ¹⁰		Same as Table 2.02B (RS)	M
	Any use or structure, regardless of building height: To an alley or shared rear lane		Zero	
Setback to a Flag Lot Development Vehicular Shared Access Easement, Minimum (feet)			1	
Lot Coverage, Maximum (percent)	Single-family dwelling, dwellings other than multiple-family, child care facility or group home ²	Primary building height 16 feet or less	40	
		Primary building height more than 16 feet	35	
	Any other use		Not specified ⁶	
Building Height, Maximum (feet)	Primary structure		35	N
	Features not used for habitation		70	
	Accessory structure ¹⁰		15	
<ol style="list-style-type: none"> 1. In flag lot development, excluding vehicular shared access easement area (See Section 1.02, Lot area) 2. Child care facility for 12 or fewer children, group home for five or fewer persons 3. Child care facility for 13 or more children, group home for six or more persons 4. See Table 3.04A, Flag Lot Access Width 5. Except for flag lots under the option that all setbacks are 12 feet 6. The minimum lot dimensions, maximum density, and maximum lot coverage are determined by setbacks, off-street parking, and landscaping requirements. 7. A house of worship shall be set back at least 20 feet from a property line abutting a residential zone or use. 8. Infill lots between developed lots: average of abutting residential buildings, plus or minus 5 feet, but not less than 10 feet 9. Garage or carport minimum setback from a street shall be the same as per Table 3.07A. 10. Accessory Dwelling Units are subject to specific development standards (see Section 2.07, Special Uses). 11. Zoning Adjustment permissible. 				

Because the middle housing WDO amendments were approved after the applicant originally submitted their PAR application (Ordinance 2603 effective June 30, 2022), and because the amended site development standards are more flexible than the vested WDO site development standards, staff applies the amended standards for this section.

The proposal is a three-lot partition in the RM zone for the purpose of constructing three townhouses. Per Table 2.02A, the use is permitted outright.

The table below outlines how the proposal meets the lot dimension requirements in Table 2.02E. Because *Condition of Approval 5a* (discussed further under the analyses for 3.01 and 5.02.04) requires a 5-foot right-of-way dedication along D Street, the table notes how this dedication will impact the lot dimension standards.

	Prior to 5-foot right-of-way dedication				After 5-foot right-of-way dedication			
	Lot area	Lot width	Lot depth	Street frontage	Lot area	Lot width	Lot depth	Street frontage
Parcel 1	2,573sf	26.81ft	96ft	28.48ft	2,431sf	26.81ft	91ft	28.48ft
Parcel 2	1,938sf	20.19ft	96ft	20.19ft	1,837sf	20.19ft	91ft	20.19ft
Parcel 3	2,739sf	28.54ft	96ft	28.48ft	2,597sf	28.54ft	91ft	28.48ft

Minimum lot area is 1,500sf, minimum lot width is 15ft, minimum lot depth is 90ft, and minimum street frontage is 15ft. All parcels will remain in conformance with these standards after accounting for the right-of-way dedication.

The minimum density required is 12.8 units / net acre. For a total buildable area of roughly 7,000 square feet (about 0.16 acres), which includes deductions for right-of-way dedication and unbuildable natural area, the result is a minimum density of two dwelling units. Three are proposed.

Setbacks, lot coverage, and building height standards will be reviewed through the building permit application.

✓ The provisions are met.

2.05 Overlay Districts

2.05.05 Riparian Corridor and Wetlands Overlay District

A. Purpose

The Riparian Corridor and Wetlands Overlay District (RCWOD) is intended to conserve, protect and enhance significant riparian corridors, wetlands, and undeveloped floodplains in keeping with the goals and policies of the Comprehensive Plan. The RCWOD is further intended to protect and enhance water quality, prevent property damage during floods and storms, limit development activity in designated areas, protect native plant species, maintain and enhance fish and wildlife habitats, and conserve scenic and recreational values.

B. Boundaries of the RCWOD

1. The RCWOD includes:

- a. Riparian corridors extending upland 50 feet from the top of the bank of the main stem of Senecal Creek and Mill Creek and those reaches of their tributaries identified as fish-bearing perennial streams on the Woodburn Wetlands Inventory Map; and
- b. Significant wetlands identified on the Woodburn Wetlands Inventory Map. Where significant wetlands are located fully or partially within a riparian corridor, the RCWOD shall extend 50 feet from the edge of the wetland; and
- c. The 100-year floodplain on properties identified as vacant or partly vacant on the 2005 Woodburn Buildable Lands Inventory.

2. The approximate boundaries of the RCWOD are shown on the Zoning Map. The precise boundaries for any particular lot should be verified by the property owner when making a land use application. Map errors may be corrected as provided in this Ordinance (Section 1.02.04).

C. Permitted Uses and activities

The following uses and activities are allowed, provided they are designed and constructed to minimize intrusion into the RCWOD:

- 1. Erosion or flood control measures that have been approved by the Oregon Department of State Lands, the U.S. Army Corps of engineers, or another state or federal regulatory agency
- 2. Maintenance of existing structures, lawns and gardens
- 3. Passive recreation uses and activities
- 4. Removal of non-native plant species and replacement with native plant species
- 5. Streets, roads, and paths that are included in an element of the Comprehensive Plan
- 6. Utilities
- 7. Water-related and water-dependent uses, including drainage facilities, water and sewer facilities, flood control projects, drainage pumps, public paths, access ways, trails, picnic areas or interpretive and educational displays and overlooks, including benches and outdoor furniture

D. Prohibited Uses and Activities

- 1. New buildings or structures or impervious surfaces, except for replacement of existing structures within the original building footprint
- 2. Expansion of existing buildings or structures or impervious surfaces
- 3. Expansion of areas of pre-existing non-native landscaping such as lawn, gardens, etc.
- 4. Dumping, piling, or disposal of refuse, yard debris, or other material
- 5. Removal of vegetation except for:
 - a. Uses permitted by this section
 - b. Perimeter mowing of a wetland for fire protection purposes;
 - c. Water-related or water-dependent uses, provided they are designed and constructed to minimize impact on the existing riparian vegetation;
 - d. Removal of emergent in-channel vegetation that has the potential to cause flooding;
 - e. Hazardous tree removal.
- 6. Grading, excavation and the placement of fill except for uses permitted by this Section.

E. Variances

The restrictions of this Section may be reduced or removed if they render an existing lot or parcel unbuildable or work an excessive hardship on the property owner. The reduction or removal shall be decided through the Variance process.

F. Site Maintenance

- 1. Any use, sign or structure, and the maintenance thereof, lawfully existing on the date of adoption of this ordinance, is permitted within the RCWOD. Such use, sign or structure may continue at a similar level and manner as existed on the date of the adoption of this ordinance.

2. The maintenance and alteration of pre-existing ornamental landscaping is permitted as long as no native vegetation is disturbed. Maintenance of lawns, planted vegetation and landscaping shall be kept to a minimum and not include the spraying of pesticides or herbicides. Vegetation that is removed shall be replanted with native species. Maintenance trimming of existing trees shall be kept at a minimum and under no circumstances can the trimming maintenance be so severe as to compromise the tree's health, longevity, and resource functions. Vegetation within utility easements shall be kept in a natural state and replanted when necessary with native plant species.

G. Site Plan

When a use or activity that requires the issuance of a building permit or approval of a land use application is proposed on a parcel within, or partially within the RCWOD, the property owner shall submit a site plan to scale showing the location of the top-of-bank, 100-year flood elevation, jurisdictional delineation of the wetland boundary approved by the Oregon Department of State Lands (if applicable), riparian setback, existing vegetation, existing and proposed site improvements, topography, and other relevant features.

H. Coordination with the Department of State Lands

The Oregon Department of State Lands shall be notified in writing of all applications to the City for development activities, including applications for plan and/or zone amendments, development or building permits, as well as any development proposals by the City that may affect any wetlands, creeks or waterways.

The submitted preliminary partition plan notes the ordinary high water mark for Mill Creek and the boundary of the 100-year floodplain; the submitted wetland delineation map illustrates wetlands within the 100-year floodplain area. Most of the 100-year floodplain area on-site is encompassed within Tract A, but not all. Because portions of the rear yards of each of the three parcels are included within the 100-year floodplain, staff adds *Condition of Approval 8* to prohibit private buildings and structures, including fences and walls, within these areas. The applicant has offered to deed ownership of Tract A to the City therefore staff adds *Condition of Approval 7* to accomplish this prior to building permit issuance.

A wetland land use notice was submitted to the Oregon Department of State Lands on October 5, 2022.

▲ The provisions are met with *Conditions 7 & 8*.

2.06 Accessory Structures

⊖ The provisions are not applicable.

2.07 Special Uses

⊖ The provisions are not applicable.

2.08 Specific Conditional Uses

⊖ The provisions are not applicable.

3.01 Streets

3.01.01 Applicability

- A. Right-of-way standards apply to all public streets.**
- B. Improvement standards apply to all public and private streets, sidewalks and bikeways.**
- C. Functional standards are identified in the Woodburn TSP.**
- D. This applies to all development, and is not limited to partitions, subdivisions, multi-family, commercial or industrial construction, or establishment of a manufactured dwelling or recreational vehicle park. Construction of a single-family dwelling or placement of a manufactured dwelling does not, for the purposes of this Section, constitute development, however, in no case can this type of development occur without minimal access as determined by the Director.**

3.01.02 General Provisions

- A. No development shall be approved, or access permit issued, unless the internal streets, boundary streets and connecting streets are constructed to at least the minimum standards set forth in this Section, or are required to be so constructed as a condition of approval.**
- D. The standards of this Section may be modified, subject to approval of an Exception to Street Right-of-Way and Improvement Requirements.**

3.01.03 Improvements Required for Development

- A. With development, the Internal, Boundary, and Connecting streets shall be constructed to at least the minimum standards set forth below.**

C. Boundary Streets

The minimum improvements for a Boundary Street shall be:

- 1. One paved 11-foot travel lane in each direction;**
- 2. On-street parking on the side of the street abutting the development, if on-street parking is indicated in the TSP;**
- 3. Curb on the side of the street abutting the development;**
- 4. Drainage facilities on the side of the street abutting the development;**
- 5. Street trees on the side of the street abutting the development; and**
- 6. A sidewalk on the side of the street abutting the development.**

3.01.04 Street Cross-Sections

- A. These standards are based on the functional classification of each street as shown in the Woodburn TSP. The street right-of-way and improvement standards minimize the amount of pavement and right-of-way required for each street classification, consistent with the operational needs of each facility, including requirements for pedestrians, bicycles, and public facilities.**
- B. All public streets under the jurisdiction of the City of Woodburn shall comply with the cross-sections depicted in this Section.**
 - 1. For the cross-section illustrated in Figures 3.01G-J, the street shall have fewer than 1,000 average daily trips (ADT) per day when all future street connections are made.**

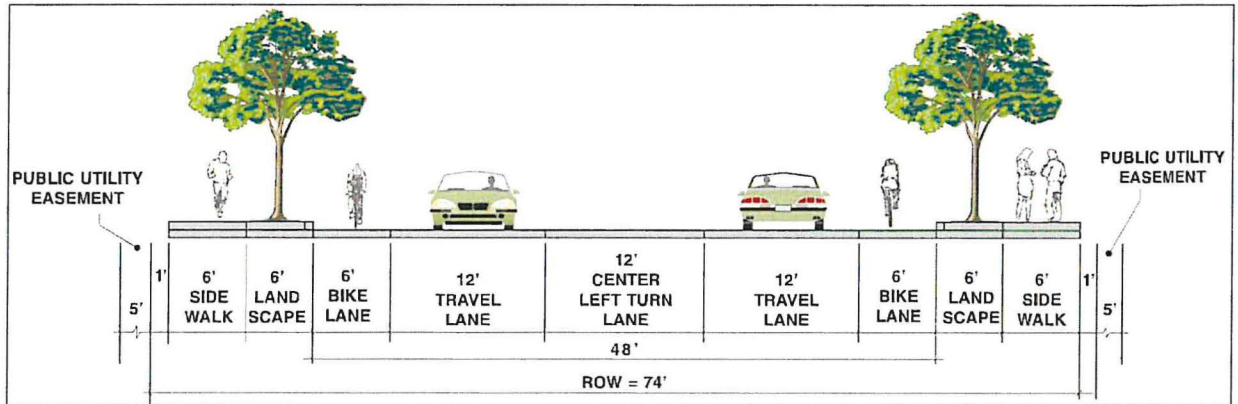


Figure 3.01C – Minor Arterial

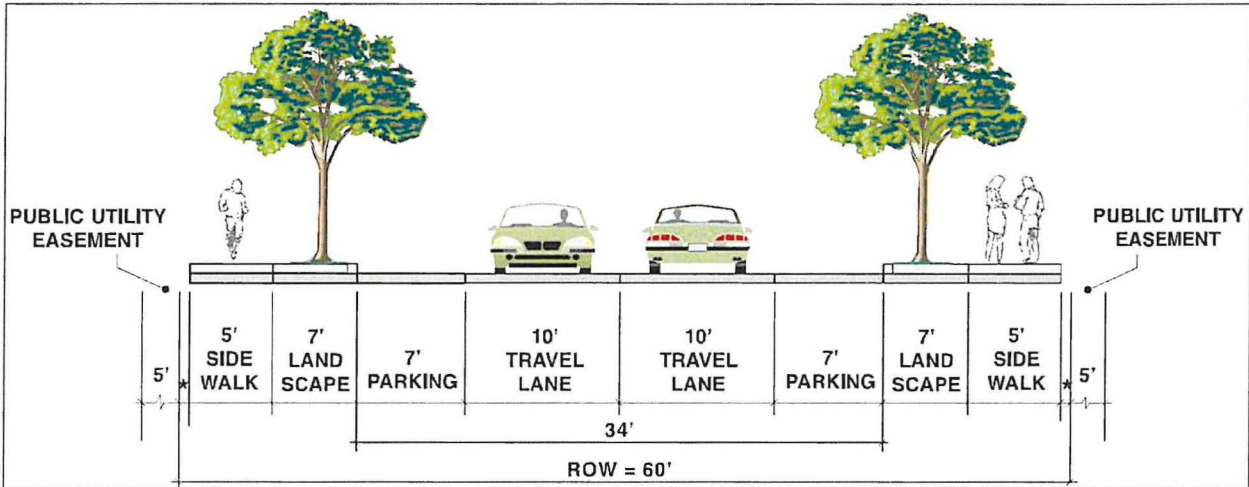


Figure 3.01G – Local Residential Street with Parking Both Sides, 60 Foot Right-of-Way

A partition is development therefore the provisions of 3.01 do apply.

The subject property has frontage along Young Street, a Minor Arterial street, and D Street, a local street. The applicable standard cross-sections are Figure 3.01C and 3.01G, respectively.

Existing conditions of Young Street along the property include:

- One paved travel lane in each direction;
- A center turn lane;
- Curb and drainage facilities;
- A bike lane in each direction;
- No street trees along the south side; and
- No sidewalk along the south side.

Existing conditions of D Street along the property include:

- 26 feet of pavement;
- Curb and drainage facilities;

- No street trees on the east side; and
- No sidewalk on the east side.

Pursuant to 3.01.02D., the applicant submitted a Street Exception request.

■ Staff addresses the street frontage improvements further under the Street Exception provisions.

3.02 Utilities and Easements

3.02.01 Public Utility Easements

A. The Director shall require dedication of specific easements for the construction and maintenance of municipal water, sewerage and storm drainage facilities located on private property.

B. A five-foot wide public utility easement shall be dedicated along each lot line abutting a public street.

C. As a condition of approval for development, including property line adjustments, partitions, subdivisions, design reviews, or Planned Unit Developments (PUDs), the Director may require dedication of public utility easements.

3.02.02 Creeks and Watercourse Maintenance Easements

A. Public improvement and maintenance easements shall be dedicated along all creeks and other water courses. On streams and waterways where development is regulated, based on Federal Emergency Management Administration (FEMA) flood hazard delineation, the minimum width shall be adequate to accommodate the 100-year floodway.

B. On other open channel water courses, such easements shall, at a minimum, extend from the top of one bank to the top of the other bank. These easements shall include an additional 20 feet in width at the top of the bank along the entire length, on one side of the open channel.

C. On all piped systems, the easement shall be a minimum of sixteen feet in width. Wider easements may be required by the Director, when needed to accommodate the installation of, or access to, larger and/or deeper pipes.

City GIS records illustrate municipal sewer and stormwater facilities on site, no streetside public utility easement for the D Street nor Young Street frontages, and Mill Creek running through the east side of the site with the Riparian Corridor and Wetlands Overlay District covering a significant portion of the site.

Most of the 100-year floodplain area on-site is encompassed within Tract A, but not all, and the public sewer lines are contained within Tract A. The applicant has offered to deed ownership of Tract A to the City therefore staff adds *Condition of Approval 7* to accomplish this prior to building permit issuance. Because portions of the rear yards of each of the three parcels are included within the 100-year floodplain, staff adds *Condition of Approval 8* to grant a public improvement and maintenance easement over these areas.

Staff also adds *Condition of Approval 5b* to grant a 5-foot streetside public utility easement along the D Street frontage. Because Tract A includes all of the Young Street frontage, and Tract A will be deeded to the City, no streetside public utility easement is necessary.

▲ The provisions are met with *Conditions 5b, 7, & 8*.

3.02.03 Street Lighting

A. Public Streets

Public streets abutting a development shall be illuminated with street lights installed to the standards of the City and the electric utility.

The City Engineer identified street lighting needs for this area. Staff adds *Condition of Approval 9* to address this.

▲ The provision is met with *Condition 9*.

3.02.04 Underground Utilities

All permanent utility service to and within a development shall be underground, except where overhead high-voltage (35,000 volts or more) electric facilities exist.

Staff adds *Condition of Approval 10* to require all utility service to and within the development be underground.

▲ The provision is met with *Condition 10*.

3.03 Setbacks and Open Space

⊖ These standards will be reviewed for conformance through the building permit review.

3.04 Vehicular Access

3.04.01 Applicability and Permit

A. Street Access

Every lot shall have:

1. Direct access to an abutting public street, or
2. Access to a public street by means of an access easement and maintenance agreement to the satisfaction of the Director, and revocable only with the concurrence of the Director.

3.04.03 Driveway Guidelines and Standards

A. Number of Driveways

1. For residential uses, the maximum number of driveways per lot frontage shall be one. For purposes of controlling driveway access, every 100 feet of frontage is considered a separate lot frontage.

3.04.04 Improvement Standards

The portion of a driveway on private property shall be paved with:

- A. Portland cement concrete to a minimum depth of six inches, or
- B. Asphalt concrete to a minimum depth of two inches, or
- C. Brick or pavers with a minimum depth of two and one-fourth inches.

All three parcels will have direct access to D Street, a public street. To minimize the interruption of curb and maximize available area for street parking, staff adds *Condition of Approval 11* to note a maximum driveway width of 10 feet for each lot. Driveways would remain in

conformance with the amended WDO (Ordinance 2603 effective June 30, 2022).

Driveway pavement is illustrated to be cement concrete.

▲ The provisions are met with *Condition 11*.

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.

B. A TIA shall evaluate the traffic impacts projected of a development proposal and the estimated effectiveness of potential traffic impact mitigation measures.

C. The methodology for a TIA shall be consistent with City standards.

The Director determined that the proposal does not require a traffic impact analysis.

⊖ The provisions are not applicable.

3.05 Off-Street Parking and Loading

⊖ These standards will be reviewed for conformance through the building permit review.

3.06 Landscaping

3.06.01 Applicability

B. Single-family and duplex dwellings need comply only with the street tree and significant tree provisions of this Section.

3.06.03 Landscaping Standards

A. Street Trees

Within the public street right-of-way abutting a development, street trees shall be planted to City standards, prior to final occupancy.

1. One tree per every entire 50 feet of street frontage shall be planted within the right-of-way, subject to vision clearance area standards and placement of public utilities.

2. Street trees shall be planted according to the property's zoning, and the abutting street's classification in the Transportation System Plan:

a. Large trees shall be planted along Major and Minor Arterial streets. Large trees shall also be planted along all streets in the Neighborhood Conservation Overlay District (NCOD), regardless of street classification;

c. Small trees shall be planted along all other streets.

3. The Director may modify this requirement, based on physical constraints and existing conditions, including the location of driveways and utilities. Such modification may include relocating the street trees to abutting private property.

The subject property has 77.15 feet of frontage along D Street, a local street, therefore one small street tree is required. Because the applicant submitted a Street Exception application, staff adds *Condition of Approval 5d* to require two street trees along the frontage.

Because of the Mill Creek culvert under Young Street and steep slope along the frontage, staff uses the discretion allowed via 3.06.03A3 to not require street trees along this frontage.

▲ The provisions are met with *Condition 5d*.

3.07 Architectural Design

⊖ These standards will be reviewed for conformance through the building permit review.

3.08.01 Requirements

All partitions and subdivisions shall comply with the standards of [ORS Chapter 92](#) and the Woodburn Development Ordinance.

This final decision does not address the requirements of ORS 92 separately, because they are addressed through the review of WDO sections or addressed by the applicant either as part of the final partition or upon development applications. This decision establishes compliance or non-compliance with applicable WDO provisions. However, for clarity for future staff, staff cites two statutory provisions relating to preliminary land divisions about (1) what regulations apply as time passes and (2) when a decision expires:

“92.040 Application for approval of subdivision or partition; tentative plan; applicability of local government laws. ...

(2) After September 9, 1995, when a local government makes a decision on a land use application for a subdivision inside an urban growth boundary, only those local government laws implemented under an acknowledged comprehensive plan that are in effect at the time of application shall govern subsequent construction on the property unless the applicant elects otherwise.

(3) A local government may establish a time period during which decisions on land use applications under subsection (2) of this section apply. However, in no event shall the time period exceed 10 years, whether or not a time period is established by the local government. [Amended by 1955 c.756 §7; 1973 c.696 §7; 1983 c.826 §8; 1989 c.772 §5; 1995 c.812 §9; 2005 c.22 §71]”

Item (2) is not applicable because the proposal is for partition, not subdivision.

Regarding (3), WDO 4.02.04B cited below establishes such a time period, which does not exceed 10 years.

✓ The provisions are met.

3.09 Planned Unit Developments

⊖ Not applicable.

3.10 Signs

Not applicable.

4.01 Decision-Making Procedures

4.01.07 Consolidated Applications

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

The application package consists of a Type II Preliminary Partition and Type II Street Exception. Per 4.01.07, the two are consolidated and reviewed at the Type II level.

The provision is met.

5.02 Type II (Quasi-Administrative) Decisions

5.02.04 Exception to Street Right of Way and Improvement Requirements

A. Purpose: The purpose of a Type II Street Exception is to allow deviation from the street standards required by this Ordinance (Section 3.01) for the functional classification of streets identified in the Woodburn Transportation System Plan. An exception for a development reviewed as a Type I or II application shall be considered as a Type II application, while development reviewed as a Type III application shall be considered a Type III application.

B. Criteria:

1. The estimated extent, on a quantitative basis, to which the rights-of-way and improvements will be used by persons served by the building or development, and whether the use is for safety or convenience;
2. The estimated level, on a quantitative basis, of rights-of-way and improvements needed to meet the estimated extent of use by persons served by the building or development;
3. The estimated impact, on a quantitative basis, of the building or development on the public infrastructure system of which the rights-of-way and improvements will be a part;
4. The estimated level, on a quantitative basis, of rights-of-way and improvements needed to mitigate the estimated impact on the public infrastructure system.

C. Proportionate Reduction in Standards: An exception to reduce a street right-of-way or cross-section requirement below the functional classification standard may be approved when a lesser standard is justified, based on the nature and extent of the impacts of the proposed development. No exception may be granted from applicable construction specifications.

D. Minimum Standards: To ensure a safe and functional street with capacity to meet current demands and to ensure safety for vehicles, bicyclists and pedestrians, as well as other forms of non-vehicular traffic, there are minimum standards for rights-of-way and improvements that must be provided to meet the standards of this Ordinance (Section 3.01).

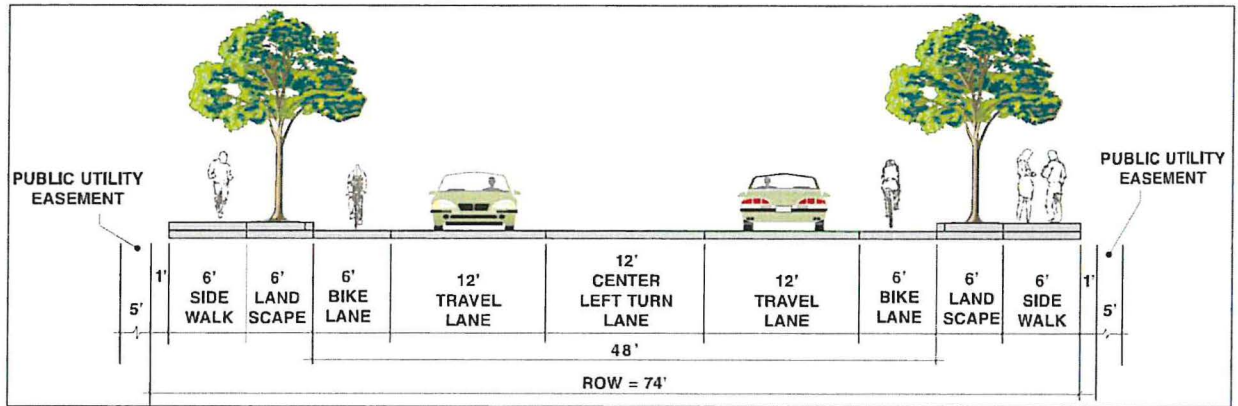


Figure 3.01C – Minor Arterial

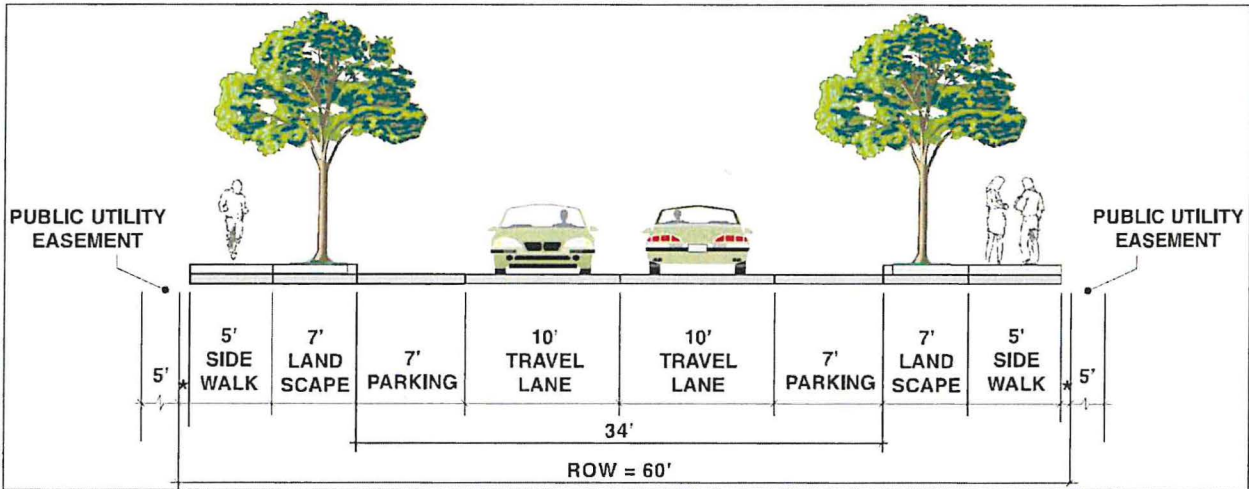


Figure 3.01G – Local Residential Street with Parking Both Sides, 60 Foot Right-of-Way

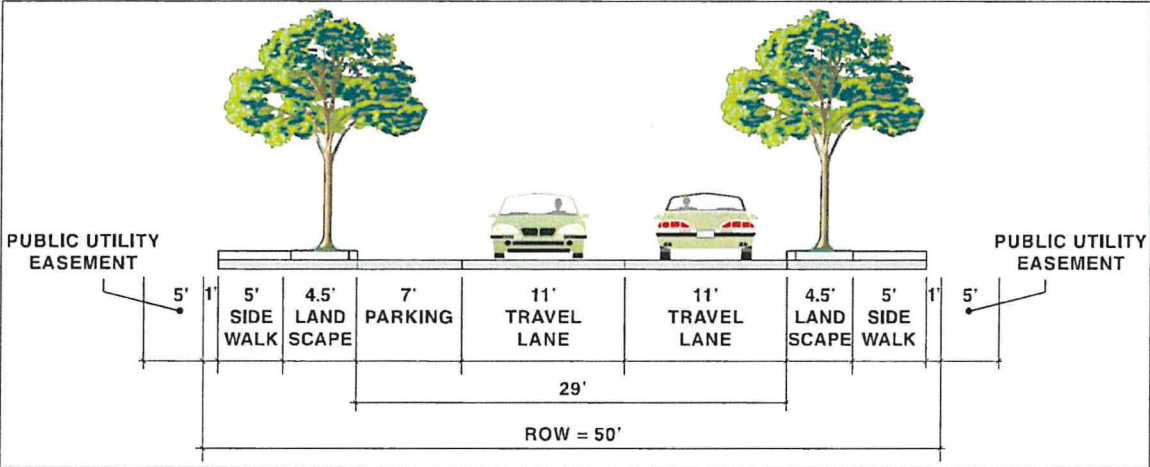


Figure 3.01I – Local Residential Street with Parking One Side

The subject property has frontage along Young Street, a Minor Arterial street, and D Street, a local street. The applicable cross-sections are Figure 3.01C and 3.01G, respectively. As noted in

the analysis for 3.01, the applicant submitted a Street Exception application to request modified frontage improvement requirements.

Young Street

Existing conditions of Young Street along the property include 60 feet of right-of-way with one paved travel lane in each direction, a center turn lane, curb and drainage facilities, a bike lane in each direction, and no landscape strip or sidewalk along the south side. Considering the Minor Arterial cross-section, the missing elements include 7 feet of right-of-way (half of the 14-foot deficit), the 6-foot landscape strip, and 6-foot sidewalk. Because of the Mill Creek culvert under Young Street and steep slope along the frontage, staff supports a 6-foot wide curbtight sidewalk that could shrink down to a minimum of 4 feet wide near the creek. Staff adds *Condition of Approval 6* to memorialize these modified improvement requirements and note they are due prior to Partition Final Plat approval.

D Street

Existing conditions of D Street along the property include 40 feet of right-of-way, 26 feet of pavement, curb and drainage facilities, no landscape strip on the east side, and no sidewalk on the east side. Considering Figure 3.01G, missing elements include 10 feet of right-of-way (half of the 20-foot deficit), 4 feet of pavement (half of the 8-foot deficit), the 6-foot landscape strip, and the 6-foot sidewalk.

Due to the proximity of Mill Creek to the east and the railroad to the south, D Street is not expected to substantially change. Staff therefore supports applying Figure 3.01I as the cross-section instead of Figure 3.01G, as well as maintaining the existing curb-to-curb pavement width. The east side of the street would be the side with no parking. Staff adds *Condition of Approval 5* to dedicate 5 feet of right-of-way and construct a 5-foot sidewalk to match the cross-section. The remaining area between sidewalk and curb would be the landscape strip.

△ The provisions are met with *Conditions 5 & 6*.

5.02.05 Partition, Preliminary Approval

A. Purpose: The purpose of this Type II review is to ensure that partitions - the dividing of a single lot into 3 or less lots within one calendar year - comply with this Ordinance, with the Land Use and Development Standards and Guidelines (Sections 2 and 3), and applicable Oregon State Statutes.

B. Criteria: Preliminary approval of a partition requires compliance with the following:

1. The preliminary partition complies with all applicable provisions of this ordinance.

As examined elsewhere throughout this staff report / final decision, the proposal either meets all relevant provisions or can meet provisions through conditions of approval.

2. 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 any adjoining land.

The property is significantly encumbered by the Riparian Corridor and Wetlands Overlay District, area in which development is strictly limited. The remaining area is proposed to be

partitioned into three lots, with a townhouse dwelling unit proposed to be developed on each of the three parcels. This criterion is met.

3. The proposed partition is served with City streets, water, sewer and storm drainage facilities with adequate capacity.

The partition plans illustrate utilities that will serve each parcel to the satisfaction of the City Engineer.

4. That the partition takes into account topography, vegetation and other natural features of the site.

The property is significantly encumbered by the Riparian Corridor and Wetlands Overlay District, area in which development is strictly limited. The remaining area is proposed to be partitioned into three lots, with a townhouse dwelling unit proposed to be developed on each of the three parcels. There is an existing significant tree, a 36-inch coniferous tree within Tract A.

5. That adequate measures have been planned to alleviate identified hazards and limitations to development:

- a. For regulatory wetlands, these shall be the measures required by the Division of State Lands.
- b. For unstable areas, demonstration that streets and building sites are on geologically stable soil considering the stress and loads to which the soil may be subjected.

A significant portion of the property is covered by the 100-year floodplain. As noted in the analysis for 2.05.05, staff added *Condition of Approval 8* to prohibit any private buildings or structures within this area. A wetland land use notice was submitted to DSL on October 5, 2022.

△ The provisions are met with *Condition 8*.

Conclusion

Staff finds that the application meets WDO provisions or can meet them with conditions and approves it with conditions.

Submitted by:



Dan Handel, AICP
Planner

Affirmed:



Chris Kerr
Community Development Director

Attachments:

101. Tax Map marked
102. TSP Figure 2
103. Preliminary partition plan

Expiration: Per 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.

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

Any person who is adversely affected or aggrieved or who is entitled to written notice of the decision may appeal the decision. The decision will not become final until the period for filing an appeal to the City Council has expired, and it cannot be appealed directly to the Oregon Land Use Board of Appeals (LUBA). This document is a copy of the decision. A copy of the decision is also 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 during normal business hours. For questions or additional information, contact the Community Development Department at (503) 982-5246 or planning@ci.woodburn.or.us.

05 1W 18AC WOODBURN



MARION COUNTY, OREGON
SW1/4 NE1/4 SEC18 T5S R1W W.M.
SCALE 1" = 100'

LEGEND

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

- CORNER TYPES**
- + 1/16TH Section Cor.
 - ⊙ DLC Corner
 - ⊕ 1/4 Section Cor.
 - ⊕ Section Corner
 - 16 15
 - 21 22

NUMBERS

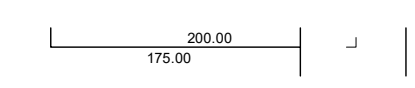
Tax Code Number
00 00 0

Acreege
0.25 AC

All acres listed are Net Acres, excluding any portions of the taxlot within public ROWs

NOTES

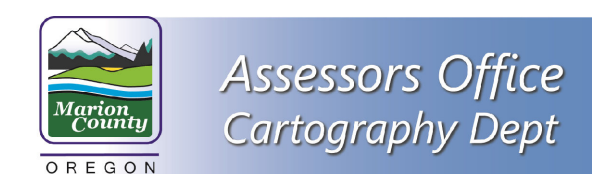
Tick Marks: A tick mark in the road indicates that the labeled dimension extends into the public ROW



ATTACHMENT 101

CANCELLED NUMBERS	
1100	
1200A1	
1300	
1400	
3300	
3400	

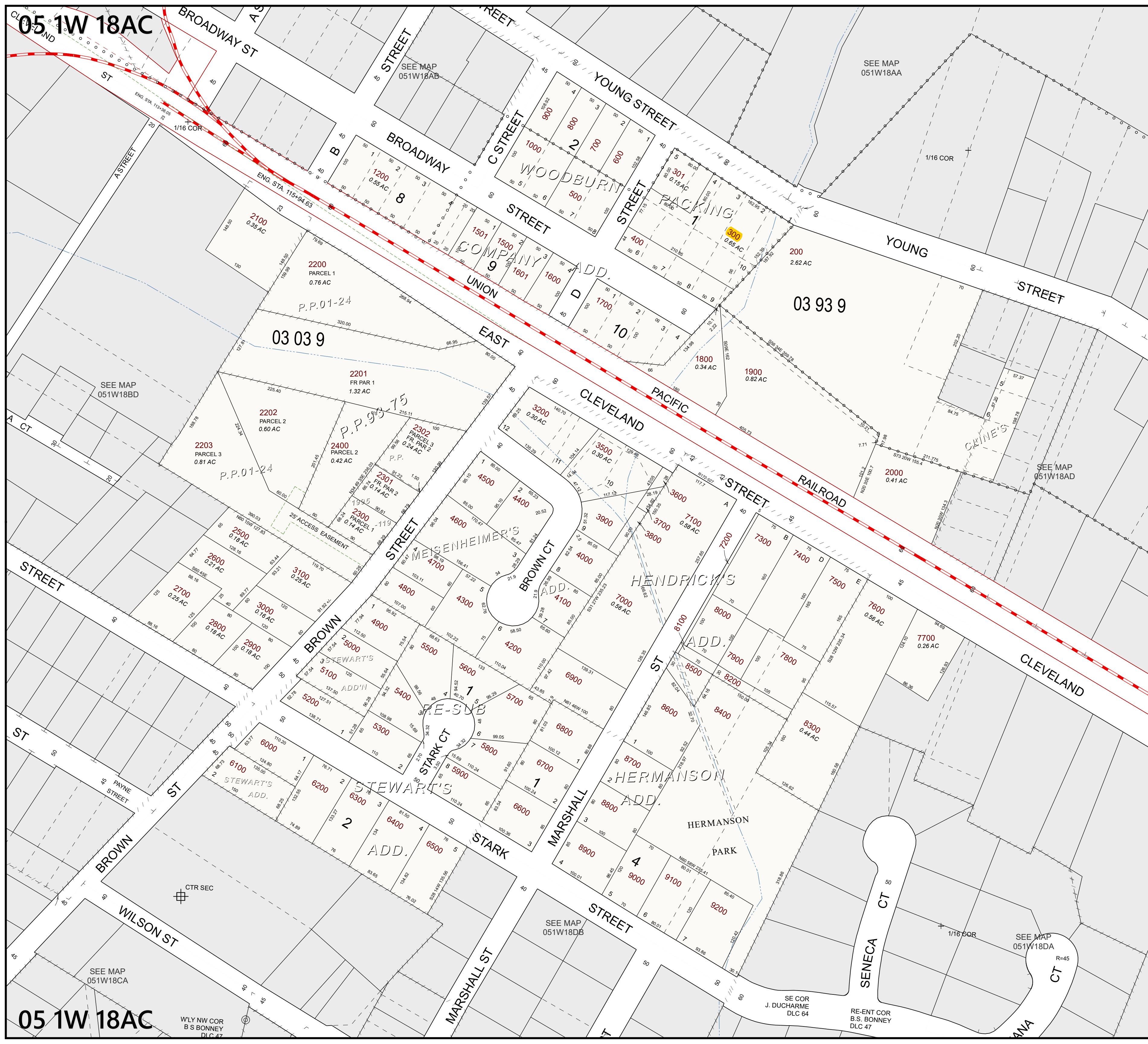
DISCLAIMER: THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSES ONLY

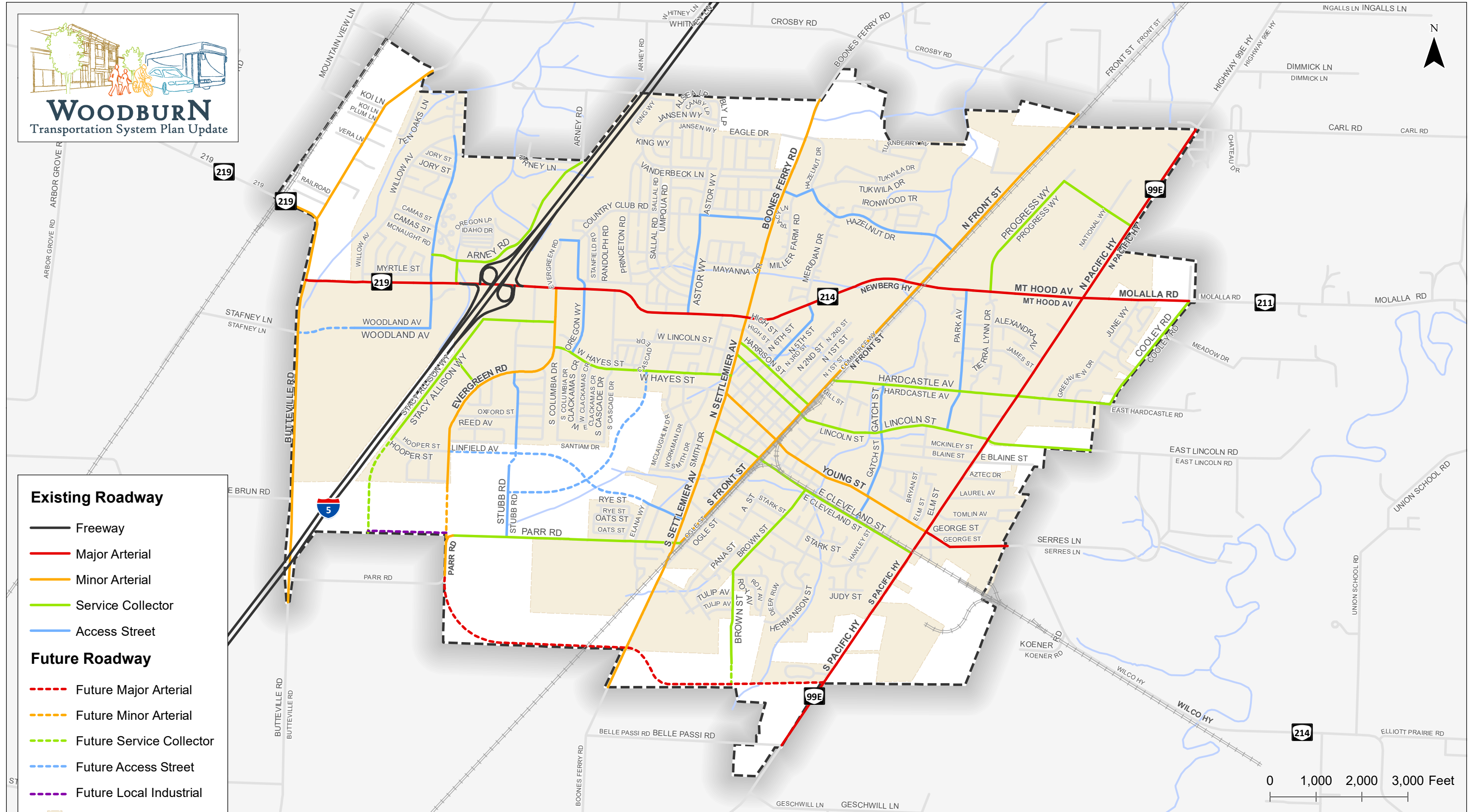


FOR ADDITIONAL MAPS VISIT OUR WEBSITE AT www.co.marion.or.us

PLOT DATE: 3/31/2021

WOODBURN 05 1W 18AC





- Existing Roadway**
- Freeway
 - Major Arterial
 - Minor Arterial
 - Service Collector
 - Access Street
- Future Roadway**
- - - Future Major Arterial
 - - - Future Minor Arterial
 - - - Future Service Collector
 - - - Future Access Street
 - - - Future Local Industrial
- City Boundary
- Urban Growth Boundary

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

**Functional Roadway Classification
Woodburn, Oregon**

**Figure
2**

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

H:\1212\1071 - Woodburn TSP Update\GIS\TSP02 Functional Roadway Classification.mxd - mmccormick - 5:25 PM 9/18/2019

PRELIMINARY PARTITION PLAN

156 D STREET
 LOTS 1, 2, AND 3, AND PORTION OF LOTS 4, 5, 6, 7, 8, 9, AND 10,
 BLOCK 1 OF "WOODBURN PACKING CO. ADDITION TO WOODBURN",
 IN THE N.E. 1/4 OF SECTION 18,
 T. 5 S., R. 1 W., W.M.,
 CITY OF WOODBURN,
 MARION COUNTY, OREGON

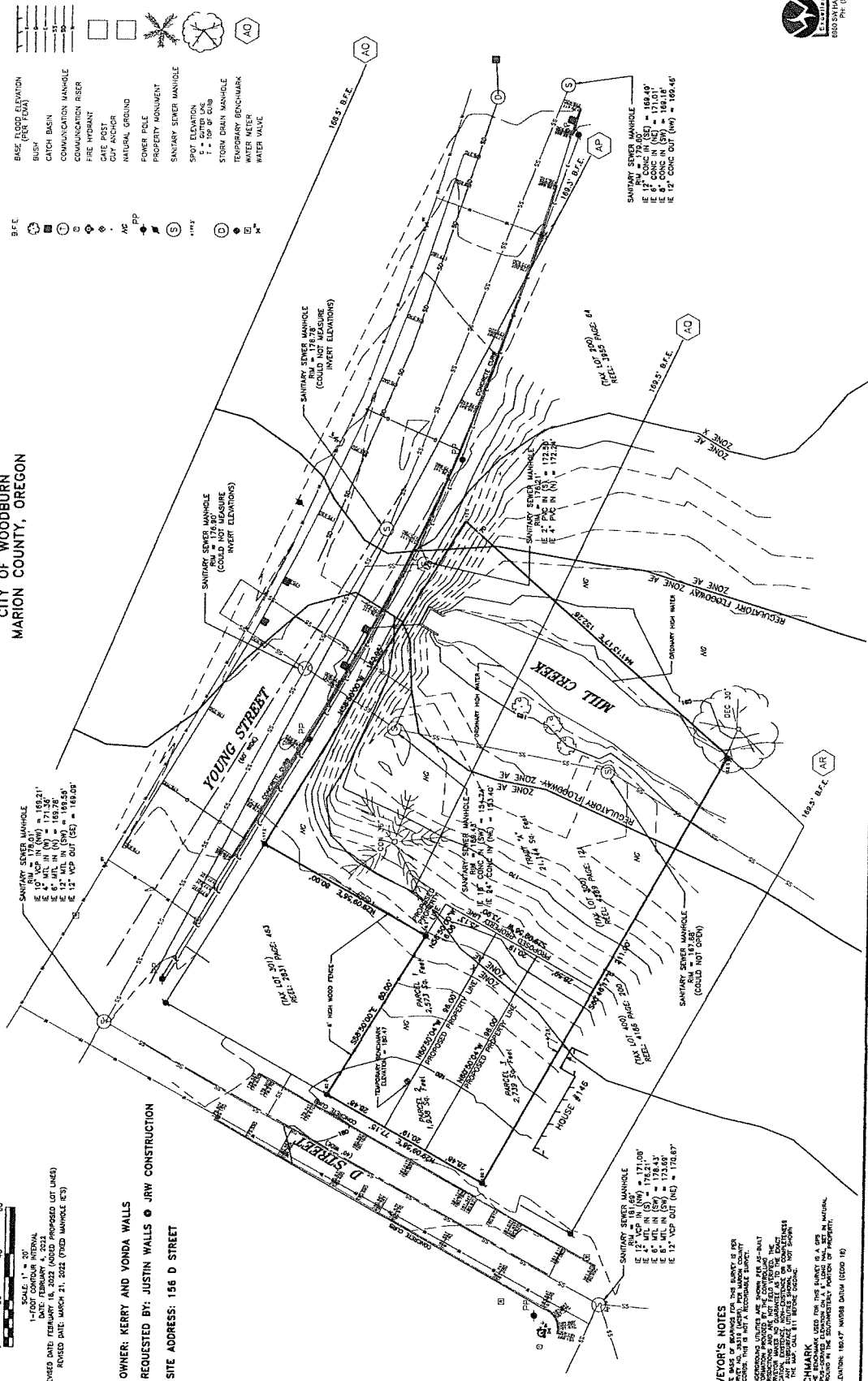


SCALE: 1" = 20'
 1'-FOOT CONTOUR INTERVAL

REVISED DATE: FEBRUARY 18, 2022 (ACROSS PROPOSED LOT LINES)
 REVISED DATE: MARCH 21, 2022 (FIXED MANHOLE E'S)

OWNER: KERRY AND YONDA WALLS
 REQUESTED BY: JUSTIN WALLS • JRW CONSTRUCTION
 SITE ADDRESS: 156 D STREET

LEGEND	
BASE FLOOD ELEVATION (FLOOD PLAIN)	AC
BUSH	AD
CATCH BASIN	AE
COMMUNICATION MANHOLE	AF
COMMUNICATION RISER	AG
FIRE HYDRANT	AH
GATE POST	AI
CITY ANCHOR	AJ
NATURAL GROUND	AK
PROPERTY MONUMENT	AL
SAINTLY SEWER MANHOLE	AM
SPOT ELEVATION	AN
• = CENTER LINE	AO
• = CENTER LINE	AP
STORM DRAIN MANHOLE	AQ
TEMPORARY BENCHMARK	AR
TEMPORARY BENCHMARK	AS
WATER VALVE	AT
BUILDING	CON = CONIFEROUS
CEILING (6' MIN)	DEC = DECIDUOUS
GAS	CROSS SECTION
OVERHEAD ELECTRIC	INSURANCE STUDY
POWER	
SEWER	
STEEL	
WATER	
CONCRETE	
PAVEMENT	



SURVEYOR'S NOTES

1. PROPERTY LINES SHOWN ARE BASED ON THE SURVEY RECORDS. THIS IS NOT A RECONSTRUCTED SURVEY.
2. INFORMATION PROVIDED BY THE PROPERTY OWNER HAS BEEN REVIEWED AND FOUND TO BE REASONABLY ACCURATE. THE SURVEYOR MAKES NO WARRANTY AS TO THE EXACT LOCATION OF THE BENCHMARKS, UTILITIES, OR OTHER FEATURES SHOWN ON THIS PLAN.

BENCHMARK
 THE BENCHMARK USED FOR THIS SURVEY IS A SPOT BENCHMARK IN THE SUBSTANTIALLY PARTIAL 1927 NATIONAL ELEVATION: 180.07' NORTH DAWG (0000 18)

REGISTERED
 LAND SURVEYOR
 ANTHONY E. PIVAN
 EXPIRES: DECEMBER 31, 2022

